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CROSS REFERENCES

Agricultural and mechanical colleges, see section 301 et seq. of Title 7, Agriculture.

Armed forces, Air Force—
- Civil Air Patrol, see section 9441 et seq. of Title 10, Armed Forces.
- Junior Reserve Officers' Training Corps, see section 2031 et seq. of Title 10.
- Schools and camps, see section 9411 et seq. of Title 10.
- Senior Reserve Officers' Training Corps, see section 2101 et seq. of Title 10.
- Training generally, see section 9301 et seq. of Title 10.
- United States Air Force Academy, see section 9331 et seq. of Title 10.

Armed forces, Army—
- Junior Reserve Officers' Training Corps, see section 2031 et seq. of Title 10.
- Schools and camps, see section 4411 et seq. of Title 10.
- Senior Reserve Officers' Training Corps, see section 2101 et seq. of Title 10.
- Training generally, see section 4301 et seq. of Title 10.
- United States Military Academy, see section 4331 et seq. of Title 10.

Armed forces, Coast Guard—
- Coast Guard Academy, see section 181 et seq. of Title 14, Coast Guard.
- Navy schools, see section 145 of Title 14.
- School instruction and training, see sections 92, 93, 470 of Title 14.
- Training, see section 469 of Title 14.

Armed forces, Navy—
- Junior Reserve Officers' Training Corps, see section 2031 et seq. of Title 10, Armed Forces.
- Officer procurement programs, see section 6911 et seq. of Title 10.
- Schools near naval activities; financial aid; transportation of dependents, see section 7204 of Title 10.
- Senior Reserve Officers' Training Corps, see section 2101 et seq. of Title 10.
- United States Naval Academy, see section 6951 et seq. of Title 10.
- United States Naval Postgraduate School, see section 7041 et seq. of Title 10.

Armed forces, training generally, see section 10141 of Title 10.

Cultural and Technical Interchange Center Between East and West, see section 2054 et seq. of Title 22, Foreign Relations and Intercourse.

Foreign Service Institute, see section 4021 et seq. of Title 22.

Indians, see sections 271 et seq., 2601 et seq., 3301 et seq., 3401 et seq. of Title 25, Indians.

Maritime Education and Training, see section 1295 et seq. of Title 46, Appendix, Shipping.

Mutual educational and cultural exchange program, see section 2451 et seq. of Title 22, Foreign Relations and Intercourse.

School lunch programs, see section 1751 et seq. of Title 42, The Public Health and Welfare.

United Nations Educational, Scientific, and Cultural Organization, see section 287m et seq. of Title 22, Foreign Relations and Intercourse.

United States information and educational exchange programs, see section 1431 et seq. of Title 22.

CHAPTER 1—OFFICE OF EDUCATION

§§ 1, 2. Repealed. Pub. L. 92–318, title III, § 301(b)(2)(A), June 23, 1972, 86 Stat. 332

Section 1, R.S. § 516, established Office of Education and provided for purpose and duties of Office.

Section 2, R.S. § 517, provided for appointment of a Commissioner of Education to manage Office of Education.

EFFECTIVE DATE OF REPEAL

Section 301(b)(2)(A) of Pub. L. 92–318 provided that the repeal is effective July 1, 1972.

EXECUTIVE ORDER NO. 11185

Ex. Ord. No. 11185, Oct. 16, 1964, 29 F.R. 14399, as amended by Ex. Ord. No. 11260, Dec. 11, 1965, 30 F.R. 15395; Ex. Ord. No. 11661, Mar. 24, 1972, 37 FR 6281, which provided for the coordination of federal education programs, was superseded by Ex. Ord. No. 11761, Jan. 17, 1974, 39 F.R. 2345, formerly set out under section 1221 of this title.

§ 2a. Repealed. Pub. L. 89–554, § 8(a), Sept. 6, 1966, 80 Stat. 647

Section, act May 26, 1930, ch. 330, 46 Stat. 384, provided for appointment of an Assistant Commissioner of Education.

§§ 3, 4. Repealed. Pub. L. 91–230, title IV, § 401(d)(1), (2), Apr. 13, 1970, 84 Stat. 173

Section 3, act May 28, 1896, ch. 252, § 1, 29 Stat. 171; Reorg. Plan No. I of 1939, §§ 201, 204, eff. July 1, 1939, 4

F.R. 2728, 53 Stat. 1424; Reorg. Plan No. 1 of 1953, §§5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631, provided for publication of a bulletin of Office of Education respecting condition of higher education, technical and industrial education, compulsory school attendance, and other domestic and foreign education topics, and provided for a one edition issue of 12,500 copies, chargeable to allotment for printing and binding of the Department of Health, Education, and Welfare.

Section 4, R.S. §518, which directed Commissioner of Education to present an annual report to Congress.

§ 5. Repealed. Oct. 31, 1951, ch. 654, § 1(36), 65 Stat. 702

Section, R.S. §519; acts Feb. 26, 1925, ch. 339, §3, 43 Stat. 983; Mar. 2, 1934, ch. 38, §1, 48 Stat. 389; June 30, 1949, ch. 288, title I, §103, 63 Stat. 380, required Administrator of General Services to furnish proper offices for use of Office of Education.

§ 6. Repealed. Pub. L. 91–230, title IV, § 401(d)(3), Apr. 13, 1970, 84 Stat. 173

Section, Pub. L. 90–576, title III, §303(a)–(d), Oct. 16, 1968, 82 Stat. 1095, related to collection and dissemination of information, providing in subsec. (a) for duties of Commissioner of Education, subsec. (b) for counseling and technical assistance in rural areas, in subsec. (c) for preparation and availability of catalog of Federal education assistance programs, and subsec. (d) for authorization of appropriations.

CHAPTER 2—TEACHING OF AGRICULTURAL, TRADE, HOME ECONOMICS, AND INDUSTRIAL SUBJECTS

§§ 11 to 14. Repealed. Pub. L. 105–33, title VI, § 6201, Aug. 5, 1997, 111 Stat. 653

Section 11, acts Feb. 23, 1917, ch. 114, §1, 39 Stat. 929; Ex. Ord. No. 6166, §15, June 10, 1933; 1939 Reorg. Plan No. I, §§201, 204, eff. July 1, 1939, 4 F.R. 2728, 53 Stat. 1424; 1953 Reorg. Plan No. 1, §§5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Oct. 17, 1979, Pub. L. 96–88, title III, §301, title V, §507, 93 Stat. 677, 692, related to annual appropriations for payments to States for teaching agricultural, trade, home economics, and industrial subjects.

Section 12, acts Feb. 23, 1917, ch. 114, §2, 39 Stat. 930; July 12, 1960, Pub. L. 86–624, §14(b)(2), 74 Stat. 414, appropriated money for salaries of teachers, supervisors, and directors of agricultural subjects.

Section 13, act Feb. 23, 1917, ch. 114, §3, 39 Stat. 930, appropriated money for salaries of teachers of trade, home economics, and industrial subjects.

Section 14, acts Feb. 23, 1917, ch. 114, §4, 39 Stat. 931; June 25, 1959, Pub. L. 86–70, §18(b)(1), 73 Stat. 144; July 12, 1960, Pub. L. 86–624, §14(b)(2), 74 Stat. 414, appropriated money for preparation of teachers, supervisors, and directors of agricultural subjects and teachers of trade, industrial, and home economics.

SHORT TITLE

Section 2 of act June 8, 1936, ch. 541, 49 Stat. 1488, as amended by act Aug. 1, 1946, ch. 725, title I, §101, 60 Stat. 775, provided that the act of Feb. 23, 1917, ch. 114, 39 Stat. 929 (enacting sections 11 to 15 and 16 to 28 of this title), was to be known as the Smith-Hughes Vocational Education Act. The 1917 act was also known as the Vocational Education Act of 1917.

The act of June 8, 1936, ch. 541, 49 Stat. 1488 (enacting sections 15i to 15ggg of this title), which was repealed by Pub. L. 90–576, title I, §103, Oct. 16, 1968, 82 Stat. 1091, was known as the Vocational Education Act of 1946.

Section 1 of Pub. L. 87–22, Apr. 24, 1961, 75 Stat. 44, provided that Pub. L. 87–22 (amending sections 15aa, 15bb, 15cc, and 15jj of this title) could be cited as ''The Practical Nurse Training Extension Act of 1961''.

§§ 15 to 15g. Omitted

CODIFICATION

Section 15 was comprised of provisions of act Feb. 23, 1917, ch. 114, §7, 39 Stat. 933; Ex. Ord. No. 6166, §15, June 10, 1933; June 26, 1934, ch. 756, §2, 48 Stat. 1225; 1939 Reorg. Plan No. I, §§201, 204, eff. July 1, 1939, 4 F.R. 2728, 53 Stat. 1424; 1953 Reorg. Plan No. 1, §§5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Oct. 17, 1979, Pub. L. 96–88, title III, §301, title V, §507, 93 Stat. 677, 692, which authorized appropriations of $200,000 annually to the Department of Education for studies, investigations and reports and paying salaries of personnel necessary to administer this chapter, and act Oct. 6, 1917, ch. 79, §1, 40 Stat. 345, which authorized use of that appropriation also for printing and binding, law books, books of reference and periodicals, and postage on foreign mail. Section 7 of act Feb. 23, 1917, was repealed by Pub. L. 105–33, title VI, §6201, Aug. 5, 1997, 111 Stat. 653.

Sections 15a to 15c, act Feb. 5, 1929, ch. 153, §§1–3, 45 Stat. 1151, appropriated money to be used for further development of vocational education in States and Territories but appropriations were authorized for only four years after the fiscal year ending June 30, 1930.

Sections 15d to 15g, act May 21, 1934, ch. 324, §§1–4, 48 Stat. 792, provided for further development of vocational education in several States and Territories by authorizing additional appropriations for the fiscal years 1935–37.

Section 7 of act June 8, 1936, ch. 541, 49 Stat. 1490, incorporated in section 15*o* of this title, provided that appropriations authorized by act June 8, 1936, incorporated in sections 15h to 15p of this title, ''shall be in lieu thereof and not in addition to the appropriations authorized in'' sections 1 and 2 of act May 21, 1934.

§§ 15h to 15m. Repealed. Pub. L. 90–576, title I, § 103, Oct. 16, 1968, 82 Stat. 1091

Section 15h, acts June 8, 1936, ch. 541, §1, 49 Stat. 1488; Aug. 1, 1946, ch. 725, §1, 60 Stat. 775, provided for a popular name. Subject matter of section prior to its amendment related to the development of vocational education in States and Territories, appropriations and their allotment, and matching of funds by States and Territories, and was replaced by sections 15j and 15k of this title.

Section 15i, acts June 8, 1936, ch. 541, §2, 49 Stat. 1488; Aug. 1, 1946, ch. 725, title I, §101, 60 Stat. 775; Aug. 2, 1956, ch. 871, title III, §301, 70 Stat. 925; June 25, 1959, Pub. L. 86–70, §18(b)(2), 73 Stat. 144; July 12, 1960, Pub. L. 86–624, §14(b)(3), 74 Stat. 414, defined ''States and Territories'', ''State plan'', ''State board'', and ''Smith-Hughes Vocational Education Act''.

Section 15j, acts June 8, 1936, ch. 541, §3, 49 Stat. 1489; Aug. 1, 1946, ch. 725, title I, §101, 60 Stat. 775; Aug. 2, 1956, ch. 871, title III, §301, 70 Stat. 925; Aug. 8, 1956, ch. 1039, §2, 70 Stat. 1126, authorized appropriations for programs in vocational education in agriculture, home economics, trades and industry, distributive occupations, and fishery trades.

Section 15k, acts June 8, 1936, ch. 541, §4, 49 Stat. 1489; Aug. 1, 1946, ch. 725, title I, §101, 60 Stat. 776; Aug. 2, 1956, ch. 871, title III, §301, 70 Stat. 925, required that Federal funds be matched by State and local funds in order to receive benefits of section 15i et seq. of this title.

Section 15*l*, acts June 8, 1936, ch. 541, §5, 49 Stat. 1489; 1940 Reorg. Plan No. III, §1(a)(1), eff. June 30, 1940, 5 F.R. 2107, 54 Stat. 1231; Aug. 1, 1946, ch. 725, title I, §101, 60 Stat. 776; Aug. 2, 1956, ch. 871, title III, §301, 70 Stat. 925, provided for method of payment of funds to which the State or Territory was entitled under section 15i et seq. of this title.

Section 15m, acts June 8, 1936, ch. 541, §6, 49 Stat. 1489; Aug. 1, 1946, ch. 725, title I, §101, 60 Stat. 777; Aug. 2, 1956, ch. 871, title, III, §301, 70 Stat. 925, made funds available for salary and expenses of State directors.

For general subject matter of sections 15i to 15m, see section 1241 et seq. of this title.

EFFECTIVE DATE OF REPEAL

Section 103 of Pub. L. 90–576 provided that the repeal is effective July 1, 1969.

§ 15n. Omitted

Section, act June 8, 1936, ch. 541, § 6a, 49 Stat. 1490, limited expenditures on industrial plant training and was omitted in the amendment of act June 8, 1936 by act Aug. 1, 1946, ch. 725, 60 Stat. 775.

§§ 15*o* to 15q. Repealed. Pub. L. 90–576, title I, § 103, Oct. 16, 1968, 82 Stat. 1091

Section 15*o*, acts June 8, 1936, ch. 541, § 7, 49 Stat. 1490; Aug. 1, 1946, ch. 725, title I, § 101, 60 Stat. 777; Aug. 2, 1956, ch. 871, title III, § 301, 70 Stat. 925, made the Smith-Hughes Vocational Education Act applicable to the development of vocational education.

Section 15p, acts June 8, 1936, ch. 541, § 8, 49 Stat. 1490; Aug. 1, 1946, ch. 725, title I, § 101, 60 Stat. 777; Aug. 2, 1956, ch. 871, title III, § 301, 70 Stat. 925, required that industrial-plant training be bona-fide vocational training and that no more than 10 percent be used for the purchase or acquisition of equipment.

Section 15q, act June 8, 1936, ch. 541, § 9, as added Aug. 1, 1946, ch. 725, title I, § 101, 60 Stat. 777; amended Reorg. Plan No. 1 of 1953, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Aug. 2, 1956, ch. 871, title III, § 301, 70 Stat. 925, authorized appropriations for Office of Education.

For general subject matter of sections 15*o* to 15q, see section 1241 et seq. of this title.

EFFECTIVE DATE OF REPEAL

Section 103 of Pub. L. 90–576 provided that the repeal is effective July 1, 1969.

§§ 15aa to 15jj. Repealed. Pub. L. 90–576, title I, § 103, Oct. 16, 1968, 82 Stat. 1091

Section 15aa, act Aug. 1, 1946, ch. 725, title II, § 201, as added Aug. 2, 1956, ch. 871, title III, § 301, 70 Stat. 925; amended Apr. 24, 1961, Pub. L. 87–22, § 2, 75 Stat. 44; Dec. 18, 1963, Pub. L. 88–210, § 11(a)(1), 77 Stat. 411, authorized an appropriation for grants to States with State plans for practical nurse training.

Section 15bb, act Aug. 1, 1946, ch. 725, title II, § 202, as added Aug. 2, 1956, ch. 871, title III, § 301, 70 Stat. 926; amended Apr. 24, 1961, Pub. L. 87–22, § 3, 75 Stat. 44; Dec. 18, 1963, Pub. L. 88–210, § 11(a)(2), 77 Stat. 411, provided for grants to States for practical nurse training.

Section 15cc, act Aug. 1, 1946, ch. 725, title II, § 203, as added Aug. 2, 1956, ch. 871, title III, § 301, 70 Stat. 926; amended Apr. 24, 1961, Pub. L. 87–22, § 4, 75 Stat. 44, set out requirements for State plans under sections 15aa to 15jj of this title.

Section 15dd, act Aug. 1, 1946, ch. 725, title II, § 204, as added Aug. 2, 1956, ch. 871, title III, § 301, 70 Stat. 927, set out method of making and computing payments to States.

Section 15ee, act Aug. 1, 1946, ch. 725, title II, § 205, as added Aug. 2, 1956, ch. 871, title III, § 301, 70 Stat. 927, set out duties and authority of Commissioner in carrying out sections 15aa to 15jj of this title.

Section 15ff, act Aug. 1, 1946, ch. 725, title II, § 206, as added Aug. 2, 1956, ch. 871, title III, § 301, 70 Stat. 928, authorized appointment of advisory committees by Commissioner.

Section 15gg, act Aug. 1, 1946, ch. 725, title II, § 207, as added Aug. 2, 1956, ch. 871, title III, § 301, 70 Stat. 928, provided that amounts paid under sections 15aa to 15jj of this title should in no way affect the availability of funds for practical nurse training under sections 11 to 15, 16, and 18 to 28 and sections 15i to 15m and 15*o* to 15q of this title.

Section 15hh, act Aug. 1, 1946, ch. 725, title II, § 208, as added Aug. 2, 1956, ch. 871, title III, § 301, 70 Stat. 928, required Commissioner to submit an annual report on administration of sections 15aa to 15jj of this title.

Section 15ii, act Aug. 1, 1946, ch. 725, title II, § 209, as added Aug. 2, 1956, ch. 871, title III, § 301, 70 Stat. 928, authorized appropriation of funds necessary to administer sections 15aa to 15jj of this title.

Section 15jj, act Aug. 1, 1946, ch. 725, title II, § 210, as added Aug. 2, 1956, ch. 871, title III, § 301, 70 Stat. 928; amended June 25, 1959, Pub. L. 86–70, § 18(b)(3), 73 Stat. 144; July 12, 1960, Pub. L. 86–624, § 14(b)(4), 74 Stat. 414; Apr. 24, 1961, Pub. L. 87–22, § 5, 75 Stat. 44, defined terms as used in sections 15aa to 15jj of this title.

For general subject matter of sections 15aa to 15jj, see section 1241 et seq. of this title.

EFFECTIVE DATE OF REPEAL

Section 103 of Pub. L. 90–576 provided that the repeal is effective July 1, 1969.

§§ 15aaa to 15ggg. Repealed. Pub. L. 90–576, title I, § 103, Oct. 16, 1968, 82 Stat. 1091

Section 15aaa, act Aug. 1, 1946, ch. 725, title III, § 301, as added Sept. 2, 1958, Pub. L. 85–864, title VIII, § 802, 72 Stat. 1597; amended Oct. 3, 1961, Pub. L. 87–344, title II, § 207, 75 Stat. 760; Dec. 18, 1963, Pub. L. 88–210, § 11(b), 77 Stat. 411, authorized an appropriation of $15,000,000 annually for area vocational education programs.

Section 15bbb, act Aug. 1, 1946, ch. 725, title III, § 302, as added Sept. 2, 1958, Pub. L. 85–864, title VIII, § 802, 72 Stat. 1598, covered allotment of funds appropriated under section 15aaa of this title.

Section 15ccc, act Aug. 1, 1946, ch. 725, title III, § 303, as added Sept. 2, 1958, Pub. L. 85–864, title VIII, § 802, 72 Stat. 1598, set out conditions which States had to fulfill to qualify for payments.

Section 15ddd, act Aug. 1, 1946, ch. 725, title III, § 304, as added Sept. 2, 1958, Pub. L. 85–864, title VIII, § 802, 72 Stat. 1599, set out requirements of programs under sections 15aaa to 15ggg of this title.

Section 15eee, act Aug. 1, 1946, ch. 725, title III, § 305, as added Sept. 2, 1958, Pub. L. 85–864, title VIII, § 802, 72 Stat. 1599, covered additional State plan requirements for eligibility under sections 15aaa to 15ggg of this title.

Section 15fff, act Aug. 1, 1946, ch. 725, title III, § 306, as added Sept. 2, 1958, Pub. L. 85–864, title VIII, § 802, 72 Stat. 1600, authorized appropriations to administer sections 15aaa to 15ggg of this title.

Section 15ggg, act Aug. 1, 1946, ch. 725, title III, § 307, as added Sept. 2, 1958, Pub. L. 85–864, title VIII, § 802, 72 Stat. 1600; amended June 25, 1959, Pub. L. 86–70, § 18(b)(3), 73 Stat. 144; July 12, 1960, Pub. L. 86–624, § 14(b)(4), 74 Stat. 414, defined terms as used in sections 15aaa to 15ggg of this title.

For general subject matter of sections 15aaa to 15ggg, see section 1241 et seq. of this title.

EFFECTIVE DATE OF REPEAL

Section 103 of Pub. L. 90–576 provided that the repeal is effective July 1, 1969.

§ 16. Repealed. Pub. L. 105–33, title VI, § 6201, Aug. 5, 1997, 111 Stat. 653

Section, acts Feb. 23, 1917, ch. 114, § 5, 39 Stat. 931; Ex. Ord. No. 6166, § 15, June 10, 1933; 1939 Reorg. Plan No. I, §§ 201, 204, eff. July 1, 1939, 4 F.R. 2728, 53 Stat. 1424; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Oct. 17, 1979, Pub. L. 96–88, title III, § 301, title V, § 507, 93 Stat. 677, 692, provided for State acceptance of appropriations provided by sections 11 to 14 of this title and provided for creation of State boards.

§ 17. Repealed. Pub. L. 89–554, § 8(a), Sept. 6, 1966, 80 Stat. 643

Section, act Feb. 23, 1917, ch. 114, § 6, 39 Stat. 932, created a Federal Board for Vocational Education, and provided for appointments, salary, powers and duties.

§§ 18 to 27. Repealed. Pub. L. 105–33, title VI, § 6201, Aug. 5, 1997, 111 Stat. 653

Section 18, acts Feb. 23, 1917, ch. 114, § 8, 39 Stat. 933; Ex. Ord. No. 6166, § 15, June 10, 1933; 1939 Reorg. Plan No.

I, §§201, 204, eff. July 1, 1939, 4 F.R. 2728, 53 Stat. 1424; 1953 Reorg. Plan No. 1, §§5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Oct. 17, 1979, Pub. L. 96–88, title III, §301, title V, §507, 93 Stat. 677, 692, required State boards to submit plans and reports to Department of Education.

Section 19, acts Feb. 23, 1917, ch. 114, §9, 39 Stat. 933; Ex. Ord. No. 6166, §15, June 10, 1933; 1939 Reorg. Plan No. I, §§201, 204, eff. July 1, 1939, 4 F.R. 2728, 53 Stat. 1424; 1953 Reorg. Plan No. 1, §§5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Oct. 17, 1979, Pub. L. 96–88, title III, §301, title V, §507, 93 Stat. 677, 692, related to use of appropriations for salaries of teachers, supervisors, and directors of agricultural subjects and of teachers of trade, home economics, and industrial subjects and to requirement for State and local matching funds.

Section 20, acts Feb. 23, 1917, ch. 114, §10, 39 Stat. 934; Ex. Ord. No. 6166, §15, June 10, 1933; 1939 Reorg. Plan No. I, §§201, 204, eff. July 1, 1939, 4 F.R. 2728, 53 Stat. 1424; 1953 Reorg. Plan No. 1, §§5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Oct. 17, 1979, Pub. L. 96–88, title III, §301, title V, §507, 93 Stat. 677, 692, related to State use of appropriations for salaries of teachers, supervisors, and directors of agricultural subjects under an approved plan of supervision for the State.

Section 21, acts Feb. 23, 1917, ch. 114, §11, 39 Stat. 934; Ex. Ord. No. 6166, §15, June 10, 1933; 1939 Reorg. Plan No. I, §§201, 204, eff. July 1, 1939, 4 F.R. 2728, 53 Stat. 1424; 1953 Reorg. Plan No. 1, §§5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Oct. 17, 1979, Pub. L. 96–88, title III, §301, title V, §507, 93 Stat. 677, 692, related to State use of appropriations for salaries of teachers of trade, home economics, and industrial subjects under an approved plan of supervision for the State.

Section 22, acts Feb. 23, 1917, ch. 114, §12, 39 Stat. 935; Ex. Ord. No. 6166, §15, June 10, 1933; 1939 Reorg. Plan No. I, §§201, 204, eff. July 1, 1939, 4 F.R. 2728, 53 Stat. 1424; 1953 Reorg. Plan No. 1, §§5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Oct. 17, 1979, Pub. L. 96–88, title III, §301, title V, §507, 93 Stat. 677, 692, related to additional requirements for State plan of supervision in order for State to use appropriations under this chapter.

Section 23, act Feb. 23, 1917, ch. 114, §13, 39 Stat. 935, related to State custodians of funds appropriated under this chapter.

Section 24, acts Feb. 23, 1917, ch. 114, §14, 39 Stat. 935; Ex. Ord. No. 6166, §15, June 10, 1933; 1939 Reorg. Plan No. I, §§201, 204, eff. July 1, 1939, 4 F.R. 2728, 53 Stat. 1424; 1953 Reorg. Plan No. 1, §§5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Oct. 17, 1979, Pub. L. 96–88, title III, §301, title V, §507, 93 Stat. 677, 692, provided for Department of Education supervision of State expenditures and for quarterly payments to States.

Section 25, acts Feb. 23, 1917, ch. 114, §15, 39 Stat. 936; Ex. Ord. No. 6166, §15, June 10, 1933; 1939 Reorg. Plan No. I, §§201, 204, eff. July 1, 1939, 4 F.R. 2728, 53 Stat. 1424; 1953 Reorg. Plan No. 1, §§5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Oct. 17, 1979, Pub. L. 96–88, title III, §301, title V, §507, 93 Stat. 677, 692, provided for deductions from allotments when preceding allotments have not been expended for the purposes provided in this chapter.

Section 26, acts Feb. 23, 1917, ch. 114, §16, 39 Stat. 936; Ex. Ord. No. 6166, §15, June 10, 1933; 1939 Reorg. Plan No. I, §§201, 204, eff. July 1, 1939, 4 F.R. 2728, 53 Stat. 1424; 1953 Reorg. Plan No. 1, §§5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Oct. 17, 1979, Pub. L. 96–88, title III, §301, title V, §507, 93 Stat. 677, 692, provided for withholding of allotments and right to appeal withholdings.

Section 27, act Feb. 23, 1917, ch. 114, §17, 39 Stat. 936, provided for State replacement of lost funds and for limitations on use of funds.

§28. Repealed. Pub. L. 104–66, title I, §1041(e), Dec. 21, 1995, 109 Stat. 715

Section, acts Feb. 23, 1917, ch. 114, §18, 39 Stat. 936; Ex. Ord. No. 6166, §15, June 10, 1933; 1939 Reorg. Plan No. I, §§201, 204, eff. July 1, 1939, 4 F.R. 2728, 53 Stat. 1424; 1953 Reorg. Plan No. 1, §§5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Oct. 17, 1979, Pub. L. 96–88, title III, §301, title V, §507, 93 Stat. 677, 692, directed Department of Education to report annually to Congress on administration of this chapter, including reports made by State boards and expenditure of money allotted to each State.

§29. Repealed. Pub. L. 86–624, §14(b)(1), July 12, 1960, 74 Stat. 413

Section, act Mar. 10, 1924, ch. 46, §4, 43 Stat. 18, extended benefits of chapter to Territory of Hawaii.

EFFECTIVE DATE OF REPEAL

Section 47(c) of Pub. L. 86–624 provided that: ''The amendment made by paragraphs (1) and (2) of subsection (b) and paragraphs (1), (2), and (3) of subsection (d) of section 14 [amending sections 12, 14, and 238 of this title and repealing this section] shall be applicable in the case of fiscal years beginning after June 30, 1960.''

§§30 to 34. Repealed. Pub. L. 90–576, title I, §103, Oct. 16, 1968, 82 Stat. 1091

Section 30, acts Mar. 3, 1931, ch. 404, §1, 46 Stat. 1489; May 17, 1932, ch. 190, 47 Stat. 158, extended to Puerto Rico the benefits of sections 11–15, 16, and 18–28 of this title.

Section 31, act Mar. 18, 1950, ch. 71, §1, 64 Stat. 27, extended to Virgin Islands the benefits of Vocational Education Act of 1946 (sections 15i to 15m, 15*o* to 15q, 15aa to 15jj, and 15aaa to 15ggg of this title).

Section 32, act Mar. 18, 1950, ch. 71, §2, 64 Stat. 27; 1953 Reorg. Plan No. 1, §§5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631, authorized distribution of funds to Virgin Islands.

Section 33, act Mar. 18, 1950, ch. 71, §3, 64 Stat. 27; 1953 Reorg. Plan No. 1, §§5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631, set conditions governing use and payment of funds in Virgin Islands.

Section 34, act Aug. 1, 1956, ch. 852, §9, 70 Stat. 909, extended to Guam the benefits of Vocational Education Act of 1946.

EFFECTIVE DATE OF REPEAL

Section 103 of Pub. L. 90–576 provided that the repeal is effective July 1, 1969.

§§35 to 35n. Omitted

CODIFICATION

Sections 35, 35 note, and 35a to 35n, which were enacted by Part A of Pub. L. 88–210, §§1–10, 12–17, Dec. 18, 1963, 77 Stat. 403 to 415, to be known as the ''Vocational Education Act of 1963'' were omitted in the general reorganization of Pub. L. 88–210 by Pub. L. 90–576, title I, §101, Oct. 16, 1968, 82 Stat. 1064, which redesignated such Part A as title I of Pub. L. 88–210 and, as so redesignated, completely reorganized such title I and authorized its citation as the ''Vocational Education Act of 1963''. Such act, as redesignated and reorganized, was classified to section 1241 et seq. of this title.

Section 35, Pub. L. 88–210, §1, Dec. 18, 1963, 77 Stat. 403, set out declaration of policy as to sections 35 to 35n of this title.

Section 35 note, Pub. L. 88–210, §17, Dec. 18, 1963, 77 Stat. 415, named sections 1–17 of Pub. L. 88–210 the ''Vocational Education Act of 1963''. See Short Title note set out under section 2301 of this title.

Section 35a, Pub. L. 88–210, §2, Dec. 18, 1963, 77 Stat. 403, authorized annual appropriations.

Section 35b, Pub. L. 88–210, §3, Dec. 18, 1963, 77 Stat. 403, covered determination of allotment to be made to each State of sums appropriated under section 35a of this title.

Section 35c, Pub. L. 88–210, §4, Dec. 18, 1963, 77 Stat. 405, set out allowable uses for allotments.

Section 35d, Pub. L. 88–210, §5, Dec. 18, 1963, 77 Stat. 405, set out requisite elements of State plan and cov-

ered the designation of State board and State advisory council, policy and procedure for allocation of allotment, qualifications of persons under the plan, arrangements with public employment offices, accounting and fiscal control, labor standards, and reports.

Section 35e, Pub. L. 88–210, §6, Dec. 18, 1963, 77 Stat. 407, set conditions for payments to States.

Section 35f, Pub. L. 88–210, §7, Dec. 18, 1963, 77 Stat. 408, provided for application of labor standards under the Davis-Bacon Act (40 U.S.C. 276a to 276a–5) to construction projects assisted under sections 35 to 35n of this title.

Section 35g, Pub. L. 88–210, §8, Dec. 18, 1963, 77 Stat. 408, defined terms used in sections 35 to 35n of this title.

Section 35h, Pub. L. 88–210, §9, Dec. 18, 1963, 77 Stat. 410, established Advisory Committee on Vocational Education.

Section 35i, Pub. L. 88–210, §10, Dec. 18, 1963, 77 Stat. 410, covered uses of allotments obtained under other statutes.

Section 35j, Pub. L. 88–210, §12, Dec. 18, 1963, 77 Stat. 411, established Advisory Council on Vocational Education.

Section 35k, Pub. L. 88–210, §13, Dec. 18, 1963, 77 Stat. 412, provided for creation and funding of work-study programs.

Section 35*l*, Pub. L. 88–210, §14, Dec. 18, 1963, 77 Stat. 414, authorized grants for residential vocational education schools.

Section 35m, Pub. L. 88–210, §15, Dec. 18, 1963, 77 Stat. 415, authorized appropriations for work-study and residential schools.

Section 35n, Pub. L. 88–210, §16, Dec. 18, 1963, 77 Stat. 415, prohibited statutory construction authorizing Federal direction, supervision, or controls of programs under sections 35 to 35n of this title.

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SUBCHAPTER I—CHARTER PROVISIONS

§ 41. Incorporation of institution

The President, the Vice President, the Chief Justice, and the heads of executive departments are constituted an establishment by the name of

the Smithsonian Institution for the increase and diffusion of knowledge among men, and by that name shall be known and have perpetual succession with the powers, limitations, and restrictions hereinafter contained, and no other.

(R.S. § 5579; Feb. 27, 1877, ch. 69, 19 Stat. 253; Mar. 12, 1894, ch. 36, 28 Stat. 41.)

CODIFICATION

R.S. § 5579 derived from acts Aug. 10, 1846, ch. 178, § 1, 9 Stat. 102; Mar. 20, 1871, ch. 1, 17 Stat. 1.

R.S. §§ 5579 to 5594 (codified as sections 41 to 46, 48, 50, 51 to 53, 54 to 57, and 67 of this title) constituted Title 73 of the Revised Statutes, entitled ''The Smithsonian Institution.'' A preamble to these sections was as follows: ''James Smithson, esquire, of London, in the kingdom of Great Britain, having by his last will and testament given the whole of his property to the United States of America, to found, at Washington, under the name of the 'Smithsonian Institution,' an establishment for the increase and diffusion of knowledge among men; and the United States having, by an act of Congress, received said property and accepted said trust; therefore, for the faithful execution of said trust, according to the will of the liberal and enlightened donor.''

R.S. § 5579, as originally enacted, constituted the President, the Vice-President, the Secretaries of State, the Treasury, War, and the Navy, the Postmaster-General, the Attorney-General, the Chief Justice, the Commissioner of the Patent Office, and the Governor of the District of Columbia, and such persons as they might elect honorary members, an establishment by the name of the ''Smithsonian Institution,'' for the purposes and with the powers specified in the section as set forth here.

AMENDMENTS

1894—Act Mar. 12, 1894, substituted ''the Chief Justice, and heads of executive departments'' for ''the Secretary of State, the Secretary of the Treasury, the Secretary of War, the Secretary of the Navy, the Postmaster-General, the Attorney General, the Chief Justice, the Commissioner of Patents, the governor of the District of Columbia, and other such persons as they may elect honorary members''.

1877—Act Feb. 27, 1877, substituted ''Patents'' for ''Patent Office''.

SHORT TITLE OF 1966 AMENDMENT

Pub. L. 89–674, § 1, Oct. 15, 1966, 80 Stat. 953, provided: ''That this Act [enacting section 65a of this title and repealing section 65 of this title] may be cited as the 'National Museum Act of 1966'.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 57, 67 of this title.

§ 42. Board of Regents; members

The business of the Institution shall be conducted at the city of Washington by a Board of Regents, named the Regents of the Smithsonian Institution, to be composed of the Vice President, the Chief Justice of the United States, three Members of the Senate, three Members of the House of Representatives, and nine other persons, other than Members of Congress, two of whom shall be resident in the city of Washington, and seven of whom shall be inhabitants of some State, but no two of them of the same State.

(R.S. § 5580; Mar. 12, 1894, ch. 36, 28 Stat. 41; Dec. 15, 1970, Pub. L. 91–551, § 1(a), 84 Stat. 1439.)

CODIFICATION

R.S. § 5580 derived from acts Aug. 10, 1846, ch. 178, § 3, 9 Stat. 103; Jan. 10, 1865, ch. 11, 13 Stat. 420; Mar. 20, 1871, ch. 1, 17 Stat. 1.

AMENDMENTS

1970—Pub. L. 91–551 authorized three additional persons on the Board of Regents.

1894—Act Mar. 12, 1894, struck out ''the governor of the District of Columbia'' after ''the Chief Justice of the United States,''.

CROSS REFERENCES

National Zoological Park, administration by Regents of Smithsonian Institution, see section 81 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 57, 67 of this title.

§ 43. Appointment of regents; terms of office; vacancies

The regents to be selected shall be appointed as follows: The Members of the Senate by the President thereof; the Members of the House by the Speaker thereof; and the nine other persons by joint resolution of the Congress. The Members of the House so appointed shall serve for the term of two years; and on every alternate fourth Wednesday of December a like number shall be appointed in the same manner to serve until the fourth Wednesday in December, in the second year succeeding their appointment. The Senators so appointed shall serve during the term for which they shall hold, without re-election, their office as Senators. Vacancies, occasioned by death, resignation, or otherwise, shall be filled as vacancies in committees are filled. The regular term of service for the other nine members shall be six years; and new elections thereof shall be made by joint resolutions of Congress. Vacancies occasioned by death, resignation, or otherwise may be filled in like manner by joint resolution of Congress.

(R.S. § 5581; Dec. 15, 1970, Pub. L. 91–551, § 1(b), (c), 84 Stat. 1440.)

CODIFICATION

R.S. § 5581 derived from act Aug. 10, 1846, ch. 178, § 3, 9 Stat. 103.

AMENDMENTS

1970—Pub. L. 91–551 authorized appointment of three additional members of the board by joint resolution of Congress.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 57, 67 of this title.

§ 44. Organization of board; expenses; gratuitous services

The Board of Regents shall meet in the city of Washington and elect one of their number as chancellor, who shall be the presiding officer of the Board of Regents, and called the chancellor of the Smithsonian Institution, and a suitable person as Secretary of the institution, who shall also be the secretary of the Board of Regents. The board shall also elect three of their own body as an executive committee, and shall fix the time for the regular meetings of the board;

and, on application of any three of the regents to the Secretary of the institution, it shall be his duty to appoint a special meeting of the Board of Regents, of which he shall give notice, by letter, to each of the members; and, at any meeting of the board, eight shall constitute a quorum to do business. Each member of the board shall be paid his necessary traveling and other actual expenses, in attending meetings of the board, which shall be audited by the executive committee, and recorded by the Secretary of the board; but his service as regent shall be gratuitous.

(R.S. § 5582; Dec. 15, 1970, Pub. L. 91–551, § 1(d), 84 Stat. 1440.)

CODIFICATION

R.S. § 5582 derived from act Aug. 10, 1846, ch. 178, § 3, 9 Stat. 103.

AMENDMENTS

1970—Pub. L. 91–551 increased number of members required to constitute a quorum from five to eight.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 57, 67 of this title.

§ 45. Special meetings of members

The members of the institution may hold stated and special meetings, for the supervision of the affairs of the institution and the advice and instruction of the Board of Regents, to be called in the manner provided for in the by-laws of the institution, at which the President, and in his absence the Vice President, shall preside.

(R.S. § 5585.)

CODIFICATION

R.S. § 5585 derived from act Aug. 10, 1846, ch. 178, § 8, 9 Stat. 103.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 57, 67 of this title.

§ 46. Duties of Secretary

The Secretary of the Board of Regents shall take charge of the building and property of the institution, and shall, under their direction, make a fair and accurate record of all their proceedings, to be preserved in the institution until no longer needed in conducting current business; and shall also discharge the duties of librarian and of keeper of the museum, and may, with the consent of the Board of Regents, employ assistants.

(R.S. § 5583; Oct. 25, 1951, ch. 562, § 2(4), 65 Stat. 639.)

CODIFICATION

R.S. § 5583 derived from act Aug. 10, 1846, ch. 178, § 7, 9 Stat. 105.

AMENDMENTS

1951—Act Oct. 25, 1951, inserted ''until no longer needed in conducting current business''.

CROSS REFERENCES

Management and disposition of records, see sections 2101 et seq., 2301 et seq., 2501 et seq., 2901 et seq., 3101 et seq., and 3301 et seq. of Title 44, Public Printing and Documents.

Statement of expenditures, see section 49 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 57, 67 of this title.

§ 46a. Employment of aliens by Secretary

The Secretary of the Smithsonian Institution, subject to adequate security and other investigations as he may determine to be appropriate, and subject further to a prior determination by him that no qualified United States citizen is available for the particular position involved, is authorized to employ and compensate aliens in a scientific or technical capacity at authorized rates of compensation without regard to statutory provisions prohibiting payment of compensation to aliens.

(Pub. L. 88–549, Aug. 31, 1964, 78 Stat. 754.)

§ 47. Acting Secretary

The chancellor of the Smithsonian Institution may, by an instrument in writing filed in the office of the Secretary thereof, designate and appoint a suitable person to act as Secretary of the Institution when there shall be a vacancy in said office, and whenever the Secretary shall be unable from illness, absence, or other cause to perform the duties of his office; and in such case the person so appointed may perform all the duties imposed on the Secretary by law until the vacancy shall be filled or such inability shall cease. The said chancellor may change such designation and appointment from time to time as the interests of the Institution may in his judgment require.

(May 13, 1884, ch. 44, 23 Stat. 21.)

PRIOR PROVISIONS

Similar prior provisions were contained in act Jan. 24, 1879, ch. 21, 20 Stat. 264.

§ 48. Salary and removal of Secretary and assistants

The Secretary and his assistants shall, respectively, receive for their services such sum as may be allowed by the Board of Regents; and shall be removable by the Board of Regents whenever, in their judgment, the interests of the institution require such removal.

(R.S. § 5584.)

CODIFICATION

R.S. § 5584 derived from act Aug. 10, 1846, ch. 178, § 7, 9 Stat. 105.

Provisions which related to semi-annual payments on the first day of January and July have been omitted.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 57, 67 of this title.

§ 49. Statement of expenditures

The Secretary shall submit to Congress annually at the beginning of each regular session thereof a detailed statement of the expenditures of the preceding fiscal year, under appropriations for ''International Exchanges,'' ''North

American Ethnology,'' and the ''National Museum.''

(Oct. 2, 1888, ch. 1069, 25 Stat. 529.)

CROSS REFERENCES

Annual report of salaries, see section 58 of this title.
Printing and distribution of reports of Smithsonian Institution, see section 1341 of Title 44, Public Printing and Documents.

§ 50. Reception and arrangement of specimens and objects of art

Whenever suitable arrangements can be made from time to time for their reception, all objects of art and of foreign and curious research, and all objects of natural history, plants, and geological and mineralogical specimens belonging to the United States, which may be in the city of Washington, in whosesoever custody they may be, shall be delivered to such persons as may be authorized by the Board of Regents to receive them, and shall be so arranged and classified in the building erected for the institution as best to facilitate the examination and study of them; and whenever new specimens in natural history, geology, or mineralogy are obtained for the museum of the institution, by exchanges of duplicate specimens, which the Regents may in their discretion make, or by donation, which they may receive, or otherwise, the Regents shall cause such new specimens to be appropriately classed and arranged. The minerals, books, manuscripts, and other property of James Smithson, which have been received by the Government of the United States, shall be preserved separate and apart from other property of the institution.

(R.S. § 5586.)

CODIFICATION

R.S. § 5586 derived from act Aug. 10, 1846, ch. 178, § 6, 9 Stat. 105.

NATIONAL HEALTH MUSEUM

Pub. L. 105–78, title VII, Nov. 13, 1997, 111 Stat. 1524, provided that:

''SEC. 701. SHORT TITLE.

''This title may be cited as the 'National Health Museum Development Act'.

''SEC. 702. AMENDMENTS TO THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1995.

''[Amended section 1067 of Pub. L. 103–337, set out as a note under section 176 of Title 10, Armed Forces.]

''SEC. 703. NATIONAL HEALTH MUSEUM SITE.

''(a) SITE.—The facility known as the National Health Museum shall be located on or near the Mall on land owned by the Federal Government or the District of Columbia (or both) in the District of Columbia.

''(b) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as limiting the authority or responsibilities of the National Capital Planning Commission or the Commission of Fine Arts.

''(c) DEFINITION.—In this section, the term 'the Mall' means—

''(1) the land designated as 'Union Square', United States Reservation 6A; and

''(2) the land designated as the 'Mall', United States Reservations 3, 4, 5, and 6.

''SEC. 704. NATIONAL HEALTH MUSEUM COMMISSION.

''(a) ESTABLISHMENT OF COMMISSION.—There is established a commission to be known as the National Health Museum Commission (hereafter referred to in this title as the 'Commission') that shall be comprised of eight members.

''(b) MEMBERSHIP.—

''(1) IN GENERAL.—The members of the Commission shall be appointed for the life of the Commission as follows:

''(A) Two members shall be appointed by the President.

''(B) Two members shall be appointed by the Speaker of the House of Representatives.

''(C) One member shall be appointed by the Minority Leader of the House of Representatives.

''(D) Two members shall be appointed by the Majority Leader of the Senate.

''(E) One member shall be appointed by the Minority Leader of the Senate.

''(2) PERSONS ELIGIBLE.—The members of the Commission shall be individuals who have knowledge or expertise in matters to be studied by the Commission.

''(3) CHAIRPERSON.—The President shall designate one member as the Chairperson of the Commission.

''SEC. 705. DUTIES OF THE COMMISSION.

''(a) STUDY.—It shall be the duty of the Commission to conduct a comprehensive study of the appropriate Federal role in the planning and operation of the National Health Museum, as well as any other issues deemed appropriate to the development of the National Health Museum.

''(b) REPORT.—Not later than 1 year after the date on which the Commission first meets, the Commission shall submit to the President and Congress a comprehensive report of the Commission's findings and conclusions, together with any recommendations of the Commission.

''SEC. 706. COMMISSION ADMINISTRATION MATTERS.

''(a) APPLICATION OF FACA.—The National Health Museum, Inc. shall be responsible for administering all Commission activities in accordance with the Federal Advisory Committee Act (5 U.S.C. App.).

''(b) COMPENSATION OF MEMBERS.—Each member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

''SEC. 707. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to carry out this section, $500,000 for fiscal year 1998, to remain available until expended.

''SEC. 708. TERMINATION OF THE COMMISSION.

''The Commission shall terminate 60 days after the Commission submits the report required under section 705(b).''

WEST COURT OF NATIONAL MUSEUM OF NATURAL HISTORY BUILDING

Pub. L. 103–151, Nov. 24, 1993, 107 Stat. 1515, provided that:

''SECTION 1. PLANNING, DESIGN, AND CONSTRUCTION OF WEST COURT OF NATIONAL MUSEUM OF NATURAL HISTORY BUILDING.

''The Board of Regents of the Smithsonian Institution is authorized to plan, design, and construct the West Court of the National Museum of Natural History building.

''SEC. 2. FUNDING.

''No appropriated funds may be used to pay any expense of the planning, design, and construction authorized by section 1.''

EAST COURT OF NATIONAL MUSEUM OF NATURAL HISTORY BUILDING

Pub. L. 101–455, Oct. 24, 1990, 104 Stat. 1067, as amended by Pub. L. 103–98, § 1(a), Oct. 6, 1993, 107 Stat. 1015, provided that:

''SECTION 1. ADDITIONAL SPACE IN NATIONAL MUSEUM OF NATURAL HISTORY.

''The Board of Regents of the Smithsonian Institution is authorized to plan, design, construct, and equip approximately 80,000 square feet of space in the East Court of the National Museum of Natural History building.

''SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

''There is authorized to be appropriated to the Smithsonian Institution for fiscal year 1991 and succeeding fiscal years not to exceed $30,000,000 to carry out this Act.''

[Section 1(b) of Pub. L. 103–98 provided that: ''The amendment made by subsection (a) [amending section 2 of Pub. L. 101–455, set out above] shall take effect as of October 24, 1990.'']

CHARLES MCC. MATHIAS, JR. LABORATORY FOR ENVIRONMENTAL RESEARCH

Pub. L. 99–617, §1, Nov. 6, 1986, 100 Stat. 3488, provided that:

''(a) CONSTRUCTION AUTHORIZATION.—The Board of Regents of the Smithsonian Institution is authorized to construct the Charles McC. Mathias, Jr. Laboratory for Environmental Research.

''(b) LOCATION.—The Charles McC. Mathias, Jr. Laboratory for Environmental Research shall be located at the Smithsonian Environmental Research Center, a bureau of the Smithsonian Institution, located at Edgewater, Maryland.

''(c) AUTHORIZATION OF APPROPRIATIONS.—Effective October 1, 1986, there is authorized to be appropriated to the Board of Regents of the Smithsonian Institution $1,000,000 to carry out the purposes of this section.

''(d) TRANSFER OF FUNDS.—Any portion of the sums appropriated to carry out the purposes of this section may be transferred to the General Services Administration which, in consultation with the Smithsonian Institution, is authorized to enter into contracts and take such other action, to the extent of the sums so transferred to it, as may be necessary to carry out such purposes.''

SMITHSONIAN ASTROPHYSICAL OBSERVATORY AND SMITHSONIAN TROPICAL RESEARCH INSTITUTE; AUTHORIZATION OF CONSTRUCTION AND APPROPRIATIONS

Pub. L. 99–423, Sept. 30, 1986, 100 Stat. 963, provided: ''That the Board of Regents of the Smithsonian Institution is authorized to plan and construct facilities for the Smithsonian Astrophysical Observatory and the Smithsonian Tropical Research Institute.

''SEC. 2. Effective October 1, 1986, there is authorized to be appropriated to the Board of Regents of the Smithsonian Institution:

''(a) $4,500,000 for the Smithsonian Astrophysical Observatory; and

''(b) $11,100,000 for the Smithsonian Tropical Research Institute.

''SEC. 3. Any portion of the sums appropriated to carry out the purposes of this Act may be transferred to the General Services Administration which, in consultation with the Smithsonian Institution, is authorized to enter into contracts and take such other action, to the extent of the sums so transferred to it, as may be necessary to carry out such purposes.''

FRED LAWRENCE WHIPPLE OBSERVATORY; PURCHASE OF LAND

Pub. L. 98–73, Aug. 11, 1983, 97 Stat. 406, provided: ''That the Smithsonian Institution is authorized to purchase land in Santa Cruz County, Arizona, for the permanent headquarters of the Fred Lawrence Whipple Observatory.

''SEC. 2. Effective October 1, 1984, there is authorized to be appropriated $150,000 to carry out the purposes of this Act.''

CONSTRUCTION OF NATIONAL MUSEUM OF AFRICAN ART, CENTER FOR EASTERN ART, AND STRUCTURES FOR RELATED EDUCATIONAL FACILITIES

Pub. L. 97–203, June 24, 1982, 96 Stat. 129, provided: ''That the Board of Regents of the Smithsonian Institution is authorized to construct a building for the National Museum of African Art and a center for Eastern art together with structures for related educational activities in the area south of the original Smithsonian Institution Building adjacent to Independence Avenue at Tenth Street Southwest, in the city of Washington.

''SEC. 2. Effective October 1, 1982, there is authorized to be appropriated to the Board of Regents of the Smithsonian Institution $36,500,000 to carry out the purposes of this Act [this note]. Except for funds obligated or expended for planning, administration, and management expenses, and architectural or other consulting services, no funds appropriated pursuant to this section shall be obligated or expended until such time as there is available to such Board, from private donations or from other non-Federal sources, a sum which, when combined with the funds so appropriated, is sufficient to carry out the purposes of this Act.

''SEC. 3. Any portion of the sums appropriated to carry out the purposes of this Act [this note] may be transferred to the General Services Administration which, in consultation with the Smithsonian Institution, is authorized to enter into contracts and take such other action, to the extent of the sums so transferred to it, as may be necessary to carry out such purposes.''

SMITHSONIAN INSTITUTION; DEVELOPMENT OF PROPERTY ADJACENT TO ORIGINAL BUILDING

Pub. L. 96–36, July 20, 1979, 93 Stat. 94, provided: ''That the Board of Regents of the Smithsonian Institution is authorized to plan for the development of the area south of the original Smithsonian Institution Building adjacent to Independence Avenue at Tenth Street, Southwest, in the city of Washington.

''SEC. 2. Effective October 1, 1979, there is authorized to be appropriated to the Board of Regents of the Smithsonian Institution $500,000 to carry out the purposes of this Act.

''SEC. 3. Any portion of the sums appropriated to carry out the purposes of this Act may be transferred to the General Services Administration which, in consultation with the Smithsonian Institution, is authorized to enter into contracts and take such other action, to the extent of the sums so transferred to it, as may be necessary to carry out such purposes.''

SMITHSONIAN INSTITUTION PLANS FOR AND CONSTRUCTION OF MUSEUM SUPPORT FACILITIES; APPROVAL OF PLANS AND SPECIFICATIONS; SITUS; TRANSFER OF LAND; APPROPRIATIONS; CONTRACTS BY GENERAL SERVICES ADMINISTRATION

Pub. L. 94–98, Sept. 19, 1975, 89 Stat. 480, as amended by Pub. L. 95–569, Nov. 2, 1978, 92 Stat. 2444, provided: ''The Regents of the Smithsonian Institution are authorized to prepare plans for, and to construct, museum support facilities to be used for (1) the care, curation, conservation, deposit, preparation, and study of the national collections of scientific, historic, and artistic objects, specimens, and artifacts; (2) the related documentation of such collections of the Smithsonian Institution; and (3) the training of museum conservators. No appropriation shall be made to construct the facilities authorized by this Act until the Committee on Public Works and Transportation of the House of Representatives and the Committee on Rules and Administration of the Senate, by resolution approve the final plans and specifications of such facilities.

''SEC. 2. The museum support facilities referred to in section 1 shall be located on federally owned land with-

in the metropolitan area of Washington, District of Columbia. Any Federal agency is authorized to transfer land under its jurisdiction to the Smithsonian Institution for such purposes without reimbursement.

''SEC. 3. There is authorized to be appropriated to the Smithsonian Institution $21,500,000 to carry out the purposes of this Act. Any portion of the sums appropriated for such purposes may be transferred to the General Services Administration which, in consultation with the Smithsonian Institution, is authorized to enter into contracts and take such other action, to the extent of the sums so transferred to it, as may be necessary to carry out such purposes.''

[Amendment of section 3 of this Act effective Oct. 1, 1979.]

NATIONAL MUSEUM

The National Museum was not created by any express statutory provision for that purpose. It was first mentioned in an appropriation for postage for ''the National Museum in the Smithsonian Institution,'' contained in act June 20, 1874, ch. 328, §1, 18 Stat. 103. An appropriation for a building for the use of the National Museum was made by act Mar. 3, 1879, ch. 182, §1, 20 Stat. 397, and annual appropriations have continuously been made for expenses of heating, etc., such building.

NATIONAL MUSEUM EXHIBIT

Res. Feb. 28, 1922, ch. 86, 42 Stat. 399, authorized Secretary of State to transfer to custody of Secretary of Institution for safekeeping and exhibition in National Museum the sword of George Washington and the staff of Benjamin Franklin, presented by Samuel T. Washington, and the sword of Andrew Jackson, presented by family of General Robert Armstrong.

TRANSPORTATION OF PROPERTY

Quartermaster-General and his officers were required to receive and transport property for National Museum by a provision of act July 5, 1884, ch. 217, 23 Stat. 107.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 57, 67 of this title.

§ 50a. Gellatly art collection; estimates of sums needed for preservation and maintenance

The Smithsonian Institution is authorized to include in its estimates of appropriations such sums as may be needful for the preservation and maintenance of the John Gellatly art collection.

(June 5, 1929, ch. 9, 46 Stat. 5.)

§ 51. Library

The Regents shall make, from the interest of the fund, an appropriation, not exceeding an average of $25,000 annually, for the gradual formation of a library composed of valuable works pertaining to all departments of human knowledge.

(R.S. §5587.)

CODIFICATION

R.S. §5587 derived from act Aug. 10, 1846, ch. 178, §8, 9 Stat. 105.

PUBLIC USE OF RESEARCH AND STUDY FACILITIES OF CERTAIN INSTITUTIONS

Under provisions of R.S. §94 and act Mar. 3, 1875, ch. 179, 18 Stat. 512, the Joint Committee on the Library of Congress was authorized to extend the use of the Library to the Regents of the Smithsonian Institution. These provisions were not classified to the Code, being rendered superfluous by a general declaration of public policy by Congress, by a joint resolution adopted Apr. 12, 1892, 27 Stat. 395, to the effect that facilities for study and research in the Library of Congress, the National Museum, and similar institutions shall be afforded investigators, students, etc., in the several states and territories as well as in the District of Columbia.

CROSS REFERENCES

Appropriation of interest moneys, see section 54 of this title.

Regulations governing Smithsonian Institution; see sections 151 and 152 of Title 2, The Congress.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 57, 67 of this title.

§ 52. Evidence of title to site and buildings

The site and lands selected for buildings for the Smithsonian Institution shall be deemed appropriated to the institution, and the record of the description of such site and lands, or a copy thereof, certified by the chancellor and Secretary of the Board of Regents, shall be received as evidence in all courts of the extent and boundaries of the lands appropriated to the institution.

(R.S. §5588.)

CODIFICATION

R.S. §5588 derived from act Aug. 10, 1846, ch. 178, §4, 9 Stat. 104.

FEDERAL RULES OF CIVIL PROCEDURE

Effect of rule 44 on this section, see note of Advisory Committee set out under rule 44, Title 28, Appendix, Judiciary and Judicial Procedure.

Proof of official record, see rule 44.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 57, 67 of this title.

§ 53. Protection of property

All laws for the protection of public property in the city of Washington shall apply to, and be in force for, the protection of the lands, buildings, and other property of the Smithsonian Institution. All moneys recovered by or accruing to, the institution shall be paid into the Treasury of the United States, to the credit of the Smithsonian bequest, and separately accounted for.

(R.S. §5589.)

CODIFICATION

R.S. §5589 derived from act Aug. 10, 1846, ch. 178, §5, 9 Stat. 104.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 57, 67 of this title.

§ 53a. Authorization of appropriations

Appropriations are authorized for the maintenance of the Astrophysical Observatory and the making of solar observations at high altitudes; for repairs and alterations of buildings and grounds occupied by the Smithsonian Institution in the District of Columbia and elsewhere; and for preparation of manuscripts, drawings, and illustrations for publications.

(Aug. 22, 1949, ch. 494, § 2, 63 Stat. 623.)

§ 54. Appropriation of interest

So much of the property of James Smithson as has been received in money, and paid into the Treasury of the United States, being the sum of $541,379.63, shall be lent to the United States Treasury and invested in public debt securities with maturities requested by the Smithsonian Institution bearing interest at rates determined by the Secretary of the Treasury, based upon current market yields on outstanding marketable obligations of the United States of comparable maturities, and this interest is hereby appropriated for the perpetual maintenance and support of the Smithsonian Institution; and all expenditures and appropriations to be made, from time to time, to the purposes of the Institution shall be exclusively from the accruing interest, and not from the principal of the fund. All the moneys and stocks which have been, or may hereafter be, received into the Treasury of the United States, on account of the fund bequeathed by James Smithson, are hereby pledged to refund to the Treasury of the United States the sums hereby appropriated.

(R.S. § 5590; Pub. L. 97–199, § 1, June 22, 1982, 96 Stat. 121.)

CODIFICATION

R.S. § 5590 derived from acts Aug. 10, 1846, ch. 178, § 2, 9 Stat. 102; Feb. 5, 1867, ch. 34, § 2, 14 Stat. 391.

AMENDMENTS

1982—Pub. L. 97–199 substituted ''and invested in public debt securities with maturities requested by the Smithsonian Institution bearing interest at rates determined by the Secretary of the Treasury, based upon current market yields on outstanding marketable obligations of the United States of comparable maturities, and this interest is hereby'' for '', at 6 per centum per annum interest; and 6 per centum interest on the trust-fund and residuary legacy received into the United States Treasury, payable in half-yearly payments, on the first of January and July in each year, is'', substituted ''purposes of the Institution'' for ''purposes of the institution'', and substituted ''are hereby pledged'' for ''are pledged''.

EFFECTIVE DATE OF 1982 AMENDMENT

Section 2 of Pub. L. 97–199 provided that: ''The amendment made by the first section [amending this section] shall apply with respect to fiscal years beginning after September 30, 1982.''

CROSS REFERENCES

Expenses of Smithsonian Institution Trust Fund, see section 1321 of Title 31, Money and Finance.

Permanent indefinite appropriation for Smithsonian Institution, see section 1305 of Title 31.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 57, 67 of this title; title 31 section 1305.

§ 55. Acceptance of other sums

The Secretary of the Treasury is authorized and directed to receive into the Treasury, on the same terms as the original bequest of James Smithson, such sums as the Regents may, from time to time, see fit to deposit, not exceeding, with the original bequest, the sum of $1,000,000. This shall not operate as a limitation on the power of the Smithsonian Institution to receive money or other property by gift, bequest, or devise, and to hold and dispose of the same in promotion of the purposes thereof.

(R.S. § 5591; Mar. 12, 1894, ch. 36, 28 Stat. 41.)

CODIFICATION

R.S. § 5591 derived from act Feb. 5, 1867, ch. 34, § 1, 14 Stat. 391.

AMENDMENTS

1894—Act Mar. 12, 1894, made limitation on deposits into the Treasury inapplicable to receipt of gifts, bequests and devises and dispositions of money or other property.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 57, 67 of this title.

§ 56. Disposal of unappropriated money

The Regents are authorized to make such disposal of any other moneys which have accrued, or shall hereafter accrue, as interest upon the Smithsonian fund, not herein appropriated, or not required for the purposes herein provided, as they shall deem best suited for the promotion of the purpose of the testator.

(R.S. § 5592.)

CODIFICATION

R.S. § 5592 derived from act Aug. 10, 1846, ch. 178, § 9, 9 Stat. 105.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 57, 67 of this title.

§ 57. Disbursements

Whenever money is required for the payment of the debts or performance of the contracts of the institution, incurred or entered into in conformity with the provisions of sections 41 to 46, 48, 50, 51 to 53, 54 to 57, and 67 of this title, or for making the purchases and executing the objects authorized by said sections, the Board of Regents, or the executive committee thereof, may certify to the chancellor and secretary of the board that such sum of money is required, whereupon they shall examine the same, and, if they shall approve thereof, shall certify the same to the proper officer of the Treasury for payment. The board shall submit to Congress, at each session thereof, a report of the operations, expenditures, and condition of the institution.

(R.S. § 5593.)

CODIFICATION

R.S. § 5593 derived from act Aug. 10, 1846, ch. 178, § 3, 9 Stat. 103.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 67 of this title.

§ 58. Annual report of salaries

A report in detail, for the preceding fiscal year, shall be made to Congress annually of the salaries of all officers and employees paid from appropriations under the Smithsonian Institution.

(Mar. 3, 1899, ch. 424, § 1, 30 Stat. 1085.)

CROSS REFERENCES

Secretary of the Smithsonian Institution, annual statement of expenditures by, see section 49 of this title.

§ 59. Collections of National Ocean Survey, United States Geological Survey, and others deposited in National Museum

All collections of rocks, minerals, soils, fossils, and objects of natural history, archaeology, and ethnology, made by the National Ocean Survey, the United States Geological Survey, or by any other parties for the Government of the United States, when no longer needed for investigations in progress shall be deposited in the National Museum.

(Mar. 3, 1879, ch. 182, § 1, 20 Stat. 394; 1965 Reorg. Plan No. 2, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318; 1970 Reorg. Plan No. 4, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090; Nov. 13, 1991, Pub. L. 102–154, title I, 105 Stat. 1000.)

CODIFICATION

Words ''Coast and Interior Survey'' appearing in act Mar. 3, 1879, were in prior editions of the Code changed to ''Coast and Geodetic Survey.'' Congress never created a Coast and Interior Survey. In a communication dated Nov. 6, 1940, the Director of the Geological Survey explained that the words ''Coast and Interior Survey'' were inadvertently incorporated upon authority of report contained in Senate Misc. Doc. No. 9, 45th Congress, 3d Session, which recommended the ''Coast and Geodetic Survey'' be changed to ''United States Coast and Interior Survey'' and an organization be created in the Interior Department to be known as the ''United States Geological Survey.'' Congress adopted only the latter suggestion.

Coast and Geodetic Survey consolidated with National Weather Bureau in 1965 to form Environmental Science Services Administration by Reorg. Plan No. 2 of 1965, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318. Environmental Science Services Administration abolished in 1970 and its personnel, property, records, etc., transferred to National Oceanic and Atmospheric Administration by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090. By order of Acting Associate Administrator of National Oceanic and Atmospheric Administration, 35 F.R. 19249, Dec. 19, 1970, Coast and Geodetic Survey redesignated National Ocean Survey. See notes set out under section 311 of Title 15, Commerce and Trade.

CHANGE OF NAME

''United States Geological Survey'' substituted in text for ''Geological Survey'' pursuant to provision of title I of Pub. L. 102–154, set out as a note under section 31 of Title 43, Public Lands.

NATIONAL MUSEUM

Establishment of the National Museum, see note set out under section 50 of this title.

NATIONAL MUSEUM OF AMERICAN HISTORY

Pub. L. 96–441, § 2, Oct. 13, 1980, 94 Stat. 1884, provided that: ''The bureau of the Smithsonian Institution known as the Museum of History and Technology and so referred to in the Act entitled 'An Act to authorize the construction of a building for a Museum of History and Technology for the Smithsonian Institution, including the preparation of plans and specifications, and all other work incidental thereto', approved June 28, 1955 (20 U.S.C. 59 note), shall be known as the 'National Museum of American History'.''

For provision deeming references to the Museum of History and Technology in laws and regulations to be references to the National Museum of American History, see section of 3 of Pub. L. 96–441, set out as a note under section 71 of this title.

MUSEUM OF HISTORY AND TECHNOLOGY FOR THE SMITHSONIAN INSTITUTION

Act June 28, 1955, ch. 201, 69 Stat. 189, authorized construction of a building for a Museum of History and Technology, which was redesignated the National Museum of American History, for the use of the Smithsonian Institution, at a cost not to exceed $36,000,000.

§ 60. Army articles furnished to National Museum

The Secretary of the Army is authorized to furnish to the National Museum, for exhibition, upon request therefor by the administrative head thereof, such articles of arms, materiel, equipment, or clothing as have been issued from time to time to the United States Army, or which have been or may hereafter be produced for the United States Army, and which are objects of general interest or of foreign or curious research, provided that such articles can be spared.

(Mar. 4, 1921, ch. 166, § 1, 41 Stat. 1438; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501; Oct. 31, 1951, ch. 654, § 3(4), 65 Stat. 708.)

AMENDMENTS

1951—Act Oct. 31, 1951, struck out ''are surplus or'' after ''articles''.

CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted ''Title 10, Armed Forces'' which in sections 3010 to 3013 continued Department of the Army under administrative supervision of Secretary of the Army.

SECRETARY OF AIR FORCE

For transfer of certain personal property and personal property functions, insofar as they pertain to the Air Force, from Secretary of the Army to Secretary of the Air Force, see Secretary of Defense Transfer Order No. 39 [§ 2vv], eff. May 18, 1949.

§§ 61 to 64. Repealed. Oct. 31, 1951, ch. 654, § 1(37)–(40), 65 Stat. 702

Section 61, act Mar. 3, 1879, ch. 182, § 1, 20 Stat. 397, required archives, records and materials relating to Indians of North America to be turned over from Geographical and Geological Survey to Smithsonian Institution for purposes of completion of collection of information and its publication.

Section 62, act Aug. 1, 1914, ch. 223, § 1, 38 Stat. 661, authorized Secretary of Commerce to transfer instruments of historical value of the Coast and Geodetic Survey [the National Ocean Survey] to Smithsonian Institution. See section 483 of Title 40, Public Buildings, Property, and Works.

Section 63, act June 5, 1920, ch. 235, § 1, 41 Stat. 930, related to transfer, by Secretary of Commerce, of Coast and Geodetic Survey [the National Ocean Survey] instruments of historical value, to educational institutions and museums. See sections 483 and 484 of Title 40.

Section 64, act Mar. 3, 1883, ch. 143, 22 Stat. 629, related to distribution of specimens of National Museum and Bureau of Fisheries to schools and colleges. See sections 483 and 484 of Title 40.

§ 65. Repealed. Pub. L. 89–674, § 3, Oct. 15, 1966, 80 Stat. 953

Section, act July 7, 1884, ch. 332, 23 Stat. 214, required Director of National Museum to report annually to Congress on progress of the Museum during the year and its present condition. See section 65a of this title.

§ 65a. Director of the National Museum

(a) Duties; programs and studies; annual report to Congress

The Director of the National Museum under the direction of the Secretary of the Smithsonian Institution shall—

(1) cooperate with museums and their professional organizations in a continuing study of museum problems and opportunities, both in the United States and abroad;

(2) prepare and carry out programs by grant, contract, or directly for training career employees in museum practices in cooperation with museums, their professional organizations, and institutions of higher education either at the Smithsonian Institution or at the cooperating museum, organization, or institutions;

(3) prepare and distribute significant museum publications;

(4) perform research on, and otherwise contribute to, the development of museum techniques, with emphasis on museum conservation and the development of a national institute for museum conservation;

(5) cooperate with departments and agencies of the Government of the United States operating, assisting, or otherwise concerned with museums; and

(6) report annually to the Congress on progress in these activities.

(b) Authorization of appropriations

There are hereby authorized to be appropriated to the Smithsonian Institution for the fiscal year 1981, the sum of $803,000, and for the fiscal year 1982, the sum of $1,000,000.

(Pub. L. 89–674, § 2, Oct. 15, 1966, 80 Stat. 953; Pub. L. 91–629, §§ 1, 2 Dec. 31, 1970, 84 Stat. 1875; Pub. L. 93–345, §§ 1, 2, July 12, 1974, 88 Stat. 339; Pub. L. 94–336, July 1, 1976, 90 Stat. 795; Pub. L. 96–268, June 13, 1980, 94 Stat. 485.)

AMENDMENTS

1980—Subsec. (b). Pub. L. 96–268 substituted provisions authorizing appropriations of $803,000 for fiscal year 1981 and $1,000,000 for fiscal year 1982 for provisions which had authorized appropriations of $1,000,000 each year for fiscal years 1978, 1979, and 1980.

1976—Subsec. (b). Pub. L. 94–336 substituted provisions authorizing the appropriation of $1,000,000 each year for fiscal years 1978, 1979, and 1980, for provisions under which there had been authorized to be appropriated whatever sums as might be necessary to carry out the purposes of the section, with a proviso that no more than $1,000,000 could be appropriated annually through fiscal year 1977, of which no less than $200,000, was to be allocated and used to carry out subsec. (a)(4) of this section.

1974—Subsec. (a)(4). Pub. L. 93–345, § 1, inserted '', with emphasis on museum conservation and the development of a national institute for museum conservation'' after ''museum techniques''.

Subsec. (b). Pub. L. 93–345, § 2, substituted provisions limiting to $1,000,000 the amount which may be appropriated annually through fiscal year 1977, with no less than $200,000 annually to be allocated and used to carry out the purposes of subsection (a)(4) of this section for provisions limiting to $1,000,000 the amount which could be appropriated annually through fiscal year 1974, of which $300,000 annually had to be allocated and used according to the formula of 33⅓ per centum for purposes of subsec. (a)(2), 33⅓ per centum for assistance to museums under section 954(c) of this title, and 33⅓ per centum for assistance to museums under section 956(c) of this title.

1970—Subsec. (a)(2). Pub. L. 91–629, § 2, inserted provisions that programs be prepared and carried out by grant, contract, or directly and which authorized the training of career employees in museum practices in cooperation with institutions of higher education, and substituted provisions which authorized training programs to be conducted either at the Smithsonian Institution, or at the cooperating museum, organization, or institutions, for provisions which authorized such programs to be conducted at the best locations.

Subsec. (b). Pub. L. 91–629, § 1, substituted provisions which authorized to be appropriated such sums as necessary to carry out the purposes of this section, with no more than $1,000,000 to be appropriated annually through fiscal year 1974, of which $300,000, annually, to be allocated in the enumerated manner, for provisions which authorized to be appropriated to carry out this section, not to exceed $200,000 for the fiscal year ending June 30, 1968, $250,000 for the fiscal years ending June 30, 1969, and June 30, 1970, and $300,000 for the fiscal year ending June 30, 1971, and in each subsequent fiscal year, only such sums as the Congress hereafter authorizes by law.

§ 66. Repealed. June 30, 1949, ch. 288, title VI, § 602(a)(19), 63 Stat. 400, eff. July 1, 1949; renumbered Sept. 5, 1950, ch. 849, § 6(a), (b), 64 Stat. 583

Section, act Mar. 3, 1915, ch. 75, § 1, 38 Stat. 839, related to exchange of typewriters and adding machines. See section 481 of Title 40, Public Buildings, Property, and Works.

§ 67. Right of repeal

Congress may alter, amend, add to, or repeal any of the provisions of sections 41 to 46, 48, 50, 51 to 53, and 54 to 57, of this title; but no contract or individual right made or acquired under such provisions shall be thereby divested or impaired.

(R.S. § 5594.)

CODIFICATION

R.S. § 5594 derived from act Aug. 10, 1846, ch. 178, § 11, 9 Stat. 106.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 57 of this title.

§ 68. Repealed. Oct. 10, 1940, ch. 851, § 4, 54 Stat. 1111

Section, act Feb. 11, 1927, ch. 104, § 1, 44 Stat. 1081, related to advertisements for proposals for purchases and services. See section 5 of Title 41, Public Contracts.

§ 69. Anthropological researches; cooperation of Institution with States, educational institutions, or scientific organizations

The Secretary of the Smithsonian Institution is hereby authorized to cooperate with any State, educational institution, or scientific organization in the United States to continue independently or in cooperation anthropological

researches among the American Indians and the natives of lands under the jurisdiction or protection of the United States and the excavation and preservation of archaeological remains.

(Apr. 10, 1928, ch. 335, §1, 45 Stat. 413; Aug. 22, 1949, ch. 494, §1, 63 Stat. 623.)

AMENDMENTS

1949—Act Aug. 22, 1949, substituted ''to continue independently or in cooperation anthropological'' for ''for continuing ethnological'' and inserted ''and the natives of lands under the jurisdiction or protection of the United States''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 70 of this title.

§ 70. Authorization of appropriations; cooperative work

There is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, the sum of $20,000, which shall be available until expended for the purposes stated in section 69 of this title: *Provided*, That at such time as the Smithsonian Institution is satisfied that any State, educational institution, or scientific organization in any of the United States is prepared to contribute to such investigation and when, in its judgment such investigation shall appear meritorious, the Secretary of the Smithsonian Institution may direct that an amount from this sum equal to that contributed by such State, educational institution, or scientific organization, not to exceed $2,000, to be expended from such sum in any one State during any calendar year, be made available for cooperative investigation: *Provided further*, That all such cooperative work and division of the result thereof shall be under the direction of the Secretary of the Smithsonian Institution: *Provided further*, That where lands are involved which are under the jurisdiction of the Bureau of Indian Affairs or the National Park Service, cooperative work thereon shall be under such regulations and conditions as the Secretary of the Interior may provide.

(Apr. 10, 1928, ch. 335, §2, 45 Stat. 413.)

SUBCHAPTER II—NATIONAL GALLERY OF ART

§ 71. Designation of site

The area bounded by Seventh Street, Constitution Avenue, Fourth Street, and North Mall Drive, Northwest, in the District of Columbia, is appropriated to the Smithsonian Institution as a site for a National Gallery of Art. The Smithsonian Institution is authorized to permit the A. W. Mellon Educational and Charitable Trust (hereinafter referred to as the donor) to construct on said site for the Smithsonian Institution a building to be designated the National Gallery of Art, and to remove any existing structure and landscape the grounds within said area. The adjoining area bounded by Fourth Street, Pennsylvania Avenue, Third Street, and North Mall Drive, Northwest, in the District of Columbia, is reserved as a site for future additions to the National Gallery of Art. The project shall be in accordance with plans and specifications approved by the Commission of Fine Arts.

(Mar. 24, 1937, ch. 50, §1, 50 Stat. 51.)

GENERAL POST OFFICE BUILDING; TRANSFER TO SMITHSONIAN INSTITUTION FOR USE AS ART GALLERIES; RELOCATION OF UNITED STATES INTERNATIONAL TRADE COMMISSION

Pub. L. 98–523, Oct. 19, 1984, 98 Stat. 2433, provided: ''That at such time as it is declared to be excess property pursuant to section 2(d) of this Act, the Administrator of General Services (hereinafter in this Act referred to as the 'Administrator') is authorized to transfer to the Smithsonian Institution, in accordance with section 202 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483), without reimbursement, and for use by the Smithsonian Institution for certain art galleries and related functions, the General Post Office Building with any attached underground structures and the site of such building, located between Seventh and Eighth Streets Northwest and E and F Streets Northwest, in the District of Columbia.

''SEC. 2. (a) The Administrator, at the earliest practicable date, shall relocate all operations of the United States International Trade Commission (hereinafter in this Act referred to as the 'Commission') to a building in downtown Washington, District of Columbia. The Administrator's determination as to such relocation shall be based on studies and investigations in which the Chairman of the Commission shall have full opportunity to consult and cooperate with the Administrator. Such consultation shall include opportunity for the Chairman to participate jointly with the Administrator in surveys of available buildings and to submit views and recommendations to the Administrator with respect to space suitable for the Commission's operations. The Administrator shall advise the Chairman in writing of the building to which the operations of the Commission are to be relocated. The Administrator's determination of such relocation shall not take effect for a period of at least sixty days after the date such determination is made and the Chairman is advised of the building to which the operations of the Commission are to be relocated. In the event the Chairman disagrees with the Administrator's determination of such relocation, the Chairman, within thirty days after the Chairman is advised of the building to which the operations of the Commission are to be relocated, may make a written request for review of such determination to the Administrator, and the Administrator shall conduct a formal review of such determination.

''(b) The Administrator and the Chairman shall each report separately in writing to the Committees on Environment and Public Works, Finance, Rules and Administration, and Governmental Affairs of the Senate and to the Committees on Public Works and Transportation, Ways and Means, House Administration, and Government Operations of the House of Representatives not later than sixty days after the date of enactment of this Act [Oct. 19, 1984] and every thirty days thereafter on the status of the relocation required by this section.

''(c) During the period in which the Commission and the United States Postal Service continue to occupy the General Post Office Building referred to in the first section of this Act, the Administrator shall maintain such building in order to prevent its deterioration and to assure that conditions therein are safe and the building is presentable and suitable to the normal operations of the Commission and such Service.

''(d) Upon accomplishment of the relocation required by subsection (a) of this section, the Administrator shall declare the property referred to in the first section of this Act to be excess property as defined in section 3 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 472).

''SEC. 3. There is authorized to be appropriated to the Board of Regents of the Smithsonian Institution $40,000,000 for fiscal years beginning after September 30, 1984, for renovation and repair, after the transfer made under the first section of this Act, of the General Post

Office Building referred to in such section. Any portion of the sums appropriated under this section may be transferred to the General Services Administration which, in consultation with the Smithsonian Institution, is authorized to enter into contracts and take such other action, to the extent of the sums so transferred to it, as may be necessary to carry out such renovation and repair. No contract for such renovation or repair shall be advertised or entered into before the end of the period of thirty days of continuous session of Congress beginning on the date the Smithsonian Institution submits to the Committees on Public Works and Transportation and House Administration of the House of Representatives and the Committees on Environment and Public Works and Rules and Administration of the Senate the plans and advanced engineering and design for such renovation and repair. For purposes of this section, continuity of session is broken only by an adjournment of Congress sine die, and the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of any period of time in which Congress is in continuous session.''

NATIONAL MUSEUM OF AMERICAN ART

Pub. L. 96–441, §§1, 3, 4, Oct. 13, 1980, 94 Stat. 1884, provided: ''That the bureau of the Smithsonian Institution designated as the National Collection of Fine Arts by section 6(c) of the joint resolution entitled 'Joint Resolution providing for the construction and maintenance of a National Gallery of Art', approved March 24, 1937 (20 U.S.C. 71 note), shall be known as the 'National Museum of American Art'.

''SEC. 3. Any reference in any law, regulation, document, or paper to the National Collection of Fine Arts or the Museum of History and Technology shall on and after the effective date of this Act [Oct. 13, 1980] be considered to be a reference to the National Museum of American Art and the National Museum of American History, respectively.

''SEC. 4. This Act shall take effect on the day after the date of the enactment of this Act [Oct. 13, 1980].''

NATIONAL COLLECTION OF FINE ARTS

Act Mar. 24, 1937, ch. 50, 50 Stat. 51, sections 1 to 5 of which are incorporated as sections 71, 72 to 74, and 75 of this title, provided in section 6(c) that: ''The existing bureau of the Smithsonian Institution now designated as a national gallery of art shall hereafter be known as the National Collection of Fine Arts.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 71a of this title.

§ 71a. Additions; payment of construction costs from trust funds

The Trustees of the National Gallery of Art are authorized to construct within the area reserved as a site for future additions by the third sentence of section 71 of this title one or more buildings to serve as additions to the National Gallery of Art. The cost of constructing any such building shall be paid from trust funds administered by such Trustees. The plans and specifications for any such building shall be approved by the Commission of Fine Arts and the National Capital Planning Commission.

(Pub. L. 90–376, §1, July 5, 1968, 82 Stat. 286.)

CODIFICATION

Section was not enacted as part of act Mar. 24, 1937, ch. 50, 50 Stat. 51, which comprises this subchapter.

TRANSFER OF JURISDICTION

Section 4 of Pub. L. 90–376 provided that: ''The Commissioner [Mayor] of the District of Columbia is authorized to transfer to the United States such jurisdiction as the District of Columbia may have over any of the property within the area referred to in the first section of this Act [this section].''

PUBLIC UTILITY: PAYMENT OF COST OF RELOCATION OR PROTECTION FROM TRUST FUNDS

Section 5 of Pub. L. 90–376 provided that: ''If any public utility (whether privately or publicly owned) located within the area referred to in the first section of this Act [this section] is required to be relocated or protected by reason of the construction within such area of any addition to the National Gallery of Art, the cost of such relocation or protection shall be paid from trust funds administered by the Trustees of the National Gallery of Art.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 71b of this title.

§ 71b. Status of completed addition

Any building constructed under authority of section 71a of this title shall, upon completion, be a part of the National Gallery of Art.

(Pub. L. 90–376, §2, July 5, 1968, 82 Stat. 286.)

CODIFICATION

Section was not enacted as part of act Mar. 24, 1937, ch. 50, 50 Stat. 51, which comprises this subchapter.

§ 72. Board of Trustees

(a) Establishment

There is established in the Smithsonian Institution a bureau, which shall be directed by a board to be known as the Trustees of the National Gallery of Art, whose duty it shall be to maintain and administer the National Gallery of Art and site thereof and to execute such other functions as are vested in the board by this subchapter. The board shall be composed as follows: The Chief Justice of the United States, the Secretary of State, the Secretary of the Treasury, and the Secretary of the Smithsonian Institution, ex officio; and five general trustees who shall be citizens of the United States, to be chosen as hereinafter provided. No officer or employee of the Federal Government shall be eligible to be chosen as a general trustee.

(b) Method of selection; term of office

The general trustees first taking office shall be chosen by the Board of Regents of the Smithsonian Institution, subject to the approval of the donor, and shall have terms expiring one each on July 1 of 1939, 1941, 1943, 1945, and 1947, as designated by the Board of Regents. A successor shall be chosen by a majority vote of the general trustees and shall have a term expiring ten years from the date of the expiration of the term for which his predecessor was chosen, except that a successor chosen to fill a vacancy occurring prior to the expiration of such term shall be chosen only for the remainder of such term.

(Mar. 24, 1937, ch. 50, §2, 50 Stat. 52.)

DELEGATION OF FUNCTIONS BY SECRETARY OF STATE TO DIRECTOR OF THE INTERNATIONAL COMMUNICATION AGENCY

Pub. L. 95–426, title II, §205, Oct. 7, 1978, 92 Stat. 975, as amended by Pub. L. 97–241, title III, §303(b), Aug. 24, 1982, 96 Stat. 291, provided that: ''The Secretary of

State may delegate to the Director of the United States Information Agency, with the consent of the Director, the functions vested in the Secretary by section 2(a) of the joint resolution entitled 'Joint Resolution providing for the construction and maintenance of a National Gallery of Art', approved March 24, 1937 (20 U.S.C. 72(a))."

§ 73. Acceptance of gift from A. W. Mellon

Upon completion of the National Gallery of Art, the board shall accept for the Smithsonian Institution as a gift from the donor a collection of works of art which shall be housed and exhibited in the National Gallery of Art.

(Mar. 24, 1937, ch. 50, § 3, 50 Stat. 52.)

§ 74. Maintenance

(a) Pledge of funds for upkeep; authorization of appropriations

The faith of the United States is pledged that, on completion of the National Gallery of Art by the donor in accordance with the terms of this subchapter and the acquisition from the donor of the collection of works of art, the United States will provide such funds as may be necessary for the upkeep of the National Gallery of Art and the administrative expenses and costs of operation thereof, including the protection and care of works of art acquired by the board, so that the National Gallery of Art shall be at all times properly maintained and the works of art contained therein shall be exhibited regularly to the general public free of charge. For these purposes, and to provide, prior to the completion of the National Gallery of Art, for the protection and care of the works of art in said Gallery and for administrative and operating expenses and equipment preparatory to the opening of the Gallery to the public, there are authorized to be appropriated such sums as may be necessary.

(b) Acceptance of gifts and other property; investment of funds

The board is authorized to accept for the Smithsonian Institution and to hold and administer gifts, bequests, or devises of money, securities, or other property of whatsoever character for the benefit of the National Gallery of Art. Unless otherwise restricted by the terms of the gift, bequest, or devise, the board is authorized to sell or exchange and to invest or reinvest in such investments as it may determine from time to time the moneys, securities, or other property composing trust funds given, bequeathed, or devised to or for the benefit of the National Gallery of Art. The income as and when collected shall be placed in such depositaries as the board shall determine and shall be subject to expenditure by the board.

(c) Appointment and compensation of officers and employees

The board shall appoint and fix the compensation and duties of a director, an assistant director, a secretary, and a chief curator of the National Gallery of Art, and of such other officers and employees of the National Gallery of Art as may be necessary for the efficient administration of the functions of the board. Such director, assistant director, secretary, and chief curator shall be compensated from trust funds available to the board for the purpose, and their appointment and salaries shall not be subject to the civil-service laws or chapter 51 and subchapter III of chapter 53 of title 5. The director, assistant director, secretary, and chief curator shall be well qualified by experience and training to perform the duties of their office and the original appointment to each such office shall be subject to the approval of the donor.

(d) Review of actions of board

The actions of the board, including any payment made or directed to be made by it from any trust funds, shall not be subject to review by any officer or agency other than a court of law.

(Mar. 24, 1937, ch. 50, § 4, 50 Stat. 52; Apr. 13, 1939, ch. 61, 53 Stat. 577; Oct. 28, 1949, ch. 782, title XI, § 1106(a), 63 Stat. 972.)

REFERENCES IN TEXT

The civil-service laws, referred to in subsec. (c), are set forth in Title 5, Government Organization and Employees. See, particularly, section 3301 et seq. of Title 5.

CODIFICATION

In subsec. (c), "chapter 51 and subchapter III of chapter 53 of title 5" substituted for "the Classification Act of 1949, as amended" on authority of Pub. L. 89–554, § 7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

AMENDMENTS

1949—Act Oct. 28, 1949, substituted "Classification Act of 1949" for "Classification Act of 1923".

1939—Subsec. (a). Act Apr. 13, 1939, inserted in last sentence "and to provide, prior to the completion of the National Gallery of Art, for the protection and care of the works of art in said Gallery and for administrative and operating expenses and equipment preparatory to the opening of the Gallery to the public".

REPEALS

Act Oct. 28, 1949, ch. 782, cited as a credit to this section, was repealed (subject to a savings clause) by Pub. L. 89–554, Sept. 6, 1966, § 8, 80 Stat. 632, 655.

§ 74a. Permanent loan of funds by Board of Trustees to Treasury; semiannual interest payments to Board

The Secretary of the Treasury is authorized and directed to receive into the Treasury from time to time as a permanent loan by the Board of Trustees of the National Gallery of Art to the United States sums in cash of not to exceed $5,000,000 in the aggregate, and to pay interest on the principal amount of such loan at a rate which is the higher of the rate of 4 per centum per annum or a rate which is .25 percentage points less than a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding long-term marketable obligations of the United States, adjusted to the nearest one-eighth of 1 per centum, payable semiannually. Such interest is permanently appropriated for payment to the Board of Trustees of the National Gallery of Art.

(Apr. 10, 1943, ch. 46, 57 Stat. 62; Sept. 21, 1976, Pub. L. 94–418, 90 Stat. 1278.)

CODIFICATION

Section was not enacted as part of act Mar. 24, 1937, ch. 50, 50 Stat. 51, which comprises this subchapter.

AMENDMENTS

1976—Pub. L. 94–418 inserted provision authorizing alternate interest rate to existing interest rate of 4 per centum per annum.

§ 75. Authority and functions of the board

(a) Official seal; bylaws, rules, and regulations; quorum

The board is authorized to adopt an official seal which shall be judicially noticed and to make such bylaws, rules, and regulations, as it deems necessary for the administration of its functions under this subchapter, including, among other matters, bylaws, rules, and regulations relating to the acquisition, exhibition, and loan of works of art, the administration of its trust funds, and the organization and procedure of the board. The board may function notwithstanding vacancies, and three members of the board shall constitute a quorum for the transaction of business.

(b) Quality of works of art

In order that the collection of the National Gallery of Art shall always be maintained at a high standard and in order to prevent the introduction therein of inferior works of art, no work of art shall be included in the permanent collection of the National Gallery of Art unless it be of similar high standard of quality to those in the collection acquired from the donor.

(c) Powers and obligations

The board shall have all the usual powers and obligations of a trustee in respect of all trust funds administered by it and all works of art acquired by it.

(d) Annual reports

The board shall submit to the Smithsonian Institution an annual report of its operations under this subchapter, including a detailed statement of all acquisitions and loans of works of art and of all public and private moneys received and disbursed.

(Mar. 24, 1937, ch. 50, § 5, 50 Stat. 53.)

SUBCHAPTER III—NATIONAL PORTRAIT GALLERY

§ 75a. Definitions

For the purposes of this subchapter—

(a) The term ''Board'' means the Board of Regents of the Smithsonian Institution.

(b) The term ''Commission'' means the National Portrait Gallery Commission as provided for in this subchapter.

(c) The term ''Gallery'' means the National Portrait Gallery established by this subchapter.

(d) The term ''gift'' includes a gift, bequest, or devise, whether outright or in trust, and any legal instrument by which the gift is effected.

(e) The term ''portraiture'' includes portraits and reproductions thereof made by any means or process, whether invented or developed heretofore or hereafter.

(Pub. L. 87–443, § 2, Apr. 27, 1962, 76 Stat. 62; Pub. L. 94–209, Feb. 5, 1976, 90 Stat. 30.)

AMENDMENTS

1976—Subsec. (e). Pub. L. 94–209 substituted ''includes portraits and reproductions thereof made by any means or process, whether invented or developed heretofore or hereafter'' for ''for purposes of this subchapter shall mean painted or sculptured likenesses''.

SHORT TITLE

Pub. L. 87–443, § 1, provided: ''That this Act [enacting this subchapter] may be cited as the 'National Portrait Gallery Act'.''

§ 75b. Establishment of National Portrait Gallery; functions

(a) There is established in the Smithsonian Institution a bureau which shall be known as the National Portrait Gallery. The functions of such bureau shall be those authorized by this subchapter. The use for the purposes of the Gallery of any part of the building transferred to the Smithsonian Institution pursuant to the Act of March 28, 1958 (72 Stat. 68), is authorized.

(b) The Gallery shall function as a free public museum for the exhibition and study of portraiture and statuary depicting men and women who have made significant contributions to the history, development, and culture of the people of the United States and of the artists who created such portraiture and statuary.

(Pub. L. 87–443, § 3, Apr. 27, 1962, 76 Stat. 62.)

REFERENCES IN TEXT

Act of March 28, 1958, referred to in subsec. (a), is act Mar. 28, 1958, Pub. L. 85–357, 72 Stat. 68, which was not classified to the Code.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 75e of this title.

§ 75c. Creation of National Portrait Gallery Commission; members; functions; powers

There is created the National Portrait Gallery Commission. The number, manner of appointment and tenure of the members of the Commission shall be such as the Board may from time to time prescribe. The Board may delegate to the Commission any function of the Gallery or any function of the Board with respect to the Gallery. The Board may make rules and regulations for the conduct of the affairs of the Commission and the operation of the Gallery, and to the extent and under such limitations as the Board deems advisable, the Board may delegate to the Commission the power to make such rules and regulations.

(Pub. L. 87–443, § 4, Apr. 27, 1962, 76 Stat. 62.)

§ 75d. Acceptance of gifts; title to property

(a) The Board is authorized to accept for the Smithsonian Institution gifts of any property for the benefit of the Gallery.

(b) Legal title to all property (except property of the United States) held for the use or benefit of the Gallery shall be vested in the Smithsonian Institution. Subject to any limitations otherwise expressly provided by law, and, in the case of any gift, subject to any applicable restrictions under the terms of such gift, the Board is authorized to sell, exchange, or otherwise dispose of any property of whatsoever na-

ture held by it, and to invest in, reinvest in, or purchase any property of whatsoever nature for the benefit of the National Portrait Gallery.

(Pub. L. 87–443, § 5, Apr. 27, 1962, 76 Stat. 62.)

§ 75e. Powers of Board

For the purpose of carrying out any function authorized by section 75b of this title, the Board may—

(1) purchase, accept, borrow, or otherwise acquire portraiture, statuary, and other items for preservation, exhibition, or study. The Board may acquire any such item on the basis of its general historical interest, its artistic merit, or the historical significance of the individual to which it relates, or any combination of any such factors. The Board may acquire period furniture and other items to enhance its displays of portraiture and statuary.

(2) preserve or restore any item acquired pursuant to paragraph (1).

(3) display, loan, store, or otherwise hold any such item.

(4) sell, exchange, donate, return, or otherwise dispose of any such item.

(Pub. L. 87–443, § 6, Apr. 27, 1962, 76 Stat. 63.)

§ 75f. Director; appointment and compensation; officers and employees

(a) The Board may appoint and fix the compensation and duties of a director of the Gallery, and his appointment and salary shall not be subject to the civil-service laws or chapter 51 and subchapter III of chapter 53 of title 5. The Board may employ such other officers and employees as may be necessary for the efficient administration, operation, and maintenance of the Gallery.

(b) The Board may delegate to the Secretary of the Smithsonian Institution, as well as to the Commission, any of its functions pursuant to subsection (a) of this section.

(Pub. L. 87–443, § 7, Apr. 27, 1962, 76 Stat. 63.)

REFERENCES IN TEXT

The civil-service laws, referred to in subsec. (a), are set forth in Title 5, Government Organization and Employees. See, particularly, section 3301 et seq. of Title 5.

CODIFICATION

In subsec. (a), ''chapter 51 and subchapter III of chapter 53 of title 5'' substituted for ''the Classification Act of 1949, as amended'' on authority of Pub. L. 89–554, § 7(b) Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

§ 75g. Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this subchapter.

(Pub. L. 87–443, § 8, Apr. 27, 1962, 76 Stat. 63.)

SUBCHAPTER IV—SMITHSONIAN GALLERY OF ART

§§ 76, 76a. Omitted

CODIFICATION

Section 76, act May 17, 1938, ch. 238, § 1, 52 Stat. 399, directed National Capital Park and Planning Commission to designate and President to assign a site for a building to house and display national collections of fine arts, portraits of eminent Americans, and works of artists deserving of recognition.

Section 76a, act May 17, 1938, ch. 238, § 2, 52 Stat. 399, created Smithsonian Gallery of Art Commission which terminated upon approval by Regents of Smithsonian Institution of design for buildings and grounds.

§ 76b. Functions of Regents

(a) Solicitation of construction funds

The Regents are authorized to solicit and receive subscriptions of funds from private sources for the purposes specified in this subsection. Funds so received shall be placed in a special deposit account with the Treasurer of the United States, and may be expended by the Regents to meet the cost of the construction of the building, including furnishings and equipment thereof, to obtain necessary drawings and specifications, make necessary surveys and estimates of cost, defray necessary administrative expenses, and secure other needful services.

(b) Construction of building

The Regents may, subject to the approval of the President, authorize the preparation of the site and the construction of the building, including approaches and landscaping of the grounds: *Provided*, That the Administrator of General Services shall supervise the preparation of the plans and specifications, make all necessary contracts, and supervise construction.

(c) Name of building; supervision and control

The name of the building shall be the Smithsonian Gallery of Art (hereinafter referred to as the ''Gallery''), and it shall be under the supervision and control of the Regents and the Secretary of the Smithsonian Institution.

(May 17, 1938, ch. 238, § 3, 52 Stat. 400; 1939 Reorg. Plan No. I, §§ 301, 303, eff. July 1, 1939, 4 F.R. 2729, 53 Stat. 1426, 1427; June 30, 1949, ch. 288, title I, § 103, 63 Stat. 380.)

TRANSFER OF FUNCTIONS

Functions of Federal Works Agency and of all agencies thereof, together with functions of Federal Works Administrator, transferred to Administrator of General Services, and Federal Works Agency and office of Federal Works Administrator abolished by section 103 of act June 30, 1949, which is classified to section 753 of Title 40, Public Buildings, Property, and Works.

Functions of Director of Procurement relating to selection of location and sites of public buildings transferred to Federal Works Administrator by Reorg. Plan No. I of 1939, set out in the Appendix to Title 5, Government Organization and Employees.

§ 76c. Policy to foster appreciation of past and contemporary art

(a) Solicitations of private donations

It shall be the policy of the Regents to maintain a worthy standard for the acceptance of art objects for exhibition in the Gallery, and to foster by public exhibitions from time to time in Washington, and other parts of the United States a growing appreciation of art, both of past and contemporary time; and the Regents are authorized to solicit and receive private donations of works of art and contributions of funds from private sources for the purchase of

works of art. Funds so received shall be placed in a special deposit account with the Treasurer of the United States and may be expended by the Regents for the purchase of works of art.

(b) Solicitation of funds to acquire and sell works of art, employ artists, award scholarships, etc.

In order to encourage the development of contemporary art and to effect the widest distribution and cultivation in matters of such art, the Regents are authorized to solicit and receive funds from private sources, to acquire (by purchase or otherwise) and sell contemporary works of art or copies thereof, to employ artists and other personnel, award scholarships, conduct exhibitions, and generally to do such things and have such other powers as will effectuate the purposes of this subsection. Funds received by the Regents under this subsection shall be placed in a special deposit account with the Treasurer of the United States and may be expended by the Regents for the purposes enumerated in this subsection and for no other purposes: *Provided*, That the Regents shall not incur any obligations under this subsection in excess of the funds available therefor.

(May 17, 1938, ch. 238, § 4, 52 Stat. 400.)

§ 76d. Donations of works of art from Government agencies

The Administrator of General Services and other agencies of the Government are authorized to donate to the Gallery any works of art now or hereafter under their control.

(May 17, 1938, ch. 238, § 5, 52 Stat. 401; 1939 Reorg. Plan No. I, §§ 301, 303, eff. July 1, 1939, 4 FR 2729, 53 Stat. 1426, 1427; June 30, 1949, ch. 288, title I, § 103, 63 Stat. 380.)

TRANSFER OF FUNCTIONS

Functions of Federal Works Agency and of all agencies thereof, together with functions of Federal Works Administrator, transferred to Administrator of General Services, and Federal Works Agency and office of Federal Works Administrator abolished by section 103 of act June 30, 1949, which is classified to section 753 of Title 40, Public Buildings, Property, and Works.

Public Buildings Branch of Procurement Division in Treasury Department and Public Works Administration and other agencies were consolidated into Federal Works Agency, and functions transferred to Federal Works Administrator, by Reorg. Plan No. I of 1939, set out in the Appendix to Title 5, Government Organization and Employees.

§ 76e. Housing or exhibiting objects of art possessed by Smithsonian Institution

Such objects of art as the Government or the Smithsonian Institution now possess, or such as may hereafter be acquired, may be housed or exhibited in the Gallery, with the approval of and under such regulations as the Regents and Secretary of the Smithsonian Institution may prescribe.

(May 17, 1938, ch. 238, § 6, 52 Stat. 401.)

§ 76f. Appointment, compensation, and duties of Director of Gallery; personnel

The Regents may appoint and fix the compensation and duties of a Director of the Gallery and may employ such other officers and employees as may be necessary for the efficient operation and administration of the Gallery.

(May 17, 1938, ch. 238, § 7, 52 Stat. 401.)

§ 76g. Authorization of appropriations

There are authorized to be appropriated annually such sums as may be necessary to maintain and administer the Gallery, including the salaries of the Director and of other necessary officers and employees, and for special public exhibitions at Washington and elsewhere.

(May 17, 1938, ch. 238, § 8, 52 Stat. 401.)

SUBCHAPTER V—JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS

§ 76h. Board of Trustees

(a) Establishment

There is hereby established in the Smithsonian Institution a bureau, which shall be directed by a board to be known as the Trustees of the John F. Kennedy Center for the Performing Arts (hereafter in this subchapter, referred to as the ''Board''), whose duty it shall be to maintain and administer the John F. Kennedy Center for the Performing Arts and site thereof as the National Center for the Performing Arts, a living memorial to John Fitzgerald Kennedy, and to execute such other functions as are vested in the Board by this subchapter. The Board shall be composed as follows: The Secretary of Health and Human Services, the Librarian of Congress, the Director of the United States Information Agency, the Chairman of the Commission of Fine Arts, the Mayor of the District of Columbia, the Superintendent of Schools of the District of Columbia, the Director of the National Park Service, the Secretary of Education, the Secretary of the Smithsonian Institution, the chairman and ranking minority member of the Committee on Public Works and Transportation of the House of Representatives and 3 additional Members of the House of Representatives appointed by the Speaker of the House of Representatives, and the chairman and ranking minority member of the Committee on Environment and Public Works of the Senate and 3 additional Members of the Senate appointed by the President of the Senate ex officio; and thirty general trustees who shall be citizens of the United States, to be chosen as hereinafter provided.

(b) General trustees

The general trustees shall be appointed by the President of the United States. Each trustee shall hold office as a member of the Board for a term of 6 years, except that—

(1) any member appointed to fill a vacancy occurring before the expiration of the term for which the predecessor of the member was appointed shall be appointed for the remainder of the term;

(2) a member shall continue to serve until the successor of the member has been appointed; and

(3) the term of office of a member appointed before July 21, 1994, shall expire as designated at the time of appointment.

(c) Advisory Committee on the Arts

There shall be an Advisory Committee on the Arts composed of such members as the President of the United States may designate, to serve at the pleasure of the President. Persons appointed to the Advisory Committee on the Arts, including officers or employees of the United States, shall be persons who are recognized for their knowledge of, or experience or interest in, one or more of the arts in the fields covered by the John F. Kennedy Center for the Performing Arts. The President shall designate the Chairman of the Advisory Committee on the Arts. In making such appointments the President shall give consideration to such recommendations as may from time to time be submitted to him by leading national organizations in the appropriate art fields. The Advisory Committee on the Arts shall advise and consult with the Board and make recommendations to the Board regarding existing and prospective cultural activities to be carried out by the John F. Kennedy Center for the Performing Arts. The Advisory Committee on the Arts shall assist the Board in carrying out section 76k(a) of this title. Members of the Advisory Committee on the Arts shall serve without compensation.

(Pub. L. 85–874, §2, Sept. 2, 1958, 72 Stat. 1698; Pub. L. 88–100, §§1, 2, Aug. 19, 1963, 77 Stat. 128; Pub. L. 88–260, §1(2), Jan. 23, 1964, 78 Stat. 4; 1967 Reorg. Plan No. 3, §401, eff. Aug. 11, 1967, 81 Stat. 951; Pub. L. 93–198, title IV, §421, Dec. 24, 1973, 87 Stat. 789; 1977 Reorg. Plan No. 2, §7(b), 42 F.R. 62461, 91 Stat. 1637; Pub. L. 96–88, title III, §301(a)(1), title V, §§507, 509(b), Oct. 17, 1979, 93 Stat. 677, 692, 695; Pub. L. 97–241, title III, §303(b), Aug. 24, 1982, 96 Stat. 291; Pub. L. 103–279, §2(b)(1), (c), (d), July 21, 1994, 108 Stat. 1409, 1410.)

AMENDMENTS

1994—Pub. L. 103–279, §2(b)(1)(A), substituted section catchline for former section catchline.

Subsec. (a). Pub. L. 103–279, §2(b)(1)(A), inserted heading, in first sentence inserted ''as the National Center for the Performing Arts, a living memorial to John Fitzgerald Kennedy,'' after ''and site thereof'', and in second sentence substituted ''Superintendent of Schools of the District of Columbia'' for ''Chairman of the District of Columbia Recreation Board'' and ''the chairman and ranking minority member of the Committee on Public Works and Transportation of the House of Representatives and 3 additional Members of the House of Representatives appointed by the Speaker of the House of Representatives, and the chairman and ranking minority member of the Committee on Environment and Public Works of the Senate and 3 additional Members of the Senate appointed by the President of the Senate'' for ''three Members of the Senate appointed by the President of the Senate, and three Members of the House of Representatives appointed by the Speaker of the House of Representatives''.

Subsec. (b). Pub. L. 103–279, §2(c), inserted heading and amended text generally. Prior to amendment, text read as follows: ''The general trustees shall be appointed by the President of the United States and each such trustee shall hold office as a member of the Board for a term of ten years, except that (1) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, (2) the terms of any members appointed prior to August 19, 1963, shall expire as designated by the President at the time of appointment, and (3) the terms of the first fifteen members appointed to the Board pursuant to the amendments made by the National Cultural Center Amendments Act of 1963 shall expire, as designated by the President at the time of appointment, three on September 1, 1964, three on September 1, 1966, three on September 1, 1968, three on September 1, 1970, and three on September 1, 1972.''

Subsec. (c). Pub. L. 103–279, §2(d), inserted heading, inserted ''of the United States'' before ''may designate'' in first sentence, substituted ''carried out by the John'' for ''carried on in the John'' in fifth sentence, and struck out before period at end of last sentence '', but each member of such Committee shall be reimbursed for travel, subsistence, and other necessary expenses incurred by him in connection with the work of such Committee''.

1964—Subsecs. (a), (c). Pub. L. 88–260 substituted ''John F. Kennedy Center for the Performing Arts'' for ''National Cultural Center'' wherever appearing.

1963—Subsec. (a). Pub. L. 88–100, §1, substituted ''thirty'' for ''fifteen'' after ''ex officio; and''.

Subsec. (b). Pub. L. 88–100, §2, inserted provisions governing the terms of the additional fifteen general trustees added to the Board by section 1 of Pub. L. 88–100.

CHANGE OF NAME

''Secretary of Health and Human Services'' substituted for ''Secretary of Health, Education, and Welfare'' in subsec. (a) pursuant to section 509(b) of Pub. L. 96–88, which is classified to section 3508(b) of this title.

Committee on Public Works and Transportation of House of Representatives treated as referring to Committee on Transportation and Infrastructure of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress.

EFFECTIVE DATE OF 1994 AMENDMENT

Section 2(b)(2) of Pub. L. 103–279 provided that:

''(A) SUPERINTENDENT OF SCHOOLS OF THE DISTRICT OF COLUMBIA.—The amendment made by paragraph (1)(C)(i) [amending this section] shall take effect on the date of expiration of the term of the Chairman of the District of Columbia Recreation Board serving as a trustee of the John F. Kennedy Center for the Performing Arts on the date of enactment of this Act [July 21, 1994].

''(B) MEMBERS OF CONGRESS.—The amendment made by paragraph (1)(C)(ii) [amending this section] shall take effect on the date of enactment of this Act.''

SHORT TITLE OF 1997 AMENDMENT

Pub. L. 105–95, §1, Nov. 19, 1997, 111 Stat. 2148, provided that: ''This Act [amending sections 76i to 76k and 76s of this title and section 193v of Title 40, Public Buildings, Property, and Works] may be cited as the 'John F. Kennedy Center Parking Improvement Act of 1997'.''

SHORT TITLE OF 1994 AMENDMENT

Section 1 of Pub. L. 103–279 provided that: ''This Act [enacting sections 76r and 76s of this title, amending this section, sections 76j, 76k, 76*l*, and 76p of this title, and sections 193r, 193u, and 193v of Title 40, Public Buildings, Property, and Works, enacting provisions set out as notes under this section, and amending provisions set out as a note under this section] may be cited as the 'John F. Kennedy Center Act Amendments of 1994'.''

SHORT TITLE OF 1984 AMENDMENT

Pub. L. 98–473, title I, §101(c), Oct. 12, 1984, 98 Stat. 1837, 1876, provided that: ''The following [amending section 76*o* of this title] may be cited as 'The John F. Kennedy Center Act Amendments of 1984'.''

SHORT TITLE OF 1963 AMENDMENT

Section 5 of Pub. L. 88–100 provided that: ''This Act [amending this section and sections 76*l* and 76m of this

title] may be cited as the 'National Cultural Center Amendments Act of 1963'.''

SHORT TITLE

Section 1(a), formerly §1, of Pub. L. 85–874, as amended by Pub. L. 88–260, §1(1), Jan. 23, 1964, 78 Stat. 4; redesignated §1(a), Pub. L. 103–279, §2(a)(1), July 21, 1994, 108 Stat. 1409, provided that: ''This Act [enacting this subchapter] may be cited as the 'John F. Kennedy Center Act'.''

TRANSFER OF FUNCTIONS

''Secretary of Education'' substituted for ''Commissioner of the United States Office of Education'' in subsec. (a) pursuant to sections 301(a)(1) and 507 of Pub. L. 96–88, which are classified to sections 3441(a)(1) and 3507 of this title and which transferred all functions of Commissioner of Education to Secretary of Education.

''Director of the United States Information Agency'' substituted for ''Director of the International Communication Agency'' in subsec. (a) pursuant to section 303(b) of Pub. L. 97–241, set out as a note under section 1461 of Title 22, Foreign Relations and Intercourse. Previously, ''Director of the International Communication Agency'' had been substituted for ''Assistant Secretary of State for Public Affairs'' in subsec. (a) pursuant to Reorg. Plan No. 2 of 1977, §7(b), 42 F.R. 62461, 91 Stat. 1637, set out in the Appendix to Title 5, Government Organization and Employees, effective on or before July 1, 1978, at such time as specified by the President, which transferred all functions vested in Assistant Secretary of State for Public Affairs under subsec. (a) of this section to Director of International Communication Agency.

Except as otherwise provided in Reorg. Plan No. 3 of 1967, eff. Aug. 11, 1967 (in part), 32 F.R. 11669, 81 Stat. 948, all functions of Board of Commissioners of District of Columbia transferred to Commissioner of District of Columbia by section 401 of Reorg. Plan No. 3 of 1967. Office of Commissioner of District of Columbia, as established by Reorg. Plan No. 3 of 1967, abolished as of noon Jan. 2, 1975, by Pub. L. 93–198, title VII, §711, Dec. 24, 1973, 87 Stat. 818, and replaced by office of Mayor of District of Columbia by section 421 of Pub. L. 93–198, classified to section 1–241 of the District of Columbia Code. Accordingly, ''Mayor'' substituted in subsec. (a) for ''President of the Board of Commissioners''.

NATIONAL CULTURAL CENTER; DESIGNATION OR REFERENCES

Section 2 of Pub. L. 88–260 provided that: ''In addition to the amendments made by the first section of this Act [enacting sections 76n to 76q, and amending sections 76h to 76q of this title], any designation or reference to the National Cultural Center in any other law, map, regulation, document, record, or other paper of the United States shall be held to designate or refer to such Center as the John F. Kennedy Center for the Performing Arts.''

CONGRESSIONAL FINDINGS

Section 1(b) of Pub. L. 85–874, as added by Pub. L. 103–279, §2(a)(2), July 21, 1994, 108 Stat. 1409, provided that: ''Congress finds that—

''(1) the late John Fitzgerald Kennedy served with distinction as President of the United States and as a Member of the Senate and the House of Representatives;

''(2) by the untimely death of John Fitzgerald Kennedy the United States and the world have suffered a great loss;

''(3) the late John Fitzgerald Kennedy was particularly devoted to education and cultural understanding and the advancement of the performing arts;

''(4) it is fitting and proper that a living institution of the performing arts, designated as the National Center for the Performing Arts, named in the memory and honor of this great leader, shall serve as the sole national monument to his memory within the District of Columbia and its environs;

''(5) such a living memorial serves all of the people of the United States by preserving, fostering, and transmitting the performing arts traditions of the people of the United States and other countries by producing and presenting music, opera, theater, dance, and other performing arts; and

''(6) such a living memorial should be housed in the John F. Kennedy Center for the Performing Arts, located in the District of Columbia.''

§ 76i. John F. Kennedy Center for the Performing Arts

(a) In general

The Board shall construct for the Smithsonian Institution, with funds raised by voluntary contributions, a building to be designated as the John F. Kennedy Center for the Performing Arts on a site in the District of Columbia bounded by the Inner Loop Freeway on the east, the Theodore Roosevelt Bridge approaches on the south, Rock Creek Parkway on the west, New Hampshire Avenue and F Street on the north, which shall be selected for such purpose by the National Capital Planning Commission. The National Capital Planning Commission shall acquire by purchase, condemnation, or otherwise, lands necessary to provide for the John F. Kennedy Center for the Performing Arts and related facilities. Such building shall be in accordance with plans and specifications approved by the Commission of Fine Arts.

(b) Parking garage additions and site improvements

(1) In general

Substantially in accordance with the plan entitled ''Site Master Plan—Drawing Number 1997–2 April 29, 1997,'' and map number NCR 844/82571, the Board may design and construct—

(A) an addition to the parking garage at each of the north and south ends of the John F. Kennedy Center for the Performing Arts; and

(B) site improvements and modifications.

(2) Availability

The plan shall be on file and available for public inspection in the office of the Secretary of the Center.

(3) Limitation on use of appropriated funds

No appropriated funds may be used to pay the costs (including the repayment of obligations incurred to finance costs) of—

(A) the design and construction of an addition to the parking garage authorized under paragraph (1)(A);

(B) the design and construction of site improvements and modifications authorized under paragraph (1)(B) that the Board specifically designates will be financed using sources other than appropriated funds; or

(C) any project to acquire large screen format equipment for an interpretive theater, or to produce an interpretive film, that the Board specifically designates will be financed using sources other than appropriated funds.

(Pub. L. 85–874, §3, Sept. 2, 1958, 72 Stat. 1699; Pub. L. 88–260, §1(2), Jan. 23, 1964, 78 Stat. 4; Pub. L. 105–95, §2, Nov. 19, 1997, 111 Stat. 2148.)

AMENDMENTS

1997—Pub. L. 105–95 substituted section catchline for former section catchline, designated existing provisions as subsec. (a) and inserted heading, and added subsec. (b).

1964—Pub. L. 88–260 substituted ''John F. Kennedy Center for the Performing Arts'' for ''National Cultural Center'' wherever appearing.

§ 76j. Duties of Board

(a) Programs, activities, and goals

(1) In general

The Board shall—

(A) present classical and contemporary music, opera, drama, dance, and other performing arts from the United States and other countries;

(B) promote and maintain the John F. Kennedy Center for the Performing Arts as the National Center for the Performing Arts—

(i) by developing and maintaining a leadership role in national performing arts education policy and programs, including developing and presenting original and innovative performing arts and educational programs for children, youth, families, adults, and educators designed specifically to foster an appreciation and understanding of the performing arts;

(ii) by developing and maintaining a comprehensive and broad program for national and community outreach, including establishing model programs for adaptation by other presenting and educational institutions; and

(iii) by conducting joint initiatives with the national education and outreach programs of the Very Special Arts, an entity affiliated with the John F. Kennedy Center for the Performing Arts which has an established program for the identification, development, and implementation of model programs and projects in the arts for disabled individuals;

(C) strive to ensure that the education and outreach programs and policies of the John F. Kennedy Center for the Performing Arts meet the highest level of excellence and reflect the cultural diversity of the United States;

(D) provide facilities for other civic activities at the John F. Kennedy Center for the Performing Arts;

(E) provide within the John F. Kennedy Center for the Performing Arts a suitable memorial in honor of the late President;

(F) develop, and update annually, a comprehensive building needs plan for the features of the John F. Kennedy Center for the Performing Arts in existence on July 21, 1994;

(G) with respect to each feature of the building and site of the John F. Kennedy Center for the Performing Arts that is in existence on July 21, 1994 (including a theater, the garage, the plaza, or a building walkway), plan, design, and construct each capital repair, replacement, improvement, rehabilitation, alteration, or modification necessary for the feature;

(H) provide—

(i) information and interpretation; and

(ii) with respect to each feature of the building and site of the John F. Kennedy Center for the Performing Arts that is in existence on July 21, 1994 (including a theater, the garage, the plaza, or a building walkway), all necessary maintenance, repair, and alteration of, and all janitorial, security, and other services and equipment necessary for the operation of, the feature, in a manner consistent with requirements for high quality operations; and

(I) ensure that safe and convenient access to the site of the John F. Kennedy Center for the Performing Arts is provided for pedestrians and vehicles.

(2) Administrative powers and duties

(A) Authority to enter into contracts

The Board, in accordance with applicable law, may enter into contracts or other arrangements with, and make payments to, public agencies or private organizations or other private persons in order to carry out the functions of the Board under this subchapter. The authority described in the preceding sentence includes utilizing the services and facilities of other agencies, including the Department of the Interior, the General Services Administration, and the Smithsonian Institution.

(B) Preparation of budget

The Board shall prepare a budget pursuant to sections 1104, 1105(a), and 1513(b) of title 31.

(C) Use of agency personnel

The Board may utilize or employ the services of the personnel of any agency or instrumentality of the Federal Government or the District of Columbia, with the consent of the agency or the instrumentality concerned, on a reimbursable basis, and utilize voluntary and uncompensated personnel.

(D) Selection of contractors

In carrying out the duties of the Board under this subchapter, the Board may negotiate any contract for an environmental system for, a protection system for, or a repair to, maintenance of, or restoration of the John F. Kennedy Center for the Performing Arts with selected contractors and award the contract on the basis of contractor qualifications as well as price.

(E) Maintenance of halls

The Board shall maintain the Hall of Nations, the Hall of States, and the Grand Foyer of the John F. Kennedy Center for the Performing Arts in a manner that is suitable to a national performing arts center that is operated as a Presidential memorial and in a manner consistent with other national Presidential memorials.

(F) Maintenance of grounds

The Board shall manage and operate the grounds of the John F. Kennedy Center for the Performing Arts in a manner consistent

with National Park Service regulations and agreements in effect on July 21, 1994. No change in the management and operation of the grounds may be made without the express approval of Congress and of the Secretary of the Interior.

(b) Restriction on additional memorials

(1) Except as provided in paragraph (2) of this subsection, the Board shall assure that after December 2, 1983, no additional memorials or plaques in the nature of memorials shall be designated or installed in the public areas of the John F. Kennedy Center for the Performing Arts.

(2) Paragraph (1) of this subsection shall not apply to—

(A) any plaque acknowledging a gift from a foreign country;

(B) any plaque on a theater chair or a theater box acknowledging the gift of such chair or box; and

(C) any inscription on the marble walls in the north or south galleries, the Hall of States, or the Hall of Nations acknowledging a major contribution;

which plaque or inscription is permitted under policies of the Board in effect on December 2, 1983.

(3) For purposes of this subsection, testimonials and benefit performances shall not be construed to be memorials.

(Pub. L. 85–874, §4, Sept. 2, 1958, 72 Stat. 1699; Pub. L. 88–260, §1(3), Jan. 23, 1964, 78 Stat. 4; Pub. L. 98–205, §4, Dec. 2, 1983, 97 Stat. 1388; Pub. L. 103–279, §3, July 21, 1994, 108 Stat. 1411; Pub. L. 105–95, §3(a), Nov. 19, 1997, 111 Stat. 2149.)

AMENDMENTS

1997—Subsec. (a)(1)(I). Pub. L. 105–95 added subpar. (I).

1994—Pub. L. 103–279 substituted section catchline for former section catchline, added heading and text of subsec. (a), and struck out former subsec. (a) which read as follows: ''The Board shall—

''(1) present classical and contemporary music, opera, drama, dance, and poetry from this and other countries,

''(2) present lectures and other programs,

''(3) develop programs for children and youth and the elderly (and for other age groups as well) in such arts designed specifically for their participation, education, and recreation,

''(4) provide facilities for other civic activities at the John F. Kennedy Center for the Performing Arts,

''(5) provide within the John F. Kennedy Center for the Performing Arts a suitable memorial in honor of the late President.''

1983—Pub. L. 98–205 designated existing provisions as subsec. (a) and added subsec. (b).

1964—Pub. L. 88–260 struck out ''and'' at end of par. (3), substituted ''John F. Kennedy Center for the Performing Arts'' for ''Cultural Center'' in par. (4), and added par. (5).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 76k, 76r of this title.

§ 76k. Powers of Board

(a) Solicitation and acceptance of gifts

The Board is authorized to solicit and accept for the John F. Kennedy Center for the Performing Arts, as a bureau of the Smithsonian Institution, and to hold and administer gifts, bequests, or devises of money, securities, or other property of whatsoever character for the benefit of the John F. Kennedy Center for the Performing Arts. Unless otherwise restricted by the terms of the gift, bequest, or devise, the Board is authorized to sell or exchange and to invest or reinvest in such investments as it may determine from time to time the moneys, securities, or other property composing trust funds given, bequeathed, or devised to or for the benefit of the John F. Kennedy Center for the Performing Arts. The income as and when collected shall be placed in such depositaries as the Board shall determine and shall be subject to expenditure by the Board.

(b) Appointment of officers and employees

(1) Chairperson and Secretary

The Board shall appoint and fix the compensation and duties of a Chairperson of the John F. Kennedy Center for the Performing Arts, who shall serve as the chief executive officer of the Center, and a Secretary of the John F. Kennedy Center for the Performing Arts. The Chairperson and Secretary shall be well qualified by experience and training to perform the duties of their respective offices.

(2) Senior level executive and other employees

The Chairperson of the John F. Kennedy Center for the Performing Arts may appoint—

(A) a senior level executive who, by virtue of the background of the individual, shall be well suited to be responsible for facilities management and services and who may, without regard to the provisions of title 5, be appointed and compensated with appropriated funds, except that the compensation may not exceed the maximum rate of pay prescribed for level IV of the Executive Schedule under section 5315 of title 5; and

(B) such other officers and employees of the John F. Kennedy Center for the Performing Arts as may be necessary for the efficient administration of the functions of the Board.

(c) Transfer of property

Not later than October 1, 1995, the property, liabilities, contracts, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available in connection with the functions transferred from the Secretary of the Interior pursuant to the amendments made by the John F. Kennedy Center Act Amendments of 1994 shall be transferred, subject to section 1531 of title 31, to the Board as the Board and the Secretary of the Interior may determine appropriate. Unexpended funds transferred pursuant to this subsection shall be used only for the purposes for which, and subject to the terms under which, the funds were originally authorized and appropriated.

(d) Transfer of personnel

(1) In general

Employees of the National Park Service assigned to duties related to the functions being undertaken by the Board shall be transferred

with their functions to the Board not later than October 1, 1995.

(2) Rights and benefits

Transferred employees shall remain in the Federal competitive service and retain all rights and benefits provided under title 5. For a period of not less than 3 years after the date of transfer of an employee under paragraph (1), the transferred employee shall retain the right of priority consideration under merit promotion procedures or lateral reassignment for all vacancies within the Department of the Interior.

(3) Park Police

All United States Park Police and Park Police guard force employees assigned to the John F. Kennedy Center for the Performing Arts shall remain employees of the National Park Service.

(4) Costs

All usual and customary costs associated with any adverse action or grievance proceeding resulting from the transfer of functions under this section that are incurred before October 1, 1995, shall be paid from funds appropriated to the John F. Kennedy Center for the Performing Arts.

(5) Reorganization authority

Nothing contained in this section shall prohibit the Board from reorganizing functions at the John F. Kennedy Center for the Performing Arts in accordance with laws governing reorganizations.

(e) Review of Board actions

The actions of the Board relating to performing arts and to payments made or directed to be made by the Board from any trust funds shall not be subject to review by any officer or agency other than a court of law.

(f) Collective bargaining

(1) "Theatrical employee" defined

As used in this subsection, the term ''theatrical employee'' means a nonappropriated fund employee of the Board, who is engaged in a box office, performing, or theatrical trade that is the subject of a collective bargaining agreement as of January 1, 1994, including any change in the trade as a result of a technological advance.

(2) Collective bargaining

(A) In general

For the purposes of the National Labor Relations Act (29 U.S.C. 151 et seq.) and the Labor-Management Relations Act, 1947 (29 U.S.C. 141 et seq.)—

(i) each theatrical employee shall be considered to be an ''employee'' within the meaning of section 2(3) of the National Labor Relations Act (29 U.S.C. 152(3)); and

(ii) with respect to a theatrical employee, the Board shall be considered to be an ''employer'' within the meaning of section 2(2) of the National Labor Relations Act (29 U.S.C. 152(2)).

(B) Rights and obligations

With respect to each theatrical employee, the theatrical employee and the Board shall have all of the rights and obligations specified in such Acts.

(g) Pedestrian and vehicular access

Subject to approval of the Secretary of the Interior under section 76j(a)(2)(F) of this title, the Board shall develop plans and carry out projects to improve pedestrian and vehicular access to the John F. Kennedy Center for the Performing Arts.

(Pub. L. 85–874, § 5, Sept. 2, 1958, 72 Stat. 1699; Pub. L. 88–260, § 1(2), Jan. 23, 1964, 78 Stat. 4; Pub. L. 103–279, § 4, July 21, 1994, 108 Stat. 1413; Pub. L. 105–95, § 3(b), Nov. 19, 1997, 111 Stat. 2149.)

REFERENCES IN TEXT

The John F. Kennedy Center Act Amendments of 1994, referred to in subsec. (c), is Pub. L. 103–279, July 21, 1994, 108 Stat. 1409, which enacted sections 76r and 76s of this title, amended this section, sections 76h, 76j, 76*l*, and 76p of this title, and sections 193r, 193u, and 193v of Title 40, Public Buildings, Property, and Works, and enacted and amended provisions set out as notes under section 76h of this title. For complete classification of this Act to the Code, see Short Title of 1994 Amendment note set out under section 76h of this title and Tables.

The provisions relating to the Federal competitive service, referred to in subsec. (d)(2), are classified generally to section 3301 et seq. of Title 5, Government Organization and Employees.

The National Labor Relations Act, referred to in subsec. (f)(2), is act July 5, 1935, ch. 372, 49 Stat. 449, as amended, which is classified generally to subchapter II (§ 151 et seq.) of chapter 7 of Title 29, Labor. For complete classification of this Act to the Code, see section 167 of Title 29 and Tables.

The Labor Management Relations Act, 1947, referred to in subsec. (f)(2), is act June 23, 1947, ch. 120, 61 Stat. 136, as amended, which is classified principally to chapter 7 (§ 141 et seq.) of Title 29. For complete classification of this Act to the Code, see section 141 of Title 29 and Tables.

AMENDMENTS

1997—Subsec. (g). Pub. L. 105–95 added subsec. (g).

1994—Pub. L. 103–279, § 4(a)(1), substituted section catchline for former section catchline.

Subsec. (a). Pub. L. 103–279, § 4(a)(1), inserted heading and substituted ''John F. Kennedy Center for the Performing Arts, as a bureau of the Smithsonian Institution,'' for ''Smithsonian Institution''.

Subsec. (b). Pub. L. 103–279, § 4(b), inserted heading and amended text generally. Prior to amendment, text read as follows: ''The Board shall appoint and fix the compensation and duties of a director, an assistant director, and a secretary of the John F. Kennedy Center for the Performing Arts and of such other officers and employees of the John F. Kennedy Center for the Performing Arts as may be necessary for the efficient administration of the functions of the Board. The director, assistant director, and secretary shall be well qualified by experience and training to perform the duties of their office.''

Subsec. (c). Pub. L. 103–279, § 4(c), added heading and text of subsec. (c) and struck out text of former subsec. (c). Prior to amendment, text read as follows: ''The actions of the Board, including any payment made or directed to be made by it from any trust funds, shall not be subject to review by any officer or agency other than a court of law.''

Subsecs. (d) to (f). Pub. L. 103–279, § 4(c), added subsecs. (d) to (f).

1964—Subsecs. (a), (b). Pub. L. 88–260 substituted ''John F. Kennedy Center for the Performing Arts'' for ''National Cultural Center'' wherever appearing.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 76h of this title.

§ 76*l*. Official seal, Board vacancies and quorum, trustee powers and obligations, reports, support services, and review and audit

(a) Adoption of seal; Board function notwithstanding vacancies; quorum

The Board is authorized to adopt an official seal which shall be judicially noticed and to make such bylaws, rules, and regulations, as it deems necessary for the administration of its functions under this subchapter, including, among other matters, bylaws, rules, and regulations relating to the administration of its trust funds and the organization and procedure of the Board. The Board may function notwithstanding vacancies and twelve members of the Board shall constitute a quorum for the transaction of business.

(b) Powers and obligations of Board in respect of trust funds

The Board shall have all the usual powers and obligations of a trustee in respect of all trust funds administered by it.

(c) Annual report of operations and finances

The Board shall submit to the Smithsonian Institution and to Congress an annual report of the operations of the Board under this subchapter, including a detailed statement of all public and private moneys received and disbursed by it.

(d) Audit of accounts

Not less than once every 3 years, the Comptroller General shall review and audit the accounts of the John F. Kennedy Center for the Performing Arts for the purpose of examining expenditures of funds appropriated under the authority provided by this subchapter.

(e) Inspector General

The functions of the Board funded by funds appropriated pursuant to section 76r of this title shall be subject to the requirements for a Federal entity under the Inspector General Act of 1978 (5 U.S.C. App.). The Inspector General of the Smithsonian Institution is authorized to carry out the requirements of such Act on behalf of the Board, on a reimbursable basis when requested by the Board.

(f) Property and personnel compensation

(1) In general

The Board may procure insurance against any loss in connection with the property of the Board and other assets administered by the Board. Each employee and volunteer of the Board shall be considered to be a civil employee of the United States (within the meaning of the term ''employee'' as defined in section 8101(1) of title 5), except that the Board shall continue to provide benefits with respect to any disability or death resulting from a personal injury to a nonappropriated fund employee of the Board sustained while in the performance of the duties of the employee for the Board pursuant to the workers compensation statute of the jurisdiction in which the John F. Kennedy Center for the Performing Arts is located. The disability or death benefits referred to in the preceding sentence, whether under the workers compensation statute referred to in the preceding sentence or under chapter 81 of title 5, shall continue to be the exclusive liability of the Board and the United States with respect to all employees and volunteers of the Board.

(2) Federal tort claims

For the purposes of chapter 171 of title 28, an employee of the Board shall be considered to be an ''employee of the government'' and the Board shall be considered to be a ''Federal agency''. No employee of the Board may bring suit against the United States or the Board under the Federal tort claims procedure of chapter 171 of title 28 for disability or death resulting from personal injury sustained while in the performance of the duties of the employee for the Board.

(Pub. L. 85–874, §6, Sept. 2, 1958, 72 Stat. 1699; Pub. L. 88–100, §3, Aug. 19, 1963, 77 Stat. 128; Pub. L. 88–260, §1(4), (5), Jan. 23, 1964, 78 Stat. 4; Pub. L. 92–313, §10, June 16, 1972, 86 Stat. 222; Pub. L. 93–67, July 10, 1973, 87 Stat. 161; Pub. L. 94–119, §§1, 2, Oct. 21, 1975, 89 Stat. 608; Pub. L. 94–578, title III, §314, Oct. 21, 1976, 90 Stat. 2737; Pub. L. 95–50, §2, June 20, 1977, 91 Stat. 232; Pub. L. 95–305, June 29, 1978, 92 Stat. 348; Pub. L. 96–587, §1, Dec. 23, 1980, 94 Stat. 3387; Pub. L. 97–73, Nov. 3, 1981, 95 Stat. 1064; Pub. L. 97–202, June 24, 1982, 96 Stat. 128; Pub. L. 101–449, §§1–3, Oct. 22, 1990, 104 Stat. 1050; Pub. L. 102–500, §1, Oct. 24, 1992, 106 Stat. 3267; Pub. L. 103–279, §5, July 21, 1994, 108 Stat. 1414.)

REFERENCES IN TEXT

The Inspector General Act of 1978, referred to in subsec. (e), is Pub. L. 95–452, Oct. 12, 1978, 92 Stat. 1101, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

1994—Subsec. (c). Pub. L. 103–279, §5(1), substituted ''the operations of the Board'' for ''its operations''.

Subsecs. (d) to (f). Pub. L. 103–279, §5(2), added subsecs. (d) to (f) and struck out former subsec. (e) which related to maintenance, repair, alteration, security, information, and other services and former subsec. (f) which related to audits.

1992—Subsec. (e)(3). Pub. L. 102–500 amended par. (3) generally. Prior to amendment, par. (3) read as follows: ''There is authorized to be appropriated to the Secretary of the Interior to carry out this subsection—

''(A) for fiscal year 1991, not more than—

''(i) $6,750,000 for annual maintenance, repairs, alterations, and operating services; and

''(ii) $15,000,000 for deferred maintenance, repairs, and alterations; and

''(B) for fiscal year 1992, not more than—

''(i) $9,850,000 for annual maintenance, repairs, alterations, and operating services; and

''(ii) $15,512,000 for deferred maintenance, repairs, and alterations.''

1990—Subsec. (d). Pub. L. 101–449, §3, struck out subsec. (d) which read as follows: ''The Board shall transmit to Congress a detailed report of any memorial which it proposes to provide within the John F. Kennedy Center for the Performing Arts under authority of paragraph (5) of section 76j of this title, and no such memorial shall be provided until the Board of Regents of the Smithsonian Institution shall have approved such memorial.''

Subsec. (e). Pub. L. 101–449, §1, amended subsec. (e) generally. Prior to amendment, subsec. (e) read as follows: ''The Secretary of the Interior, acting through

the National Park Service, shall provide maintenance, security, information, interpretation, janitorial and all other services necessary to the nonperforming arts functions of the John F. Kennedy Center for the Performing Arts. There is authorized to be appropriated to carry out this subsection not to exceed $2,800,000 for the fiscal year ending June 30, 1976, $741,000 for the transition period ending September 30, 1976, $3,100,000 for the fiscal year ending September 30, 1977, and $4,000,000 for the fiscal year ending September 30, 1978. There is authorized to be appropriated to carry out this subsection not to exceed $4,200,000 for the fiscal year ending September 30, 1979. There is authorized to be appropriated to carry out this subsection not to exceed $4,287,000 for the fiscal year ending September 30, 1980, and not to exceed $4,400,000 for the fiscal year ending September 30, 1981, and not to exceed $4,544,000 for the fiscal year ending September 30, 1982, and not to exceed $4,247,000 for the fiscal year ending September 30, 1983.''

Subsec. (f). Pub. L. 101–449, §2, amended subsec. (f) generally. Prior to amendment, subsec. (f) read as follows: ''The General Accounting Office is authorized and directed to review and audit, regularly, the accounts of the Kennedy Center for the Performing Arts, for the purpose of determining the continuing ability of the Center to pay its share of future operating costs, and for the purpose of assuring that the cost-of-living formula fairly and accurately reflects the use of the building.''

1982—Subsec. (e). Pub. L. 97–202 inserted provisions authorizing an appropriation of not to exceed $4,247,000 for fiscal year ending Sept. 30, 1983.

1981—Subsec. (e). Pub. L. 97–73 inserted provision authorizing an appropriation of not to exceed $4,544,000 for fiscal year ending Sept. 30, 1982.

1980—Subsec. (e). Pub. L. 96–587 inserted provisions authorizing appropriations for fiscal years ending Sept. 30, 1980, and Sept. 30, 1981.

1978—Subsec. (e). Pub. L. 95–305 inserted provisions authorizing appropriations for fiscal year ending Sept. 30, 1979.

1977—Subsec. (e). Pub. L. 95–50 substituted provisions authorizing an appropriation of $4,000,000 for fiscal year ending Sept. 30, 1978, for provisions authorizing appropriations of $4,000,000 for fiscal year ending Sept. 30, 1978, and not to exceed $4,300,000 for the fiscal year ending Sept. 30, 1979.

1976—Subsec. (e). Pub. L. 94–578 substituted provisions authorizing appropriations for fiscal years ending Sept. 30, 1978, and Sept. 30, 1979, for provisions covering fiscal years ending Sept. 30, 1976, Sept. 30, 1977, and transitional period ending Sept. 30, 1976.

1975—Subsec. (e). Pub. L. 94–119, §1, inserted provisions authorizing appropriations for fiscal year ending June 30, 1976, for the transitional period ending Sept. 30, 1976, and for fiscal year ending Sept. 30, 1977.

Subsec. (f). Pub. L. 94–119, §2, added subsec. (f).

1973—Subsec. (e). Pub. L. 93–67 substituted provisions authorizing appropriations not to exceed $2,400,000 for fiscal year ending June 30, 1974, and $2,500,000 for fiscal year ending June 30, 1975, for provision granting general authorization of appropriation for fiscal year ending June 30, 1973.

1972—Subsec. (e). Pub. L. 92–313 added subsec. (e).

1964—Subsec. (c). Pub. L. 88–260, §1(4), inserted ''and to Congress'' after ''Smithsonian Institution''.

Subsec. (d). Pub. L. 88–260, §1(5), added subsec. (d).

1963—Subsec. (a). Pub. L. 88–100 substituted ''twelve'' for ''eight'' after ''vacancies and''.

AWARD OF SERVICE CONTRACTS

Pub. L. 100–446, title I, Sept. 27, 1988, 102 Stat. 1782, provided: ''That contracts hereafter awarded for environmental systems, housekeeping, protection systems, and repair or renovation of buildings of the John F. Kennedy Center for the Performing Arts may be negotiated with selected contractors and awarded on the basis of contractor qualifications as well as price.''

§§ 76m, 76n. Repealed. Pub. L. 101–449, § 3, Oct. 22, 1990, 104 Stat. 1050

Section 76m, Pub. L. 85–874, §7, Sept. 2, 1958, 72 Stat. 1700; Pub. L. 86–297, Sept. 21, 1959, 73 Stat. 573; Pub. L. 88–100, §4, Aug. 19, 1963, 77 Stat. 128; Pub. L. 88–260, §1(2), Jan. 23, 1964, 78 Stat. 4; Pub. L. 99–514, §2, Oct. 22, 1986, 100 Stat. 2095, related to termination of offices created and appointments made in connection with John F. Kennedy Center for the Performing Arts if moneys were not found to construct the Center within eight years after Sept. 2, 1958.

Section 76n, Pub. L. 85–874, §8, as added Pub. L. 88–260, §1(6), Jan. 23, 1964, 78 Stat. 4; amended Pub. L. 91–90, §1(a), Oct. 17, 1969, 83 Stat. 135; Pub. L. 92–313, §9, June 16, 1972, 86 Stat. 222; Pub. L. 95–50, §1, June 20, 1977, 91 Stat. 232, authorized appropriations for construction, repair, renovation, and reconstruction of John F. Kennedy Center for the Performing Arts.

§ 76*o*. Borrowing authority to finance parking facilities

(a) Revenue bonds

To finance necessary parking facilities for the Center, the Board may issue revenue bonds to the Secretary of the Treasury payable from revenues accruing to the Board. The total face value of all bonds so issued shall not be greater than $20,400,000. Such obligations shall have maturities agreed upon by the Board and the Secretary of the Treasury but not in excess of fifty years. Such obligations may be redeemable at the option of the Board before maturity in such manner as may be stipulated in such obligations, but the obligations thus redeemed shall not be refinanced by the Board. The Secretary of the Treasury is authorized and directed to purchase any obligations of the Board to be issued under this section and for such purpose the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31 and the purposes for which securities may be issued under chapter 31 of title 31 are extended to include any purchases of the Board's obligations under this section.

(b) Interest

Effective as of October 12, 1984, the obligations of the Board incurred under subsection (a) of this section shall bear no interest, and the requirement of the Board to pay the unpaid interest which has accrued on such obligations is terminated.

(c) Kennedy Center Revenue Bond Sinking Fund

There is hereby established in the Treasury of the United States a sinking fund, the Kennedy Center Revenue Bond Sinking Fund (hereinafter referred to as the ''Fund''), which shall be used to retire the obligations of the Board incurred under subsection (a) of this section upon the respective maturities of such obligations. The Board shall pay into the Fund, beginning on January 1, 1987 and ending on January 1, 2016, the annual sum of $200,000 in amortization of the principal amount of the obligations. Such sums shall be invested by the Secretary of the Treasury in public debt securities with maturities suitable for the needs of the Fund and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding mar-

ketable obligations of the United States of comparable maturities. The interest on such investments shall be credited to and form a part of the Fund. Moneys in the Fund shall be used exclusively to retire the obligations of the Board incurred under subsection (a) of this section. Adjustments of not greater than plus or minus 5 per centum may be made from time to time in the annual payments to the Fund in order to correct any gains or deficiencies as a result of fluctuations in interest rates over the life of the investments: *Provided, however*, That a final adjustment shall be made between the Board and the Secretary of the Treasury at the end of the amortization period to correct any overall gain or deficiency in the Fund. The terms of this adjustment shall be covered by a memorandum of understanding between the Board and the Secretary of the Treasury to be consummated on or before the time the initial payment into the Fund is made.

(Pub. L. 85–874, § 9, as added Pub. L. 88–260, § 1(6), Jan. 23, 1964, 78 Stat. 5; amended Pub. L. 91–90, § 1(b), Oct. 17, 1969, 83 Stat. 135; Pub. L. 98–473, title I, § 101(c), Oct. 12, 1984, 98 Stat. 1837, 1876; Pub. L. 101–449, § 4, Oct. 22, 1990, 104 Stat. 1051.)

AMENDMENTS

1990—Subsec. (a). Pub. L. 101–449 substituted ''chapter 31 of title 31'' for ''the Second Liberty Bond Act, as amended,'' in two places.

1984—Pub. L. 98–473 designated existing provisions as subsec. (a), struck out provisions relating to interest on bonds, and added subsecs. (b) and (c).

1969—Pub. L. 91–90 substituted ''$20,400,000'' for ''$15,400,000'' in two places.

§ 76p. Acceptance and disposition of gifts to the United States contributed in honor or memory of the late President John F. Kennedy

The Secretary of the Treasury is authorized to accept on behalf of the United States any gift to the United States which the Secretary finds has been contributed in honor of or in memory of the late President John F. Kennedy and to pay the money to such appropriation or other accounts, including the appropriation accounts established pursuant to appropriations authorized by this subchapter, as in the judgment of the Secretary will best effectuate the intent of the donor.

(Pub. L. 85–874, § 10, as added Pub. L. 88–260, § 1(6), Jan. 23, 1964, 78 Stat. 5; amended Pub. L. 103–279, § 6, July 21, 1994, 108 Stat. 1415.)

AMENDMENTS

1994—Pub. L. 103–279 substituted ''which the Secretary finds'' for ''which he finds'' and ''the judgment of the Secretary'' for ''his judgment''.

§ 76q. Sole national memorial to the late John F. Kennedy within the city of Washington and environs

The John F. Kennedy Center for the Performing Arts, designated by this subchapter, shall be the sole national memorial to the late John Fitzgerald Kennedy within the city of Washington and its environs.

(Pub. L. 85–874, § 11, as added Pub. L. 88–260, § 1(6), Jan. 23, 1964, 78 Stat. 5.)

§ 76r. Authorization of appropriations

(a) Maintenance, repair, and security

There are authorized to be appropriated to the Board to carry out section 76j(a)(1)(H) of this title $12,000,000 for each of fiscal years 1995 through 1999.

(b) Capital projects

There are authorized to be appropriated to the Board to carry out subparagraphs (F) and (G) of section 76j(a)(1) of this title $9,000,000 for each of fiscal years 1995 through 1999.

(c) Limitation on use of funds

No funds appropriated pursuant to this section may be used for any direct expense incurred in the production of a performing arts attraction, for personnel who are involved in performing arts administration (including any supply or equipment used by the personnel), or for production, staging, public relations, marketing, fundraising, ticket sales, or education. Funds appropriated directly to the Board shall not affect nor diminish other Federal funds sought for any performing arts function and may be used to reimburse the Board for that portion of costs that are Federal costs reasonably allocated to building services and theater maintenance and repair.

(Pub. L. 85–874, § 12, as added Pub. L. 103–279, § 7, July 21, 1994, 108 Stat. 1415.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 76*l* of this title.

§ 76s. Definitions

As used in this subchapter, the terms ''building and site of the John F. Kennedy Center for the Performing Arts'' and ''grounds of the John F. Kennedy Center for the Performing Arts'' refer to the site in the District of Columbia on which the John F. Kennedy Center building is constructed and that extends to the line of the west face of the west retaining walls and curbs of the Inner Loop Freeway on the east, the north face of the north retaining walls and curbs of the Theodore Roosevelt Bridge approaches on the south, the east face of the east retaining walls and curbs of Rock Creek Parkway on the west, and the south curbs of New Hampshire Avenue and F Street on the north, as generally depicted on the map entitled ''Transfer of John F. Kennedy Center for the Performing Arts'', numbered 844/82563, and dated April 20, 1994 (as amended by the map entitled ''Transfer of John F. Kennedy Center for the Performing Arts'', numbered 844/82563A and dated May 22, 1997), which shall be on file and available for public inspection in the office of the National Capital Region, National Park Service, Department of the Interior.

(Pub. L. 85–874, § 13, as added Pub. L. 103–279, § 8, July 21, 1994, 108 Stat. 1416; amended Pub. L. 105–95, § 4, Nov. 19, 1997, 111 Stat. 2149.)

AMENDMENTS

1997—Pub. L. 105–95 inserted ''(as amended by the map entitled 'Transfer of John F. Kennedy Center for the Performing Arts', numbered 844/82563A and dated May 22, 1997)'' after ''April 20, 1994''.

SUBCHAPTER VI—JOSEPH H. HIRSHHORN MUSEUM AND SCULPTURE GARDEN

§ 76aa. Site for museum and sculpture garden

(a) Appropriation and availability

The area bounded by Seventh Street, Independence Avenue, Ninth Street, and Jefferson Drive, in the District of Columbia, is hereby appropriated to the Smithsonian Institution as the permanent site of a museum and the area bounded by Seventh Street, Jefferson Drive, Ninth Street, and Madison Drive, in the District of Columbia is hereby made available to the Smithsonian Institution as the permanent site of a sculpture garden, both areas to be used for the exhibition of works of art.

(b) Powers and duties of Board of Regents

The Board of Regents of the Smithsonian Institution is authorized to remove any existing structure, to prepare architectural and engineering designs, plans, and specifications, and to construct a suitable museum within said area lying south of Jefferson Drive and to provide a sculpture garden for the use of the Smithsonian Institution within the areas designated in subsection (a) of this section.

(Pub. L. 89–788, § 1, Nov. 7, 1966, 80 Stat. 1403.)

§ 76bb. Joseph H. Hirshhorn Museum and Sculpture Garden

(a) Designation; administration by Board of Regents; cooperation of Board with Secretary of the Interior

The museum and sculpture garden provided for by this subchapter shall be designated and known in perpetuity as the Joseph H. Hirshhorn Museum and Sculpture Garden, and shall be a free public museum and sculpture garden under the administration of the Board of Regents of the Smithsonian Institution. In administering the sculpture garden the Board shall cooperate with the Secretary of[1] Interior so that the development and use of the Garden is consistent with the open-space concept of the Mall, for which the Secretary of[1] Interior is responsible, and with related development regarding underground garages and street development.

(b) Federal funds

The faith of the United States is pledged that the United States shall provide such funds as may be necessary for the upkeep, operation, and administration of the Joseph H. Hirshhorn Museum and Sculpture Garden.

(c) Uses

The Joseph H. Hirshhorn Museum and Sculpture Garden shall be the permanent home of the collections of art of Joseph H. Hirshhorn and the Joseph H. Hirshhorn Foundation, and shall be used for the storage, exhibition, and study of works of art, and for the administration of the affairs of the Joseph H. Hirshhorn Museum and Sculpture Garden.

(Pub. L. 89–788, § 2, Nov. 7, 1966, 80 Stat. 1403.)

[1] So in original. Probably should be followed by ''the''.

§ 76cc. Board of Trustees

(a) Establishment; powers and duties

There is established in the Smithsonian Institution a Board of Trustees to be known as the Trustees of the Joseph H. Hirshhorn Museum and Sculpture Garden, which shall provide advice and assistance to the Board of Regents of the Smithsonian Institution on all matters relating to the administration, operation, maintenance, and preservation of the Joseph H. Hirshhorn Museum and Sculpture Garden; and which shall have the sole authority (i) to purchase or otherwise acquire (whether by gift, exchange, or other means) works of art for the Joseph H. Hirshhorn Museum and Sculpture Garden, (ii) to loan, exchange, sell, or otherwise dispose of said works of art, and (iii) to determine policy as to the method of display of the works of art contained in said museum and sculpture garden.

(b) Membership; appointment; terms of office; vacancies

The Board of Trustees shall be composed of the Chief Justice of the United States and the Secretary of the Smithsonian Institution, who shall serve as ex officio members, and eight general members to be appointed as follows: Four of the general members first taking office shall be appointed by the President of the United States from among nominations submitted by Joseph H. Hirshhorn and four shall be appointed by the President from among nominations submitted by the Board of Regents of the Smithsonian Institution. The general members so appointed by the President shall have terms expiring one each on July 1, 1968, 1969, 1970, 1971, 1972, 1973, 1974, and 1975, as designated by the President. Successor general members (who may be elected from among members whose terms have expired) shall serve for a term of six years, except that a successor chosen to fill a vacancy occurring prior to the expiration of the term of office of his predecessor shall be chosen only for the remainder of such term. Vacancies occurring among general members of the Board of Trustees of the Joseph H. Hirshhorn Museum and Sculpture Garden shall be filled by a vote of not less than four-fifths of the then acting members of the Board of Trustees.

(Pub. L. 89–788, § 3, Nov. 7, 1966, 80 Stat. 1404.)

§ 76dd. Director, administrator, curators, and other personnel; appointment, compensation, and duties

The Board of Regents of the Smithsonian Institution may appoint and fix the compensation and duties of a director and, subject to his supervision, an administrator and two curators of the Joseph H. Hirshhorn Museum and Sculpture Garden, none of whose appointment, compensation, or duties shall be subject to the civil service laws or chapter 51 and subchapter III of chapter 53 of title 5. The Board of Regents may employ such other officers and employees as may be necessary for the efficient administration, operation, and maintenance of the Joseph H. Hirshhorn Museum and Sculpture Garden.

(Pub. L. 89–788, § 4, Nov. 7, 1966, 80 Stat. 1404.)

REFERENCES IN TEXT

The civil service laws, referred to in text, are set out in Title 5, Government Organization and Employees. See, particularly, section 3301 et seq. of Title 5.

CODIFICATION

''Chapter 51 and subchapter III of chapter 53 of title 5'' substituted in text for ''the Classification Act of 1949, as amended'' on authority of Pub. L. 89–554, §7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

§ 76ee. Authorization of appropriations

There is authorized to be appropriated not to exceed $15,000,000 for the planning and construction of the Joseph H. Hirshhorn Museum and Sculpture Garden, and such additional sums as may be necessary for the maintenance and operation of such museum and sculpture garden.

(Pub. L. 89–788, §5, Nov. 7, 1966, 80 Stat. 1404.)

SUBCHAPTER VII—NATIONAL AIR AND SPACE MUSEUM

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 80a of this title.

§ 77. National Air and Space Museum

(a) Establishment; board; administration; reimbursement of expenses

There is hereby established under the Smithsonian Institution a bureau to be known as a National Air and Space Museum, which shall be administered by the Smithsonian Institution with the advice of a board to be composed of the Chief of Staff of the Air Force, or his designee, the Chief of Naval Operations, or his designee, the Chief of Staff of the Army, or his designee, the Commandant of the Marine Corps, or his designee, the Commandant of the Coast Guard, or his designee, the Administrator of the National Aeronautics and Space Administration, or his designee, the Administrator of the Federal Aviation Administration, or his designee, the Secretary of the Smithsonian Institution, and three citizens of the United States appointed by the President from civilian life who shall serve at the pleasure of the President. The members of the board shall serve as such members without compensation but shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties as members of the board.

(b) Appointment and compensation of head of museum

The Secretary of the Smithsonian Institution, with the advice of the board, may appoint and fix the compensation and duties of the head of a national air and space museum whose appointment shall not be subject to the civil service laws.

(Aug. 12, 1946, ch. 955, §1, 60 Stat. 997; July 26, 1947, ch. 343, title II, §208(b), 61 Stat. 503; July 19, 1966, Pub. L. 89–509, pt. I, §§2, 3, 80 Stat. 310; Oct. 15, 1966, Pub. L. 89–670, §§3(e), 6(c)(1), 80 Stat. 932, 938.)

REFERENCES IN TEXT

The civil service laws, referred to in subsec. (b), are set out in Title 5, Government Organization and Employees. See, particularly, section 3301 et seq. of Title 5.

AMENDMENTS

1966—Subsec. (a). Pub. L. 89–509, §2, changed the name of the museum from the National Air Museum to the National Air and Space Museum, expanded the advisory board to include additional members including the Chief of Staff of the Army, the Commandant of the Marine Corps, the Commandant of the Coast Guard, the Administrator of the National Aeronautics and Space Administration, the Administrator of the Federal Aviation Agency, and an additional member appointed from civilian life to serve at the pleasure of the President, and provided for reimbursement for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties as members of the Board.

Subsec. (b). Pub. L. 89–509, §3, substituted ''national air and space museum'' for ''national air museum'' and struck out provision that the salary of the head of the museum shall not be subject to the Classification Act of 1923, as amended.

SHORT TITLE OF 1966 AMENDMENT

Section 1 of Pub. L. 89–509 provided: ''That this Act [amending this section, sections 77a, 77c, and 77d of this title, and provisions set out as notes under this section and sections 77b and 77d of this title, and repealing section 77b of this title] may be cited as 'the National Air Museum Amendments Act of 1965'.''

TRANSFER OF FUNCTIONS

''Chief of Staff of the Air Force'' substituted in subsec. (a) for ''Commanding General of the Army Air Forces'' pursuant to act July 26, 1947, ch. 343, title II, §208(b), 61 Stat. 503, which transferred functions of Commanding General of the Army Air Forces to Chief of Staff, United States Air Force. Section 208(b) of act July 26, 1947 was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. See sections 8031 and 8034 of Title 10, Armed Forces.

''Federal Aviation Administration'' substituted in subsec. (a) for ''Federal Aviation Agency'' pursuant to Pub. L. 89–670, §§3(e), 6(c)(1), Oct. 15, 1966, 80 Stat. 932, 938, which transferred all functions, powers, and duties of Federal Aviation Agency and of Administrator and other offices and officers thereof to Secretary of Transportation and established a Federal Aviation Administration in Department of Transportation. See section 106 of Title 49, Transportation.

APPROPRIATIONS

Section 6 of act Aug. 12, 1946, as amended by section 10 of Pub. L. 89–509, provided that: ''There is hereby authorized to be appropriated the sum of $50,000 for the purposes of this Act [this subchapter] and there are hereby authorized to be appropriated annually hereafter such sums as may be necessary to maintain and administer said national air and space museum including salaries and all other necessary expenses.''

CONSTRUCTION OF MUSEUM CENTER

Pub. L. 104–222, Oct. 1, 1996, 110 Stat. 3025, provided that:

''SECTION 1. CONSTRUCTION OF MUSEUM CENTER.

''The Board of Regents of the Smithsonian Institution is authorized to construct the Smithsonian Institution National Air and Space Museum Dulles Center at Washington Dulles International Airport.

''SEC. 2. LIMITATION ON USE OF FUNDS.

''No appropriated funds may be used to pay any expense of the construction authorized by section 1.''

EXTENSION AT WASHINGTON DULLES INTERNATIONAL AIRPORT

Pub. L. 103–57, Aug. 2, 1993, 107 Stat. 279, provided that:

''SECTION 1. PLAN FOR NATIONAL AIR AND SPACE MUSEUM EXTENSION.

''The Board of Regents of the Smithsonian Institution shall have authority to plan and design an extension of the National Air and Space Museum at Washington Dulles International Airport.

''SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

''There is authorized to be appropriated for fiscal years beginning after September 30, 1993, a total of $8,000,000 to carry out this Act.''

RATIFICATION OF COMPENSATION PAID HEAD OF MUSEUM

Section 11 of Pub. L. 89–509 provided that: ''Payments of compensation heretofore made to the head of the National Air Museum at rates fixed by the Secretary of the Smithsonian Institution without regard to the Classification Act of 1949, as amended [chapter 51 and subchapter III of chapter 53 of Title 5, Government Organization and Employees] are hereby ratified and affirmed.''

CROSS REFERENCES

National Armed Forces Museum Advisory Board establishment provisions as not rescinding National Air Museum provisions, see section 80a of this title.

§ 77a. Functions of museum

The national air and space museum shall memorialize the national development of aviation and space flight; collect, preserve, and display aeronautical and space flight equipment of historical interest and significance; serve as a repository for scientific equipment and data pertaining to the development of aviation and space flight; and provide educational material for the historical study of aviation and space flight.

(Aug. 12, 1946, ch. 955, § 2, 60 Stat. 998; July 19, 1966, Pub. L. 89–509, pt. I, § 4, 80 Stat. 310.)

AMENDMENTS

1966—Pub. L. 89–509 substituted ''national air and space museum'' for ''national air museum'', inserted ''and space flight'' after ''aviation'' wherever appearing, and substituted ''aeronautical and space flight equipment'' for ''aeronautical equipment''.

§ 77b. Repealed. Pub. L. 89–509, pt. I, § 5, July 19, 1966, 80 Stat. 310

Section, act Aug. 12, 1946, ch. 955, § 3, 60 Stat. 998, directed Secretary of Smithsonian Institution to investigate and survey suitable lands and buildings for selection as a site for national air museum and to make recommendations to Congress.

CONSTRUCTION PLANS; LOCATION; DESIGN; SUPERVISION OF DRAWINGS AND SPECIFICATIONS; CONSTRUCTION; AUTHORIZATION AND TRANSFER OF APPROPRIATIONS

Pub. L. 85–935, Sept. 6, 1958, 72 Stat. 1794, as amended by Pub. L. 89–509, §§ 12, 13, July 19, 1966, 80 Stat. 311, 312, authorized and directed Regents of Smithsonian Institution to prepare plans and to construct a building for a National Air and Space Museum at a certain site with exact location to be approved by National Capital Planning Commission and design to be approved by Commission of Fine Arts and with supervision of work to be by Administrator of General Services Administration and also appropriated such sums as were necessary to carry out the work.

§ 77c. Museum board

(a) Seal; regulations; vacancies

The board is authorized to adopt an official seal which shall be judicially noticed and to make such bylaws, rules, and regulations as it deems necessary for the administration of its functions. The board may function notwithstanding vacancies and six members of the board shall constitute a quorum for the transaction of business.

(b) Annual report

The Smithsonian Institution shall include in its annual report of its operations to Congress a statement of the operations of said national air and space museum, including all public and private moneys received and disbursed.

(Aug. 12, 1946, ch. 955, § 4, 60 Stat. 998; July 19, 1966, Pub. L. 89–509, pt. I, §§ 6, 7, 80 Stat. 310, 311.)

AMENDMENTS

1966—Subsec. (a). Pub. L. 89–509, § 6, raised from three to six the number of board members required to constitute a quorum.

Subsec. (b). Pub. L. 89–509, § 7, substituted ''national air and space museum'' for ''national air museum''.

§ 77d. Transfer or loan of aeronautical or space flight equipment to museum

The heads of executive departments and independent agencies of the Government are authorized to transfer or loan to said national air and space museum without charge therefor, aircraft, spacecraft, aircraft and spacecraft parts, instruments, engines, or other aeronautical and space flight equipment or records for exhibition, historical, or educational purposes.

(Aug. 12, 1946, ch. 955, § 5(a), 60 Stat. 998; July 19, 1966, Pub. L. 89–509, pt. I, § 8, 80 Stat. 311.)

CODIFICATION

Section consists of subsec. (a) of section 5 of act Aug. 12, 1946. Subsec. (b) of said section is set out as a note below.

AMENDMENTS

1966—Pub. L. 89–509 inserted ''and independent agencies'' after ''departments'', ''and space'' after ''national air'', ''spacecraft,'' after ''aircraft,'', ''and spacecraft'' after ''aircraft'' in phrase ''aircraft parts'', and ''and space flight'' after ''aeronautical''.

ACCEPTANCE OF STATUE OF GENERAL MITCHELL

Section 5(b) of act Aug. 12, 1946, as amended by section 9 of Pub. L. 89–509, provided that: ''The Secretary of the Smithsonian Institution, with the advice of the Commission of Fine Arts, is authorized (1) to accept as a gift to the Smithsonian Institution from George H. Stephenson, of Philadelphia, Pennsylvania, a statue of Brigadier General William L. Mitchell of such character as may be deemed appropriate, and (2) without expense to the United States, to cause such statue to be erected at a suitable location on the grounds of the national air and space museum.''

SUBCHAPTER VIII—PALEONTOLOGICAL INVESTIGATIONS

§ 78. Cooperation of Smithsonian Institution with State institutions for continuing paleontological investigations

The Secretary of the Smithsonian Institution is authorized to cooperate with any State, educational institution, or scientific organization in the United States for continuing paleontological investigations, and the excavation and preservation of fossil remains, in areas which will be

flooded by the construction of Government dams or otherwise be made unavailable for such investigations because of such construction: *Provided*, That such investigations and activities shall not duplicate nor affect adversely similar operations being conducted by the Department of Interior in cooperation with the Smithsonian Institution.

(Aug. 15, 1949, ch. 427, §1, 63 Stat. 606.)

§ 78a. Authorization of appropriations; availability of funds; limit on use of funds during fiscal year; supervision; rules and regulations

There is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, the sum of $65,000, which shall be available until expended for the above purposes: *Provided*, That at such time as the Smithsonian Institution is satisfied that any State agency, or any educational institution or scientific organization in any of the United States, is prepared to contribute to such investigation and when in its judgment such investigation shall appear meritorious, the Secretary of the Smithsonian Institution may make available for such investigation such amounts from this sum as shall be equal to the amounts contributed respectively by each such State agency, or educational institution or scientific organization: *Provided further*, That the amount to be made available from this sum for such investigation in cooperation with each such State agency, or educational institution or scientific organization, shall not exceed $10,000 in any fiscal year: *Provided further*, That all such cooperative work and division of the result thereof shall be under the direction of the Secretary of the Smithsonian Institution: *Provided further*, That where lands are involved which are controlled by the Government of the United States, cooperative work thereon shall be under the provisions of the Act of June 8, 1906 (16 U.S.C. 432, 433), and rules and regulations pertaining thereto.

(Aug. 15, 1949, ch. 427, §2, 63 Stat. 606.)

SUBCHAPTER IX—CANAL ZONE BIOLOGICAL AREA

§ 79. Barro Colorado Island in Gatun Lake to be set aside

The President is authorized and directed to set aside within the Canal Zone an area in Gatun Lake known as Barro Colorado Island in which the natural features shall, except in event of declared national emergency, be left in their natural state for scientific observation and investigation.

(July 2, 1940, ch. 516, §1, 54 Stat. 724.)

REFERENCES IN TEXT

For definition of Canal Zone, referred to in text, see section 3602(b) of Title 22, Foreign Relations and Intercourse.

CODIFICATION

Section was formerly classified to section 1381 of Title 48, Territories and Insular Possessions.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, §3, 61 Stat. 451, provided that in the interpretation of this section, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on Sept. 8, 1939, and May 27, 1941.

§ 79a. Preservation of natural features for scientific observation and investigation

The purpose of setting aside such an area is to preserve and conserve its natural features, including existing flora and fauna, in as nearly a natural condition as possible, thus providing a place where duly qualified students can make observations and scientific investigations for increase of knowledge, under such conditions and regulations as may be prescribed by the Smithsonian Institution.

(July 2, 1940, ch. 516, §2, 54 Stat. 724; 1946 Reorg. Plan No. 3, §801, eff. July 16, 1946, 11 F.R. 7877, 60 Stat. 1101.)

CODIFICATION

Section was formerly classified to section 1382 of Title 48, Territories and Insular Possessions.

TRANSFER OF FUNCTIONS

''Smithsonian Institution'' substituted in text for ''Board of Directors of the Canal Zone Biological Area'' by Reorg. Plan No. 3 of 1946, set out in the Appendix to Title 5, Government Organization and Employees.

§ 79b. Functions of Smithsonian Institution

The Smithsonian Institution shall (a) determine the policy, prescribe conditions under which studies may be pursued within the area, and promulgate regulations for carrying out the purposes of this subchapter; (b) be responsible for the construction and maintenance of laboratory and other facilities on the area provided for the use of students authorized to carry on studies within the confines of the area; (c) deposit into the Treasury of the United States sums donated or subscribed or collected to be expended for carrying out the purposes of this subchapter; (d) in its discretion, fixed[1] charges that may be made for use of laboratory or other facilities provided students authorized to make observations and investigations within the prescribed area and provide for the collection of such sums for deposit into the Treasury of the United States; (e) make such disposal of any moneys donated, subscribed, collected, or otherwise provided as in its judgment is to the best interest in carrying out the purpose of this subchapter: *Provided*, That sums contributed or appropriated for specific purposes shall be used for such purpose only; and (f) include in its annual report of its operations to Congress a statement of activities and operations during the preceding year.

(July 2, 1940, ch. 516, §4, 54 Stat. 724; 1946 Reorg. Plan No. 3, §801, eff. July 16, 1946, 11 F.R. 7877, 60 Stat. 1101; Oct. 20, 1965, Pub. L. 89–280, §2, 79 Stat. 1012.)

CODIFICATION

Section was formerly classified to section 1384 of Title 48, Territories and Insular Possessions.

AMENDMENTS

1965—Pub. L. 89–280 substituted provisions in cl. (f) requiring the Smithsonian Institution to include in its

[1] So in original. Probably should be ''fix''.

annual report of its operations to Congress a statement of activities and operations during the preceding year for provisions which required the Smithsonian Institution to submit to the Congress of the United States not later than the 15th day of each January a report of activities and operations during the preceding year.

TRANSFER OF FUNCTIONS

''Smithsonian Institution'' substituted in text for ''Board of Directors of the Canal Zone Biological Area'' and former clause (a) which provided for annual meetings of Board was superseded by Reorg. Plan No. 3 of 1946, set out in the Appendix to Title 5, Government Organization and Employees.

§ 79c. Resident manager; powers and duties; compensation

The Smithsonian Institution may select and designate a resident manager to assist in carrying out the policy, conditions, and regulations approved by it in compliance with the purposes of this subchapter. The resident manager shall receive such compensation for his services as may be allowed by the Smithsonian Institution.

(July 2, 1940, ch. 516, § 5, 54 Stat. 725; 1946 Reorg. Plan No. 3, § 801, eff. July 16, 1946, 11 F.R. 7877, 60 Stat. 1101.)

CODIFICATION

Section was formerly classified to section 1385 of Title 48, Territories and Insular Possessions.

TRANSFER OF FUNCTIONS

References to the ''Board of Directors of the Canal Zone Biological Area'' and its ''executive officer'' changed to ''Smithsonian Institution'' and provisions for the appointment and compensation of said executive officer were superseded by Reorg. Plan No. 3 of 1946, set out in the Appendix to Title 5, Government Organization and Employees.

§ 79d. Deposit of receipts into Treasury; disbursements

All moneys received by donation, subscription, fees, or otherwise, except the moneys appropriated pursuant to section 79e of this title, for carrying out the purposes of this subchapter shall be deposited into the Treasury as trust funds and are appropriated for such purposes. Disbursements of such funds shall be made by the Secretary of the Treasury through the Fiscal Service on requisitions or vouchers signed by or on authority of the Smithsonian Institution.

(July 2, 1940, ch. 516, § 6, 54 Stat. 725; 1940 Reorg. Plan No. III, § 1(a)(1), eff. June 30, 1940, 5 F.R. 2107, 54 Stat. 1231; 1946 Reorg. Plan No. 3, § 801, eff. July 16, 1946, 11 F.R. 7877, 60 Stat. 1101.)

CODIFICATION

Section was formerly classified to section 1386 of Title 48, Territories and Insular Possessions.

TRANSFER OF FUNCTIONS

Functions of all officers of Department of the Treasury and functions of all agencies and employees of such Department transferred, with certain exceptions, to Secretary of the Treasury, with power vested in him to authorize their performance or performance of any of his functions, by any of such officers, agencies, and employees, by Reorg. Plan No. 26 of 1950, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, 1281, set out in the Appendix to Title 5, Government Organization and Employees.

''Smithsonian Institution'' substituted in text for ''executive officer of the Board of Directors of the Canal Zone Biological Area'' by Reorg. Plan No. 3 of 1946, set out in the Appendix to Title 5.

''Fiscal Service'' substituted in text for ''Division of Disbursement'' on authority of section 1(a)(1) of Reorg. Plan No. III of 1940, eff. June 30, 1940, 5 F.R. 2107, 54 Stat. 1231, set out in the Appendix to Title 5, which consolidated such division into Fiscal Service of Department of the Treasury. See section 306 of Title 31, Money and Finance.

§ 79e. Authorization of appropriations

There are authorized to be appropriated annually, from money in the Treasury of the United States not otherwise appropriated, such sums as are necessary for the administration of this subchapter and for the maintenance of laboratory or other facilities provided for carrying out the purposes of this subchapter.

(July 2, 1940, ch. 516, § 7, 54 Stat. 725; Oct. 20, 1965, Pub. L. 89–280, § 1, 79 Stat. 1012; Oct. 19, 1979, Pub. L. 96–89, § 1, 93 Stat. 697; July 22, 1983, Pub. L. 98–57, § 1, 97 Stat. 293.)

CODIFICATION

Section was formerly classified to section 1387 of Title 48, Territories and Insular Possessions.

AMENDMENTS

1983—Pub. L. 98–57 struck out '', not to exceed $750,000'' after ''such sums''.

1979—Pub. L. 96–89 substituted ''$750,000'' for ''$350,000''.

1965—Pub. L. 89–280 substituted ''$350,000'' for ''$10,000''.

EFFECTIVE DATE OF 1983 AMENDMENT

Section 2 of Pub. L. 98–57 provided that: ''The provision in the first section of this Act [amending this section] shall take effect on October 1, 1983.''

EFFECTIVE DATE OF 1979 AMENDMENT

Section 2 of Pub. L. 96–89 provided that: ''The provision in section 1 of this Act [amending this section] shall take effect on October 1, 1979.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 79d of this title.

SUBCHAPTER X—NATIONAL ARMED FORCES MUSEUM ADVISORY BOARD

§ 80. National Armed Forces Museum Advisory Board

(a) Establishment; functions

There is established in the Smithsonian Institution a National Armed Forces Museum Advisory Board (hereinafter referred to as the Board), which shall provide advice and assistance to the Regents of the Smithsonian Institution on matters concerned with the portrayal of the contributions which the Armed Forces of the United States have made to American society and culture.

(b) Membership

The Board shall be composed of eleven members, as follows:

(1) The Secretary of Defense, who shall serve as an ex officio member;

(2) The Secretary of the Smithsonian Institution, who shall serve as an ex officio member;

(3) Nine members appointed by the President, (A) three of whom shall be appointed from persons recommended by the Secretary of Defense to represent the Armed Forces, and (B) two of whom shall be appointed from among persons recommended by the Regents of the Smithsonian Institution. Not less than two members appointed by the President shall be from civilian life.

(c) Term of office; vacancies

Members of the Board appointed by the President shall be appointed to serve for a period of six years; except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term and the terms of office of the members first appointed shall expire, as designated by the President at the time of appointment, three at the end of two years, three at the end of four years, and three at the end of six years.

(d) Quorum

Five members of the Board shall constitute a quorum and any vacancy in the Board shall not affect its power to function.

(e) Compensation, travel and other expenses

The members of the Board shall serve without compensation but shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties as members of the Board.

(f) Biennial organization; rules and regulations

The Board shall select officers from among its members biennially and shall make such bylaws, rules, and regulations as it deems necessary for the furtherance of its business.

(Pub. L. 87–186, § 1, Aug. 30, 1961, 75 Stat. 414.)

§ 80a. Display of contributions of Armed Forces

(a) Study center; historical collections

The Smithsonian Institution shall commemorate and display the contributions made by the military forces of the Nation toward creating, developing, and maintaining a free, peaceful, and independent society and culture in the United States of America. The valor and sacrificial service of the men and women of the Armed Forces shall be portrayed as an inspiration to the present and future generations of America. The demands placed upon the full energies of our people, the hardships endured, and the sacrifice demanded in our constant search for world peace shall be clearly demonstrated. The extensive peacetime contributions the Armed Forces have made to the advance of human knowledge in science, nuclear energy, polar and space exploration, electronics, engineering, aeronautics, and medicine shall be graphically described. The Smithsonian Institution shall interpret through dramatic display significant current problems affecting the Nation's security. It shall be equipped with a study center for scholarly research into the meaning of war, its effect on civilization, and the role of the Armed Forces in maintaining a just and lasting peace by providing a powerful deterrent to war. In fulfilling its purposes, the Smithsonian Institution shall collect, preserve, and exhibit military objects of historical interest and significance.

(b) National Air and Space Museum provisions unaffected

The provisions of this subchapter in no way rescind subchapter VII of this chapter, which established the National Air and Space Museum of the Smithsonian Institution, or any other authority of the Smithsonian Institution.

(Pub. L. 87–186, § 2, Aug. 30, 1961, 75 Stat. 414; Pub. L. 89–509, pt. I, § 2, July 19, 1966, 80 Stat. 310.)

CHANGE OF NAME

''National Air and Space Museum'' substituted for ''National Air Museum'' in subsec. (b) pursuant to section 2 of Pub. L. 89–509, which is classified to section 77 of this title.

§ 80b. Selection of site

(a) Authorization of Board of Regents; submission of recommendations to Congress

The Board of Regents of the Smithsonian Institution is authorized and directed, with the advice and assistance of the Board, to investigate and survey lands and buildings in and near the District of Columbia suitable for the display of military collections. The Board of Regents of the Smithsonian Institution shall, after consulting with and seeking the advice of the Commission on Fine Arts, the National Capital Planning Commission, and the General Services Administration, submit recommendations to the Congress with respect to the acquisition of lands and buildings for such purpose.

(b) Public exhibits and study collections; exhibits of military and naval operations

Buildings acquired pursuant to recommendations made under subsection (a) of this section shall be used to house public exhibits and study collections that are not appropriate for the military exhibits of the Smithsonian Institution on the Mall in the District of Columbia. Facilities shall be provided for the display of large military objects and for the reconstruction, in an appropriate way, on lands acquired pursuant to recommendations made under subsection (a) of this section, of exhibits showing the nature of fortifications, trenches, and other military and naval facilities characteristic of the American colonial period, the War of the Revolution, and subsequent American military and naval operations.

(Pub. L. 87–186, § 3, Aug. 30, 1961, 75 Stat. 415.)

§ 80c. Transfer or loan of objects, equipment and records to Smithsonian Institution

The heads of executive departments and independent agencies of the Government are authorized to transfer or loan to the Smithsonian Institution for its use without charge therefor military, naval, aeronautical, and space objects, equipment and records for exhibition, historical, or other appropriate purposes.

(Pub. L. 87–186, § 4, Aug. 30, 1961, 75 Stat. 415.)

§ 80d. Authorization of appropriations

There are authorized to be appropriated to the Smithsonian Institution such sums as may be necessary for the purposes of this subchapter.

(Pub. L. 87–186, § 5, Aug. 30, 1961, 75 Stat. 415.)

SUBCHAPTER XI—WOODROW WILSON INTERNATIONAL CENTER FOR SCHOLARS

§ 80e. Congressional declaration of policy

The Congress hereby finds and declares—

(1) that a living institution expressing the ideals and concerns of Woodrow Wilson would be an appropriate memorial to his accomplishments as the twenty-eighth President of the United States, a distinguished scholar, an outstanding university president, and a brilliant advocate of international understanding;

(2) that the Woodrow Wilson Memorial Commission, created by joint resolution of Congress, recommended that an International Center for Scholars be constructed in the District of Columbia in the area north of the proposed Market Square as part of the Nation's memorial to Woodrow Wilson;

(3) that such a center, symbolizing and strengthening the fruitful relation between the world of learning and the world of public affairs, would be a suitable memorial to the spirit of Woodrow Wilson; and

(4) that the establishment of such a center would be consonant with the purposes of the Smithsonian Institution, created by Congress in 1846 ''for the increase and diffusion of knowledge among men.''

(Pub. L. 90–637, § 2, Oct. 24, 1968, 82 Stat. 1357.)

SHORT TITLE

Section 1 of Pub. L. 90–637 provided: ''That this Act [enacting this subchapter] may be cited as the 'Woodrow Wilson Memorial Act of 1968'.''

§ 80f. Woodrow Wilson International Center for Scholars; Board of Trustees of the Center

(a) Establishment

There is hereby established in the Smithsonian Institution a Woodrow Wilson International Center for Scholars and a Board of Trustees of the Center (hereinafter referred to as the ''Center'' and the ''Board''), whose duties it shall be to maintain and administer the Center and site thereof and to execute such other functions as are vested in the Board by this subchapter.

(b) Composition of Board

The Board of Trustees shall be composed of 19 members as follows:

(1) the Secretary of State;

(2) the Secretary of Health and Human Services;

(3) the Secretary of Education;

(4) the Chairman of the National Endowment for the Humanities;

(5) the Secretary of the Smithsonian Institution;

(6) the Librarian of Congress;

(7) the Director of the United States Information Agency;

(8) the Archivist of the United States;

(9) one member appointed by the President from time to time from within the Federal Government; and

(10) 10 members appointed by the President from private life.

(c) Appointment of alternate members by members of Board

Each member of the Board of Trustees specified in paragraphs (1) through (9) of subsection (b) of this section may designate another official to serve on the Board of Trustees in his stead.

(d) Terms of office; vacancies; reappointment

Each member of the Board of Trustees appointed under paragraph (10) of subsection (b) of this section shall serve for a term of six years from the expiration of his predecessor's term; except that (1) any trustee appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, and (2) the terms of office of the trustees first taking office shall begin on October 24, 1968, and shall expire as designated at the time of appointment, two at the end of two years, three at the end of four years, and three at the end of six years. No trustee of the Board chosen from private life shall be eligible to serve in excess of two consecutive terms, except that a trustee whose term has expired may serve until his successor has qualified.

(e) Chairman and Vice Chairman of Board

The President shall designate a Chairman and a Vice Chairman from among the members of the Board chosen from private life.

(Pub. L. 90–637, § 3, Oct. 24, 1968, 82 Stat. 1357; Pub. L. 95–426, title II, § 206, Oct. 7, 1978, 92 Stat. 975; Pub. L. 101–268, Apr. 9, 1990, 104 Stat. 132.)

AMENDMENTS

1990—Subsec. (b). Pub. L. 101–268, § 1, amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: ''The Board of Trustees shall be composed of sixteen members as follows:

''(1) the Secretary of State;

''(2) the Director of the United States Information Agency;

''(3) the Secretary of Health and Human Services;

''(4) the Chairman of the National Endowment for the Humanities;

''(5) the Secretary of the Smithsonian Institution;

''(6) the Librarian of Congress;

''(7) the Archivist of the United States;

''(8) one appointed by the President from time to time from within the Federal Government; and

''(9) eight appointed by the President from private life.''

Subsec. (c). Pub. L. 101–268, § 2(1), substituted ''(9)'' for ''(8)''.

Subsec. (d). Pub. L. 101–268, § 2(2), substituted ''(10)'' for ''(9)''.

1978—Subsec. (b). Pub. L. 95–426, § 206(a)(1), substituted ''sixteen'' for ''fifteen''.

Subsec. (b)(2) to (9). Pub. L. 95–426, § 206(a)(2), (3), designated pars. (2) to (8) as (3) to (9), respectively, and added a new par. (2) ''the Director of the International Communication Agency''.

Subsec. (c). Pub. L. 95–426, § 206(b)(1), substituted ''(8)'' for ''(7)''.

Subsec. (d). Pub. L. 95–426, § 206(b)(2), substituted ''(9)'' for ''(8)''.

§ 80g. Powers and duties of Board

(a) Appointment of scholars; gifts, bequests, etc.; grants; location of Center; physical facilities; compensation of officers; plans and specifications for Center

In administering the Center, the Board shall have all necessary and proper powers, which

shall include but not be limited to the power to—

(1) appoint scholars, from the United States and abroad, and, where appropriate, provide stipends, grants, and fellowships to such scholars, and to hire or accept the voluntary services of consultants, advisory boards, and panels to aid the Board in carrying out its responsibilities;

(2) solicit, accept, and dispose of gifts, bequests, and devises of money, securities, and other property of whatsoever character for the benefit of the Center; any such money, securities, or other property shall, upon receipt, be deposited with the Smithsonian Institution, and unless otherwise restricted by the terms of the gift, expenditures shall be in the discretion of the Board for the purposes of the Center;

(3) obtain grants from, and make contracts with, State, Federal, local, and private agencies, organizations, institutions, and individuals;

(4) acquire such site as a location for the Center as may subsequently be authorized by the Congress;

(5) acquire, hold, maintain, use, operate, and dispose of any physical facilities, including equipment, necessary for the operation of the Center;

(6) appoint and fix the compensation and duties of the director and such other officers of the Center as may be necessary for the efficient administration of the Center; the director and two other officers of the Center may be appointed and compensated without regard to the provisions of title 5 governing appointments in the competitive service and chapter 51 and subchapter III of chapter 53 of title 5; and

(7) prepare plans and specifications for the Center, including the design and development of all buildings, facilities, open spaces, and other structures on the site in consultation with the President's Temporary Commission on Pennsylvania Avenue, or its successor, and with other appropriate Federal and local agencies, such plans to include an exterior classic frieze memorial to Woodrow Wilson.

(b) Relocation assistance and programs

The Board shall, in connection with acquisition of any site authorized by Congress, as provided for in paragraph (4) of subsection (a) of this section, provide, to businesses and residents displaced from any such site, relocation assistance, including payments and other benefits, equivalent to that authorized to displace businesses and residents under the Housing Act of 1949, as amended [42 U.S.C. 1441 et seq.]. The Board shall develop a relocation program for existing businesses and residents within the site and submit such program to the government of the District of Columbia for a determination as to its adequacy and feasibility. In providing such relocation assistance and developing such relocation program the Board shall utilize to the maximum extent the services and facilities of the appropriate Federal and local agencies.

(Pub. L. 90–637, § 4, Oct. 24, 1968, 82 Stat. 1358; Pub. L. 95–286, § 2, May 26, 1978, 92 Stat. 279.)

REFERENCES IN TEXT

The provisions of title 5 governing appointments in the competitive service, referred to in subsec. (a)(6), are classified to section 3301 et seq. of Title 5, Government Organization and Employees.

The Housing Act of 1949, as amended, referred to in subsec. (b), is act July 15, 1949, ch. 338, 63 Stat. 413, as amended, which is classified principally to chapter 8A (§ 1441 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1441 of Title 42 and Tables.

AMENDMENTS

1978—Subsec. (a)(2). Pub. L. 95–286 substituted ''devises'' for ''devices''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 80g–1 of this title.

§ 80g–1. Hubert H. Humphrey Fellowship in Social and Political Thought

(a) Establishment in Center

There is hereby established in the Center a Hubert H. Humphrey Fellowship in Social and Political Thought.

(b) Selection of Humphrey Fellow; term; compensation

Each year the Board shall select a distinguished scholar, statesman, or cultural figure, from the United States or abroad, to serve at the Center for a period of up to one year as the Hubert H. Humphrey Fellow in Social and Political Thought (hereinafter in this section referred to as the ''Humphrey Fellow''). Each Humphrey Fellow shall receive compensation in an amount, determined by the Board, not to exceed the annual income of the trust fund established under subsection (d) of this section.

(c) Functions of Humphrey Fellow; publication and dissemination by Board of Memorial Lectures

Each Humphrey Fellow shall—

(1) deliver a Hubert H. Humphrey Memorial Lecture; and

(2) carry out such projects and work as are consistent with the Humphrey Fellowship.

The Board shall provide for the publication and dissemination of the Hubert H. Humphrey Memorial Lectures.

(d) Hubert H. Humphrey Fellowship Trust Fund; establishment, composition, investments, etc.

(1) There is hereby established in the Treasury of the United States a trust fund to be known as the Hubert H. Humphrey Fellowship Trust Fund (hereinafter in this section referred to as the ''fund''). The Secretary of the Treasury shall deposit in the fund such sums as may be appropriated to the fund under subsection (f) of this section and shall receive into the Treasury and deposit into the fund such sums as may be received as contributions to the fund.

(2) The Secretary of the Treasury shall invest amounts in the fund in public debt securities with maturities suitable for the needs of the fund and bearing interest at prevailing market rates; and the interest on such investments shall be credited to and form a part of the fund.

(3) Notwithstanding section 80g(a)(2) of this title any gift, bequest, or devise of money, securities or other property for the benefit of the Hubert H. Humphrey Fellowship in Social and Political Thought received by the Board shall, upon receipt, be deposited into the fund as provided by paragraph (1).

(e) Payments to Board from investments for implementation of Fellowship purposes

The Secretary of the Treasury shall pay to the Board from amounts received as interest on investments under subsection (d)(2) of this section such sums as the Board determines are necessary and appropriate for the purposes of the Humphrey Fellowship.

(f) Authorization of appropriations

There is authorized to be appropriated to the fund for the fiscal year beginning October 1, 1978, $1,000,000.

(Pub. L. 90–637, § 5, as added Pub. L. 95–286, § 1(2), May 26, 1978, 92 Stat. 278.)

§ 80h. Administration; quorum

The Board is authorized to adopt an official seal which shall be judicially noticed and to make such bylaws, rules, and regulations as it deems necessary for the administration of its functions under this subchapter, including, among other matters, bylaws, rules, and regulations relating to the administration of its trust funds and the organization and procedure of the Board. A majority of the members of the Board shall constitute a quorum for the transaction of business.

(Pub. L. 90–637, § 6, formerly § 5, Oct. 24, 1968, 82 Stat. 1359, renumbered Pub. L. 95–286, § 1(1), May 26, 1978, 92 Stat. 278.)

§ 80i. Authorization of appropriations; limitations

There are hereby authorized to be appropriated to the Board such funds as may be necessary to carry out the purposes of this subchapter: *Provided*, That no more than $200,000 shall be authorized for appropriation through fiscal year 1970 and no part of that appropriation shall be available for construction purposes.

(Pub. L. 90–637, § 7, formerly § 6, Oct. 24, 1968, 82 Stat. 1359, renumbered Pub. L. 95–286, § 1(1), May 26, 1978, 92 Stat. 278.)

§ 80j. Audit of accounts

The accounts of the Board shall be audited in accordance with the principles and procedures applicable to, and as part of, the audit of the other Federal and trust funds of the Smithsonian Institution.

(Pub. L. 90–637, § 8, formerly § 7, Oct. 24, 1968, 82 Stat. 1359, renumbered Pub. L. 95–286, § 1(1), May 26, 1978, 92 Stat. 278.)

SUBCHAPTER XII—MUSEUM OF AFRICAN ART

§ 80k. Donation and transfer of lands and improvements, works of art, and other assets and property of Museum of African Art to Smithsonian Institution

The Board of Regents of the Smithsonian Institution (hereinafter in this subchapter referred to as the ''Board'') is authorized to accept a deed or other instrument donating and transferring to the Smithsonian Institution, the land and improvements thereto, collections of works of art, and all other assets and property of the Museum of African Art.

(Pub. L. 95–414, § 1, Oct. 5, 1978, 92 Stat. 911.)

EFFECTIVE DATE

Section 7 of Pub. L. 95–414 provided that: ''Except for the provisions in sections 1 and 6(b) [this section and section 80p(b) of this title], the provisions of this Act [this subchapter] shall take effect on the date of transfer of a deed or other instrument under the provisions of section 1 [this section].''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 80m, 80*o*, 80p of this title.

§ 80*l*. Establishment of Museum of African Art; functions

There is established in the Smithsonian Institution a bureau which shall be known as the ''Museum of African Art'' (hereinafter in this subchapter referred to as the ''Museum''). The functions of such bureau shall be those authorized by section 80m(a) of this title.

(Pub. L. 95–414, § 2, Oct. 5, 1978, 92 Stat. 911.)

CONSTRUCTION OF NATIONAL MUSEUM OF AFRICAN ART

Regents of Smithsonian Institution authorized to construct building for National Museum of African Art, see Pub. L. 97–203, June 24, 1982, 96 Stat. 129, set out as a note under section 50 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 80m of this title.

§ 80m. Powers of Board

(a) Acquisition, retention, and disposition of property; research and education programs

For the purpose of carrying out sections 80k and 80*l* of this title, the Board may—

(1) purchase, accept, borrow, or otherwise acquire additional works of art or any other real or personal property for the Museum;

(2) preserve, maintain, restore, display, loan, transfer, store, or otherwise hold any property of whatsoever nature acquired pursuant to section 80k of this title or paragraph (1) of this subsection;

(3) conduct programs of research and education; and

(4) subject to any limitations otherwise expressly provided by law, and, in the case of any gift, subject to any applicable restrictions under the terms of such gift, sell, exchange, or otherwise dispose of any property of whatsoever nature acquired pursuant to the provisions of this subchapter: *Provided*, That the proceeds from the sale of any property acquired pursuant to section 80k of this title shall be designated for the benefit of the Museum.

(b) Recommendations of Commission

In carrying out the purposes of this subchapter, the Board shall consider the recommendations of the Commission established pursuant to section 80n of this title.

(Pub. L. 95–414, § 3, Oct. 5, 1978, 92 Stat. 911.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 80*l* of this title.

§ 80n. Commission for the Museum of African Art

(a) Establishment; duties

There is established a Commission for the Museum of African Art (hereinafter the ''Commission'') which shall provide advice and assistance to the Board concerning the operation and development of the Museum, its collections and programs.

(b) Membership

The Commission shall consist of fifteen members to be appointed by the Board. In addition, the Secretary and an Assistant Secretary of the Smithsonian Institution shall serve as ex officio members. The Board shall appoint to the first term on the Commission no less than ten members of the Board of Trustees of the Museum of African Art who are serving on October 5, 1978. Each initial member so appointed shall serve for a three-year term. Thereafter, in appointing members of the Commission the Board shall continue to include representatives of African descendants in the United States, collectors of African Art, and scholars in the fields of African art and culture.

(c) Terms of office

Members of the Commission shall be appointed to serve for a three-year term, except that after the appointment of the first term of the Commission as specified in subsection (b) of this section, the terms of office of members next appointed shall expire, as designated by the Board at the time of appointment, one-third at the end of one year, one-third at the end of two years, and one-third at the end of three years. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term. Members may be reappointed.

(d) Quorum; vacancies

A majority of the appointed members of the Commission shall constitute a quorum and any vacancy in the Commission shall not affect its power to function.

(e) Travel, subsistence, and other expenses

Members of the Commission shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

(f) Selection of officers; bylaws

The Commission shall select officers, from among its members biennially and shall make bylaws to carry out its functions under this subchapter.

(Pub. L. 95–414, § 4, Oct. 5, 1978, 92 Stat. 911.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 80m of this title.

§ 80*o*. Director, officers, and employees; appointment, compensation, and duties

The Board may appoint and fix the compensation and duties of the Director and such other officers and employees of the Museum as may be necessary for the efficient administration, operation, and maintenance of the Museum; the Director and two other employees of the Museum may be appointed and compensated without regard to the provisions of title 5 governing appointments in the competitive service and chapter 51 and subchapter III of chapter 53 of title 5; and all of the employees of the Museum who are serving on the date of the transfer authorized under section 80k of this title shall be offered employment by the Smithsonian under its usual terms of employment and may be appointed without regard to the provisions of title 5 governing appointments in the competitive service and chapter 51 and subchapter III of chapter 53 of title 5.

(Pub. L. 95–414, § 5, Oct. 5, 1978, 92 Stat. 912.)

REFERENCES IN TEXT

Provisions of title 5 governing appointments in the competitive service, referred to in text, are classified generally to section 3301 et seq. of Title 5, Government Organization and Employees.

§ 80p. Funding

(a) Federal funds for Museum

The faith of the United States is pledged that upon the completion of the acquisition in section 80k of this title, the United States will provide such funds as may be necessary for the upkeep of the Museum and the administrative expenses and costs of operation thereof, including the protection and care of works of art acquired by the Board, so the Museum shall at all times be properly maintained and works of art contained therein shall be exhibited regularly to the general public free of charge.

(b) Authorization of appropriations

There is authorized to be appropriated for the first fiscal year under this subchapter, the sum of $1,000,000 and such amounts as may be necessary for the succeeding fiscal years in order to carry out the provisions of this subchapter.

(Pub. L. 95–414, § 6, Oct. 5, 1978, 92 Stat. 912.)

EFFECTIVE DATE

Section effective, except for the provisions in subsec. (b) of this section, on the date of transfer of a deed or other instrument under the provisions of section 80k of this title, see section 7 of Pub. L. 95–414, set out as a note under section 80k of this title.

SUBCHAPTER XIII—NATIONAL MUSEUM OF THE AMERICAN INDIAN

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 7902 of this title; title 42 section 11701.

§ 80q. Findings

The Congress finds that—

(1) there is no national museum devoted exclusively to the history and art of cultures indigenous to the Americas;

(2) although the Smithsonian Institution sponsors extensive Native American programs, none of its 19 museums, galleries, and major research facilities is devoted exclusively to Native American history and art;

(3) the Heye Museum in New York, New York, one of the largest Native American collections in the world, has more than 1,000,000 art objects and artifacts and a library of 40,000 volumes relating to the archaeology, ethnology, and history of Native American peoples;

(4) the Heye Museum is housed in facilities with a total area of 90,000 square feet, but requires a minimum of 400,000 square feet for exhibition, storage, and scholarly research;

(5) the bringing together of the Heye Museum collection and the Native American collection of the Smithsonian Institution would—

(A) create a national institution with unrivaled capability for exhibition and research;

(B) give all Americans the opportunity to learn of the cultural legacy, historic grandeur, and contemporary culture of Native Americans;

(C) provide facilities for scholarly meetings and the performing arts;

(D) make available curatorial and other learning opportunities for Indians; and

(E) make possible traveling exhibitions to communities throughout the Nation;

(6) by order of the Surgeon General of the Army, approximately 4,000 Indian human remains from battlefields and burial sites were sent to the Army Medical Museum and were later transferred to the Smithsonian Institution;

(7) through archaeological excavations, individual donations, and museum donations, the Smithsonian Institution has acquired approximately 14,000 additional Indian human remains;

(8) the human remains referred to in paragraphs (6) and (7) have long been a matter of concern for many Indian tribes, including Alaska Native Villages, and Native Hawaiian communities which are determined to provide an appropriate resting place for their ancestors;

(9) identification of the origins of such human remains is essential to addressing that concern; and

(10) an extraordinary site on the National Mall in the District of Columbia (U.S. Government Reservation No. 6) is reserved for the use of the Smithsonian Institution and is available for construction of the National Museum of the American Indian.

(Pub. L. 101–185, § 2, Nov. 28, 1989, 103 Stat. 1336.)

SHORT TITLE OF 1996 AMENDMENT

Pub. L. 104–278, § 1(a), Oct. 9, 1996, 110 Stat. 3355, provided that: ''This Act [enacting section 80q–9a of this title and amending sections 80q–3, 80q–9, and 80q–10 of this title] may be cited as the 'National Museum of the American Indian Act Amendments of 1996'.''

SHORT TITLE

Section 1 of Pub. L. 101–185 provided that: ''This Act [enacting this subchapter] may be cited as the 'National Museum of the American Indian Act'.''

§ 80q–1. National Museum of the American Indian

(a) Establishment

There is established, within the Smithsonian Institution, a living memorial to Native Americans and their traditions which shall be known as the ''National Museum of the American Indian''.

(b) Purposes

The purposes of the National Museum are to—

(1) advance the study of Native Americans, including the study of language, literature, history, art, anthropology, and life;

(2) collect, preserve, and exhibit Native American objects of artistic, historical, literary, anthropological, and scientific interest;

(3) provide for Native American research and study programs; and

(4) provide for the means of carrying out paragraphs (1), (2), and (3) in the District of Columbia, the State of New York, and other appropriate locations.

(Pub. L. 101–185, § 3, Nov. 28, 1989, 103 Stat. 1337.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 80q–2, 80q–14 of this title.

§ 80q–2. Authority of Board of Regents to enter into agreement providing for transfer of Heye Foundation assets to Smithsonian Institution

The Board of Regents is authorized to enter into an agreement with the Heye Foundation, to provide for the transfer to the Smithsonian Institution of title to the Heye Foundation assets. The agreement shall—

(1) require that the use of the assets be consistent with section 80q–1(b) of this title; and

(2) be governed by, and construed in accordance with, the law of the State of New York.

The United States District Court for the Southern District of New York shall have original and exclusive jurisdiction over any cause of action arising under the agreement.

(Pub. L. 101–185, § 4, Nov. 28, 1989, 103 Stat. 1337.)

§ 80q–3. Board of Trustees of National Museum of the American Indian

(a) In general

The National Museum shall be under a Board of Trustees with the duties, powers, and authority specified in this section.

(b) General duties and powers

The Board of Trustees shall—

(1) recommend annual operating budgets for the National Museum to the Board of Regents;

(2) advise and assist the Board of Regents on all matters relating to the administration, operation, maintenance, and preservation of the National Museum;

(3) adopt bylaws for the Board of Trustees;

(4) designate a chairman and other officers from among the members of the Board of trustees;[1] and

(5) report annually to the Board of Regents on the acquisition, disposition, and display of Native American objects and artifacts and on other appropriate matters.

(c) Sole authority

Subject to the general policies of the Board of Regents, the Board of Trustees shall have the sole authority to—

[1] So in original. Probably should be capitalized.

(1) lend, exchange, sell, or otherwise dispose of any part of the collections of the National Museum, with the proceeds of such transactions to be used for additions to the collections of the National Museum or additions to the endowment of the National Museum, as the case may be;

(2) purchase, accept, borrow, or otherwise acquire artifacts and other objects for addition to the collections of the Natural Museum; and

(3) specify criteria for use of the collections of the National Museum for appropriate purposes, including research, evaluation, education, and method of display.

(d) Authority

Subject to the general policies of the Board of Regents, the Board of Trustees shall have authority to—

(1) provide for restoration, preservation, and maintenance of the collections of the National Museum;

(2) solicit funds for the National Museum and determine the purposes to which such funds shall be applied; and

(3) approve expenditures from the endowment of the National Museum for any purpose of the Museum.

(e) Initial appointments to Board of Trustees

(1) Membership

The initial membership of the Board of Trustees shall consist of—

(A) the Secretary of the Smithsonian Institution;

(B) an Assistant Secretary of the Smithsonian Institution appointed by the Board of Regents;

(C) 8 individuals appointed by the Board of Regents; and

(D) 15 individuals, each of whom shall be a member of the board of trustees of the Heye Museum, appointed by the Board of Regents from a list of nominees recommended by the board of trustees of the Heye Museum.

(2) Special rule

At least 7 of the 23 members appointed under subparagraphs (C) and (D) of paragraph (1) shall be Indians.

(3) Terms

The trustee appointed under paragraph (1)(B) shall serve at the pleasure of the Board of Regents. The terms of the trustees appointed under subparagraph (C) or (D) of paragraph (1) shall be 3 years, beginning on the date of the transfer of the Heye Foundation assets to the Smithsonian Institution.

(4) Vacancies

Any vacancy shall be filled only for the remainder of the term involved. Any vacancy appointment under paragraph (1)(D) shall not be subject to the source and recommendation requirements of that paragraph, but shall be subject to paragraph (2).

(f) Subsequent appointments to Board of Trustees

(1) Membership

Upon the expiration of the terms under subsection (e) of this section, the Board of Trustees shall consist of—

(A) the Secretary of the Smithsonian Institution;

(B) a senior official of the Smithsonian Institution appointed by the Board of Regents; and

(C) 23 individuals appointed by the Board of Regents from a list of nominees recommended by the Board of Trustees.

(2) Special rule

A[2] least 12 of the 23 members appointed under paragraph (1)(C) shall be Indians.

(3) Terms

The trustee appointed under paragraph (1)(B) shall serve at the pleasure of the Board of Regents. Except as otherwise provided in the next sentence, the terms of members appointed under paragraph (1)(C) shall be 3 years. Of the members first appointed under paragraph (1)(C)—

(A) 7 members, 4 of whom shall be Indians, shall be appointed for a term of one year, as designated at the time of appointment; and

(B) 8 members, 4 of whom shall be Indians, shall be appointed for a term of 2 years, as designated at the time of appointment.

(4) Vacancies

Any vacancy shall be filled only for the remainder of the term involved.

(g) Quorum

A majority of the members of the Board of Trustees then in office shall constitute a quorum.

(h) Expenses

Members of the Board shall be entitled (to the same extent as provided in section 5703 of title 5 with respect to employees serving intermittently in the Government service) to per diem, travel, and transportation expenses for each day (including travel time) during which they are engaged in the performance of their duties.

(Pub. L. 101–185, § 5, Nov. 28, 1989, 103 Stat. 1337; Pub. L. 104–278, § 2, Oct. 9, 1996, 110 Stat. 3355.)

AMENDMENTS

1996—Subsec. (f)(1)(B). Pub. L. 104–278 substituted ''a senior official'' for ''an Assistant Secretary''.

§ 80q–4. Director and staff of National Museum

(a) In general

The Secretary of the Smithsonian Institution shall appoint—

(1) a Director who, subject to the policies of the Board of Trustees, shall manage the National Museum; and

(2) other employees of the National Museum, to serve under the Director.

(b) Offer of employment to Heye Foundation employees

Each employee of the Heye Museum on the day before the date of the transfer of the Heye Foundation assets to the Smithsonian Institution shall be offered employment with the Smithsonian Institution—

(1) under the usual terms of such employment; and

[2] So in original. Probably should be ''At''.

(2) at a rate of pay not less than the rate applicable to the employee on the day before the date of the transfer.

(c) Applicability of certain civil service laws

The Secretary may—

(1) appoint the Director, 2 employees under subsection (a)(2) of this section, and the employees under subsection (b) of this section without regard to the provisions of title 5, governing appointments in the competitive service;

(2) fix the pay of the Director and such 2 employees without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates; and

(3) fix the pay of the employees under subsection (b) of this section in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates, subject to subsection (b)(2) of this section.

(Pub. L. 101–185, § 6, Nov. 28, 1989, 103 Stat. 1339.)

REFERENCES IN TEXT

The provisions of title 5 governing appointments in the competitive service, referred to in subsec. (c)(1), are classified generally to section 3301 et seq. of Title 5, Government Organization and Employees.

§ 80q–5. Museum facilities

(a) National Museum mall facility

The Board of Regents shall plan, design, and construct a facility on the area bounded by Third Street, Maryland Avenue, Independence Avenue, Fourth Street, and Jefferson Drive, Southwest, in the District of Columbia to house the portion of the National Museum to be located in the District of Columbia. The Board of Regents shall pay not more than ⅔ of the total cost of planning, designing, and constructing the facility from funds appropriated to the Board of Regents. The remainder of the costs shall be paid from non-Federal sources.

(b) National Museum Heye Center facility

(1) Lease of space from GSA

(A) Terms

Notwithstanding section 490(j) of title 40, the Administrator of General Services may lease, at a nominal charge, to the Smithsonian Institution space in the Old United States Custom House at One Bowling Green, New York, New York, to house the portion of the National Museum to be located in the city of New York. The lease shall be subject to such terms as may be mutually agreed upon by the Administrator and the Secretary of the Smithsonian Institution. The term of the lease shall not be less than 99 years.

(B) Reimbursement of Federal buildings fund

The Administrator of General Services may reimburse the fund established by section 490(f) of title 40 for the difference between the amount charged to the Smithsonian Institution for leasing space under this paragraph and the commercial charge under section 490(j) of title 40 which, but for this paragraph, would apply to the leasing of such space. There are authorized to be appropriated to the Administrator such sums as may be necessary to carry out this subparagraph for fiscal years beginning after September 30, 1990.

(2) Construction

(A) Museum facility

The Board of Regents shall plan, design, and construct a significant facility for the National Museum in the space leased under paragraph (1).

(B) Auditorium and loading dock facility

The Administrator of General Services shall plan, design, and construct an auditorium and loading dock in the Old United States Custom House at One Bowling Green, New York, New York, for the shared use of all the occupants of the building, including the National Museum.

(C) Square footage

The facilities to be constructed under this paragraph shall have, in the aggregate, a total square footage of approximately 82,500 square feet.

(3) Repairs and alterations

After construction of the facility under paragraph (2)(A), repairs and alterations of the facility shall be the responsibility of the Board of Regents.

(4) Reimbursement of GSA

The Board of Regents shall reimburse the Administrator for the Smithsonian Institution's pro rata share of the cost of utilities, maintenance, cleaning, and other services incurred with respect to the space leased under paragraph (1) and the full cost of any repairs or alterations made by the General Services Administration at the request of the Smithsonian Institution with respect to the space.

(5) Cost sharing

(A) General rules

The Board of Regents shall pay ⅓ of the costs of planning, designing, and constructing the facility under paragraph (2)(A) from funds appropriated to the Board of Regents. The remainder of the costs shall be paid from non-Federal sources.

(B) Responsibilities of New York City and State

Of the costs which are required to be paid from non-Federal sources under this paragraph, the city of New York, New York, and the State of New York have each agreed to pay $8,000,000 or an amount equal to ⅓ of the costs of planning, designing, and constructing the facility under paragraph (2)(A), whichever is less. Such payments shall be made to the Board of Regents in accordance with a payment schedule to be agreed upon by the city and State and the Board of Regents.

(C) Limitation on obligations of Federal funds

Federal funds may not be obligated for actual construction of a facility under para-

graph (2)(A) in a fiscal year until non-Federal sources have paid to the Board of Regents the non-Federal share of such costs which the Board of Regents estimates will be incurred in such year.

(6) Designation

The facility to be constructed under paragraph (2)(A) shall be known and designated as the ''George Gustav Heye Center of the National Museum of the American Indian''.

(c) Museum Support Center facility

The Board of Regents shall plan, design, and construct a facility for the conservation and storage of the collections of the National Museum at the Museum Support Center of the Smithsonian Institution.

(d) Minimum square footage

The facilities to be constructed under this section shall have, in the aggregate, a total square footage of at least 400,000 square feet.

(e) Authority to contract with GSA

The Board of Regents and the Administrator of General Services may enter into such agreements as may be necessary for planning, designing, and constructing facilities under this section (other than subsection (b)(2)(B)). Under such agreements, the Board of Regents shall transfer to the Administrator, from funds available for planning, designing, and constructing such facilities, such amounts as may be necessary for expenses of the General Services Administration with respect to planning, designing, and constructing such facilities.

(f) Limitation on obligation of Federal funds

Notwithstanding any other provision of this subchapter, funds appropriated for carrying out this section may not be obligated for actual construction of any facility under this section until the 60th day after the date on which the Board of Regents transmits to Congress a written analysis of the total estimated cost of the construction and a cost-sharing plan projecting the amount for Federal appropriations and for non-Federal contributions for the construction on a fiscal year basis.

(Pub. L. 101–185, § 7, Nov. 28, 1989, 103 Stat. 1339.)

NATIONAL NATIVE AMERICAN VETERANS' MEMORIAL

Pub. L. 103–384, Oct. 22, 1994, 108 Stat. 4067, provided that:

''SECTION 1. SHORT TITLE.

''This Act may be cited as the 'Native American Veterans' Memorial Establishment Act of 1994'.

''SEC. 2. FINDINGS.

''The Congress finds the following:

''(1) Native Americans across the Nation—Indians, Native Alaskans, and Native Hawaiians—have a long, proud and distinguished tradition of service in the Armed Forces of the United States.

''(2) Native Americans have historically served in the Armed Forces of the United States in numbers which far exceed their representation in the population of the United States.

''(3) Native American veterans count among themselves a number of Medal of Honor recipients. Their numbers are also conspicuous in the ranks of those who have received other decorations for valor and distinguished service.

''(4) Native Americans have lost their lives in the service of their Nation and in the cause of peace.

''(5) The National Museum of the American Indian was established as a living memorial to Native Americans. Its mission is to advance knowledge and understanding of Native American cultures, including art, history, language, and the contributions Native Americans have made to our society.

''(6) The National Museum of the American Indian is an extraordinary site and an ideal location to establish a National Native American Veterans' Memorial.

''(7) A National Native American Veterans' Memorial would further the purposes of the National Museum of the American Indian by giving all Americans the opportunity to learn of the proud and courageous tradition of service of Native Americans in the Armed Forces of the United States.

''SEC. 3. AUTHORITY TO ESTABLISH MEMORIAL.

''(a) IN GENERAL.—The National Museum of the American Indian (established by the National Museum of the American Indian Act (20 U.S.C. 80q et seq.)), in close consultation with the National Congress of American Indians and other Native American groups, is authorized to construct and maintain a National Native American Veterans' Memorial (hereafter in this Act referred to as the 'memorial').

''(b) LOCATION.—The memorial shall be located at a site determined to be suitable by the Museum within the interior structure of the facility provided for by section 7(a) of such Act (20 U.S.C. 80q–5(a)) (relating to housing the portion of the Museum to be located in the District of Columbia).

''(c) DESIGN AND PLANS.—(1) The National Congress of American Indians, in consultation with the Museum, is authorized to hold a competition to select the design of the Memorial. Any design so selected shall be compatible with both the purpose of the Museum, as set forth in section 3(b) of the National Museum of the American Indian Act (20 U.S.C. 80q–1 [(b)]), and with any existing design plans for the Museum's structure and its surroundings.

''(2) Any design so selected shall be subject to the approval of the Board of Regents of the Smithsonian Institution.

''SEC. 4. PAYMENT OF EXPENSES AND USE OF NAME.

''(a) RESPONSIBILITY OF NATIONAL CONGRESS OF AMERICAN INDIANS.—The National Congress of American Indians shall be solely responsible for acceptance of contributions for, and payment of the expenses of, the establishment of the memorial. No Federal funds may be used to pay any expense of the establishment of the memorial.

''(b) USE OF NAME.—Use of the name of the Smithsonian Institution or the National Museum of the American Indian in any material regarding the memorial produced by the National Congress of American Indians, other than in a manner simply describing the location of the memorial, shall be subject to consultation with, and the approval of, the Board of Regents of the Smithsonian Institution.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 80q–6, 80q–15 of this title.

§ 80q–6. Custom House office space and auditorium

(a) Repairs and alterations

The Administrator of General Services shall make such repairs and alterations as may be necessary in the portion of the Old United States Custom House at One Bowling Green, New York, New York, which is not leased to the Board of Regents under section 80q–5(b) of this

title and which, as of November 28, 1989, has not been altered.

(b) Authorization of appropriation

There is authorized to be appropriated to the Administrator of General Services $25,000,000 from the fund established pursuant to section 490(f) of title 40 to carry out this section and section 80q–5(b)(2)(B) of this title.

(Pub. L. 101–185, § 8, Nov. 28, 1989, 103 Stat. 1341.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 80q–15 of this title.

§ 80q–7. Audubon Terrace

(a) In general

The Board of Regents shall—

(1) assure that, on the date on which a qualified successor to the Heye Foundation at Audubon Terrace first takes possession of Audubon Terrace, an area of at least 2,000 square feet at that facility is accessible to the public and physically suitable for exhibition of museum objects and for related exhibition activities;

(2) upon written agreement between the Board and any qualified successor, lend objects from the collections of the Smithsonian Institution to the successor for exhibition at Audubon Terrace; and

(3) upon written agreement between the Board and any qualified successor, provide training, scholarship, technical, and other assistance (other than operating funds) with respect to the area referred to in paragraph (1) for the purposes described in that paragraph.

(b) Determination of charges

Any charge by the Board of Regents for activities pursuant to agreements under paragraph (2) or (3) of subsection (a) of this section shall be determined according to the ability of the successor to pay.

(c) Definition

As used in this section, the terms ''qualified successor to the Heye Foundation at Audubon Terrace'', ''qualified successor'', and,[1] ''successor'' mean an organization described in section 501(c)(3) of title 26, and exempt from tax under section 501(a) of title 26, that, as determined by the Board of Regents—

(1) is a successor occupant to the Heye Foundation at Audubon Terrace, 3753 Broadway, New York, New York;

(2) is qualified to operate the area referred to in paragraph (1) for the purposes described in that paragraph; and

(3) is committed to making a good faith effort to respond to community cultural interests in such operation.

(Pub. L. 101–185, § 9, Nov. 28, 1989, 103 Stat. 1342.)

§ 80q–8. Board of Regents functions with respect to certain agreements and programs

(a) Priority to be given to Indian organizations with respect to certain agreements

In entering into agreements with museums and other educational and cultural organizations to—

(1) lend Native American artifacts and objects from any collection of the Smithsonian Institution;

(2) sponsor or coordinate traveling exhibitions of artifacts and objects; or

(3) provide training or technical assistance;

the Board of Regents shall give priority to agreements with Indian organizations, including Indian tribes, museums, cultural centers, educational institutions, libraries, and archives. Such agreements may provide that loans or services to such organizations may be furnished by the Smithsonian Institution at minimal or no cost.

(b) Indian programs

The Board of Regents may establish—

(1) programs to serve Indian tribes and communities; and

(2) in cooperation with educational institutions, including tribally controlled community colleges (as defined in section 1801 of title 25), programs to enhance the opportunities for Indians in the areas of museum studies, management, and research.

(c) Indian Museum Management Fellowships

The Board of Regents shall establish an Indian Museum Management Fellowship program to provide stipend support to Indians for training in museum development and management.

(d) Authorization of appropriations

There is authorized to be appropriated $2,000,000 for each fiscal year, beginning with fiscal year 1991, to carry out subsections (b) and (c) of this section.

(Pub. L. 101–185, § 10, Nov. 28, 1989, 103 Stat. 1342.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 80q–15 of this title.

§ 80q–9. Inventory, identification, and return of Indian human remains and Indian funerary objects in possession of Smithsonian Institution

(a) Inventory and identification

(1) The Secretary of the Smithsonian Institution, in consultation and cooperation with traditional Indian religious leaders and government officials of Indian tribes, shall—

(A) inventory the Indian human remains and Indian funerary objects in the possession or control of the Smithsonian Institution; and

(B) using the best available scientific and historical documentation, identify the origins of such remains and objects.

(2) The inventory made by the Secretary of the Smithsonian Institution under paragraph (1) shall be completed not later than June 1, 1998.

(3) For purposes of this subsection, the term ''inventory'' means a simple, itemized list that, to the extent practicable, identifies, based upon available information held by the Smithsonian Institution, the geographic and cultural affiliation of the remains and objects referred to in paragraph (1).

(b) Notice in case of identification of tribal origin

If the tribal origin of any Indian human remains or Indian funerary object is identified by

[1] So in original. The comma probably should not appear.

a preponderance of the evidence, the Secretary shall so notify any affected Indian tribe at the earliest opportunity.

(c) Return of Indian human remains and associated Indian funerary objects

If any Indian human remains are identified by a preponderance of the evidence as those of a particular individual or as those of an individual culturally affiliated with a particular Indian tribe, the Secretary, upon the request of the descendants of such individual or of the Indian tribe shall expeditiously return such remains (together with any associated funerary objects) to the descendants or tribe, as the case may be.

(d) Return of Indian funerary objects not associated with Indian human remains

If any Indian funerary object not associated with Indian human remains is identified by a preponderance of the evidence as having been removed from a specific burial site of an individual culturally affiliated with a particular Indian tribe, the Secretary, upon the request of the Indian tribe, shall expeditiously return such object to the tribe.

(e) Interpretation

Nothing in this section shall be interpreted as—

(1) limiting the authority of the Smithsonian Institution to return or repatriate Indian human remains or Indian funerary objects to Indian tribes or individuals; or

(2) delaying actions on pending repatriation requests, denying or otherwise affecting access to the courts, or limiting any procedural or substantive rights which may otherwise be secured to Indian tribes or individuals.

(f) Authorization of appropriations

There is authorized to be appropriated $1,000,000 for fiscal year 1991 and such sums as may be necessary for succeeding fiscal years to carry out this section and section 80q–9a of this title.

(Pub. L. 101–185, § 11, Nov. 28, 1989, 103 Stat. 1343; Pub. L. 104–278, § 3, Oct. 9, 1996, 110 Stat. 3355.)

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–278, § 3(a), designated existing provisions as par. (1), added pars. (2) and (3), and redesignated former pars. (1) and (2) as subpars. (A) and (B), respectively, of par. (1).

Subsec. (f). Pub. L. 104–278, § 3(b), inserted ''and section 80q–9a of this title'' after ''to carry out this section''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 80q–10, 80q–11, 80q–12, 80q–15 of this title.

§ 80q–9a. Summary and repatriation of unassociated funerary objects, sacred objects, and cultural patrimony

(a) Summary

Not later than December 31, 1996, the Secretary of the Smithsonian Institution shall provide a written summary that contains a summary of unassociated funerary objects, sacred objects, and objects of cultural patrimony (as those terms are defined in subparagraphs (B), (C), and (D), respectively, of section 3001(3) of title 25, based upon available information held by the Smithsonian Institution. The summary required under this section shall include, at a minimum, the information required under section 3004 of title 25.

(b) Repatriation

Where cultural affiliation of Native American unassociated funerary objects, sacred objects, and objects of cultural patrimony has been established in the summary prepared pursuant to subsection (a) of this section, or where a requesting Indian tribe or Native Hawaiian organization can show cultural affiliation by a preponderance of the evidence based upon geographical, kinship, biological, archaeological, anthropological, linguistic, folkloric, oral traditional, historical, or other relevant information or expert opinion, then the Smithsonian Institution shall expeditiously return such unassociated funerary object, sacred object, or object of cultural patrimony where—

(1) the requesting party is the direct lineal descendant of an individual who owned the unassociated funerary object or sacred object;

(2) the requesting Indian tribe or Native Hawaiian organization can show that the object was owned or controlled by the Indian tribe or Native Hawaiian organization; or

(3) the requesting Indian tribe or Native Hawaiian organization can show that the unassociated funerary object or sacred object was owned or controlled by a member thereof, provided that in the case where an unassociated funerary object or sacred object was owned by a member thereof, there are no identifiable lineal descendants of said member or the lineal descendants, upon notice, have failed to make a claim for the object.

(c) Standard of repatriation

If a known lineal descendant or an Indian tribe or Native Hawaiian organization requests the return of Native American unassociated funerary objects, sacred objects, or objects of cultural patrimony pursuant to this subchapter and presents evidence which, if standing alone before the introduction of evidence to the contrary, would support a finding that the Smithsonian Institution did not have the right of possession, then the Smithsonian Institution shall return such objects unless it can overcome such inference and prove that it has a right of possession to the objects.

(d) Museum obligation

Any museum of the Smithsonian Institution which repatriates any item in good faith pursuant to this subchapter shall not be liable for claims by an aggrieved party or for claims of fiduciary duty, public trust, or violations of applicable law that are inconsistent with the provisions of this subchapter.

(e) Statutory construction

Nothing in this section may be construed to prevent the Secretary of the Smithsonian Institution, with respect to any museum of the Smithsonian Institution, from making an inventory or preparing a written summary or carrying out the repatriation of unassociated funer-

ary objects, sacred objects, or objects of cultural patrimony in a manner that exceeds the requirements of this subchapter.

(f) "Native Hawaiian organization" defined

For purposes of this section, the term ''Native Hawaiian organization'' has the meaning provided that term in section 3001(11) of title 25.

(Pub. L. 101–185, § 11A, as added Pub. L. 104–278, § 4, Oct. 9, 1996, 110 Stat. 3355.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 80q–9, 80q–10 of this title.

§ 80q–10. Special committee to review inventory, identification, and return of Indian human remains and Indian funerary objects

(a) Establishment; duties

Not later than 120 days after November 28, 1989, the Secretary of the Smithsonian Institution shall appoint a special committee to monitor and review the inventory, identification, and return of Indian human remains and Indian funerary objects under section 80q–9 of this title and unassociated funerary objects, sacred objects, and objects of cultural patrimony under section 80q–9a of this title. In carrying out its duties, the committee shall—

(1) with respect to the inventory and identification, ensure fair and objective consideration and assessment of all relevant evidence;

(2) upon the request of any affected party or otherwise, review any finding relating to the origin or the return of such remains or objects;

(3) facilitate the resolution of any dispute that may arise between Indian tribes with respect to the return of such remains or objects; and

(4) perform such other related functions as the Secretary may assign.

(b) Membership

The committee shall consist of 7 members, of whom—

(1) 4 members shall be appointed from among nominations submitted by Indian tribes and organizations;

(2) at least 2 members shall be traditional Indian religious leaders; and

(3) the Secretary shall designate one member as chairman.

The Secretary may not appoint to the committee any individual who is an officer or employee of the Government (including the Smithsonian Institution) or any individual who is otherwise affiliated with the Smithsonian Institution.

(c) Access

The Secretary shall ensure that the members of the committee have full and free access to the Indian human remains and Indian funerary objects subject to section 80q–9 of this title and to any related evidence, including scientific and historical documents.

(d) Pay and expenses of members

Members of the committee shall—

(1) be paid the daily equivalent of the annual rate of basic pay payable for grade GS–18 of the General schedule under section 5332 of title 5; and

(2) be entitled (to the same extent as provided in section 5703 of such title, with respect to employees serving intermittently in the Government service) to per diem, travel, and transportation expenses;

for each day (including travel time) during which they are engaged in the performance of their duties.

(e) Rules and administrative support

The Secretary shall prescribe regulations and provide administrative support for the committee.

(f) Report and termination

At the conclusion of the work of the committee, the Secretary shall be so [1] certify by report to the Congress. The committee shall cease to exist 120 days after the submission of the report.

(g) Nonapplicability of Federal Advisory Committee Act

The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the committee.

(h) Authorization of appropriations

There is authorized to be appropriated $250,000 for fiscal year 1991 and such sums as may be necessary for succeeding fiscal years to carry out this section.

(Pub. L. 101–185, § 12, Nov. 28, 1989, 103 Stat. 1344; Pub. L. 104–278, § 5, Oct. 9, 1996, 110 Stat. 3357.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (g), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–278, § 5(1), in first sentence, inserted ''and unassociated funerary objects, sacred objects, and objects of cultural patrimony under section 80q–9a of this title'' before period.

Subsec. (b). Pub. L. 104–278, § 5(2)(A), substituted ''7 members'' for ''five members'' in introductory provisions.

Subsec. (b)(1). Pub. L. 104–278, § 5(2)(B), substituted ''4 members'' for ''three members'' and struck out ''and'' at end.

Subsec. (b)(2), (3). Pub. L. 104–278, § 5(2)(C), (D), added par. (2) and redesignated former par. (2) as (3).

REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, § 101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 80q–11, 80q–15 of this title.

[1] So in original. Probably should be ''shall so''.

§ 80q–11. Inventory, identification, and return of Native Hawaiian human remains and Native Hawaiian funerary objects in possession of Smithsonian Institution

(a) In general

The Secretary of the Smithsonian Institution shall—

(1) in conjunction with the inventory and identification under section 80q–9 of this title, inventory and identify the Native Hawaiian human remains and Native Hawaiian funerary objects in the possession of the Smithsonian Institution;

(2) enter into an agreement with appropriate Native Hawaiian organizations with expertise in Native Hawaiian affairs (which may include the Office of Hawaiian Affairs and the Malama I Na Kupuna O Hawai'i Nei) to provide for the return of such human remains nd[1] funerary objects; and

(3) to the greatest extent practicable, apply, with respect to such human remains and funerary objects, the principles and procedures set forth in sections 80q–9 and 80q–10 of this title with respect to the Indian human remains and Indian funerary objects in the possession of the Smithsonian Institution.

(b) Definitions

As used in this section—

(1) the term ''Malama I Na Kupuna O Hawai'i Nei'' means the nonprofit, Native Hawaiian organization, incorporated under the laws of the State of Hawaii by that name on April 17, 1989, the purpose of which is to provide guidance and expertise in decisions dealing with Native Hawaiian cultural issues, particularly burial issues; and

(2) the term ''Office of Hawaiian Affairs'' means the Office of Hawaiian Affairs established by the Constitution of the State of Hawaii.

(Pub. L. 101–185, § 13, Nov. 28, 1989, 103 Stat. 1345.)

§ 80q–12. Grants by Secretary of the Interior to assist Indian tribes with respect to agreements for return of Indian human remains and Indian funerary objects

(a) In general

The Secretary of the Interior may make grants to Indian tribes to assist such tribes in reaching and carrying out agreements with—

(1) the Board of Regents for the return of Indian human remains and Indian funerary objects under section 80q–9 of this title; and

(2) other Federal and non-Federal entities for additional returns of Indian human remains and Indian funerary objects.

(b) Authorization of appropriations

There is authorized to be appropriated $1,000,000 for fiscal year 1991 and such sums as may be necessary for succeeding fiscal years for grants under subsection (a) of this section.

(Pub. L. 101–185, § 14, Nov. 28, 1989, 103 Stat. 1345.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 80q–15 of this title.

[1] So in original. Probably should be ''and''.

§ 80q–13. Grants by Secretary of the Interior to assist Indian organizations with respect to renovation and repair of museum facilities and exhibit facilities

(a) Grants

The Secretary of the Interior may make grants to Indian organizations, including Indian tribes, museums, cultural centers, educational institutions, libraries, and archives, for renovation and repair of museum facilities and exhibit facilities to enable such organizations to exhibit objects and artifacts on loan from the collections of the Smithsonian Institution or from other sources. Such grants may be made only from the Tribal Museum Endowment Fund.

(b) Indian organization contribution

In making grants under subsection (a) of this section, the Secretary may require the organization receiving the grant to contribute, in cash or in kind, not more than 50 percent of the cost of the renovation or repair involved. Such contribution may be derived from any source other than the Tribal Museum Endowment Fund.

(c) Tribal Museum Endowment Fund

(1) Establishment

There is established in the Treasury a fund, to be known as the ''Tribal Museum Endowment Fund'' (hereinafter in this subsection referred to as the ''Fund'') for the purpose of making grants under subsection (a) of this section. The Fund shall consist of (A) amounts deposited and credited under paragraph (2), (B) obligations obtained under paragraph (3), and (C) amounts appropriated pursuant to authorization under paragraph (5).

(2) Deposits and credits

The Secretary of the Interior is authorized to accept contributions to the Fund from non-Federal sources and shall deposit such contributions in the Fund. The Secretary of the Treasury shall credit to the Fund the interest on, and the proceeds from sale and redemption of, obligations held in the Fund.

(3) Investments

The Secretary of the Treasury may invest any portion of the Fund in interest-bearing obligations of the United States. Such obligations may be acquired on original issue or in the open market and may be held to maturity or sold in the open market. In making investments for the Fund, the Secretary of the Treasury shall consult the Secretary of the Interior with respect to maturities, purchases, and sales, taking into consideration the balance necessary to meet current grant requirements.

(4) Expenditures and capital preservation

Subject to appropriation, amounts derived from interest shall be available for expenditure from the Fund. The capital of the Fund shall not be available for expenditure.

(5) Authorization of appropriations

There is authorized to be appropriated to the Fund $2,000,000 for each fiscal year beginning with fiscal year 1992.

(d) Annual report

Not later than January 31 of each year, the Secretary of the Interior, in consultation with

the Secretary of the Treasury, shall submit to the Congress a report of activities under this section, including a statement of—

(1) the financial condition of the Fund as of the end of the preceding fiscal year, with an analysis of the Fund transactions during that fiscal year; and

(2) the projected financial condition of the Fund, with an analysis of expected Fund transactions for the six fiscal years after that fiscal year.

(Pub. L. 101–185, § 15, Nov. 28, 1989, 103 Stat. 1345.)

NATIVE AMERICAN CULTURAL CENTER IN OKLAHOMA CITY, OKLAHOMA; FEASIBILITY STUDY AND REPORT

Pub. L. 102–196, Dec. 9, 1991, 105 Stat. 1620, directed Secretary of the Interior to conduct a study and make a report to Congress on the feasibility of establishing a Native American Cultural Center in Oklahoma City, Oklahoma, and made appropriations for that purpose.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 80q–15 of this title.

§ 80q–14. Definitions

As used in this subchapter—

(1) the term ''Board of Regents'' means the Board of Regents of the Smithsonian Institution;

(2) the term ''Board of Trustees'' means the Board of Trustees of the National Museum of the American Indian;

(3) the term ''burial site'' means a natural or prepared physical location, whether below, on, or above the surface of the earth, into which, as a part of a death rite or ceremony of a culture, individual human remains are deposited;

(4) the term ''funerary object'' means an object that, as part of a death rite or ceremony of a culture, is intentionally placed with individual human remains, either at the time of burial or later;

(5) the term ''Heye Foundation assets'' means the collections, endowment, and all other property of the Heye Foundation (other than the interest of the Heye Foundation in Audubon Terrace) described in the Memorandum of Understanding between the Smithsonian Institution and the Heye Foundation, dated May 8, 1989, and the schedules attached to such memorandum;

(6) the term ''Heye Museum'' means the Museum of the American Indian, Heye Foundation;

(7) the term ''Indian'' means a member of an Indian tribe;

(8) the term ''Indian tribe'' has the meaning given that term in section 450b of title 25;

(9) the term ''National Museum'' means the National Museum of the American Indian established by section 80q–1 of this title;

(10) the term ''Native American'' means an individual of a tribe, people, or culture that is indigenous to the Americas and such term includes a Native Hawaiian; and

(11) the term ''Native Hawaiian'' means a member or descendant of the aboriginal people who, before 1778, occupied and exercised sovereignty in the area that now comprises the State of Hawaii.

(Pub. L. 101–185, § 16, Nov. 28, 1989, 103 Stat. 1346.)

§ 80q–15. Authorization of appropriations

(a) Funding

There is authorized to be appropriated to the Board of Regents to carry out this subchapter (other than as provided in sections 80q–5(b)(1)(B), 80q–6, 80q–8, 80q–9, 80q–10, 80q–12, and 80q–13(c)(5) of this title)—

(1) $10,000,000 for fiscal year 1990; and

(2) such sums as may be necessary for each succeeding fiscal year.

(b) Period of availability

Funds appropriated under subsection (a) of this section shall remain available without fiscal year limitation for any period prior to the availability of the facilities to be constructed under section 80q–5 of this title for administrative and planning expenses and for the care and custody of the collections of the National Museum.

(Pub. L. 101–185, § 17, Nov. 28, 1989, 103 Stat. 1347.)

CHAPTER 4—NATIONAL ZOOLOGICAL PARK

Sec.
81. Administration by Regents of Smithsonian Institution.
82. Aid in acquisition of collections.
83. Report of expenses.
84. Plans for buildings and bridges.
85. Concessions.
(a) Authorization; use of proceeds for research and educational work.
(b) Voluntary services.

§ 81. Administration by Regents of Smithsonian Institution

The National Zoological Park is placed under the direction of the Regents of the Smithsonian Institution, who are authorized to transfer to it any living specimens, whether of animals or plants, in their charge, to accept gifts for the park at their discretion, in the name of the United States, to make exchanges of specimens, and to administer and improve the said Zoological Park for the advancement of science and the instruction and recreation of the people.

(Apr. 30, 1890, ch. 173, § 2, 26 Stat. 78; Oct. 4, 1961, Pub. L. 87–360, 75 Stat. 779.)

AMENDMENTS

1961—Pub. L. 87–360 inserted ''and improve'' after ''administer''.

ESTABLISHMENT OF PARKS

The National Zoological Park was established under provisions of the District of Columbia Appropriation Act for the Fiscal Year 1890, act Mar. 2, 1889, ch. 370, § 4, 25 Stat. 808, which constituted a commission to select from a certain district along Rock Creek a tract of land, including a section of the creek, suitable for a zoological park, and to purchase the land so selected, or take proceedings for the condemnation thereof, the United States to have title to the land on payment therefor to the owners.

The Rock Creek Park was established by act Sept. 27, 1890, ch. 1001, 26 Stat. 492.

The Potomac Park was established by act Mar. 3, 1897, ch. 375, 29 Stat. 624.

ADDITION OF LANDS

Certain parcels of land were added to the National Zoological Park by acts June 5, 1920, ch. 235, § 1, 41 Stat. 892; Mar. 4, 1921, ch. 161, § 1, 41 Stat. 1384.

CONNECTING PARKWAY

Provisions for a parkway connecting Potomac Park with Zoological Park and Rock Creek Park were made by act Mar. 4, 1913, ch. 147, § 27, 37 Stat. 885.

§ 82. Aid in acquisition of collections

The heads of executive departments of the Government are authorized and directed to cause to be rendered all necessary and practicable aid to the said Regents in the acquisition of collections for the Zoological Park.

(Apr. 30, 1890, ch. 173, § 3, 26 Stat. 78.)

§ 83. Report of expenses

A report in detail of the expenses on account of the National Zoological Park shall be made to Congress at the beginning of each regular session.

(Aug. 18, 1894, ch. 301, § 1, 28 Stat. 384.)

SIMILAR PROVISIONS

Provisions similar to this section were carried in Sundry Civil Appropriation Acts in the following years:
1893—Mar. 3, 1893, ch. 208, 27 Stat. 582.
1892—Aug. 5, 1892, ch. 380, § 1, 27 Stat. 360.

§ 84. Plans for buildings and bridges

All plans and specifications for the construction of buildings and bridges in the National Zoological Park shall be prepared under the supervision of the Smithsonian Institution.

(Aug. 24, 1912, ch. 355, § 1, 37 Stat. 437; 1966 Reorg. Plan No. 4, eff. Aug. 23, 1966, 31 FR 11137, 80 Stat. 1611.)

REORGANIZATION PLAN NO. 4 OF 1966

Eff. Aug. 23, 1966, 31 F.R. 11137, 80 Stat. 1611

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, June 13, 1966, pursuant to the provisions of the Reorganization Act of 1949, 63 Stat. 203, as amended [see 5 U.S.C. 901 et seq.].

NATIONAL ZOOLOGICAL PARK BUILDINGS AND BRIDGES

All those functions of the Board of Commissioners of the District of Columbia which were vested in the municipal architect of the District of Columbia by the provisions of the Act of August 24, 1912, c. 355, 37 Stat. 437 (20 U.S.C. 84; D.C. Code [former] § 8–134), in respect of buildings of the National Zoological Park, and all functions of that Board which were vested in the engineer of bridges of the District of Columbia by those provisions in respect of bridges of the National Zoological Park, are hereby transferred to the Smithsonian Institution.

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 4 of 1966, prepared in accordance with the Reorganization Act of 1949, as amended, and providing for a reorganization relating to the National Zoological Park located in the District of Columbia.

Today, all responsibilities for the administration of the park are vested in the Smithsonian Institution with one exception—the function of preparing plans and specifications for the construction of buildings and bridges at the zoo. That statutory responsibility is now conducted by the Board of Commissioners of the District of Columbia [now the Mayor].

Under the accompanying reorganization plan, the responsibility for the preparation of these plans and specifications would be transferred from the District of Columbia Board of Commissioners to the Smithsonian. The complete administration of the park would then be vested in one agency—the Smithsonian Institution. This will allow the more efficient and effective development and management of the park.

In 1912, the functions to be transferred were vested in the Municipal Architect of the District of Columbia and in the Engineers of the Bridges of the District of Columbia. In 1952, they were transferred to the Board of Commissioners.

When the 1912 act was passed, the District of Columbia shared the costs of capital improvements in the National Zoological Park. In 1961, it ceased sharing these costs, and the Federal Government assumed complete responsibility for financing the improvements. Accordingly, the District government retains no capital improvement responsibilities for the National Zoological Park except those functions relating to construction plans and specifications for buildings and bridges, as specified in the 1912 statute. Upon the transfer of these remaining functions to the Smithsonian Institution, the administration of the National Zoological Park will, at last, be fully centered in one agency. It is not practicable at this time, however, to itemize the resulting reduction in expenditures.

I have found, after investigation, that each reorganization included in the accompanying reorganization plan is necessary to accomplish one or more of the purposes set forth in section 2(a) of the Reorganization Act of 1949, as amended.

I recommend that the Congress allow the reorganization plan to become effective.

LYNDON B. JOHNSON.

THE WHITE HOUSE, June 13, 1966.

§ 85. Concessions

(a) Authorization; use of proceeds for research and educational work

The Board of Regents of the Smithsonian Institution, in furtherance of the mission of the National Zoological Park to provide for the advancement of science and instruction and recreation of the people, is authorized to negotiate agreements granting concessions at the National Zoological Park to nonprofit scientific, educational, or historic organizations. The net proceeds of such organizations gained from such concessions granted under this subsection shall be used exclusively for research and educational work for the benefit of the National Zoological Park.

(b) Voluntary services

The Smithsonian Institution is authorized to accept the voluntary services of such organizations, and the voluntary services of individuals, for the benefit of the National Zoological Park.

(Pub. L. 89–772, Nov. 6, 1966, 80 Stat. 1322.)

CHAPTER 5—GOVERNMENT COLLECTIONS AND INSTITUTIONS FOR RESEARCH, AND MATERIAL FOR EDUCATIONAL INSTITUTIONS

Sec.
91. Literary and scientific collections accessible to investigators and students.
92. Admissions to marine biological station for pursuit of investigations.
93, 94. Repealed.

§ 91. Literary and scientific collections accessible to investigators and students

The facilities for study research and illustration in the Government departments and in the

following and any other governmental collections now existing or hereafter to be established in the city of Washington for the promotion of knowledge shall be accessible, under such rules and restrictions as the officers in charge of each department or collection may prescribe, subject to such authority as is now or may hereafter be permitted by law, to the scientific investigators and to duly qualified individuals, students and graduates of any institution of learning in the several States and Territories and the District of Columbia, to wit:

One. Of the Library of Congress.

Two. Of the National Museum.

Three. Of the Patent and Trademark Office.

Four. Of the Department of Education.

Five. Of the Bureau of Ethnology.

Six. Of the Army Medical Museum.

Seven. Of the Department of Agriculture.

Eight. Of the United States Fish and Wildlife Service.

Nine. Of the Botanic Gardens.

Ten. Of the National Ocean Survey.

Eleven. Of the United States Geological Survey.

Twelve. Of the Naval Observatory.

Thirteen. Of the Zoological Park.

Fourteen. Of the Government Printing Office.

(Apr. 12, 1892, No. 8, 27 Stat. 395; Mar. 3, 1901, ch. 831, § 1, 31 Stat. 1039; May 14, 1928, ch. 551, § 1, 45 Stat. 531; 1939 Reorg. Plan No. II, § 4(e), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433; 1940 Reorg. Plan No. III, § 3, eff. June 30, 1940, 5 F.R. 2108, 54 Stat. 1232; Aug. 8, 1956, ch. 1036, § 3, 70 Stat. 1120; 1965 Reorg. Plan No. 2, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318; 1970 Reorg. Plan No. 4, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090; Jan. 2, 1975, Pub. L. 93–596, § 3, 88 Stat. 1949; Oct. 17, 1979, Pub. L. 96–88, title III, § 301(b)(2), title V, § 507, 93 Stat. 678, 692; Nov. 13, 1991, Pub. L. 102–154, title I, 105 Stat. 1000.)

CODIFICATION

Section is from a resolution adopted Apr. 12, 1892, the Deficiencies Appropriation Act of Mar. 3, 1901, and the Legislative Appropriations Act of May 14, 1928, providing that facilities for study and research be afforded to investigators, students, etc., in the several States and Territories as well as in the District of Columbia.

CHANGE OF NAME

''United States Geological Survey'' substituted for ''Geological Survey'' in par. Eleven pursuant to provision of title I of Pub. L. 102–154, set out as a note under section 31 of Title 43, Public Lands.

''Patent and Trademark Office'' substituted in par. Three for ''Patent Office'' pursuant to section 3 of Pub. L. 93–596, set out as a note under section 1 of Title 35, Patents.

Coast and Geodetic Survey consolidated with National Weather Bureau in 1965 to form Environmental Science Services Administration by Reorg. Plan No. 2 of 1965, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318. Environmental Science Services Administration abolished in 1970 and its personnel, property, records, etc., transferred to National Oceanic and Atmospheric Administration by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090. By order of Acting Associate Administrator of National Oceanic and Atmospheric Administration, 35 F.R. 19249, Dec. 19, 1970, Coast and Geodetic Survey redesignated National Ocean Survey. See notes set out under section 311 of Title 15, Commerce and Trade.

TRANSFER OF FUNCTIONS

Functions of all other officers of Department of Commerce and functions of all agencies and employees of such Department, with a few exceptions, transferred to Secretary of Commerce, with power vested in him to authorize their performance or performance of any of his functions by any of such officers, agencies, and employees, by Reorg. Plan No. 5 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1263, set out in the Appendix to Title 5, Government Organization and Employees. Patents and Trademark Office, and National Ocean Survey, referred to in this section, are agencies within Department of Commerce.

Functions of all other officers of Department of the Interior and functions of all agencies and employees of such Department, with two exceptions, transferred to Secretary of the Interior, with power vested in him to authorize their performance or performance of any of his functions by any of such officers, agencies, and employees, by Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5.

Fish and Wildlife Service, created by Reorg. Plan No. III of 1940, eff. June 30, 1940, 5 F.R. 2107, 54 Stat. 1231, succeeded by United States Fish and Wildlife Service established by act Aug. 8, 1956, ch. 1036, § 3, 70 Stat. 1120, which is classified to section 742b of Title 16, Conservation.

Bureau of Fisheries consolidated with Bureau of Biological Survey into Fish and Wildlife Service in Department of the Interior by Reorg. Plan No. III of 1940, set out in the Appendix to Title 5, Government Organization and Employees. The Bureau had been previously transferred to Department of the Interior by Reorg. Plan No. II of 1939, § 4(e), also set out in the Appendix to Title 5.

For transfer of certain personal property and functions, insofar as they pertain to the Air Force, from Secretary of the Army and Department of the Army, to Secretary of the Air Force and Department of the Air Force, see Secretary of Defense Transfer Order Nos. 6, eff. Jan. 15, 1948; 39, May 18, 1949; 40 [App. B(69)], July 22, 1949.

''Department of Education'' substituted in text for ''Office of Education'' pursuant to sections 301(b)(2) and 507 of Pub. L. 96–88, which are classified to sections 3441(b)(2) and 3507 of this title and which transferred Office of Education to Department of Education.

Functions of Federal Security Administrator transferred to Secretary of Health, Education, and Welfare and all agencies of Federal Security Agency transferred to Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1 of 1953, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631, set out in the Appendix to Title 5, Government Organization and Employees. Federal Security Agency and office of Administrator abolished by section 8 of Reorg. Plan No. 1 of 1953.

Office of Education transferred to Federal Security Agency by Reorg. Plan No. I of 1939, §§ 201, 204, eff. July 1, 1939, 4 F.R. 2728, 53 Stat. 1424, set out in the Appendix to Title 5.

Office of Education created and placed in Department of the Interior by act of July 20, 1868, ch. 176, 15 Stat. 106, which abolished Department of Education. In appropriation act of July 12, 1870, ch. 251, 16 Stat. 242, the Office was designated Bureau of Education. This designation was retained until the act of May 14, 1930, ch. 273, 46 Stat. 281, 319, which made appropriations for ''Office of Education''.

NATIONAL MUSEUM

National Museum was not created by any express statutory provision for that purpose. It was first mentioned in an appropriation for postage for ''the National Museum in the Smithsonian Institution,'' contained in act June 20, 1874, ch. 328, § 1, 18 Stat. 103. An appropriation for a building for the use of the National Museum was made by act Mar. 3, 1879, ch. 182, § 1, 20 Stat. 397, and annual appropriations have continuously been made for expenses of heating, etc., such building.

§ 92. Admissions to marine biological station for pursuit of investigations

The professors, instructors, and students of the several land-grant, agricultural, and mechanical colleges of the United States shall be admitted to the marine biological station on the Gulf of Mexico on the coast of Florida, to pursue such investigation in fish culture and biology as may be practicable, without cost to the Government, under such rules and regulations as may be from time to time prescribed by the Secretary of Interior.

(Mar. 1, 1911, ch. 189, § 2, 36 Stat. 964; Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736; Aug. 1, 1914, ch. 223, § 1, 38 Stat. 665; 1939 Reorg. Plan No. II, § 4(e), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433; 1940 Reorg. Plan No. III, § 3, eff. June 30, 1940, 5 F.R. 2107, 54 Stat. 1231.)

CODIFICATION

Section consists of section 2 of act Mar. 1, 1911. Section 1 thereof authorizing the establishment of the marine biological station on the Gulf coast of the State of Florida, referred to in text, on the condition that the State of Florida donate the necessary land and water rights, is not classified to the Code. The provisions of said section 1 requiring donation of the required land and water rights by the State were amended by act Aug. 1, 1914, ch. 223, § 1, 38 Stat. 665, which authorized the donation of the required land and water rights by a corporation, firm, or individual in addition to the State.

TRANSFER OF FUNCTIONS

Bureau of Fisheries in Department of Commerce which administered marine biological station referred to in text under supervision of Secretary of Commerce transferred to Department of the Interior under direction of Secretary of the Interior by Reorg. Plan No. II of 1939, set out in the Appendix to Title 5, Government Organization and Employees, and by Reorg. Plan No. III of 1940, set out in the Appendix to Title 5. Bureau of Fisheries consolidated with Bureau of Biological Survey into Fish and Wildlife Service in Department of the Interior and under supervision of Secretary of the Interior, which was succeeded by United States Fish and Wildlife Service, see section 742b of Title 16, Conservation.

''Secretary of Commerce'' substituted in text for ''Secretary of Commerce and Labor'' pursuant to act Mar. 4, 1913, which changed name of Department of Commerce and Labor to Department of Commerce.

STATION AT SARASOTA, FLORIDA

The Fish and Wildlife Service established a marine biological station at Sarasota, Florida, during the year 1948.

DISPOSAL OF STATION

Secretary of Commerce was authorized to dispose of the marine biological station at Key West, Fla., by act Apr. 29, 1929, ch. 2, 46 Stat. 2.

Under communication of the Fish and Wildlife Service dated Nov. 12, 1940, it was stated the land on which was situated this station was reconveyed to the Key West Realty Company by quit claim deed executed by the Secretary of Commerce.

CROSS REFERENCES

Agricultural and mechanical colleges, see section 301 et seq. of Title 7, Agriculture.

§§ 93, 94. Repealed. Oct. 31, 1951, ch. 654, § 1(41), (42), 65 Stat. 703

Section 93, act Nov. 19, 1919, ch. 118, 41 Stat. 360, which related to sale of machine tools to trade, technical, and public schools and universities, had been transferred to section 1180a of former Title 10, Army and Air Force, and was later repealed by act Oct. 31, 1951.

Section 94, act May 26, 1928, ch. 760, 45 Stat. 753, which related to transfer of obsolete aeronautical equipment to museums, schools and colleges, had been transferred to section 1180b of former Title 10, Army and Air Force, was later repealed by act Oct. 31, 1951. See sections 483 and 484 of Title 40, Public Buildings, Property, and Works.

CHAPTER 6—AMERICAN PRINTING HOUSE FOR THE BLIND

Sec.
101. Annual appropriations.
102. Application of appropriations.
103. Publications for National Library for the Blind.
104. Annual reports by trustees.
105. Books for Library of Congress.
106. Purchases through the General Services Administration.
106a. Financial and program audit by Secretary.

§ 101. Annual appropriations

For the purpose of enabling the American Printing House for the Blind more adequately to provide books and apparatus for the education of the blind, there is hereby authorized to be appropriated annually to it, such sum as the Congress may determine; which sum shall be expended in accordance with the requirements of sections 101, 102, and 104 of this title, under rules and regulations prescribed by the Secretary of Education, to promote the education of the blind.

(Mar. 3, 1879, ch. 186, §§ 1, 2, 20 Stat. 468; June 25, 1906, ch. 3536, 34 Stat. 460; Aug. 4, 1919, ch. 31, 41 Stat. 272; Feb. 8, 1927, ch. 76, 44 Stat. 1060; Aug. 23, 1937, ch. 736, 50 Stat. 744; May 22, 1952, ch. 321, 66 Stat. 89; Aug. 2, 1956, ch. 882, § 2, 70 Stat. 939; Sept. 22, 1961, Pub. L. 87–294, § 4, 75 Stat. 627; Oct. 17, 1979, Pub. L. 96–88, title III, § 301(a)(2)(M), title V, § 507, 93 Stat. 678, 692; Nov. 7, 1988, Pub. L. 100–630, title IV, §§ 402(a), 403, 102 Stat. 3316.)

CODIFICATION

Prior to amendment by Pub. L. 100–630, section was comprised of two sentences. The first sentence was based on provisions of acts Mar. 3, 1879, and June 25, 1906, and established a perpetual trust fund for purposes of aiding education of the blind in the United States through the American Printing House for the Blind and a permanent annual appropriation thereof, to be expended for purposes authorized by sections 101, 102, and 104 of this title. The second sentence was based on provisions of act Aug. 4, 1919, as amended. See 1988 Amendment note below.

AMENDMENTS

1988—Pub. L. 100–630, § 402(a), which provided that the perpetual trust fund and permanent annual appropriations thereof established by the Act of Mar. 3, 1879, as amended by the Act of June 25, 1906, are terminated, was executed by striking the first sentence of this section which read as follows: ''The sum of $250,000, set apart as a perpetual trust fund for the purpose of aiding the education of the blind in the United States, through the American Printing House for the Blind, shall be credited on the books of the Treasury Department as a perpetual trust fund for that purpose, to be held by the Secretary of the Treasury; and the sum of $10,000, being equivalent to 4 per centum on the principal of said trust fund, is appropriated, out of any

moneys in the Treasury not otherwise appropriated, and such appropriation shall be deemed a permanent annual appropriation and shall be expended in the manner and for the purposes authorized by sections 101, 102, and 104 of this title.'' See Codification note above.

Pub. L. 100–630, § 403, struck out ''In addition to the permanent appropriation of $10,000, made in this section''.

1961—Pub. L. 87–294 struck out provisions which authorized an annual appropriation of not more than $400,000, inserted provisions authorizing an annual appropriation of such sum as the Congress may determine, and required expenditure of such sum under rules and regulations prescribed by the Secretary of Health, Education, and Welfare.

1956—Act Aug. 2, 1956, increased appropriation authorization from $250,000 to $400,000.

1952—Act May 22, 1952, amended second sentence generally, increasing appropriation authorization from $115,000 to $250,000.

1937—Act Aug. 23, 1937, amended second sentence generally, increasing appropriation authorization from $65,000 to $115,000.

1927—Act Feb. 8, 1927, amended second sentence generally, increasing appropriation authorization from $40,000 to $65,000.

EFFECTIVE DATE OF 1988 AMENDMENT

Section 402(b) of Pub. L. 100–630 provided that: ''This section [amending this section] shall take effect on October 1, 1989.''

EFFECTIVE DATE OF 1961 AMENDMENT

Section 5 of Pub. L. 87–294 provided that: ''The amendments made by this Act [amending this section and section 102 of this title] shall be effective immediately after the date of its enactment [Sept. 22, 1961].''

SHORT TITLE OF 1988 AMENDMENT

Section 401 of title IV of Pub. L. 100–630 provided that: ''This title [amending this section and enacting provisions set out as notes under this section] may be cited as the 'American Printing House for the Blind Amendments of 1988'.''

TRANSFER OF FUNCTIONS

''Secretary of Education'' substituted in text for ''Secretary of Health, Education, and Welfare'' pursuant to sections 301(a)(2)(M) and 507 of Pub. L. 96–88, which are classified to sections 3441(a)(2)(M) and 3507 of this title and which transferred functions of Secretary of Health, Education, and Welfare under this chapter to Secretary of Education.

Functions of Federal Security Administrator transferred to Secretary of Health, Education, and Welfare and all agencies of Federal Security Agency transferred to Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1 of 1953, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631, set out in the Appendix to Title 5, Government Organization and Employees. Federal Security Agency and office of Administrator abolished by section 8 of Reorg. Plan No. 1 of 1953.

Functions of Secretary of the Treasury over administration of appropriations for American Printing House for Blind (except function relating to administration of perpetual trust fund) transferred to Federal Security Agency, and annual report and vouchers of trustees directed to be furnished to Federal Security Administrator by Reorg. Plan No. II of 1939, § 201(b), eff. July 1, 1939, 4 F.R. 2732, 53 Stat. 1434, set out in the Appendix to Title 5.

COMPENSATION TO AMERICAN PRINTING HOUSE FOR THE BLIND FOR VESTED RIGHTS

Section 404 of Pub. L. 100–630 provided that: ''Any and all rights of the American Printing House for the Blind determined to have vested in the perpetual trust fund established by the Act of March 3, 1879 [see Codification note above], shall be deemed to be compensated by the appropriation to the American Printing House for the Blind for fiscal year 1990.''

INEFFECTIVENESS OF REFERENCES TO PERPETUAL TRUST FUND AND ANNUAL APPROPRIATIONS

Section 405 of Pub. L. 100–630 provided that: ''Notwithstanding any Federal law, reference to the perpetual trust fund and permanent annual appropriations thereof established by the Act of March 3, 1879 [see Codification note above], shall not be given any effect.''

CROSS REFERENCES

Classification of fund for education of the blind as a trust fund, see section 1321 of Title 31, Money and Finance.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 102, 105 of this title.

§ 102. Application of appropriations

The Secretary of Education is authorized to pay over semiannually, to the trustees of the American Printing House for the Blind, located in Louisville, Kentucky, and chartered in 1858 by the Legislature of Kentucky, upon requisition of their president, countersigned by their treasurer, one-half of such annual appropriation upon the following conditions:

(1) Purposes and methods of expenditures

First. (A) Such appropriation shall be expended by the trustees of the American Printing House for the Blind each year in manufacturing and furnishing books and other materials specially adapted for instruction of the blind; and the total amount of such books and other materials so manufactured and furnished by such appropriation shall each year be distributed among all the public and private nonprofit institutions in the States, Territories, and possessions of the United States, the Commonwealth of Puerto Rico, and the District of Columbia, in which blind pupils are educated. Each public and private nonprofit institution for the education of the blind shall receive, in books and other materials, upon requisition of its superintendent, that portion of the appropriation as is shown by the ratio between the number of blind pupils in that institution and the total number of blind pupils in all of the public and private nonprofit institutions in which blind pupils are educated. Each chief State school officer shall receive, in books and other materials, upon requisition, that portion of the appropriation as is shown by the ratio between the number of blind pupils in public and private nonprofit institutions (in the State) in which blind pupils are educated, other than institutions to which the preceding sentence is applicable, and the total number of blind pupils in the public and private nonprofit institutions in which blind pupils are educated in all of the States, Territories, and possessions of the United States, the Commonwealth of Puerto Rico, and the District of Columbia. The ratio referred to in each of the two immediately preceding sentences shall be computed upon the first Monday in January of each year; and for purposes of such sentences the number of blind pupils in public and private nonprofit institutions in

which blind pupils are educated shall be authenticated in such manner and as often as the trustees of the American Printing House for the Blind shall require. For purposes of sections 101, 102, and 104 of this title, an institution for the education of the blind is any institution which provides education exclusively for the blind, or exclusively for the blind and other handicapped children (in which case special classes are provided for the blind); the chief State school officer of a State is the superintendent of public elementary and secondary schools in such State or, if there is none, such other official as the Governor certifies to have comparable responsibility in the State; and a blind pupil is a blind individual pursuing a course of study in an institution of less than college grade.

(B) The portion of the appropriation received by each chief State school officer, in such books and other materials under subparagraph (A) of this paragraph which represents the number of blind pupils in private nonprofit institutions in such State in which blind pupils are educated shall be distributed among such institutions on the basis of the number of blind pupils in each such institution as compared to the total number of such pupils in all of the private nonprofit institutions in which blind pupils are educated in such State.

(C) All books and other materials furnished pursuant to sections 101, 102, and 104 of this title, and control and administration of their use, shall vest only in a public agency. Such books and materials made available pursuant to sections 101, 102 and 104 of this title for use of teachers and blind pupils in any State, Territory, or possession of the United States, the Commonwealth of Puerto Rico, and the District of Columbia in any school shall be limited to those books and materials which have been approved by an appropriate educational authority or agency of such State, Territory, possession, Commonwealth, or District, or any local educational authority thereof, for use, or are used, in a public elementary or secondary school therein.

(2) Buildings

Second. No part of the appropriation shall be expended in the erection or leasing of buildings; but the trustees of the American Printing House for the Blind may use each year a reasonable sum of the annual appropriation for salaries and other expenses of experts and other staff to assist special committees which may be appointed in performance of their functions, and for expenses of such special committees.

(3) Sales of books and apparatus at cost

Third. No profit shall be put on any books or tangible apparatus for the instruction of the blind manufactured or furnished by the trustees of said American Printing House for the Blind, located in Louisville, Kentucky; and the price put upon each article so manufactured or furnished shall only be its actual cost.

(4) Income withheld when not properly used

Fourth. The Secretary of the Treasury of the United States shall have the authority to withhold the appropriation whenever he shall receive satisfactory proof that the trustees of said American Printing House for the Blind, located in Louisville, Kentucky, are not using the appropriation for the benefit of the blind in the public and private nonprofit institutions for the education of the blind in the United States.

(5) Bond of treasurer

Fifth. Before any money be paid to the treasurer of the American Printing House for the Blind by the Secretary of the Treasury of the United States, the treasurer of the American Printing House for the Blind shall execute a bond, with two approved sureties, to the amount of $20,000, conditioned that the money so received shall be expended according to this law and all amendments thereto, which shall be held by the Secretary of the Treasury of the United States, and shall be renewed every two years.

(6) Ex officio trustees

Sixth. The superintendent of each public institution for the education of the blind (or his designee) and the chief State school officer (or his designee), of each State and possession of the United States, the Commonwealth of Puerto Rico, and the District of Columbia, shall each, ex officio, be a member of the Board of Trustees of the American Printing House for the Blind only for purposes of administering sections 101, 102 and 104 of this title.

(Mar. 3, 1879, ch. 186, §3, 20 Stat. 468; June 25, 1906, ch. 3536, 34 Stat. 460; Aug. 2, 1956, ch. 882, §1, 70 Stat. 938; Sept. 22, 1961, Pub. L. 87–294, §§1–3, 75 Stat. 627; Apr. 13, 1970, Pub. L. 91–230, title VIII, §811(a), (b), 84 Stat. 194, 195; Oct. 17, 1979, Pub. L. 96–88, title III, §301(a)(2)(M), title V, §507, 93 Stat. 678, 692.)

CODIFICATION

For purposes of codification, the provisions of section 3 of act Mar. 3, 1879, were changed as follows: provision providing for payment of the semi-annual interest upon the bonds was substituted for one providing for payment of one-half the annual appropriation, the word ''income'' was substituted for ''appropriation'', and the word ''interest'' was substituted for ''money'' in par. (5), to conform to the modification of act Mar. 3, 1879, by act June 25, 1906, as shown in the note set out under section 101 of this title.

AMENDMENTS

1970—Par. First. Pub. L. 91–230, §811(a), designated existing provisions as subpar. (A), made provisions applicable to private nonprofit institutions, and added subpars. (B) and (C).

Par. Fourth. Pub. L. 91–230, §811(b), made provisions applicable to private nonprofit institutions.

1961—Pub. L. 87–294, §1, substituted ''Secretary of Health, Education, and Welfare'' for ''Secretary of the Treasury of the United States'' and struck out ''permanent'' before ''annual appropriation'' in opening clause.

Par. Second. Pub. L. 87–294, §2, authorized the trustees to use each year a reasonable sum of the annual appropriation for salaries and other expenses of experts and other staff to assist special committees which may be appointed in performance of their functions, and for expenses of such special committees.

Par. Sixth. Pub. L. 87–294, §3, substituted ''superintendent of each public institution for the education

of the blind (or his designee) and the chief State school officer (or his designee), of each State and possession of the United States, the Commonwealth of Puerto Rico, and the District of Columbia, shall'' for ''superintendents of the various public institutions for the education of the blind in the United States shall'', and limited the duties of the Board to the administration of sections 101, 102, and 104 of this title.

1956—Par. First. Act Aug. 2, 1956, authorized wider distribution of books and other special instructional material for the blind.

EFFECTIVE DATE OF 1961 AMENDMENT

Amendment by Pub. L. 87–294 effective immediately after Sept. 22, 1961, see section 5 of Pub. L. 87–294, set out as a note under section 101 of this title.

TRANSFER OF FUNCTIONS

''Secretary of Education'' substituted for ''Secretary of Health, Education, and Welfare'' in provision preceding par. (1) pursuant to sections 301(a)(2)(M) and 507 of Pub. L. 96–88, which are classified to sections 3441(a)(2)(M) and 3507 of this title and which transferred functions of Secretary of Health, Education, and Welfare under this chapter to Secretary of Education.

Functions of Federal Security Administrator transferred to Secretary of Health, Education and Welfare and all agencies of Federal Security Agency transferred to Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1 of 1953, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631, set out in the Appendix to Title 5, Government Organization and Employees. Federal Security Agency and office of Administrator abolished by section 8 of Reorg. Plan No. 1 of 1953.

Transfer of functions with respect to American Printing House for the Blind to Federal Security Agency, see note set out under section 101 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 101, 105 of this title.

§ 103. Publications for National Library for the Blind

Two copies of each of the publication printed by the American Printing House for the Blind shall be furnished free of charge to the National Library for the Blind located at 1729 H Street Northwest, Washington, District of Columbia.

(Nov. 4, 1919, ch. 93, § 1, 41 Stat. 332.)

§ 104. Annual reports by trustees

The trustees of said American Printing House for the Blind shall annually make to the Secretary of Education a report of the items of their expenditure of the appropriation aforesaid during the year preceding their report, and shall annually furnish him with a voucher from each public or private nonprofit institution for the education of the blind, showing that the amount of books and tangible apparatus due has been received.

(Mar. 3, 1879, ch. 186, § 4, 20 Stat. 469; June 25, 1906, ch. 3536, 34 Stat. 460; 1939 Reorg. Plan No. II, § 201(b), eff. July 1, 1939, 4 F.R. 2732, 53 Stat. 1434; 1953 Reorg. Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Apr. 13, 1970, Pub. L. 91–230, title VIII, § 811(c), 84 Stat. 195; Oct. 17, 1979, Pub. L. 96–88, title III, § 301(a)(2)(M), title V, § 507, 93 Stat. 678, 692.)

CODIFICATION

The word ''appropriation'' substituted in text for ''income'' to conform to the modification of act Mar. 3, 1879, by act June 25, 1906, as shown in the note set out under section 101 of this title.

AMENDMENTS

1970—Pub. L. 91–230 made provision applicable to a private nonprofit institution.

TRANSFER OF FUNCTIONS

''Secretary of Education'' substituted in text for ''Secretary of Health, Education, and Welfare'' pursuant to sections 301(a)(2)(M) and 507 of Pub. L. 96–88, which are classified to sections 3441(a)(2)(M) and 3507 of this title and which transferred functions of Secretary of Health, Education, and Welfare under this chapter to Secretary of Education.

Functions of Federal Security Administrator transferred to Secretary of Health, Education, and Welfare and all agencies of Federal Security Agency transferred to Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1 of 1953, set out in Appendix to Title 5, Government Organization and Employees. Federal Security Agency and office of Administrator abolished by section 8 of Reorg. Plan No. 1 of 1953.

Transfer of functions with respect to American Printing House for the Blind to Federal Security Agency, see note set out under section 101 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 101, 102, 105 of this title.

§ 105. Books for Library of Congress

The distribution of embossed books manufactured by the American Printing House for the Blind at Louisville, Kentucky, out of the income of the fund provided by sections 101, 102, and 104 of this title, shall include one copy of every book so manufactured to be deposited in the Library of Congress at Washington.

(Mar. 4, 1913, ch. 142, § 1, 37 Stat. 748.)

§ 106. Purchases through the General Services Administration

On and after September 8, 1978, the American Printing House for the Blind is authorized to make purchases through the General Services Administration.

(Pub. L. 95–355, title I, § 100, Sept. 8, 1978, 92 Stat. 531.)

CODIFICATION

Section is from the Second Supplemental Appropriations Act, 1978, and contained additional provisions relating to purchases by Howard University, Gallaudet University, and the National Technical Institute for the Deaf, which are set out in sections 130 and 4362 of this title.

§ 106a. Financial and program audit by Secretary

Funds appropriated in this Act or subsequent Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Acts to the American Printing House for the Blind shall be subject to financial and program audit by the Secretary of Education and the Secretary may withhold all or any portion of these appropriations if he determines that an institution has not cooperated fully in the conduct of such audits.

(Pub. L. 102–394, title III, § 301, Oct. 6, 1992, 106 Stat. 1819.)

CODIFICATION

Section is from the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1993, and contained additional provisions relating to Howard University, Gallaudet University, and the National Technical Institute for the Deaf, which are set out as sections 130a and 4363 of this title, respectively.

CHAPTER 6A—VENDING FACILITIES FOR BLIND IN FEDERAL BUILDINGS

Sec.
107. Operation of vending facilities.
(a) Authorization.
(b) Preferences regulations; justification for limitation on operation.
107a. Federal and State responsibilities.
(a) Functions of Secretary; surveys; designation of State licensing agencies; qualifications for license; evaluation of programs.
(b) Duty of State licensing agencies to prefer blind.
(c) Selection of location and type of facility.
(d) Buildings occupied by United States departments, agencies, and instrumentalities required to provide sites for facilities; exceptions.
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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 3441 of this title.

§ 107. Operation of vending facilities

(a) Authorization

For the purposes of providing blind persons with remunerative employment, enlarging the economic opportunities of the blind, and stimulating the blind to greater efforts in striving to make themselves self-supporting, blind persons licensed under the provisions of this chapter shall be authorized to operate vending facilities on any Federal property.

(b) Preferences regulations; justification for limitation on operation

In authorizing the operation of vending facilities on Federal property, priority shall be given to blind persons licensed by a State agency as provided in this chapter; and the Secretary, through the Commissioner, shall, after consultation with the Administrator of General Services and other heads of departments, agencies, or instrumentalities of the United States in control of the maintenance, operation, and protection of Federal property, prescribe regulations designed to assure that—

(1) the priority under this subsection is given to such licensed blind persons (including assignment of vending machine income pursuant to section 107d–3 of this title to achieve and protect such priority), and

(2) wherever feasible, one or more vending facilities are established on all Federal property to the extent that any such facility or facilities would not adversely affect the interests of the United States.

Any limitation on the placement or operation of a vending facility based on a finding that such placement or operation would adversely affect the interests of the United States shall be fully justified in writing to the Secretary, who shall determine whether such limitation is justified. A determination made by the Secretary pursuant to this provision shall be binding on any department, agency, or instrumentality of the United States affected by such determination. The Secretary shall publish such determination, along with supporting documentation, in the Federal Register.

(June 20, 1936, ch. 638, §1, 49 Stat. 1559; Aug. 3, 1954, ch. 655, §4(a), 68 Stat. 663; Dec. 7, 1974, Pub. L. 93–516, title II, §202, 88 Stat. 1623; Nov. 21, 1974, Pub. L. 93–651, title II, §202, 89 Stat. 2–8.)

CODIFICATION

The content of Pub. L. 93–516, including provisions thereof which amended and enacted various sections of this chapter, were originally contained in H.R. 14225, 93rd Congress, Second Session, which was pocket-vetoed during the 31-day intrasession adjournment of the 93rd Congress for the Congressional elections in November, 1974. See 1974 Amendment note below.

Pursuant to an order of the United States District Court for the District of Columbia (*Kennedy v. Jones*, D.C.D.C. 1976, 412 F.Supp. 353) H.R. 14225 was deemed to have become law without the approval of the President

on Nov. 21, 1974, and was given the designation Pub. L. 93–651. Therefore, for purposes of codification, this chapter should be deemed to have been amended by Pub. L. 93–651, Nov. 21, 1974, 89 Stat. 2–3, in exactly the same manner as it was amended by Pub. L. 93–516.

AMENDMENTS

1974—Subsec. (a). Pub. L. 93–516 designated first sentence of existing provisions as subsec. (a), substituted ''purposes'' for ''purpose'', ''vending facilities'' for ''vending stands'', and struck out ''where such vending stands may be properly and satisfactorily operated by blind persons''. An identical amendment was made by Pub. L. 93–651. See Codification note above.

Subsec. (b). Pub. L. 93–516 designated second sentence of existing provisions as subsec. (b), in the provisions preceding par. (1) of subsec. (b) as so designated, substituted reference to vending facilities for reference to vending stands, substituted provisions requiring that priority be given to blind persons for provisions requiring that preference be given so far as feasible to blind persons, substituted provisions authorizing the Secretary after consultation with the Administrator of General Services, and other heads of departments, agencies, or instrumentalities of the United States in control of maintenance, operation, and protection of Federal property to prescribe regulations for provisions authorizing the head of each department or agency in control of the maintenance, operation, and protection of Federal property after consultation with the Secretary and with the approval of the President to prescribe regulations, struck out provisions that such regulations assure such preference including assignment of vending machine income to achieve and protect such preference for such blind persons without unduly inconveniencing such departments and agencies or adversely affecting the interests of the United States, and added pars. (1) and (2) and provisions following par. (2). An identical amendment was made by Pub. L. 93–651. See Codification note above.

1954—Act Aug. 3, 1954, provided that in authorizing the operation of vending stands preference shall be given, so far as feasible, to blind persons.

EFFECTIVE DATE OF 1954 AMENDMENT

Amendment by act Aug. 3, 1954, effective July 1, 1954, see section 8 of act Aug. 3, 1954.

SHORT TITLE OF 1974 AMENDMENT

Section 200 of title II of Pub. L. 93–516 provided that: ''This title [enacting sections 107b–1 to 107b–3 and 107d–1 to 107d–4 of this title, amending this section, sections 107a, 107b, 107d, 107e of this title, and section 5108 of Title 5, Government Organization and Employees, repealing sections 107c and 107e–1 of this title, and enacting provisions set out as notes under this section and section 702 of Title 29, Labor] may be cited as the 'Randolph-Sheppard Act Amendments of 1974'.''

An identical provision is in section 200 of Pub. L. 93–651. See Codification note above.

SHORT TITLE OF 1954 AMENDMENT

Section 1 of act Aug. 3, 1954, provided that: ''This Act [enacting section 107e–1 of this title and amending this section and sections 107a, 107b, 107e, and 107f of this title and sections 31 to 41, 42, 49b, and 49g of Title 29, Labor] may be cited as the 'Vocational Rehabilitation Amendments of 1954'.''

SHORT TITLE

Act June 20, 1936, ch. 638, 49 Stat. 1559, which enacted this chapter, is popularly known as the ''Randolph-Sheppard Vending Stand Act''. It is also known as the ''Randolph-Sheppard Act''.

CONGRESSIONAL FINDINGS

Section 201 of Pub. L. 93–516 provided that: ''The Congress finds—

''(1) after review of the operation of the blind vending stand program authorized under the Randolph-Sheppard Act of June 20, 1936 [this chapter], that the program has not developed, and has not been sustained, in the manner and spirit in which the Congress intended at the time of its enactment, and that, in fact, the growth of the program has been inhibited by a number of external forces;

''(2) that the potential exists for doubling the number of blind operators on Federal and other property under the Randolph-Sheppard program within the next five years, provided the obstacles to growth are removed, that legislative and administrative means exist to remove such obstacles, and that Congress should adopt legislation to that end; and

''(3) that at a minimum the following actions must be taken to insure the continued vitality and expansion of the Randolph-Sheppard program—

''(A) establish uniformity of treatment of blind vendors by all Federal departments, agencies, and instrumentalities,

''(B) establish guidelines for the operation of the program by State licensing agencies,

''(C) require coordination among the several entities with responsibility for the program,

''(D) establish a priority for vending facilities operated by blind vendors on Federal property,

''(E) establish administrative and judicial procedures under which fair treatment of blind vendors, State licensing agencies, and the Federal Government is assured,

''(F) require stronger administration and oversight functions in the Federal office carrying out the program, and

''(G) accomplish other legislative and administrative objectives which will permit the Randolph-Sheppard program to flourish.''

An identical provision is in section 201 of Pub. L. 93–651. See Codification note above.

CROSS REFERENCES

Seeing-eye dogs for blind veterans, see section 1714 of Title 38, Veterans' Benefits.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 107a, 107d–1 of this title; title 39 section 410.

§ 107a. Federal and State responsibilities

(a) Functions of Secretary; surveys; designation of State licensing agencies; qualifications for license; evaluation of programs

The Secretary of Education shall—

(1) Insure that the Rehabilitation Services Administration is the principal agency for carrying out this chapter; and the Commissioner shall, within one hundred and eighty days after enactment of the Randolph-Sheppard Act Amendments of 1974, establish requirements for the uniform application of this chapter by each State agency designated under paragraph (5) of this subsection, including appropriate accounting procedures, policies on the selection and establishment of new vending facilities, distribution of income to blind vendors, and the use and control of set-aside funds under section 107b(3) of this title;

(2) Through the Commissioner, make annual surveys of concession vending opportunities for blind persons on Federal and other property in the United States, particularly with respect to Federal property under the control of the General Services Administration, the Department of Defense, and the United States Postal Service;

(3) Make surveys throughout the United States of industries with a view to obtaining information that will assist blind persons to obtain employment;

(4) Make available to the public, and especially to persons and organizations engaged in work for the blind, information obtained as a result of such surveys;

(5) Designate as provided in section 107b of this title the State agency for the blind in each State, or, in any State in which there is no such agency, some other public agency to issue licenses to blind persons who are citizens of the United States for the operating of vending facilities on Federal and other property in such State for the vending of newspapers, periodicals, confections, tobacco products, foods, beverages, and other articles or services dispensed automatically or manually and prepared on or off the premises in accordance with all applicable health laws, as determined by the State licensing agency, and including the vending or exchange of chances for any lottery authorized by State law and conducted by an agency of a State; and

(6) Through the Commission,[1] (A) conduct periodic evaluations of the program authorized by this chapter, including upward mobility and other training required by section 107d–4 of this title, and (B) take such other steps, including the issuance of such rules and regulations, as may be necessary or desirable in carrying out the provisions of this chapter.

(b) Duty of State licensing agencies to prefer blind

The State licensing agency shall, in issuing each such license for the operation of a vending facility, give preference to blind persons who are in need of employment. Each such license shall be issued for an indefinite period but may be terminated by the State licensing agency if it is satisfied that the facility is not being operated in accordance with the rules and regulations prescribed by such licensing agency. Such licenses shall be issued only to applicants who are blind within the meaning of section 107e of this title.

(c) Selection of location and type of facility

The State licensing agency designated by the Secretary is authorized, with the approval of the head of the department or agency in control of the maintenance, operation, and protection of the Federal property on which the facility is to be located but subject to regulations prescribed pursuant to section 107 of this title, to select a location for such facility and the type of facility to be provided.

(d) Buildings occupied by United States departments, agencies, and instrumentalities required to provide sites for facilities; exceptions

(1) After January 1, 1975, no department, agency, or instrumentality of the United States shall undertake to acquire by ownership, rent, lease, or to otherwise occupy, in whole or in part, any building unless, after consultation with the head of such department, agency, or instrumentality and the State licensing agency, it is determined by the Secretary that (A) such building includes a satisfactory site or sites for the location and operation of a vending facility by a blind person, or (B) if a building is to be constructed, substantially altered, or renovated, or in the case of a building that is already occupied on such date by such department, agency, or instrumentality, is to be substantially altered or renovated for use by such department, agency, or instrumentality, the design for such construction, substantial alteration, or renovation includes a satisfactory site or sites for the location and operation of a vending facility by a blind person. Each such department, agency, or instrumentality shall provide notice to the appropriate State licensing agency of its plans for occupation, acquisition, renovation, or relocation of a building adequate to permit such State agency to determine whether such building includes a satisfactory site or sites for a vending facility.

(2) The provisions of paragraph (1) shall not apply (A) when the Secretary and the State licensing agency determine that the number of people using the property is or will be insufficient to support a vending facility, or (B) to any privately owned building, any part of which is leased by any department, agency, or instrumentality of the United States and in which, (i) prior to the execution of such lease, the lessor or any of his tenants had in operation a restaurant or other food facility in a part of the building not included in such lease, and (ii) the operation of such a vending facility by a blind person would be in proximate and substantial direct competition with such restaurant or other food facility except that each such department, agency, and instrumentality shall make every effort to lease property in privately owned buildings capable of accommodating a vending facility.

(3) For the purposes of this subsection, the term ''satisfactory site'' means an area determined by the Secretary to have sufficient space, electrical and plumbing outlets, and such other facilities as the Secretary may by regulation prescribe, for the location and operation of a vending facility by a blind person.

(e) State licensing agency in States having vocational rehabilitation plans

In any State having an approved plan for vocational rehabilitation pursuant to the Vocational Rehabilitation Act or the Rehabilitation Act of 1973 [29 U.S.C. 701 et seq.], the State licensing agency designated under paragraph (5) of subsection (a) of this section shall be the State agency designated under section 101(a)(1)(A) of such Rehabilitation Act of 1973 [29 U.S.C. 721(a)(1)(A)].

(June 20, 1936, ch. 638, §2, 49 Stat. 1559; 1939 Reorg. Plan No. I, §§201, 204, eff. July 1, 1939, 4 F.R. 2728, 53 Stat. 1424; 1946 Reorg. Plan No. 2, §6, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095; 1953 Reorg. Plan No. 1, §§5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Aug. 3, 1954, ch. 655, §4(b)–(d), 68 Stat. 663; Dec. 7, 1974, Pub. L. 93–516, title II, §203, 88 Stat. 1623; Nov. 21, 1974, Pub. L. 93–651, title II, §203, 89 Stat. 2–8; Oct. 17, 1979, Pub. L. 96–88, title III, §301(a)(4)(B), title V, §507, 93 Stat. 678, 692; Dec. 21, 1995, Pub. L. 104–66, title I, §1041(i), 109 Stat. 715.)

[1] So in original. Probably should be ''Commissioner,''.

REFERENCES IN TEXT

For the date of the enactment of the Randolph-Sheppard Act Amendments of 1974, referred to in subsec. (a)(1), see Codification note below.

The Vocational Rehabilitation Act, referred to in subsec. (e), is act June 2, 1920, ch. 219, 41 Stat. 735, as amended, which was classified to chapter 4 (§ 31 et seq.) of Title 29, Labor, and was repealed by Pub. L. 93–112, title V, § 500(a), Sept. 26, 1973, 87 Stat. 357. Such section 500, classified to section 790 of Title 29, provides in part that references to the Vocational Rehabilitation Act in any other provision of law shall be deemed to be references to the Rehabilitation Act of 1973.

The Rehabilitation Act of 1973, referred to in subsec. (e), is Pub. L. 93–112, Sept. 26, 1973, 87 Stat. 355, as amended, which is classified generally to chapter 16 (§ 701 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 701 of Title 29 and Tables.

CODIFICATION

The content of Pub. L. 93–516, including provisions of section 203 thereof which amended this section, were originally contained in H.R. 14225, 93rd Congress, Second Session, which was pocket-vetoed during the 31-day intrasession adjournment of the 93rd Congress for the Congressional elections in November, 1974. See 1974 Amendment note below.

Pursuant to an order of the United States District Court for the District of Columbia (*Kennedy v. Jones*, D.C.D.C. 1976, 412 F.Supp. 353) H.R. 1422 was deemed to have become law without the approval of the President on Nov. 21, 1974, and was given the designation Pub. L. 93–651. Therefore, for purposes of codification, this section should be deemed to have been amended by Pub. L. 93–651, title II, § 203, Nov. 21, 1974, 89 Stat. 2–8, 2–9, in exactly the same manner as it was amended by Pub. L. 93–516, Dec. 7, 1974, 88 Stat. 1617.

AMENDMENTS

1995—Subsec. (a)(6)(A). Pub. L. 104–66 struck out ''and annually submit to the appropriate committees of Congress a report based on such evaluations,'' after ''section 107d–4 of this title,''.

1974—Subsec. (a)(1). Pub. L. 93–516, § 203(a)(1), added par. (1). Former par. (1) redesignated (2). An identical amendment was made by Pub. L. 93–651. See Codification note above.

Subsec. (a)(2). Pub. L. 93–516, § 203(a)(1), (2), redesignated former par. (1) as (2) and substituted ''Through the Commissioner, make annual surveys of concessions vending opportunities for blind persons on Federal and other property in the United States, particularly with respect to Federal property under the control of the General Services Administration, the Department of Defense, and the United States Postal Service'' for ''Make surveys of concession-stand opportunities for blind persons on Federal and other property in the United States''. Former par. (2) redesignated (3). An identical amendment was made by Pub. L. 93–651. See Codification note above.

Subsec. (a)(3). Pub. L. 93–516, § 203(a)(1), redesignated former par. (2) as (3). Former par. (3) redesignated (4). An identical amendment was made by Pub. L. 93–651. See Codification note above.

Subsec. (a)(4). Pub. L. 93–516, § 203(a)(1), redesignated former par. (3) as (4). Former par. (4) redesignated (5). An identical amendment was made by Pub. L. 93–651. See Codification note above.

Subsec. (a)(5). Pub. L. 93–516, § 203(a)(1), (3), redesignated former par. (4) as (5), substituted ''State agency for the blind in each State, or, in any State in which there is no such agency, some other public agency to issue licenses to blind persons who are citizens of the United States for the operating of vending facilities'' for ''State commission for the blind in each State, or, in any State in which there is no such commission, some other public agency to issue licenses to blind persons who are citizens of the United States and at least twenty-one years of age for the operating of vending stands'', and ''foods, beverages, and other articles or services dispensed automatically or manually and prepared on or off the premises in accordance with all applicable health laws, as determined by the State licensing agency, and including the vending or exchange of chances for any lottery authorized by State law and conducted by an agency of a State'' for ''articles dispensed automatically or in containers or wrapping in which they are placed before receipt by the vending stand, and such other articles as may be approved for each property by the department or agency in control of the maintenance, operation, and protection thereof and the State licensing agency in accordance with the regulations prescribed pursuant to section 107 of this title'', and struck out proviso that effective four years after the enactment of the Vocational Rehabilitation Amendments of 1954, in States having an approved plan for vocational rehabilitation pursuant to the Vocational Rehabilitation Act, the licensing agency to be designated hereunder shall be the State agency designated pursuant to section 35(a)(1) of title 29 as the sole agency with respect to vocational rehabilitation of the blind, and that prior to such time, no license shall be granted except upon certification by a vocational rehabilitation agency that the individual is qualified to operate a vending stand. An identical amendment was made by Pub. L. 93–651. See Codification note above.

Subsec. (a)(6). Pub. L. 93–516, § 203(a)(1), (4), redesignated former par. (5) as (6), substantially reenacted existing provisions in cl. (B), and added cl. (A) and provisions preceding cl. (A). An identical amendment was made by Pub. L. 93–651. See Codification note above.

Subsec. (b). Pub. L. 93–516, § 203(b), substituted ''operation of a vending facility'' for ''operation of a vending stand'', struck out one year residency requirement for giving preference, and in provisions relating to qualifications of applicants, struck out ''but are able, in spite of such infirmity, to operate such stands''. An identical amendment was made by Pub. L. 93–651. See Codification note above.

Subsec. (c). Pub. L. 93–516, § 203(c), substituted ''facility'' for ''stand'' in three places. An identical amendment was made by Pub. L. 93–651. See Codification note above.

Subsecs. (d), (e). Pub. L. 93–516, § 203(d), added subsecs. (d) and (e). An identical amendment was made by Pub. L. 93–651. See Codification note above.

1954—Act Aug. 3, 1954, added to the list of articles which may be vended, articles dispensed automatically or in containers or wrappings received by the stand and to provide that after four years the agency designated under section 35(a)(1) of title 29 shall be the sole State agency for vocational rehabilitation of the blind and to require, prior to that time, certification by agencies as a condition for issuing licenses.

EFFECTIVE DATE OF 1954 AMENDMENT

Amendment by act Aug. 3, 1954, effective July 1, 1954, see section 8 of act Aug. 3, 1954.

TRANSFER OF FUNCTIONS

''Secretary of Education'' substituted for ''Secretary of Health, Education, and Welfare'' in subsec. (a) pursuant to sections 301(a)(4)(B) and 507 of Pub. L. 96–88 which are classified to sections 3441(a)(4)(B) and 3507 of this title and which transferred functions of Secretary of Health, Education, and Welfare under this chapter to Secretary of Education.

For transfer of functions and offices of Secretary and Department of Health, Education, and Welfare, including Rehabilitation Services Administration and Commissioner thereof, to Secretary and Department of Education, and for delegation of certain functions of Secretary of Education under this chapter to Assistant Secretary for Special Education and Rehabilitative Services, see sections 3417 and 3441 of this title.

Functions of Federal Security Administrator transferred to Secretary of Health, Education, and Welfare

and all agencies of Federal Security Agency transferred to Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1 of 1953, set out in the Appendix to Title 5, Government Organization and Employees. Federal Security Agency and office of Administrator abolished by section 8 of Reorg. Plan No. 1 of 1953.

''Federal Security Administrator'' substituted for ''Office of Education under the Federal Security Agency, subject to the direction of the Commissioner of Education and such rules and regulations as he may, with the approval of the Federal Security Administrator, prescribe'' in subsec. (a) and for ''Office of Education'' in subsec. (c) by Reorg. Plan No. 2 of 1946, set out in the Appendix to Title 5, which transferred functions of Office of Education and Commissioner of Education under sections 107 to 107f of this title to Federal Security Administrator. Federal Security Agency Order 62, July 16, 1946, 11 F.R. 7943, provided that these functions shall be performed under supervision and direction of Commissioner for Special Services by Director of Vocational Rehabilitation and such officers and employees of Office of Vocational Rehabilitation as Director shall designate.

Office of Education originally established in Department of the Interior from which it was transferred to Federal Security Agency by Reorg. Plan No. I of 1939, §201, which is set out in the Appendix to Title 5.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 107e of this title; title 23 section 111.

§ 107b. Application for designation as State licensing agency; cooperation with Secretary; furnishing initial stock

A State agency for the blind or other State agency desiring to be designated as the licensing agency shall, with the approval of the chief executive of the State, make application to the Secretary and agree—

(1) to cooperate with the Secretary in carrying out the purpose of this chapter;

(2) to provide for each licensed blind person such vending facility equipment, and adequate initial stock of suitable articles to be vended therefrom, as may be necessary: *Provided, however*, That such equipment and stock may be owned by the licensing agency for use of the blind, or by the blind individual to whom the license is issued: *And provided further*, That if ownership of such equipment is vested in the blind licensee, (A) the State licensing agency shall retain a first option to repurchase such equipment and (B) in the event such individual dies or for any other reason ceases to be a licensee or transfers to another vending facility, ownership of such equipment shall become vested in the State licensing agency (for transfer to a successor licensee) subject to an obligation on the part of the State licensing agency to pay to such individual (or to his estate) the fair value of his interest therein as later determined in accordance with regulations of the State licensing agency and after opportunity for a fair hearing;

(3) that if any funds are set aside, or caused to be set aside, from the net proceeds of the operation of the vending facilities such funds shall be set aside, or caused to be set aside, only to the extent necessary for and may be used only for the purposes of (A) maintenance and replacement of equipment; (B) the purchase of new equipment; (C) management services; (D) assuring a fair minimum return to operators of vending facilities; and (E) retirement or pension funds, health insurance contributions, and provision for paid sick leave and vacation time, if it is determined by a majority vote of blind licensees licensed by such State agency, after such agency provides to each such licensee full information on all matters relevant to such proposed program, that funds under this paragraph shall be set aside for such purposes: *Provided, however*, That in no event shall the amount of such funds to be set aside from the net proceeds of any vending facility exceed a reasonable amount which shall be determined by the Secretary;

(4) to make such reports in such form and containing such information as the Secretary may from time to time require and to comply with such provisions as he may from time to time find necessary to assure the correctness and verification of such reports;

(5) to issue such regulations, consistent with the provisions of this chapter, as may be necessary for the operation of this program;

(6) to provide to any blind licensee dissatisfied with any action arising from the operation or administration of the vending facility program an opportunity for a fair hearing, and to agree to submit the grievances of any blind licensee not otherwise resolved by such hearing to arbitration as provided in section 107d–1 of this title.

(June 20, 1936, ch. 638, §3, 49 Stat. 1560; 1946 Reorg. Plan No. 2, §6, eff. July 16, 1946, 11 F.R 7873, 60 Stat. 1095; 1953 Reorg. Plan No. 1, §§5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Aug. 3, 1954, ch. 655, §4(e), 68 Stat. 664; Dec. 7, 1974, Pub. L. 93–516, title II, §204, 88 Stat. 1625; Nov. 21, 1974, Pub. L. 93–651, title II, §204, 89 Stat. 2–10.)

CODIFICATION

The content of Pub. L. 93–516, including provisions of section 204 thereof which amended this section, were originally contained in H.R. 14225, 93rd Congress, Second Session, which was pocket-vetoed during the 31-day intrasession adjournment of the 93rd Congress for the Congressional elections in November, 1974. See 1974 Amendment note below.

Pursuant to an order of the United States District Court for the District of Columbia (*Kennedy v. Jones*, D.C.D.C. 1976, 412 F.Supp. 353) H.R. 14225 was deemed to have become law without the approval of the President on Nov. 21, 1974, and was given the designation Pub. L. 93–651. Therefore, for purposes of codification, this section should be deemed to have been amended by Pub. L. 93–651, title II, §204, Nov. 21, 1974, 89 Stat. 2–10, in exactly the same manner as it was amended by Pub. L. 93–516.

AMENDMENTS

1974—Pub. L. 93–516, §204(a)(1), substituted ''A State agency'' for ''A State commission'' in provisions preceding par. (1). An identical amendment was made by Pub. L. 93–651. See Codification note above.

Par. (2). Pub. L. 93–516, §204(a)(2), substituted ''vending facility'' for ''vending stand'' in two places. An identical amendment was made by Pub. L. 93–651. See Codification note above.

Par. (3). Pub. L. 93–516, §204(a)(2), (b), (c), in provisions preceding subpar. (A), substituted ''the net proceeds of the operation of the vending facilities'' for ''the proceeds of the operation of the vending stands'', in subpar. (D), substituted ''vending facilities'' for

''vending stands'', added subpar. (E), and in proviso following subpar. (E) substituted ''the net proceeds of any vending facility'' for ''the proceeds of any vending stand''. An identical amendment was made by Pub. L. 93–651. See Codification note above.

Par. (6). Pub. L. 93–516, § 204(a)(3), substituted ''vending facility program an opportunity for a fair hearing, and to agree to submit the grievances of any blind licensee not otherwise resolved by such hearing to arbitration as provided in section 107d–1 of this title'' for ''vending stand program an opportunity for a fair hearing''. An identical amendment was made by Pub. L. 93–651. See Codification note above.

1954—Act Aug. 3, 1954, amended section generally and, among other changes, added pars. (3) to (6).

EFFECTIVE DATE OF 1954 AMENDMENT

Amendment by act Aug. 3, 1954, effective July 1, 1954, see section 8 of act Aug. 3, 1954.

TRANSFER OF FUNCTIONS

For transfer of functions, see note set out under section 107a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 107a, 107d–1, 107d–3 of this title.

§ 107b–1. Access to information with State licensing agencies; election and responsibilities of Committee of Blind Vendors

In addition to other requirements imposed in this title and in this chapter upon State licensing agencies, such agencies shall—

(1) provide to each blind licensee access to all relevant financial data, including quarterly and annual financial reports, on the operation of the State vending facility program;

(2) conduct the biennial election of a Committee of Blind Vendors who shall be fully representative of all blind licensees in the State program,[1] and

(3) insure that such committee's responsibilities include (A) participation, with the State agency, in major administrative decisions and policy and program development, (B) receiving grievances of blind licensees and serving as advocates for such licensees, (C) participation, with the State agency, in the development and administration of a transfer and promotion system for blind licensees, (D) participation, with the State agency, in developing training and retraining programs, and (E) sponsorship, with the assistance of the State agency, of meetings and instructional conferences for blind licensees.

(Pub. L. 93–516, title II, § 209, Dec. 7, 1974, 88 Stat. 1630; Pub. L. 93–651, title II, § 209, Nov. 21, 1974, 89 Stat. 2–15.)

REFERENCES IN TEXT

This title, referred to in text, is title II of Pub. L. 93–516, Dec. 7, 1974, 88 Stat. 1617, as amended, known as the ''Randolph-Sheppard Act Amendments of 1974''. For complete classification of such title to the Code, see Short Title of 1974 Amendment note set out under section 107 of this title and Tables.

CODIFICATION

Section was enacted as part of the Randolph-Sheppard Act Amendments of 1974, and not as part of the Randolph-Sheppard Vending Stand Act which comprises this chapter.

The content of Pub. L. 93–516, including provisions of section 209 thereof which enacted this section, were originally contained in H.R. 14225, 93rd Congress, Second Session, which was pocket-vetoed during the 31-day intrasession adjournment of the 93rd Congress for the Congressional elections in November, 1974.

Pursuant to an order of the United States District Court for the District of Columbia (*Kennedy v. Jones*, D.C.D.C. 1976, 412 F.Supp. 353) H.R. 14225 was deemed to have become law without the approval of the President on Nov. 21, 1974, and was given the designation Pub. L. 93–651. Therefore, for purposes of codification, this section should be deemed to have been enacted by Pub. L. 93–651, title II, § 209, Nov. 21, 1974, 89 Stat. 2–15, in exactly the same manner as it was enacted by Pub. L. 93–516.

[1] So in original. The comma probably should be a semicolon.

§ 107b–2. Omitted

CODIFICATION

Section, Pub. L. 93–516, title II, § 210, Dec. 7, 1974, 88 Stat. 1630, required the Secretary to promulgate national standards for funds set aside, to study and report the feasibility of establishing retirement, pension, and health insurance systems for blind licensees, and to evaluate the income assignment methods and required the State agencies to submit certain reports.

The content of Pub. L. 93–516, including provisions of section 210 thereof which enacted this section, were originally contained in H.R. 14225, 93rd Congress, Second Session, which was pocket-vetoed during the 31-day intrasession adjournment of the 93rd Congress for the Congressional elections in November, 1974.

Pursuant to an order of the United States District Court for the District of Columbia (*Kennedy v. Jones*, D.C.D.C. 1976, 412 F.Supp. 353) H.R. 14225 was deemed to have become law without the approval of the President on Nov. 21, 1974, and was given the designation Pub. L. 93–651. Therefore, for purposes of codification, this section should be deemed to have been enacted by Pub. L. 93–651, title II, § 210, Nov. 21, 1974, 89 Stat. 2–15, in exactly the same manner as it was enacted by Pub. L. 93–516.

§ 107b–3. Audit of nonappropriated fund activities

The Comptroller General is authorized to conduct regular and periodic audits of all nonappropriated fund activities which receive income from vending machines on Federal property, under such rules and regulations as he may prescribe. In the conduct of such audits he and his duly authorized representatives shall have access to any relevant books, documents, papers, accounts, and records of such activities as he deems necessary.

(Pub. L. 93–516, title II, § 211, Dec. 7, 1974, 88 Stat. 1630; Pub. L. 93–651, title II, § 211, Nov. 21, 1974, 89 Stat. 2–15.)

CODIFICATION

Section was enacted as part of the Randolph-Sheppard Act Amendments of 1974, and not as part of the Randolph-Sheppard Vending Stand Act which comprises this chapter.

The content of Pub. L. 93–516, including provisions of section 211 thereof which enacted this section, were originally contained in H.R. 14225, 93rd Congress, Second Session, which was pocket-vetoed during the 31-day intrasession adjournment of the 93rd Congress for the Congressional elections in November, 1974.

Pursuant to an order of the United States District Court for the District of Columbia (*Kennedy v. Jones*, D.C.D.C. 1976, 412 F.Supp. 353) H.R. 14225 was deemed to

have become law without the approval of the President on Nov. 21, 1974, and was given the designation Pub. L. 93–651. Therefore, for purposes of codification, this section should be deemed to have been enacted by Pub. L. 93–651, title II, § 211, Nov. 21, 1974, 89 Stat. 2–15, in exactly the same manner as it was enacted by Pub. L. 93–516.

§ 107c. Repealed. Pub. L. 93–516, title II, § 205, Dec. 7, 1974, 88 Stat. 1626

Section, act June 20, 1936, ch. 638, § 4, 49 Stat. 1560; Reorg. Plan No. 2 of 1946, § 6, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095; Reorg. Plan No. 1 of 1953, §§ 5, 8 eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631, related to provisions authorizing the Secretary to cooperate with State boards for rehabilitation of handicapped persons, established by the several States pursuant to sections 31 to 42b of Title 29, Labor, as amended and supplemented, in carrying out the provisions of this chapter. See section 701 et seq. of Title 29.

The content of Pub. L. 93–516, including provisions of section 205 thereof which repealed this section, were originally contained in H.R. 14225, 93rd Congress, Second Session, which was pocket-vetoed during the 31-day intrasession adjournment of the 93rd Congress for the Congressional elections in November, 1974.

Pursuant to an order of the United States District Court for the District of Columbia (*Kennedy v. Jones*, D.C.D.C. 1976, 412 F.Supp. 353) H.R. 14225 was deemed to have become law without the approval of the President on Nov. 21, 1974, and was given the designation Pub. L. 93–651. Therefore, for purposes of codification, this section should be deemed to have been repealed by Pub. L. 93–651, title II, § 205, Nov. 21, 1974, 89 Stat. 2–11, in exactly the same manner as it was repealed by Pub. L. 93–516.

§ 107d. Expenditures

(a) Personal services, rent, printing, etc.

The Secretary is authorized to make such expenditures out of any money appropriated therefor (including expenditures for personal services and rent at the seat of government and elsewhere, books of reference and periodicals, for printing and binding, and for traveling expenses) as he may deem necessary to carry out the provisions of this chapter.

(b) Preference to blind persons in employment

The Secretary shall, in employing such additional personnel as may be necessary, give preference to blind persons who are capable of discharging the required duties.

(June 20, 1936, ch. 638, § 4, formerly § 5, 49 Stat. 1560; 1946 Reorg. Plan No. 2, § 6, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; renumbered § 4 and amended Dec. 7, 1974, Pub. L. 93–516, title II, §§ 206, 208(d), 88 Stat. 1626, 1629; Nov. 21, 1974, Pub. L. 93–651, title II, §§ 206, 208(d), 89 Stat. 2–11, 2–14.)

CODIFICATION

The content of Pub. L. 93–516, including provisions of sections 206 and 208(d) thereof which amended and renumbered this section, were originally contained in H.R. 14225, 93rd Congress, Second Session, which was pocket-vetoed during the 31-day intrasession adjournment of the 93rd Congress for the Congressional elections in November, 1974. See 1974 Amendment note below.

Pursuant to an order of the United States District Court for the District of Columbia (*Kennedy v. Jones*, D.C.D.C. 1976, 412 F.Supp. 353) H.R. 14225 was deemed to have become law without the approval of the President on Nov. 21, 1974, and was given the designation Pub. L. 93–651. Therefore, for purposes of codification, this section should be deemed to have been amended and renumbered by Pub. L. 93–651, title II, §§ 206, 208(d), Nov. 21, 1974, 89 Stat. 2–11, 2–14, in exactly the same manner as it was amended and renumbered by Pub. L. 93–516.

AMENDMENTS

1974—Subsec. (b). Pub. L. 93–516, § 208(d), struck out requirement that at least 50 percent of the additional personnel be blind persons. An identical amendment was made by Pub. L. 93–651. See Codification note above.

TRANSFER OF FUNCTIONS

For transfer of functions, see note set out under section 107a of this title.

§ 107d–1. Grievances of blind licensees

(a) Hearing and arbitration

Any blind licensee who is dissatisfied with any action arising from the operation or administration of the vending facility program may submit to a State licensing agency a request for a full evidentiary hearing, which shall be provided by such agency in accordance with section 107b(6) of this title. If such blind licensee is dissatisfied with any action taken or decision rendered as a result of such hearing, he may file a complaint with the Secretary who shall convene a panel to arbitrate the dispute pursuant to section 107d–2 of this title, and the decision of such panel shall be final and binding on the parties except as otherwise provided in this chapter.

(b) Noncompliance by Federal departments and agencies; complaints by State licensing agencies; arbitration

Whenever any State licensing agency determines that any department, agency, or instrumentality of the United States that has control of the maintenance, operation, and protection of Federal property is failing to comply with the provisions of this chapter or any regulations issued thereunder (including a limitation on the placement or operation of a vending facility as described in section 107(b) of this title and the Secretary's determination thereon) such licensing agency may file a complaint with the Secretary who shall convene a panel to arbitrate the dispute pursuant to section 107d–2 of this title, and the decision of such panel shall be final and binding on the parties except as otherwise provided in this chapter.

(June 20, 1936, ch. 638, § 5, as added Dec. 7, 1974, Pub. L. 93–516, title II, § 206, 88 Stat. 1626; Nov. 21, 1974, Pub. L. 93–651, title II, § 206, 89 Stat. 2–11.)

CODIFICATION

The content of Pub. L. 93–516, including provisions of section 206 thereof which enacted this section, were originally contained in H.R. 14225, 93rd Congress, Second Session, which was pocket-vetoed during the 31-day intrasession adjournment of the 93rd Congress for the Congressional elections in November, 1974.

Pursuant to an order of the United States District Court for the District of Columbia (*Kennedy v. Jones*, D.C.D.C. 1976, 412 F.Supp. 353) H.R. 14225 was deemed to have become law without the approval of the President on Nov. 21, 1974, and was given the designation Pub. L. 93–651. Therefore, for purposes of codification, this section should be deemed to have been enacted by Pub. L.

93–651, title II, § 206, Nov. 21, 1974, 89 Stat. 2–11, in exactly the same manner as it was enacted by Pub. L. 93–516.

PRIOR PROVISIONS

A prior section 5 of act of June 20, 1936, which was classified to section 107d of this title, was renumbered section 4 by Pub. L. 93–516, § 206.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 107b, 107d–2 of this title.

§ 107d–2. Arbitration

(a) Notice and hearing

Upon receipt of a complaint filed under section 107d–1 of this title, the Secretary shall convene an ad hoc arbitration panel as provided in subsection (b) of this section. Such panel shall, in accordance with the provisions of subchapter II of chapter 5 of title 5, give notice, conduct a hearing, and render its decision which shall be subject to appeal and review as a final agency action for purposes of chapter 7 of such title 5.

(b) Composition of panel; designation of chairman; termination of violations

(1) The arbitration panel convened by the Secretary to hear grievances of blind licensees shall be composed of three members appointed as follows:

(A) one individual designated by the State licensing agency;

(B) one individual designated by the blind licensee; and

(C) one individual, not employed by the State licensing agency or, where appropriate, its parent agency, who shall serve as chairman, jointly designated by the members appointed under subparagraphs (A) and (B).

If any party fails to designate a member under subparagraph (1)(A), (B), or (C), the Secretary shall designate such member on behalf of such party.

(2) The arbitration panel convened by the Secretary to hear complaints filed by a State licensing agency shall be composed of three members appointed as follows:

(A) one individual, designated by the State licensing agency;

(B) one individual, designated by the head of the Federal department, agency, or instrumentality controlling the Federal property over which the dispute arose; and

(C) one individual, not employed by the Federal department, agency, or instrumentality controlling the Federal property over which the dispute arose, who shall serve as chairman, jointly designated by the members appointed under subparagraphs (A) and (B).

If any party fails to designate a member under subparagraph (2)(A), (B), or (C), the Secretary shall designate such member on behalf of such party. If the panel appointed pursuant to paragraph (2) finds that the acts or practices of any such department, agency, or instrumentality are in violation of this chapter, or any regulation issued thereunder, the head of any such department, agency, or instrumentality shall cause such acts or practices to be terminated promptly and shall take such other action as may be necessary to carry out the decision of the panel.

(c) Publication of decisions in Federal Register

The decisions of a panel convened by the Secretary pursuant to this section shall be matters of public record and shall be published in the Federal Register.

(d) Payment of costs by the Secretary

The Secretary shall pay all reasonable costs of arbitration under this section in accordance with a schedule of fees and expenses he shall publish in the Federal Register.

(June 20, 1936, ch. 638, § 6, as added Dec. 7, 1974, Pub. L. 93–516, title II, § 206, 88 Stat. 1626; Nov. 21, 1974, Pub. L. 93–651, title II, § 206, 89 Stat. 2–11.)

CODIFICATION

The content of Pub. L. 93–516, including provisions of section 206 thereof which enacted this section, were originally contained in H.R. 14225, 93rd Congress, Second Session, which was pocket-vetoed during the 31-day intrasession adjournment of the 93rd Congress for the Congressional elections in November, 1974.

Pursuant to an order of the United States District Court for the District of Columbia (*Kennedy v. Jones*, D.C.D.C. 1976, 412 F.Supp. 353) H.R. 14225 was deemed to have become law without the approval of the President on Nov. 21, 1974, and was given the designation Pub. L. 93–651. Therefore, for purposes of codification, this section should be deemed to have been enacted by Pub. L. 93–651, title II, § 206, Nov. 21, 1974, 89 Stat. 2–11, in exactly the same manner as it was enacted by Pub. L. 93–516.

PRIOR PROVISIONS

A prior section 6 of act June 20, 1936, which was classified to section 107e of this title, was renumbered section 9 by Pub. L. 93–516, § 206.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 107d–1 of this title.

§ 107d–3. Vending machine income

(a) Accrual to blind licensee and alternatively to State agency; ceiling on amount for individual licensee

In accordance with the provisions of subsection (b) of this section, vending machine income obtained from the operation of vending machines on Federal property shall accrue (1) to the blind licensee operating a vending facility on such property, or (2) in the event there is no blind licensee operating such facility on such property, to the State agency in whose State the Federal property is located, for the uses designated in subsection (c) of this section, except that with respect to income which accrues under clause (1) of this subsection, the Commissioner may prescribe regulations imposing a ceiling on income from such vending machines for an individual blind licensee. In the event such a ceiling is imposed, no blind licensee shall receive less vending machine income under such ceiling than he was receiving on January 1, 1974. No limitation shall be imposed on income from vending machines, combined to create a vending facility, which are maintained, serviced, or operated by a blind licensee. Any amounts received by a blind licensee that are in excess of the amount per-

mitted to accrue to him under any ceiling imposed by the Commissioner shall be disbursed to the appropriate State agency under clause (2) of this subsection and shall be used by such agency in accordance with subsection (c) of this section.

(b) Direct competition between vending machine and vending facility; proportion of accrued income from such vending machines for individual licensee

(1) After January 1, 1975, 100 per centum of all vending machine income from vending machines on Federal property which are in direct competition with a blind vending facility shall accrue as specified in subsection (a) of this section. ''Direct competition'' as used in this section means the existence of any vending machines or facilities operated on the same premises as a blind vending facility except that vending machines or facilities operated in areas serving employees the majority of whom normally do not have direct access to the blind vending facility shall not be considered in direct competition with the blind vending facility. After January 1, 1975, 50 per centum of all vending machine income from vending machines on Federal property which are not in direct competition with a blind vending facility shall accrue as specified in subsection (a) of this section, except that with respect to Federal property at which at least 50 per centum of the total hours worked on the premises occurs during periods other than normal working hours, 30 per centum of such income shall so accrue.

(2) The head of each department, agency, and instrumentality of the United States shall insure compliance with this section with respect to buildings, installations, and facilities under his control, and shall be responsible for collection of, and accounting for, such vending machine income.

(c) Disposal of accrued vending machine income by State licensing agency

All vending machine income which accrues to a State licensing agency pursuant to subsection (a) of this section shall be used to establish retirement or pension plans, for health insurance contributions, and for provision of paid sick leave and vacation time for blind licensees in such State, subject to a vote of blind licensees as provided under section 107b(3)(E) of this title. Any vending machine income remaining after application of the first sentence of this subsection shall be used for the purposes specified in sections 107b(3)(A), (B), (C), and (D) of this title, and any assessment charged to blind licensees by a State licensing agency shall be reduced pro rata in an amount equal to the total of such remaining vending machine income.

(d) Income from vending machines in certain locations excepted

Subsections (a) and (b)(1) of this section shall not apply to income from vending machines within retail sales outlets under the control of exchange or ships' stores systems authorized by title 10, or to income from vending machines operated by the Veterans Canteen Service, or to income from vending machines not in direct competition with a blind vending facility at individual locations, installations, or facilities on Federal property the total of which at such individual locations, installations, or facilities does not exceed $3,000 annually.

(e) Regulations establishing priority for operation of cafeterias

The Secretary, through the Commissioner, shall prescribe regulations to establish a priority for the operation of cafeterias on Federal property by blind licensees when he determines, on an individual basis and after consultation with the head of the appropriate installation, that such operation can be provided at a reasonable cost with food of a high quality comparable to that currently provided to employees, whether by contract or otherwise.

(f) Existing arrangements more favorable to blind licensees unaffected

This section shall not operate to preclude preexisting or future arrangements, or regulations of departments, agencies, or instrumentalities of the United States, under which blind licensees (1) receive a greater percentage or amount of vending machine income than that specified in subsection (b)(1) of this section, or (2) receive vending machine income from individual locations, installations, or facilities on Federal property the total of which at such individual locations, installations, or facilities does not exceed $3,000 annually.

(g) Regulations for compliance

The Secretary shall take such action and promulgate such regulations as he deems necessary to assure compliance with this section.

(June 20, 1936, ch. 638, §7, as added Dec. 7, 1974, Pub. L. 93–516, title II, §206, 88 Stat. 1627; Nov. 21, 1974, Pub. L. 93–651, title II, §206, 89 Stat. 2–12.)

CODIFICATION

The content of Pub. L. 93–516, including provisions of section 206 thereof which enacted this section, were originally contained in H.R. 14225, 93rd Congress, Second Session, which was pocket-vetoed during the 31-day intrasession adjournment of the 93rd Congress for the Congressional elections in November, 1974.

Pursuant to an order of the United States District Court for the District of Columbia (*Kennedy v. Jones*, D.C.D.C. 1976, 412 F.Supp. 353) H.R. 14225 was deemed to have become law without the approval of the President on Nov. 21, 1974, and was given the designation Pub. L. 93–651. Therefore, for purposes of codification, this section should be deemed to have been enacted by Pub. L. 93–651, title II, §206, Nov. 21, 1974, 89 Stat. 2–12, in exactly the same manner as it was enacted by Pub. L. 93–516.

PRIOR PROVISIONS

A prior section 7 of act June 20, 1936, was classified to section 107e–1 of this title, prior to repeal by Pub. L. 93–516, §205.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 107 of this title.

§107d–4. Training programs for maximum vocational potential for blind

The Commissioner shall insure, through promulgation of appropriate regulations, that uniform and effective training programs, including on-the-job training, are provided for blind indi-

viduals, through services under the Rehabilitation Act of 1973 [29 U.S.C. 701 et seq.]. He shall further insure that State agencies provide programs for upward mobility (including further education and additional training or retraining for improved work opportunities) for all trainees under this chapter, and that follow-along services are provided to such trainees to assure that their maximum vocational potential is achieved.

(June 20, 1936, ch. 638, § 8, as added Dec. 7, 1974, Pub. L. 93–516, title II, § 206, 88 Stat. 1628; Nov. 21, 1974, Pub. L. 93–651, title II, § 206, 89 Stat. 2–13.)

REFERENCES IN TEXT

The Rehabilitation Act of 1973, referred to in text, is Pub. L. 93–112, Sept. 26, 1973, 87 Stat. 355, as amended, which is classified generally to chapter 16 (§ 701 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 701 of Title 29 and Tables.

CODIFICATION

The content of Pub. L. 93–516, including provisions of section 206 thereof which enacted this section, were originally contained in H.R. 14225, 93rd Congress, Second Session, which was pocket-vetoed during the 31-day intrasession adjournment of the 93rd Congress for the Congressional elections in November, 1974.

Pursuant to an order of the United States District Court for the District of Columbia (*Kennedy v. Jones*, D.C.D.C. 1976, 412 F.Supp. 353) H.R. 14225 was deemed to have become law without the approval of the President on Nov. 21, 1974, and was given the designation Pub. L. 93–651. Therefore, for purposes of codification, this section should be deemed to have been enacted by Pub. L. 93–651, title II, § 206, Nov. 21, 1974, 89 Stat. 2–13, in exactly the same manner as it was enacted by Pub. L. 93–516.

PRIOR PROVISIONS

A prior section 8 of act June 20, 1936, which was classified to section 107f of this title, was renumbered section 10 by Pub. L. 93–516, § 206.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 107a of this title.

§ 107e. Definitions

As used in this chapter—

(1) ''blind person'' means a person whose central visual acuity does not exceed 20/200 in the better eye with correcting lenses or whose visual acuity, if better than 20/200, is accompanied by a limit to the field of vision in the better eye to such a degree that its widest diameter subtends an angle of no greater than twenty degrees. In determining whether an individual is blind, there shall be an examination by a physician skilled in diseases of the eye, or by an optometrist, whichever the individual shall select;

(2) ''Commissioner'' means the Commissioner of the Rehabilitation Services Administration;

(3) ''Federal property'' means any building, land, or other real property owned, leased, or occupied by any department, agency, or instrumentality of the United States (including the Department of Defense and the United States Postal Service), or any other instrumentality wholly owned by the United States, or by any department or agency of the District of Columbia or any territory or possession of the United States;

(4) ''Secretary'' means the Secretary of Education;

(5) ''State'' means a State, territory, possession, Puerto Rico, or the District of Columbia;

(6) ''United States'' includes the several States, territories, and possessions of the United States, Puerto Rico, and the District of Columbia;

(7) ''vending facility'' means automatic vending machines, cafeterias, snack bars, cart services, shelters, counters, and such other appropriate auxiliary equipment as the Secretary may by regulation prescribe as being necessary for the sale of the articles or services described in section 107a(a)(5) of this title and which may be operated by blind licensees; and

(8) ''vending machine income'' means receipts (other than those of a blind licensee) from vending machine operations on Federal property, after cost of goods sold (including reasonable service and maintenance costs), where the machines are operated, serviced, or maintained by, or with the approval of, a department, agency, or instrumentality of the United States, or commissions paid (other than to a blind licensee) by a commercial vending concern which operates, services, and maintains vending machines on Federal property for, or with the approval of, a department, agency, or instrumentality of the United States.

(June 20, 1936, ch. 638, § 9, formerly § 6, 49 Stat. 1560; Aug. 3, 1954, ch. 655, § 4(f), 68 Stat. 664; renumbered § 9 and amended Dec. 7, 1974, Pub. L. 93–516, title II, §§ 206, 207, 88 Stat. 1626, 1628; Nov. 21, 1974, Pub. L. 93–651, title II, §§ 206, 207, 89 Stat. 2–11, 2–13; Oct. 17, 1979, Pub. L. 96–88, title III, § 301(a)(4)(B), title V, § 507, 93 Stat. 678, 692.)

CODIFICATION

The content of Pub. L. 93–516, including provisions of sections 206 and 207 thereof which amended and renumbered this section, were originally contained in H.R. 14225, 93rd Congress, Second Session, which was pocket-vetoed during the 31-day intrasession adjournment of the 93rd Congress for the Congressional elections in November, 1974. See 1974 Amendment note below.

Pursuant to an order of the United States District Court for the District of Columbia (*Kennedy v. Jones*, D.C.D.C. 1976, 412 F.Supp. 353) H.R. 14225 was deemed to have become law without the approval of the President on Nov. 21, 1974, and was given the designation Pub. L. 93–651. Therefore, for purposes of codification, this section should be deemed to have been amended and renumbered by Pub. L. 93–651, title II, §§ 206, 207, Nov. 21, 1974, 89 Stat. 2–11, 2–13, in exactly the same manner as it was amended and renumbered by Pub. L. 93–516.

AMENDMENTS

1974—Pub. L. 93–516, § 207, replaced letter designations with number designations, inserted definitions of ''Commissioner'', ''vending facility'', and ''vending machine income'', and in definition of ''blind person'' substituted provisions that such person meant a person whose central visual acuity does not exceed 20/200 in the better eye with correcting lenses or whose visual acuity, if better than 20/200, is accompanied by a limit to the field of vision in the better eye to such a degree that its widest diameter subtends an angle of no greater than twenty degrees, and that in determining wheth-

er a person is blind, there shall be an examination by a physician skilled in diseases of the eye, or by an optometrist, whichever the individual shall select, for provisions that such person meant a person having not more than 10 per centum visual acuity in the better eye with correction and that such blindness shall be certified by a duly licensed ophthalmologist, in definition of ''United States'' inserted reference to Puerto Rico, in definition of ''State'' inserted reference to Puerto Rico, and in definition of ''Federal property'' inserted reference to Department of Defense and United States Postal Service. An identical amendment was made by Pub. L. 93–651. See Codification note above.

1954—Subsecs. (d), (e). Act Aug. 3, 1954, added subsecs. (d) and (e).

EFFECTIVE DATE OF 1954 AMENDMENT

Amendment by act Aug. 3, 1954, effective July 1, 1954, see section 8 of act Aug. 3, 1954.

TRANSFER OF FUNCTIONS

''Secretary of Education'' substituted for ''Secretary of Health, Education, and Welfare'' in par. (4) pursuant to sections 301(a)(4)(B) and 507 of Pub. L. 96–88 which are classified to sections 3441(a)(4)(B) and 3507 of this title and which transferred all functions of Secretary of Health, Education, and Welfare under this chapter to Secretary of Education.

For transfer of functions and offices of Secretary and Department of Health, Education, and Welfare, including Rehabilitation Services Administration and Commissioner thereof, to Secretary and Department of Education, and for delegation of certain functions of Secretary of Education under this chapter to Assistant Secretary for Special Education and Rehabilitative Services, see sections 3417 and 3441 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 107a of this title.

§ 107e–1. Repealed. Pub. L. 93–516, title II, § 205, Dec. 7, 1974, 88 Stat. 1626

Section, act June 20, 1936, ch. 638, § 7, as added Aug. 3, 1954, ch. 655, § 4(g), 68 Stat. 664, related to designation and status of states acting as licensing agents before July 1, 1954.

The content of Pub. L. 93–516, including provisions of section 205 thereof which repealed this section, were originally contained in H.R. 14225, 93rd Congress, Second Session, which was pocket-vetoed during the 31-day intrasession adjournment of the 93rd Congress for the Congressional elections in November, 1974.

Pursuant to an order of the United States District Court for the District of Columbia (*Kennedy v. Jones*, D.C.D.C. 1976, 412 F.Supp. 353) H.R. 14225 was deemed to have become law without the approval of the President on Nov. 21, 1974, and was given the designation Pub. L. 93–651. Therefore, for purposes of codification, this section should be deemed to have been repealed by Pub. L. 93–651, title II, § 205, Nov. 21, 1974, 89 Stat. 2–11, in exactly the same manner as it was repealed by Pub. L. 93–516.

§ 107f. Authorization of appropriations

There is authorized to be appropriated such sums as may be necessary for carrying out the provisions of this chapter.

(June 20, 1936, ch. 638, § 10, formerly § 7, 49 Stat. 1560; renumbered § 8, Aug. 3, 1954, ch. 655, § 4(g), 68 Stat. 664; renumbered § 10, Dec. 7, 1974, Pub. L. 93–516, title II, § 206, 88 Stat. 1626; Nov. 21, 1974, Pub. L. 93–651, title II, § 206, 89 Stat. 2–11.)

CODIFICATION

The content of Pub. L. 93–516, including provisions of section 206 thereof which renumbered this section, were originally contained in H.R. 14225, 93rd Congress, Second Session, which was pocket-vetoed during the 31-day intrasession adjournment of the 93rd Congress for the Congressional elections in November, 1974.

Pursuant to an order of the United States District Court for the District of Columbia (*Kennedy v. Jones*, D.C.D.C. 1976, 412 F.Supp. 353) H.R. 14225 was deemed to have become law without the approval of the President on Nov. 21, 1974, and was given the designation Pub. L. 93–651. Therefore, for purposes of codification, this section should be deemed to have been renumbered by Pub. L. 93–651, title II, § 206, Nov. 21, 1974, 89 Stat. 2–11, in exactly the same manner as it was amended by Pub. L. 93–516, title II, § 206, Nov. 21, 1974, 88 Stat. 1626.

CHAPTER 7—INSTRUCTION AS TO NATURE AND EFFECT OF ALCOHOLIC DRINKS AND NARCOTICS

Sec.

111. Study in certain schools of effect of alcoholic drinks and narcotics.
112. Enforcement of section 111.
113. Teachers' certificates dependent on passing examination on effect of alcoholic drinks and narcotics.

§ 111. Study in certain schools of effect of alcoholic drinks and narcotics

The nature of alcoholic drinks and narcotics, and special instruction as to their effects upon the human system, in connection with the several divisions of the subject of physiology and hygiene, shall be included in the branches of study taught in the common or public schools, and in the military and naval schools, and shall be studied and taught as thoroughly and in the same manner as other like required branches are in said schools, by the use of textbooks in the hands of pupils where other branches are thus studied in said schools, and by all pupils in all said schools throughout the Territories, in the Military and Naval Academies of the United States, and in the District of Columbia, and in all Indian and colored schools in the Territories of the United States.

(May 20, 1886, ch. 362, § 1, 24 Stat. 69.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 112 of this title.

§ 112. Enforcement of section 111

It shall be the duty of the proper officers in control of any school described in section 111 of this title to enforce the provisions of this chapter; and any such officer, school director, committee, superintendent, or teacher who shall refuse or neglect to comply with the requirements of this chapter, or shall neglect or fail to make proper provisions for the instruction required and in the manner specified by section 111 of this title, for all pupils in each and every school under his jurisdiction, shall be removed from office, and the vacancy filled as in other cases.

(May 20, 1886, ch. 362, § 2, 24 Stat. 69.)

§ 113. Teachers' certificates dependent on passing examination on effect of alcoholic drinks and narcotics

No certificate shall be granted to any person to teach in the public schools of the District of

Columbia or Territories who has not passed a satisfactory examination in physiology and hygiene, with special reference to the nature and the effects of alcoholic drinks and other narcotics upon the human system.

(May 20, 1886, ch. 362, § 3, 24 Stat. 69.)

CHAPTER 8—HOWARD UNIVERSITY

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SUBCHAPTER I—GENERAL PROVISIONS

§ 121. Annual report of president and directors

The president and directors of Howard University shall report to the Secretary of Education the condition of the institution on the 1st of July of each year, embracing therein the number of pupils received and discharged or leaving the same for any cause during the preceding year, and the number remaining; also, the branches of knowledge and industry taught and the progress made therein together with a statement showing the receipts of the institution and from what sources, and its disbursements, and for what objects.

(July 1, 1898, ch. 546, § 1, 30 Stat. 624; 1940 Reorg. Plan No. IV, § 11(c), eff. June 30, 1940, 5 F.R. 2422, 54 Stat. 1237; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Oct. 17, 1979, Pub. L. 96–88, title III, § 301(a)(2)(M), title V, § 507, 93 Stat. 678, 692.)

TRANSFER OF FUNCTIONS

''Secretary of Education'' substituted in text for ''Secretary of Health, Education, and Welfare'' pursuant to sections 301(a)(2)(M) and 507 of Pub. L. 96–88, which are classified to sections 3441(a)(2)(M) and 3507 of this title and which transferred all functions of Secretary of Health, Education, and Welfare under this subchapter to Secretary of Education.

Functions of Federal Security Administrator transferred to Secretary of Health, Education, and Welfare and all agencies of Federal Security Agency transferred to Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1 of 1953, set out in the Appendix to Title 5, Government Organization and Employees. Federal Security Agency and office of Administrator abolished by section 8 of Reorg. Plan No. 1 of 1953.

Functions of Department of the Interior relating to administration of Howard University transferred to Federal Security Agency to be administered under direction and supervision of Federal Security Administrator, and annual report required to be furnished to Secretary of the Interior by President and directors of said University was directed to be furnished to Federal Security Administrator, by Reorg. Plan No. IV of 1940, set out in the Appendix to Title 5.

SIMILAR PROVISIONS

A similar requirement of a report of the expenditures of the University accompanied the appropriation for the same purposes in the following prior acts:
Mar. 3, 1893, ch. 208, 27 Stat. 595.
Aug. 5, 1892, ch. 380, 27 Stat. 372.
Mar. 3, 1891, ch. 542, 26 Stat. 973.

§ 122. Limitation on use of appropriations

No part of the appropriations made by Congress for the Howard University shall be used, directly or indirectly, for the support of the theological department of said university, nor for the support of any sectarian, denominational, or religious instruction therein; and no part thereof shall be paid to said university until it shall accord to the Secretary of Education, or to his designated agent or agents, authority to visit and inspect such university and to control and supervise the expenditure therein of all moneys paid under said appropriations.

(Mar. 3, 1899, ch. 424, 30 Stat. 1101; 1940 Reorg. Plan No. IV, § 11(c), eff. June 30, 1940, 5 F.R. 2422, 54 Stat. 1237; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Oct. 17, 1979, Pub. L. 96–88, title III, § 301(a)(2)(M), title V, § 507, 93 Stat. 678, 692.)

TRANSFER OF FUNCTIONS

''Secretary of Education'' substituted in text for ''Secretary of Health, Education, and Welfare'' pursuant to sections 301(a)(2)(M) and 507 of Pub. L. 96–88, which are classified to sections 3441(a)(2)(M) and 3507 of this title and which transferred all functions of Secretary of Health, Education, and Welfare under this subchapter to Secretary of Education.

Functions of Federal Security Administrator transferred to Secretary of Health, Education, and Welfare and all agencies of Federal Security Agency transferred to Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1 of 1953, set out in the Appendix to Title 5, Government Organization and Employees. Federal Security Agency and office of Admin-

istrator abolished by section 8 of Reorg. Plan No. 1 of 1953.

Functions of Department of the Interior relating to administration of Howard University transferred to Federal Security Agency to be administered under direction and supervision of Federal Security Administrator by Reorg. Plan No. IV of 1940, set out as a note in the Appendix to Title 5.

PRIOR PROVISIONS

Similar prior provisions were contained in act July 1, 1898, ch. 546, 30 Stat. 624.

§ 123. Annual appropriations; inspection by Secretary of Education

Annual appropriations are authorized to aid in the construction, development, improvement, endowment, and maintenance of the university, no part of which shall be used for religious instruction. The university shall at all times be open to inspection by the Secretary of Education and shall be inspected by the said Secretary at least once each year.

(Mar. 2, 1867, ch. 162, § 8, 14 Stat. 439; Dec. 13, 1928, ch. 26, 45 Stat. 1021; 1940 Reorg. Plan No. IV, § 11(c), eff. June 30, 1940, 5 F.R. 2422, 54 Stat. 1237; Aug. 7, 1946, ch. 770, § 1(60), 60 Stat. 871; Oct. 17, 1979, Pub. L. 96–88, title III, § 301(a)(2)(M), title V, § 507, 93 Stat. 678, 692; Oct. 17, 1984, Pub. L. 98–480, title II, § 208, 98 Stat. 2247.)

AMENDMENTS

1984—Pub. L. 98–480 inserted ''endowment,'' after ''improvement,''.

1946—Act Aug. 7, 1946, repealed third sentence which required that an annual report of the affairs of the university be presented to Congress in the report of Office of Education.

1928—Act Dec. 13, 1928, authorized annual appropriations for the university, prohibited use of funds for religious instruction, made the university subject to inspection at least once a year by the Bureau of Education, and substituted provision that the annual report of the university's affairs be presented to Congress by the Bureau for provision that the Board of Trustees publish such an annual report.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–480 effective Oct. 1, 1984, see section 209 of Pub. L. 98–480, set out as an Effective Date note under section 130aa of this title.

TRANSFER OF FUNCTIONS

''Secretary of Education'' substituted in text for ''Secretary of Health, Education, and Welfare'' pursuant to sections 301(a)(2)(M) and 507 of Pub. L. 96–88 which are classified to sections 3441(a)(2)(M) and 3507 of this title and which transferred all functions of Secretary of Health, Education, and Welfare under this subchapter to Secretary of Education.

Functions of Federal Security Administrator transferred to Secretary of Health, Education, and Welfare and all agencies of Federal Security Agency transferred to Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1 of 1953, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631, set out in the Appendix to Title 5, Government Organization and Employees. Federal Security Agency and office of Administrator abolished by section 8 of Reorg. Plan No. 1 of 1953.

Office of Education transferred to Federal Security Agency by Reorg. Plan No. I of 1939, §§ 201, 204, eff. July 1, 1939, set out in the Appendix to Title 5.

Office of Education created and placed in Department of the Interior by the act of July 20, 1868, ch. 176, 15 Stat. 106, which abolished the Department of Education. In the appropriation act of July 12, 1870, ch. 251, 16 Stat. 242, the Office was designated the Bureau of Education. This designation was retained until the act of May 14, 1930, ch. 273, 46 Stat. 281, 319, which made appropriations for the ''Office of Education.''

REPORTS CONTINUED

Office of Education was directed to continue its inspections of Howard University in accordance with provisions of existing law, by Reorg. Plan No. IV of 1940, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1063, 1132c–3 of this title.

§ 124. Transfer of Freedmen's Hospital to Howard University

(a) Purpose; authorization; agreement

For the purpose of assisting in the provision of teaching hospital resources for Howard University, thereby assisting the university in the training of medical and allied personnel and in providing hospital services for the community, the Secretary of Health, Education, and Welfare shall, pursuant to agreement with the board of trustees of Howard University, transfer to Howard University, without reimbursement, all right, title, and interest of the United States in certain lands in the District of Columbia, together with the buildings and improvements thereon and the personal property used in connection therewith (as determined by the Secretary), commonly known as Freedmen's Hospital.

(b) Congressional intent

It is the intent of Congress (1) that the transfer of Freedmen's Hospital to Howard University be effected as soon as practicable, (2) to assure the well-being of patients at Freedmen's Hospital during the period of transition, and (3) that the transfer be effected with minimum dislocation of the present hospital staff and maximum consideration of their interests as employees.

(c) Report to Congress

The Secretary of Health, Education, and Welfare shall report to the Congress the terms of the agreement for such transfer.

(Pub. L. 87–262, § 1, Sept. 21, 1961, 75 Stat. 542.)

TRANSFER OF FUNCTIONS

Functions of Secretary of Health, Education, and Welfare under laws relating to relationship between Howard University and Department of Health, Education, and Welfare transferred to Secretary of Education by section 3441(a)(2)(M) of this title.

REPEAL OF LAWS APPLICABLE TO FREEDMEN'S HOSPITAL

Section 7 of Pub. L. 87–262 provided that: ''All laws heretofore applicable specifically to Freedmen's Hospital are, to the extent of such applicability, repealed, effective with the transfer of Freedmen's Hospital pursuant to section 1 [this section].''

TRANSFER OF FUNDS

Section 8 of Pub. L. 87–262 provided that: ''All unexpended balances of appropriations, allocations, and other funds, available or to be made available, of Freedmen's Hospital are, effective with the transfer of Freedmen's Hospital pursuant to section 1 [this section], transferred to Howard University for use in the

operation of the Howard University Hospital facilities, except to the extent (determined by the Director of the Bureau of the Budget [Director of the Office of Management and Budget]) required to meet obligations already incurred and not assumed by the university.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 125, 126, 127, 128 of this title.

§ 125. Employees of hospital

(a) Opportunity to transfer; guarantee of rights and benefits

The agreement for transfer of Freedmen's Hospital referred to in section 124 of this title shall include provisions to assure that—

(1) all individuals who are career or career-conditional employees of the hospital on the day preceding the effective date of the transfer of the hospital, except those in positions with respect to which they have been notified not less than six months prior to the effective date of such transfer that their positions are to be abolished, will be offered an opportunity to transfer to Howard University;

(2) Howard University—

(A) will not reduce the salary levels for such employees who transfer,

(B) will deposit currently (i) in the civil service retirement and disability fund referred to in section 8348 of title 5, the employee deductions and agency contributions required by subchapter III of chapter 83 of title 5, and (ii) in the fund referred to in section 8714 of title 5, the employee deductions and agency contributions required by chapter 87 of title 5.

(C) will provide other benefits for such employees as nearly equivalent as may be practicable to those generally applicable, on the effective date of the transfer of the hospital, to civilian employees of the United States, and

(D) in determining the seniority rights of its employees, Howard University will credit service with Freedmen's Hospital performed by such employees who transfer, on the same basis as it would credit such service had it been performed for such University;

(3) the transfer will become effective not later than the beginning of the second month which begins after construction of the new hospital facilities authorized by section 126 of this title is commenced.

(b) Placement of employees in comparable Federal positions

The Department of Health, Education, and Welfare shall make every reasonable effort to place in other comparable Federal positions all individuals who are career or career-conditional employees of Freedmen's Hospital on September 21, 1961 and who do not transfer to Howard University.

(c) Services performed in the employ of United States

Each individual who is an employee of Freedmen's Hospital on September 21, 1961 and who transfers to Howard University shall, so long as he is continuously in the employ of Howard University, be regarded as continuing in the employ of the United States for the purposes of subchapter III of chapter 83 of title 5, chapter 87 of title 5. For purposes of section 3121(b) of title 26 and section 410 of title 42, service performed by such individual during the period of his employment at Howard University shall be regarded as though performed in the employ of the United States.

(Pub. L. 87–262, § 2, Sept. 21, 1961, 75 Stat. 542; Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095.)

CODIFICATION

In subsec. (a)(2)(B), ''civil service retirement and disability fund referred to in section 8348 of title 5'' substituted for ''civil service retirement and disability fund required by the Act of May 22, 1920'' on authority of Pub. L. 89–554, § 7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees. Previously, act May 22, 1920, ch. 195, 41 Stat. 614, was superseded by act May 29, 1930, known as the Civil Service Retirement Act of 1930, which was generally amended by act July 31, 1956, ch. 804, § 401, 70 Stat. 743.

In subsecs. (a)(2)(B) and (c), ''subchapter III of chapter 83 of title 5'' substituted for ''the Civil Service Retirement Act'' on authority of Pub. L. 89–554, § 7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5.

In subsec. (a)(2)(B), ''fund referred to in section 8714 of title 5'' substituted for ''the fund created by section 5(c) of the Federal Employees' Group Life Insurance Act of 1954'' and, in subsecs. (a)(2)(B) and (c), ''chapter 87 of title 5'' substituted for ''the Federal Employees' Group Life Insurance Act of 1954'', on authority of Pub. L. 89–554, § 7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5.

AMENDMENTS

1986—Subsec. (c). Pub. L. 99–514 substituted ''Internal Revenue Code of 1986'' for ''Internal Revenue Code of 1954'', which for purposes of codification was translated as ''title 26'' thus requiring no change in text.

TRANSFER OF FUNCTIONS

Functions of Secretary of Health, Education, and Welfare under laws relating to relationship between Howard University and Department of Health, Education, and Welfare transferred to Secretary of Education by section 3441(a)(2)(M) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 128 of this title.

§ 126. Authorization of appropriations for construction of hospital facilities

For the purpose specified in section 124 of this title, there are authorized to be appropriated such sums as may be necessary for the construction of a building or buildings and facilities, including equipment, and for remodeling of existing buildings (including repair and replacement of equipment) which are to be combined with the building or buildings and facilities so constructed, to provide a hospital with a capacity of not to exceed five hundred beds.

(Pub. L. 87–262, § 3, Sept. 21, 1961, 75 Stat. 543.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 125, 127, 128, 129 of this title.

§ 127. Transfer of facilities by University or cessation of operation as teaching hospital facilities; recovery of value by United States

If, within twenty years after the completion of construction (as determined by the Secretary of Health, Education, and Welfare) of the new hospital facilities authorized by section 126 of this title, any of such facilities, or of the facilities transferred pursuant to section 124 of this title and combined with such new facilities, are transferred by Howard University to any other person or entity (except a transfer to the United States) or cease to be operated by the university as teaching hospital facilities, the United States shall be entitled to recover from the transferee or the university, in the case of a transfer, or from the university, if there is no transfer, an amount equal to the then value of such facilities (or so much thereof as is involved in the transfer, as the case may be), such value to be determined by agreement of the parties or by action brought in the United States District Court for the District of Columbia.

(Pub. L. 87–262, § 4, Sept. 21, 1961, 75 Stat. 543.)

TRANSFER OF FUNCTIONS

Functions of Secretary of Health, Education, and Welfare under laws relating to relationship between Howard University and Department of Health, Education, and Welfare transferred to Secretary of Education by section 3441(a)(2)(M) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 128 of this title.

§ 128. Authorization of appropriations for partial support of operation of facilities; separate account

In order to facilitate operation of teaching hospital facilities at Howard University, there are authorized to be appropriated annually to the university such sums as the Congress may determine, for the partial support of the operation of such facilities giving consideration to the cost imposed by the provisions of section 125 of this title and the portion of the agreement under sections 124 to 129 of this title relating to such provisions. The cost of operating such facilities, the appropriations pursuant to this section, and any other income derived from such operation or available for such purpose shall be identified and accounted for separately in the accounts of the university.

(Pub. L. 87–262, § 5, Sept. 21, 1961, 75 Stat. 543.)

§ 129. Financial policy; report to Congress

It is declared to be the policy of the Congress that, to the extent consistent with good medical teaching practice, the Howard University Hospital facilities shall become progressively more self-supporting. In order to further this policy, the President shall submit to the Congress a report, based on a study of the financing of the operation of the hospital, containing his recommendations on the rate at which, consistent with the above policy, Federal financial participation in such cost of operation shall be reduced. Such report shall be submitted not later than the end of the second calendar year following the year in which the construction of the new hospital facilities, authorized by section 126 of this title, is completed.

(Pub. L. 87–262, § 6, Sept. 21, 1961, 75 Stat. 544.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 128 of this title.

§ 130. Purchases through the General Services Administration

On and after September 8, 1978, Howard University is authorized to make purchases through the General Services Administration.

(Pub. L. 95–355, title I, § 100, Sept. 8, 1978, 92 Stat. 531.)

CODIFICATION

Section is from the Second Supplemental Appropriations Act, 1978, and contained additional provisions relating to purchases by the American Printing House for the Blind, Gallaudet University, and the National Technical Institute for the Deaf, which are set out in sections 106 and 4362 of this title.

§ 130a. Financial and program audit by Secretary

Funds appropriated in this Act or subsequent Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Acts to Howard University shall be subject to financial and program audit by the Secretary of Education and the Secretary may withhold all or any portion of these appropriations if he determines that an institution has not cooperated fully in the conduct of such audits.

(Pub. L. 102–394, title III, § 301, Oct. 6, 1992, 106 Stat. 1819.)

CODIFICATION

Section is from the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1993, and contained additional provisions relating to the American Printing House for the Blind, Gallaudet University, and the National Technical Institute for the Deaf, which are set out as sections 106a and 4363 of this title, respectively.

SUBCHAPTER II—ENDOWMENT

§ 130aa. Definitions

For purposes of this subchapter—

(1) the term ''endowment fund'' means a fund, or a tax exempt foundation, established and maintained by Howard University for the purpose of generating income for its support, but which shall not include real estate;

(2) the term ''endowment fund corpus'' means an amount equal to the grants awarded under this subchapter plus an amount equal to such grants provided by Howard University;

(3) the term ''endowment fund income'' means an amount equal to the total value of the endowment fund established under this subchapter minus the endowment fund corpus;

(4) the term ''Secretary'' means the Secretary of Education; and

(5) the term ''University'' means the Howard University established by the Act of March 2, 1867.

(Pub. L. 98–480, title II, § 202, Oct. 17, 1984, 98 Stat. 2245.)

REFERENCES IN TEXT

Act of March 2, 1867, referred to in par. (5), is act Mar. 2, 1867, ch. 162, 14 Stat. 438, as amended. Section 8 of this Act is classified to section 123 of this title. For complete classification of this Act to the Code, see Tables.

EFFECTIVE DATE

Section 209 of title II of Pub. L. 98–480 provided that: ''This title [see Short Title note below] shall take effect on October 1, 1984.''

SHORT TITLE

Section 201 of title II of Pub. L. 98–480 provided that: ''This title [enacting this subchapter, amending section 123 of this title, and enacting provisions set out as a note above] may be cited as the 'Howard University Endowment Act'.''

§ 130aa–1. Program authorized

(a) The Secretary is authorized to establish an endowment program, in accordance with the provisions of this subchapter, for the purpose of establishing or increasing endowment funds, providing additional incentives to promote fundraising activities, and encouraging independence and self-sufficiency at the University.

(b)(1) From the funds appropriated pursuant to this subchapter for endowments in any fiscal year for the University, the Secretary is authorized to make grants to Howard University. The Secretary may enter into agreements with the University and include in any agreement made pursuant to this subchapter such provisions deemed necessary by the Secretary to assure that the purposes of this subchapter will be achieved.

(2) The University may receive a grant under this section only if it has deposited in the endowment fund established under this subchapter an amount equal to such grant and has adequately assured the Secretary that it will administer the endowment fund in accordance with the requirements of this subchapter. The source of funds for this institutional match shall not include Federal funds or funds derived from an existing endowment fund.

(3) The period of any grant under this section shall not exceed twenty years, and during such period the University shall not withdraw or expend any of its endowment fund corpus. Upon the expiration of any grant period, the University may use the endowment fund corpus plus any endowment fund income for any educational purpose.

(Pub. L. 98–480, title II, § 203, Oct. 17, 1984, 98 Stat. 2245.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 130aa–5 of this title.

§ 130aa–2. Investments

(a) The University shall invest its endowment fund corpus and endowment fund income in those low-risk instruments and securities in which a regulated insurance company may invest under the law of the District of Columbia, such as federally insured bank savings account or comparable interest bearing account, certificate of deposit, money market fund, mutual fund, or obligations of the United States.

(b) The University, in investing its endowment fund corpus and income, shall exercise the judgment and care, under circumstances then prevailing, which a person of prudence, discretion, and intelligence would exercise in the management of his own business affairs.

(Pub. L. 98–480, title II, § 204, Oct. 17, 1984, 98 Stat. 2246.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 130aa–4 of this title.

§ 130aa–3. Withdrawals and expenditures

(a) Defrayment of expenses; restrictions on use of income or corpus; limits on withdrawals or expenditures

The University may withdraw and expend its endowment fund income to defray any expenses necessary to its operation, including expenses of operations and maintenance, administration, academic and support personnel, construction and renovation, community and student services programs, technical assistance, and research. No endowment fund income or corpus may be used for any type of support of the executive officers of the University or for any commercial enterprise or endeavor entered into after January 1, 1981. Except as provided in subsection (b) of this section, the University shall not, in the aggregate, withdraw or expend more than 50 per centum of the total aggregate endowment fund income earned prior to the time of withdrawal or expenditure.

(b) Authority of Secretary; withdrawal or expenditure beyond limits; circumstances demonstrating necessity

The Secretary is authorized to permit the University to withdraw or expend more than 50 per centum of its total aggregate endowment income whenever the University demonstrates such withdrawal or expenditure is necessary because of—

(A) a financial emergency, such as a pending insolvency or temporary liquidity problem;

(B) a life-threatening situation occasioned by a natural disaster or arson; or

(C) another unusual occurrence or exigent circumstance.

(c) Repayment of Federal share of amounts improperly expended or withdrawn; endowment fund corpus; income

(1) If the University withdraws or expends more than the endowment fund income authorized by this section, the University shall repay the Secretary an amount equal to 50 per centum of the amount improperly expended (representing the Federal share thereof).

(2) The University shall not withdraw or expend any endowment fund corpus. If the University withdraws or expends any endowment fund corpus, the University shall repay the Secretary an amount equal to 50 per centum of the amount withdrawn or expended (representing the Federal share thereof) plus any income earned thereon.

(Pub. L. 98–480, title II, § 205, Oct. 17, 1984, 98 Stat. 2246.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 130aa–4 of this title.

§ 130aa–4. Enforcement

(a) After notice and an opportunity for a hearing, the Secretary is authorized to terminate and recover any grant awarded under this subchapter if the University—

(1) withdraws or expends any endowment fund corpus, or any endowment fund income in excess of the amount authorized by section 130aa–3 of this title;

(2) fails to invest its endowment fund corpus or income in accordance with the investment standards set forth in section 130aa–2 of this title; or

(3) fails to account properly to the Secretary concerning investments and expenditures of its endowment fund corpus or income.

(b) If the Secretary terminates a grant under subsection (a) of this section, the University shall return to the Treasury of the United States an amount equal to the sum of the original grant or grants under this subchapter[1] plus any income earned thereon. The Secretary may direct the University to take such other appropriate measures to remedy any violation of this subchapter and to protect the financial interest of the United States.

(Pub. L. 98–480, title II, § 206, Oct. 17, 1984, 98 Stat. 2247.)

CODIFICATION

This subchapter, the first time it appears in subsec. (b), was in the original ''this Act'' which was translated as reading ''this title'', meaning title II of Pub. L. 98–480, Oct. 17, 1984, 98 Stat. 2236, as the probable intent of Congress.

§ 130aa–5. Authorization of appropriations

There is authorized to be appropriated $2,000,000 for the purposes authorized under section 130aa–1 of this title. Funds appropriated under this section shall remain available until expended.

(Pub. L. 98–480, title II, § 207, Oct. 17, 1984, 98 Stat. 2247.)

CHAPTER 9—NATIONAL TRAINING SCHOOL FOR BOYS

§§ 131 to 152. Omitted

CODIFICATION

Sections provided for the National Training School for Boys which was governed and managed by a Board of Trustees until July 1, 1939, at which time 1939 Reorg. Plan No. 2 (4 F.R. 2731, 53 Stat. 1431) abolished the Board of Trustees and transferred the School and its functions (including the functions of the Board of Trustees) to the Department of Justice, to be administered by the Director of the Bureau of Prisons, under the direction and supervision of the Attorney General. The School was so operated until May 15, 1968, when it was closed pursuant to order of the Attorney General.

For provisions relating to proceedings regarding delinquency, neglect, or need of supervision of children in District of Columbia, see section 16–2301 et seq. of the District of Columbia Code.

Also, see section 5025 of Title 18, Crimes and Criminal Procedure, authorizing District of Columbia to provide facilities and personnel for treatment and rehabilitation of youth offenders or to contract with Bureau of Prisons for their treatment and rehabilitation.

Section 131, act May 27, 1908, ch. 200, § 1, 35 Stat. 380, provided that District reform school for boys should be known as National Training School for Boys.

Section 132, acts May 3, 1876, ch. 90, § 1, 19 Stat. 49; May 27, 1908, ch. 200, § 1, 35 Stat. 380, dealt with appointment of a board of trustees to govern and manage the school.

Section 133, act June 4, 1880, ch. 121, § 1, 21 Stat. 156, provided that one of the District commissioners should be a trustee of the school.

Section 134, act May 3, 1876, ch. 90, § 16, 19 Stat. 52, provided for appointment of two consulting trustees of the school.

Section 135, acts May 3, 1876, ch. 90, § 2, 19 Stat. 49; May 27, 1908, ch. 200, § 1, 35 Stat. 380, dealt with corporate capacity and powers of the board of trustees.

Section 136, acts May 3, 1876, ch. 90, § 15, 19 Stat. 52; June 5, 1900, ch. 715, 31 Stat. 267, authorized board of trustees to make by-laws, rules, and regulations.

Section 137, act May 3, 1876, ch. 90, § 14, 19 Stat. 51, dealt with contracts and purchases, the executive officer, and annual reports.

Section 138, act May 3, 1876, ch. 90, § 3, 19 Stat. 49, dealt with appointment and compensation of a superintendent and other employees of the school.

Section 139, acts May 3, 1876, ch. 90, § 4, 19 Stat. 49; June 10, 1921, ch. 18, § 304, 42 Stat. 24, dealt with appointment, bonding, and duties of a treasurer of the school.

Section 140, act May 3, 1876, ch. 90, § 5, 19 Stat. 50, dealt with bonding of the superintendent.

Section 141, act May 3, 1876, ch. 90, § 6, 19 Stat. 50, dealt with powers and duties of the superintendent and subordinate employees.

Section 142, act May 3, 1876, ch. 90, § 7, 19 Stat. 50, provided that superintendent be in charge of lands and other property of the school, books of accounts, register of boys, and examination of school and accounts.

Section 143, act Mar. 3, 1881, ch. 134, § 1, 21 Stat. 459, dealt with a report of school officers to District commissioners.

Section 144, acts Aug. 6, 1890, ch. 724, § 1, 26 Stat. 307; Mar. 3, 1905, ch. 1483, 33 Stat. 1211, dealt with disposition of proceeds of the school farm and shops.

Section 145, acts May 3, 1876, ch. 90, § 8, 19 Stat. 50; June 5, 1900, ch. 715, 31 Stat. 266, dealt with commitment of boys under age 17 to the school.

Section 146, acts May 3, 1876, ch. 90, § 9, 19 Stat. 51; June 5, 1900, ch. 715, 31 Stat. 267, related to period of detention.

Section 147, act May 3, 1876, ch. 90, § 10, 19 Stat. 51, limited number of boys at the school to number that can be properly accommodated.

Section 148, act May 3, 1876, ch. 90, § 11, 19 Stat. 51, dealt with penalties for enticing boy from school or harboring escaped boy, and for arrest and return of escapees.

Section 149, act May 3, 1876, ch. 90, § 12, 19 Stat. 51, dealt with employment and instruction of boys, apprenticing, and indentures of apprenticeship.

Section 150, act Feb. 26, 1909, ch. 217, § 1, 35 Stat. 657, dealt with release on parole of juvenile offenders committed to the school.

Section 151, act Feb. 26, 1909, ch. 217, § 2, 35 Stat. 657, authorized board of trustees to parole boys, subject to approval of Attorney General in certain cases.

Section 152, acts May 3, 1876, ch. 90, § 13, 19 Stat. 51; Aug. 1, 1914, ch. 223, § 1, 38 Stat. 657; Mar. 28, 1918, ch. 28, § 1, 40 Stat. 494, dealt with District support of boys committed, accounts, payment, and rates.

[1] See Codification note below.

CHAPTER 10—NATIONAL TRAINING SCHOOL FOR GIRLS

§§ 161 to 174. Omitted

CODIFICATION

Sections provided for the National Training School for Girls. Act Aug. 3, 1951, ch. 291, §1, 65 Stat. 154, provided that no new commitments to the National Training School for Girls should be made after Aug. 3, 1951. Act July 31, 1953, ch. 299, §1, 67 Stat. 286, redesignated the National Training School for Girls as the Industrial Home School for Colored Girls and authorized construction of a new Industrial Home School for Colored Children near Laurel, Maryland. Act July 1, 1954, ch. 449, §1, 68 Stat. 385, provided that the Industrial Home School for Colored Girls shall be combined with and become a part of the Industrial Home School for Colored Children. Act Sept. 4, 1957, Pub. L. 85–285, §1, 71 Stat. 610, provided in part for the disposition of the land of the United States reserved for a site for the National Training School for Girls by the Act of July 14, 1892 (27 Stat. 165), as amended.

For provisions relating to proceedings regarding delinquency, neglect, or need of supervision of children in District of Columbia, see section 16–2301 et seq. of the District of Columbia Code.

Also, see section 5025 of Title 18, Crimes and Criminal Procedure, authorizing District of Columbia to provide facilities and personnel for treatment and rehabilitation of youth offenders or to contract with Bureau of Prisons for their treatment and rehabilitation.

Section 161, act June 26, 1912, ch. 182, §1, 37 Stat. 171, provided that District reform school for girls should be known as National Training School for Girls.

Section 162, acts July 9, 1888, §§1, 7, 25 Stat. 245, 246; June 26, 1912, ch. 182, §1, 37 Stat. 171; Mar. 16, 1926, ch. 58, §1, 44 Stat. 208, dealt with incorporation.

Section 163, acts July 9, 1888, ch. 595, §2, 25 Stat. 245; June 26, 1912, ch. 182, §1, 37 Stat. 171; Mar. 16, 1926, ch. 58, §1, 44 Stat. 208, provided authority to establish and maintain a training school for girls within District of Columbia.

Section 164, acts July 9, 1888, ch. 595, §3, 25 Stat. 246; May 27, 1908, ch. 200, §1, 35 Stat. 380; Mar. 16, 1926, ch. 58, §1, 44 Stat. 208, provided same power and authority as board of trustees of National Training School for Boys had in relation to boys.

Section 165, acts May 3, 1876, ch. 90, §15, 19 Stat. 52; July 9, 1888, ch. 595, §5, 25 Stat. 246; Feb. 25, 1901, ch. 478, 31 Stat. 810; Mar. 16, 1926, ch. 58, §1, 44 Stat. 208, authorized making of by-laws, rules, and regulations.

Section 166, acts July 9, 1888, ch. 595, §4, 25 Stat. 246; Mar. 16, 1926, ch. 58, §1, 44 Stat. 208, dealt with appointment and compensation of officers and employees.

Section 167, acts Feb. 28, 1923, ch. 148, §1, 42 Stat. 1358; Mar. 16, 1926, ch. 58, §1, 44 Stat. 208, dealt with control over inmates.

Section 168, acts July 9, 1888, ch. 595, §6, 25 Stat. 246; June 26, 1912, ch. 182, §1, 37 Stat. 171, dealt with applicability of laws relating to National Training School for Boys to school for girls.

Section 169, acts May 3, 1876, ch. 90, §8, 19 Stat. 50; July 9, 1888, ch. 595, §6, 25 Stat. 245; Feb. 25, 1901, ch. 478, 31 Stat. 809; Mar. 19, 1906, ch. 960, §8, 34 Stat. 73; Mar. 16, 1926, ch. 58, §1, 44 Stat. 208; Aug. 3, 1951, ch. 291, §3, 65 Stat. 154, related to commitment of girls under 17 years of age.

Section 170, acts May 3, 1876, ch. 90, §9, 19 Stat. 51; July 9, 1888, ch. 595, §6, 25 Stat. 245; Feb. 25, 1901, ch. 478, 31 Stat. 810; June 26, 1912, ch. 182, §1, 37 Stat. 171, related to period of detention.

Section 171, act Apr. 15, 1910, ch. 164, §1, 36 Stat. 300, dealt with release on parole of juvenile offenders committed to the school.

Section 172, acts Apr. 15, 1910, ch. 164, §2, 36 Stat. 300; Mar. 16, 1926, ch. 58, §1, 44 Stat. 208, authorized parole of girls, subject to approval of the Attorney General in certain cases.

Section 173, act June 5, 1920, ch. 234, §1, 41 Stat. 865, dealt with disbursement of appropriations for the school.

Section 174, act July 9, 1888, ch. 595, §8, 25 Stat. 246, reserved to Congress the right to alter, amend, or repeal this chapter.

CHAPTER 11—NATIONAL ARBORETUM

Sec.
191. Establishment; site; acquisition of land.
192. Omitted.
193. Administration of arboretum.
194. Advisory council.
195. Gifts, bequests, or devises for benefit of National Arboretum; separate fund in the Treasury.
196. Concessions, fees, and voluntary services.
(a) In general.
(b) Use of funds.
(c) Acceptance of voluntary services.

§ 191. Establishment; site; acquisition of land

The Secretary of Agriculture is authorized and directed to establish and maintain a national arboretum for purposes of research and education concerning tree and plant life. For the purposes of this chapter, (1) the President is authorized to transfer to the jurisdiction of the Secretary of Agriculture by Executive order any land which now belongs to the United States within or adjacent to the District of Columbia located along the Anacostia River north of Benning Bridge, and (2) the Secretary of Agriculture is authorized in his discretion to acquire, within the limits of the appropriation authorized by this chapter by private purchase, condemnation proceedings, or gift, land so located or other land within or adjacent to the District of Columbia: *Provided*, That the purchase price of any part of said land shall not exceed the full value assessment of such property last made before purchase thereof plus 25 per centum of such assessed value.

(Mar. 4, 1927, ch. 505, §1, 44 Stat. 1422.)

TRANSFER OF FUNCTIONS

Functions of all officers, agencies and employees of Department of Agriculture transferred, with certain exceptions, to Secretary of Agriculture by Reorg. Plan No. 2 of 1953, §1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out in the Appendix to Title 5, Government Organization and Employees.

DELEGATION OF FUNCTIONS

Authority of President under this section to transfer to jurisdiction of Secretary of Agriculture for purposes of this chapter any land belonging to United States within or adjacent to District of Columbia located along Anacostia River north of Benning Bridge delegated to Administrator of General Services, see section 1(18) of Ex. Ord. No. 11609, July 22, 1971, 36 F.R. 13747, set out as a note under section 301 of Title 3, The President.

FACILITIES TO HOUSE BONSAI COLLECTIONS

Pub. L. 103–111, title I, Oct. 21, 1993, 107 Stat. 1051, provided in part: ''That hereafter, facilities to house bonsai collections at the National Arboretum may be constructed with funds accepted under the provisions of Public Law 94–129 (20 U.S.C. 195) and the limitation on construction contained in the Act of August 24, 1912 (40 U.S.C. 68) shall not apply to the construction of such facilities''.

Similar provisions were contained in the following prior appropriations acts:

Pub. L. 102–341, title I, Aug. 14, 1992, 102 Stat. 878.
Pub. L. 102–142, title I, Oct. 28, 1991, 105 Stat. 883.
Pub. L. 101–506, title I, Nov. 5, 1990, 104 Stat. 1320.
Pub. L. 101–161, title I, Nov. 21, 1989, 103 Stat. 956.
Pub. L. 100–460, title I, Oct. 1, 1988, 102 Stat. 2234.
Pub. L. 100–202, § 101(k) [title I], Dec. 22, 1987, 101 Stat. 1329–322, 1329–327.
Pub. L. 99–500, § 101(a) [title I], Oct. 18, 1986, 100 Stat. 1783, 1783–5, and Pub. L. 99–591, § 101(a) [title I], Oct. 30, 1986, 100 Stat. 3341, 3341–5.

§ 192. Omitted

CODIFICATION

Section, act Mar. 4, 1927, ch. 505, § 2, 44 Stat. 1422, authorized appropriation of $300,000 to be expended for acquisition of land specified in section 191 of this title.

§ 193. Administration of arboretum

In order to stimulate research and discovery the national arboretum established by the Secretary of Agriculture in accordance with the provisions of this chapter shall be under competent scientific direction. The arboretum shall be administered by the Secretary of Agriculture separately from the agricultural, horticultural, and forestry stations of the Department of Agriculture, but it shall be so correlated with them as to bring about the most effective utilization of its facilities and discoveries.

(Mar. 4, 1927, ch. 505, § 3, 44 Stat. 1422.)

§ 194. Advisory council

The Secretary of Agriculture is authorized to create an advisory council in relation to the plan and development of the national arboretum to be established under this chapter, to include representatives of national organizations interested in the work of the arboretum.

(Mar. 4, 1927, ch. 505, § 4, 44 Stat. 1422.)

TERMINATION OF ADVISORY COUNCILS

Advisory councils in existence on Jan. 5, 1973, to terminate not later than the expiration of the 2-year period following Jan. 5, 1973, unless, in the case of a council established by the President or an officer of the Federal Government, such council is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a council established by the Congress, its duration is otherwise provided by law. See sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 195. Gifts, bequests, or devises for benefit of National Arboretum; separate fund in the Treasury

Notwithstanding any other provision of law, the Secretary of Agriculture is authorized to solicit, accept, receive, hold, utilize, and administer on behalf of the United States gifts, bequests, or devises of real and personal property made for the benefit of the National Arboretum or for the carrying out of any of its functions. For the purposes of the Federal income, estate, and gift tax laws, property accepted under the authority of this section shall be considered as a gift, bequest, or devise to the United States. Any gift of money accepted pursuant to the authority granted in this section, or the net proceeds from the liquidation of any property so accepted, or the proceeds of any insurance on any gift property not used for its restoration shall be deposited in the Treasury of the United States for credit to a separate fund and shall be disbursed upon order of the Secretary of Agriculture.

(Mar. 4, 1927, ch. 505, § 5, as added Nov. 13, 1975, Pub. L. 94–129, 89 Stat. 683; amended Apr. 4, 1996, Pub. L. 104–127, title VIII, § 890(a), 110 Stat. 1181.)

REFERENCES IN TEXT

The Federal income, estate, and gift tax laws, referred to in text, are classified generally to Title 26, Internal Revenue Code.

AMENDMENTS

1996—Pub. L. 104–127 inserted ''solicit,'' after ''authorized to'' in first sentence.

§ 196. Concessions, fees, and voluntary services

(a) In general

Notwithstanding the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.) and section 303b of title 40, the Secretary of Agriculture, in furtherance of the mission of the National Arboretum, may—

(1) negotiate agreements granting concessions at the National Arboretum to nonprofit scientific or educational organizations the interests of which are complementary to the mission of the National Arboretum, except that the net proceeds of the organizations from the concessions shall be used exclusively for research and educational work for the benefit of the National Arboretum;

(2) provide by concession, on such terms as the Secretary of Agriculture considers appropriate and necessary, for commercial services for food, drink, and nursery sales, if an agreement for a permanent concession under this paragraph is negotiated with a qualified person submitting a proposal after due consideration of all proposals received after the Secretary of Agriculture provides reasonable public notice of the intent of the Secretary to enter into such an agreement;

(3) dispose of excess property, including excess plants and fish, in a manner designed to maximize revenue from any sale of the property, including by way of public auction, except that this paragraph shall not apply to the free dissemination of new varieties of seeds and germ plasm in accordance with section 2201 of title 7;

(4) charge such fees as the Secretary of Agriculture considers reasonable for temporary use by individuals or groups of National Arboretum facilities and grounds for any purpose consistent with the mission of the National Arboretum;

(5) charge such fees as the Secretary of Agriculture considers reasonable for the use of the National Arboretum for commercial photography or cinematography;

(6) publish, in print and electronically and without regard to laws relating to printing by the Federal Government, informational brochures, books, and other publications concerning the National Arboretum or the collections of the Arboretum; and

(7) license use of the National Arboretum name and logo for public service or commercial uses.

(b) Use of funds

Any funds received or collected by the Secretary of Agriculture as a result of activities described in subsection (a) of this section shall be retained in a special fund in the Treasury for the use and benefit of the National Arboretum as the Secretary of Agriculture considers appropriate.

(c) Acceptance of voluntary services

The Secretary of Agriculture may accept the voluntary services of organizations described in subsection (a)(1) of this section, and the voluntary services of individuals (including employees of the National Arboretum), for the benefit of the National Arboretum.

(Mar. 4, 1927, ch. 505, § 6, as added Apr. 4, 1996, Pub. L. 104–127, title VIII, § 890(b), 110 Stat. 1181.)

REFERENCES IN TEXT

The Federal Property and Administrative Services Act of 1949, referred to in subsec. (a), is act June 30, 1949, ch. 288, 63 Stat. 377, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 471 of Title 40, Public Buildings, Property, and Works, and Tables.

CHAPTER 12—FOREIGN AND EXCHANGE STUDENTS

Sec.

221. Instructions of citizens from American republics; Government maintained professional educational institutions.
221a. Instructions of citizens from American republics; United States Military Academy; restrictions; saving provision.
222 to 224. Repealed.
225. Fund for education of Iranian students in United States.
226. Cooperative public and private sector program for providing scholarships to students from the Caribbean and Central America.
(a) Statement of purpose.
(b) Establishment of scholarship program.
(c) Grants to States.
(d) Agreement with States.
(e) Federal share.
(f) Non-Federal share.
(g) Forgiveness of scholarship assistance.
(h) Private sector participation.
(i) Funding.
(j) Definitions.

§ 221. Instructions of citizens from American republics; Government maintained professional educational institutions

The President is authorized, in his discretion and under such regulations as he may prescribe by Executive order, to permit citizens of the American republics to receive instruction, with or without charge therefor, at professional educational institutions and schools maintained and administered by the Government of the United States or by departments or agencies thereof: *Provided*, That such citizens shall agree to comply with all regulations for the government of the institutions and schools at which they may be under instruction and to exert every effort to accomplish successfully the courses of instruction prescribed: *And provided further*, That the regulations prescribed by the President under the authority of this section shall contain provisions limiting the admission of citizens of the American republics to primary schools maintained and administered by the Government of the United States so that there will under no circumstances be any curtailment of the admission of citizens of the United States eligible to receive instruction therein.

(June 24, 1938, ch. 644, 52 Stat. 1034; July 14, 1941, ch. 292, 55 Stat. 589; June 26, 1946, ch. 493, § 1, 60 Stat. 311.)

CODIFICATION

Section originally provided that ''not more than one citizen of any American republic shall receive instruction at the same time in the United States Military Academy and not more than one in the United States Naval Academy.'' This phrase has been omitted in view of acts July 14, 1941, and June 26, 1946. See sections 4344, 6957, and 9344 of Title 10, Armed Forces.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 221a of this title.

§ 221a. Instructions of citizens from American republics; United States Military Academy; restrictions; saving provision

After June 26, 1946, no person shall have authority to permit citizens of the American Republics to receive instruction at the United States Military Academy under the provisions of section 221 of this title. Any person who is receiving instruction at the United States Military Academy on June 26, 1946, under authority of section 221 of this title, may, in the discretion of the President, be permitted to continue to receive such instruction and, if so permitted, shall thereafter be deemed to be receiving instruction under the provisions of sections 4344 and 9344 of title 10.

(June 26, 1946, ch. 493, § 2, 60 Stat. 312.)

CODIFICATION

Words ''sections 4344 and 9344 of title 10'' substituted in text for ''section 1 of this Act'', meaning section 1 of act June 27, 1946, ch. 493, 60 Stat. 311, on authority of act Aug. 10, 1956, § 49(b), ch. 1041, 70A Stat. 640, the first section of which enacted Title 10, Armed Forces.

§§ 222 to 224. Repealed. Pub. L. 87–256, § 111(a)(4), Sept. 21, 1961, 75 Stat. 538

Sections, act Aug. 24, 1949, ch. 505, §§ 1–3, 63 Stat. 630, authorized the creation of a special deposit account for sums due or paid by the Republic of Finland to the United States as interest on or in retirement of the principal of the debt incurred under the act of Feb. 25, 1919, as refunded by the agreement dated May 1, 1923, pursuant to authority contained in sections 805 to 809 of former Title 31, Money and Finance, or of any other indebtedness incurred by Finland and owing to the United States as a result of World War I, provided for the use of such fund for exchange of students, professors, etc., for the interchange of books and technical equipment, and for disbursements from the account. See section 2451 et seq. of Title 22, Foreign Relations and Intercourse, particularly section 2455.

CONTINUATION OF CERTAIN EXECUTIVE ORDERS, AGREEMENTS, DETERMINATIONS, REGULATIONS, CONTRACTS, APPOINTMENTS, AND OTHER ACTIONS

Continuation in full force and effect, and applicability to the appropriate provisions of the Mutual Educational and Cultural Exchange Act of 1961, set out in section 2451 et seq. of Title 22, Foreign Relations and

Intercourse, until modified or superseded by appropriate authority, of all Executive orders, agreements, determinations, regulations, contracts, appointments, and other actions issued, concluded, or taken under authority of these sections, see section 111(b) of Pub. L. 87–256, set out as a note under section 2451 of Title 22.

§ 225. Fund for education of Iranian students in United States

There is authorized to be appropriated, out of any funds in the Treasury of the United States not otherwise appropriated, the sum of $110,000, which sum shall be expended by the Secretary of State in his discretion for the education of Iranian students in the United States, in accordance with the obligation of the United States arising out of the agreement contained in an exchange of notes between this Government and the Iranian Government of July 25, July 29, November 9, and November 15, 1924, which agreement settled a claim asserted by the United States.

The said sum of $110,000 shall be deemed a trust fund received by the Secretary of State under the provisions of section 2668a of title 22, and shall be expended as therein provided. The said sum shall be deemed to constitute the fund of $110,000 received by the United States from the Iranian Government in four installments between December 24, 1924, and March 29, 1925, pursuant to the afore-mentioned notes, and deposited in the Treasury of the United States on June 24, 1925, which fund shall be deemed, insofar as the same may be necessary, to have been heretofore appropriated as a trust fund under section 2668a of title 22 and sections 1321 and 1322(a) of title 31. The Secretary of the Treasury shall make payments out of the said fund to or for the account of such persons, in such amounts, at such times, and on such terms, as the Secretary of State or his designee shall certify and the certificates of the Secretary of State or his designee issued hereunder shall be conclusive as to the propriety of payments so made. The expenditure of the said sum by the United States shall constitute full performance of the obligation of the United States to the Iranian Government or any other person arising out of the said notes and shall discharge the Secretary of State and the Secretary of the Treasury with respect to any accountability therefor.

(Sept. 29, 1950, ch. 1110, §§ 1, 2, 64 Stat. 1081.)

CODIFICATION

Words ''section 2668a of title 22'' substituted in text for ''the Act of February 27, 1896, (29 Stat. 32, title 31, U.S.C. sec. 547)'' and ''the said Act of February 27, 1896'' to reflect the transfer of section 547 of Title 31, Money and Finance, to section 2668a of Title 22, Foreign Relations and Intercourse.

Words ''sections 1321 and 1322(a) of title 31'' substituted in text for ''the Permanent Appropriation Repeal Act, 1934, as amended, section 20 (48 Stat. 1233, 31 U.S.C., sec. 725(s) [31 U.S.C. 725s]'' on authority of Pub. L. 97–258, § 4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31.

§ 226. Cooperative public and private sector program for providing scholarships to students from the Caribbean and Central America

(a) Statement of purpose

It is the purpose of this section to encourage the establishment of partnerships between State governments, universities, community colleges, and businesses to support scholarships for talented socially and economically disadvantaged students from eligible countries in the Caribbean and Central America to study in the United States in order to—

(1) improve the diversity and quality of educational opportunities for such students;

(2) assist the development efforts of eligible countries by providing training and educational assistance to persons who can help address the social and economic needs of these countries;

(3) expand opportunities for cross-cultural studies and exchanges and improve the exchange of understanding and principles of democracy;

(4) promote positive and productive relationships between the United States and its neighbor countries in the Caribbean and Central American regions;

(5) give added visibility and focus to the ''scholarship diplomacy'' efforts of the United States Government by leveraging the monies available for this purpose through the development of partnerships among Federal, State, and local governments and the business and academic communities; and

(6) promote community involvement with the scholarship program as a tool for broadening and strengthening the ''American experience'' for foreign students.

(b) Establishment of scholarship program

The Administrator of the Agency for International Development shall establish and administer a program of scholarship assistance, in cooperation with State governments, universities, community colleges, and businesses, to provide scholarships to enable socially and economically disadvantaged students from eligible countries in the Caribbean and Central America to study in the United States.

(c) Grants to States

In carrying out this section, the Administrator may make grants to States to provide scholarship assistance for undergraduate degree programs and for training programs of one year or longer in study areas related to the critical development needs of the students' respective countries.

(d) Agreement with States

The Administrator and each participating State shall agree on a program regarding the educational opportunities available within the State, the selection and assignment of scholarship recipients, and related issues. To the maximum extent practicable, each State shall be given flexibility in designing its program.

(e) Federal share

The Federal share for each year for which a State receives payments under this section shall be not less than 50 percent.

(f) Non-Federal share

The non-Federal share of payments under this section may be in cash, including the waiver of tuition or the offering of in-State tuition or housing waivers or subsidies, or in-kind fairly evaluated, including the provision of books or supplies.

(g) Forgiveness of scholarship assistance

The obligation of any recipient to reimburse any entity for any or all scholarship assistance provided under this section shall be forgiven upon the recipient's prompt return to his or her country of domicile for a period which is at least one year longer than the period spent studying in the United States with scholarship assistance.

(h) Private sector participation

To the maximum extent practicable, each participating State shall enlist the assistance of the private sector to enable the State to meet the non-Federal share of payments under this section. Wherever appropriate, each participating State shall encourage the private sector to offer internships or other opportunities consistent with the purposes of this section to students receiving scholarships under this section.

(i) Funding

Any funds used in carrying out this section shall be derived from funds allocated for Latin American and Caribbean regional programs under chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 and following; relating to the economic support fund).

(j) Definitions

As used in this section—

(1) The term ''eligible country'' means any country—

(A) which is receiving assistance under chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 and following; relating to development assistance) or chapter 4 of part II of that Act (22 U.S.C. 2346 and following; relating to the economic support fund); and

(B) which is designated by the President as a beneficiary country pursuant to the Caribbean Basin Economic Recovery Act [19 U.S.C. 2701 et seq.].

(2) The term ''State'' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.

(Pub. L. 101–382, title II, §231, Aug. 20, 1990, 104 Stat. 661.)

REFERENCES IN TEXT

The Foreign Assistance Act of 1961, referred to in subsecs. (i) and (j)(1)(A), is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended. Chapter 1 of part I and chapter 4 of part II of the Foreign Assistance Act of 1961 are classified generally to part I (§2151 et seq.) of subchapter I and part IV (§2346 et seq.) of subchapter II, respectively, of chapter 32 of Title 22, Foreign Relations and Intercourse. For provisions deeming references to part I of subchapter I to include a reference to section 2293 of Title 22, see section 2293(d)(1) of Title 22. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of Title 22 and Tables.

The Caribbean Basin Economic Recovery Act, referred to in subsec. (j)(1)(B), is title II of Pub. L. 98–67, Aug. 5, 1983, 97 Stat. 384, which is classified principally to chapter 15 (§2701 et seq.) of Title 19, Customs Duties. For complete classification of this Act to the Code, see Short Title note set out under section 2701 of Title 19 and Tables.

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

CHAPTER 13—FINANCIAL ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES

SUBCHAPTER I—ASSISTANCE FOR LOCAL EDUCATIONAL AGENCIES IN AREAS AFFECTED BY FEDERAL ACTIVITY

Sec.
231 to 241–1. Omitted or Repealed.

SUBCHAPTER II—ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES FOR THE EDUCATION OF CHILDREN OF LOW-INCOME FAMILIES

241a to 241b–1. Repealed or Transferred.

PART A—BASIC GRANTS

SUBPART 1—GRANTS TO LOCAL EDUCATIONAL AGENCIES

241c. Repealed.

SUBPART 2—STATE OPERATED PROGRAMS

241c–1 to 241c–5. Repealed.

PART B—SPECIAL INCENTIVE GRANTS

241d to 241d–2. Repealed.

PART C—SPECIAL GRANTS

241d–11, 241d–12. Repealed.

PART D—GENERAL PROVISIONS

241e to 241*o*. Repealed.

SUBCHAPTER III—FINANCIAL ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES FOR EDUCATION OF INDIAN CHILDREN

241aa to 241ff. Repealed.

SUBCHAPTER IV—GENERAL

242 to 246. Repealed, Transferred, or Omitted.

SUBCHAPTER I—ASSISTANCE FOR LOCAL EDUCATIONAL AGENCIES IN AREAS AFFECTED BY FEDERAL ACTIVITY

§§ 231 to 235. Omitted

CODIFICATION

Sections, act Sept. 10, 1949, ch. 582, 63 Stat. 697, related to Federal aid to local school agencies to provide educational opportunities to children in federally affected areas, received appropriations of $7,500,000 only for the fiscal year 1950.

§§ 236 to 239. Repealed. Pub. L. 103–382, title III, § 331(b), Oct. 20, 1994, 108 Stat. 3965

Section 236, acts Sept. 30, 1950, ch. 1124, title I, §1, formerly §1, 64 Stat. 1100, renumbered title I, §1, and amended Apr. 11, 1965, Pub. L. 89–10, title I, §2, 79 Stat. 27; Apr. 28, 1988, Pub. L. 100–297, title II, §2012(b), 102 Stat. 294, related to Congressional declaration of policy and authorization of appropriations. See section 7701 of this title.

Section 237, acts Sept. 30, 1950, ch. 1124, title I, § 2, formerly § 2, 64 Stat. 1101; Aug. 8, 1953, ch. 402, § 1, 67 Stat. 530; Aug. 12, 1955, ch. 868, § 1, 69 Stat. 713; Aug. 3, 1956, ch. 915, title II, § 201, 70 Stat. 970; Aug. 12, 1958, Pub. L. 85–620, title II, § 201, 72 Stat. 559; Oct. 3, 1961, Pub. L. 87–344, title I, § 102(a), 75 Stat. 759; Dec. 18, 1963, Pub. L. 88–210, title III, § 302, formerly § 32, 77 Stat. 419, renumbered Oct. 16, 1968, Pub. L. 90–576, title I, § 101(a)(1), 82 Stat. 1064; Oct. 16, 1964, Pub. L. 88–665, title XI, § 1102(a), 78 Stat. 1109; renumbered and amended Apr. 11, 1965, Pub. L. 89–10, title I, §§ 2, 5, 79 Stat. 27, 36; Jan. 2, 1968, Pub. L. 90–247, title II, § 204(a)–(c), title III, § 301(e), 81 Stat. 808, 813; Apr. 13, 1970, Pub. L. 91–230, title II, § 201(b), 84 Stat. 154; Aug. 21, 1974, Pub. L. 93–380, title III, § 303(a)(1), 88 Stat. 522; Apr. 21, 1976, Pub. L. 94–273, § 3(5), 90 Stat. 376; Nov. 1, 1978, Pub. L. 95–561, title X, § 1001(a), 92 Stat. 2306; Oct. 19, 1984, Pub. L. 98–511, title III, § 301(a)(1), 98 Stat. 2388; Apr. 28, 1988, Pub. L. 100–297, title II, §§ 2011(a)(1), 2012(a), 2013, 102 Stat. 294; May 11, 1989, Pub. L. 101–26, § 2(a), 103 Stat. 54; May 30, 1990, Pub. L. 101–305, § 7(a), 104 Stat. 259; Nov. 16, 1990, Pub. L. 101–589, title VII, § 722(a), 104 Stat. 2912, related to Federal contributions to local educational agencies. See section 7702 of this title.

Section 238, acts Sept. 30, 1950, ch. 1124, title I, § 3, formerly § 3, 64 Stat. 1102; Aug. 8, 1953, ch. 402, § 2, 67 Stat. 530; Aug. 12, 1955, ch. 868, § 1, 69 Stat. 713; Aug. 1, 1956, ch. 852, § 10, 70 Stat. 909; Aug. 3, 1956, ch. 915, title II, §§ 202–206, 70 Stat. 970, 971; Aug. 12, 1958, Pub. L. 85–620, title II, § 202, 72 Stat. 559; June 25, 1959, Pub. L. 86–70, § 18(d)(1)–(3), 73 Stat. 144, 145; July 12, 1960, Pub. L. 86–624, § 14(d)(1)–(3), 74 Stat. 414; Oct. 3, 1961, Pub. L. 87–344, title I, § 102(a), 75 Stat. 759; Dec. 18, 1963, Pub. L. 88–210, title III, § 302, formerly § 32, 77 Stat. 419, renumbered Oct. 16, 1968, Pub. L. 90–576, title I, § 101(a)(1), 82 Stat. 1064; Oct. 16, 1964, Pub. L. 88–665, title XI, § 1102(a), 78 Stat. 1109; renumbered and amended Apr. 11, 1965, Pub. L. 89–10, title I, §§ 2, 3(a), 4(d)(2), 5, 79 Stat. 27, 34–36; Nov. 1, 1965, Pub. L. 89–313, § 4(a), 79 Stat. 1161; Nov. 3, 1966, Pub. L. 89–750, title II, § 201, 80 Stat. 1210; Jan. 2, 1968, Pub. L. 90–247, title II, §§ 204(d), 205(a), 206, title III, § 301(e), 81 Stat. 808, 809, 813; Apr. 13, 1970, Pub. L. 91–230, title II, §§ 201(b), 202, 84 Stat. 154, 155; Aug. 21, 1974, Pub. L. 93–380, title III, §§ 304(a)(1), (b)(1), 305(a)(1), 88 Stat. 522, 523; Apr. 21, 1976, Pub. L. 94–273, § 3(5), 90 Stat. 376; Nov. 1, 1978, Pub. L. 95–561, title X, §§ 1001(b), 1002, 1003(a), (b), (d), 1004, 1031(a), title XI, § 1101(a), 92 Stat. 2306, 2307, 2312, 2313; Aug. 13, 1981, Pub. L. 97–35, title V, § 505(a)(2), 95 Stat. 442; Sept. 24, 1983, Pub. L. 98–94, title XII, § 1255(b), 97 Stat. 701; Oct. 19, 1984, Pub. L. 98–511, title III, §§ 301(a)(1)–(3), 303(a), 98 Stat. 2388; Nov. 8, 1984, Pub. L. 98–619, title III, § 300, 98 Stat. 3323; July 2, 1986, Pub. L. 99–349, title I, 100 Stat. 739, 740; Apr. 28, 1988, Pub. L. 100–297, title II, §§ 2011(a)(1), 2012(a), 2014, 2019, 102 Stat. 294, 300; May 11, 1989, Pub. L. 101–26, § 2(b), 103 Stat. 54; May 30, 1990, Pub. L. 101–305, § 3(a), (b), 104 Stat. 255, 256; Oct. 30, 1990, Pub. L. 101–476, title IX, § 901(a)(3), (f)(1), 104 Stat. 1142, 1151; Aug. 17, 1991, Pub. L. 102–103, title IV, § 401, 105 Stat. 508, related to payments to local school agencies. See section 7703 of this title.

Section 239, acts Sept. 30, 1950, ch. 1124, title I, § 4, formerly § 4, 64 Stat. 1104; Aug. 8, 1953, ch. 402, §§ 3–5, 67 Stat. 532–534; Aug. 12, 1955, ch. 868, §§ 1, 2, 69 Stat. 713; Aug. 3, 1956, ch. 915, title II, §§ 207, 208, 70 Stat. 972; Aug. 12, 1958, Pub. L. 85–620, title II, § 203, 72 Stat. 560; Oct. 3, 1961, Pub. L. 87–344, title I, § 102(a), 75 Stat. 759; Dec. 18, 1963, Pub. L. 88–210, title III, § 302, formerly § 32, 77 Stat. 419, renumbered Oct. 16, 1968, Pub. L. 90–576, title I, § 101(a)(1), 82 Stat. 1064; Oct. 16, 1964, Pub. L. 88–665, title XI, § 1102(a), 78 Stat. 1109; renumbered and amended Apr. 11, 1965, Pub. L. 89–10, title I, §§ 3(b), 5, 79 Stat. 34, 36; Jan. 2, 1968, Pub. L. 90–247, title III, § 301(e), 81 Stat. 813; Apr. 13, 1970, Pub. L. 91–230, title II, § 201(b), 84 Stat. 154; Aug. 21, 1974, Pub. L. 93–380, title III, § 303(a)(2), 88 Stat. 522; Apr. 21, 1976, Pub. L. 94–273, § 3(5), 90 Stat. 376; Nov. 1, 1978, Pub. L. 95–561, title X, § 1001(c), 92 Stat. 2306; Oct. 19, 1984, Pub. L. 98–511, title III, § 301(a)(1), 98 Stat. 2388; Apr. 28, 1988, Pub. L. 100–297, title II, §§ 2011(a)(1), 2012(a), 102 Stat. 294, related to sudden and substantial increases in attendance resulting from activities of the United States.

EFFECTIVE DATE OF REPEAL

Section 3(a)(3)(B) of Pub. L. 103–382 provided that: ''Part C [§ 331, repealing sections 236 to 239, 240 to 241–1, 242 to 244, and 631 to 647 of this title] of title III of this Act and the amendments made by such part shall take effect on October 1, 1994.''

§ 239a. Repealed. Pub. L. 97–35, title V, § 542(1), Aug. 13, 1981, 95 Stat. 458

Section, act Sept. 30, 1950, ch. 1124, title I, § 4A, as added Oct. 3, 1980, Pub. L. 96–374, title XIII, § 1341, 95 Stat. 1500, related to payments for special programs for alien children who fled from Cambodia, Vietnam, Laos, Cuba, or Haiti. See provisions set out as notes under section 1522 of Title 8, Aliens and Nationality.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1981, see section 547 of Pub. L. 97–35, set out as a note under section 1522 of Title 8, Aliens and Nationality.

§§ 240 to 241–1. Repealed. Pub. L. 103–382, title III, § 331(b), Oct. 20, 1994, 108 Stat. 3965

Section 240, acts Sept. 30, 1950, ch. 1124, title I, § 5, formerly § 5, 64 Stat. 1106; Aug. 8, 1953, ch. 402, §§ 6, 7, 67 Stat. 534; Aug. 3, 1956, ch. 915, title II, § 209, 70 Stat. 972; renumbered title I, § 5, and amended Apr. 11, 1965, Pub. L. 89–10, title I, § 2, 79 Stat. 27; Nov. 3, 1966, Pub. L. 89–750, title II, §§ 202, 203, 80 Stat. 1211, 1212; Oct. 16, 1968, Pub. L. 90–576, title III, § 305(a), 82 Stat. 1097; Apr. 13, 1970, Pub. L. 91–230, title II, § 203(c)(4), 84 Stat. 156; June 23, 1972, Pub. L. 92–318, title IV, § 411(c)(1), 86 Stat. 338; Aug. 21, 1974, Pub. L. 93–380, title III, §§ 304(c)(1), (2), (d)(2), 305(a)(2), 88 Stat. 522, 523, 529; Apr. 21, 1976, Pub. L. 94–273, § 3(5), 90 Stat. 376; Oct. 12, 1976, Pub. L. 94–482, title III, § 330(a), (b)(1)–(3), 90 Stat. 2221; Nov. 1, 1978, Pub. L. 95–561, title X, §§ 1003(c), 1005, 1006(a), 1007, 1008, title XI, § 1101(b), (c), (e), 92 Stat. 2306–2309, 2313, 2315; Aug. 6, 1979, Pub. L. 96–46, § 3(b), 93 Stat. 342; Oct. 31, 1983, Pub. L. 98–139, title III, 97 Stat. 889; Dec. 8, 1983, Pub. L. 98–211, § 23, 97 Stat. 1419; Aug. 22, 1984, Pub. L. 98–396, title I, § 101, 98 Stat. 1393; Oct. 19, 1984, Pub. L. 98–511, title III, § 303(b)(1), 98 Stat. 2389; Apr. 28, 1988, Pub. L. 100–297, title II, §§ 2011(a)(1), (2), 2015, 102 Stat. 294, 296; May 11, 1989, Pub. L. 101–26, § 2(c)–(e), 103 Stat. 54, 55; May 30, 1990, Pub. L. 101–305, § 3(c), (d), 104 Stat. 256, 257; Nov. 16, 1990, Pub. L. 101–589, title VII, § 722(d), 104 Stat. 2913; Aug. 17, 1991, Pub. L. 102–103, title IV, § 402, 105 Stat. 508; Nov. 13, 1991, Pub. L. 102–159, § 2, 105 Stat. 1042; Oct. 23, 1992, Pub. L. 102–484, div. A, title III, § 387, 106 Stat. 2397, related to payments to local educational agencies. See section 7705 of this title.

Section 241, acts Sept. 30, 1950, ch. 1124, title I, § 6, formerly § 6, 64 Stat. 1107; Aug. 8, 1953, ch. 402, § 8, 67 Stat. 535; Aug. 1, 1955, ch. 446, 69 Stat. 433; Aug. 1, 1956, ch. 852, § 10, 70 Stat. 909; May 6, 1960, Pub. L. 86–449, title V, § 501, 74 Stat. 89; renumbered title I, § 6, and amended Apr. 11, 1965, Pub. L. 89–10, title I, §§ 2, 4(d)(2), 79 Stat. 27, 35; July 21, 1965, Pub. L. 89–77, § 2, 79 Stat. 243; Nov. 3, 1966, Pub. L. 89–750, title II, § 204, 80 Stat. 1212; Apr. 13, 1970, Pub. L. 91–230, title IV, § 401(f)(1), 84 Stat. 173; Nov. 1, 1978, Pub. L. 95–561, title X, §§ 1009, 1031(a), 92 Stat. 2309, 2312; Apr. 28, 1988, Pub. L. 100–297, title II, §§ 2011(a)(1), 2016, 102 Stat. 294, 299; Oct. 7, 1991, Pub. L. 102–119, § 23(a), 105 Stat. 604, related to education of children where local agencies cannot supply facilities.

Section 241–1, acts Sept. 30, 1950, ch. 1124, title I, § 7, as added Nov. 1, 1965, Pub. L. 89–313, § 2, 79 Stat. 1159; amended Jan. 2, 1968, Pub. L. 90–247, title II, § 218, 81 Stat. 811; Oct. 21, 1968, Pub. L. 90–608, ch. IV, § 402, 82 Stat. 1194; Apr. 13, 1970, Pub. L. 91–230, title II, § 201(c), 84 Stat. 154; Dec. 31, 1970, Pub. L. 91–606, title III, § 301(e), 84 Stat. 1759; 1973 Reorg. Plan No. I, §§ 1, 3(a)(1), eff. July 1, 1973, 38 F.R. 9579, 87 Stat. 1089; Dec. 10, 1973, Ex. Ord. No. 11749, § 2(2), 38 F.R. 34177; May 22, 1974, Pub.

L. 93–288, title VII, § 702(e), formerly title VI, § 602(e), 88 Stat. 163, renumbered title VII, § 702(e), Oct. 5, 1994, Pub. L. 103–337, div. C, title XXXIV, § 3411(a)(1), (2), 108 Stat. 3100; Aug. 21, 1974, Pub. L. 93–380, title III, §§ 303(a)(3), 305(a)(3), 88 Stat. 522, 532; Apr. 21, 1976, Pub. L. 94–273, § 3(5), 90 Stat. 376; Nov. 1, 1978, Pub. L. 95–561, title X, § 1010(a), 92 Stat. 2310; July 20, 1979, Ex. Ord. No. 12148, § 4–106, 44 F.R. 43239; Aug. 6, 1979, Pub. L. 96–46, § 3(a), 93 Stat. 342; Oct. 17, 1979, Pub. L. 96–88, title III, § 301(b)(2), title V, § 507, 93 Stat. 679, 692; Oct. 19, 1984, Pub. L. 98–511, title III, § 301(a)(1), 98 Stat. 2388; Apr. 28, 1988, Pub. L. 100–297, title II, §§ 2011(a)(1), (b), 2012(a), 2017, 102 Stat. 294, 299; Nov. 23, 1988, Pub. L. 100–707, title I, § 109(i), 102 Stat. 4709, related to assistance for current school expenditures in cases of certain disasters.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1994, see section 3(a)(3)(B) of Pub. L. 103–382, set out as a note under section 236 of this title.

SUBCHAPTER II—ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES FOR THE EDUCATION OF CHILDREN OF LOW-INCOME FAMILIES

§§ 241a, 241b. Repealed. Pub. L. 95–561, title I, § 101(c), Nov. 1, 1978, 92 Stat. 2200

Section 241a, act Sept. 30, 1950, ch. 1124, title II, § 101, formerly § 201, as added Apr. 11, 1965, Pub. L. 89–10, title I, § 2, 79 Stat. 27, renumbered and amended Jan. 2, 1968, Pub. L. 90–247, title I, §§ 108(a)(2), 110, 81 Stat. 786, 787; Apr. 13, 1970, Pub. L. 91–230, title I, § 113(b)(2), 84 Stat. 126, set out the Congressional declaration of policy with regard to the program of assistance to local educational agencies for the education of children of low-income families.

Section 241b, act Sept. 30, 1950, ch. 1124, title II, § 102, formerly § 202, as added Apr. 11, 1965, Pub. L. 89–10, title I, § 2, 79 Stat. 27, amended Nov. 3, 1966, Pub. L. 89–750, title I, § 101, 80 Stat. 1191, and renumbered and amended Jan. 2, 1968, Pub. L. 90–247, title I, §§ 108(a)(2), 110, title III, § 301(a), 81 Stat. 786, 787, 813; Apr. 13, 1970, Pub. L. 91–230, title I, §§ 101(a), 113(b)(3), 84 Stat. 121, 126; Aug. 21, 1974, Pub. L. 93–380, title I, § 101(a)(1), 88 Stat. 488; Apr. 21, 1976, Pub. L. 94–273, § 2(12), 90 Stat. 375; Sept. 24, 1977, Pub. L. 95–112, § 2(a)(1), 91 Stat. 911, set out the duration of the period during which the Commissioner could make payments for grants made on the basis of entitlements under this subchapter.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1978, see section 1530(a) of Pub. L. 95–561, set out as an Effective Date of 1978 Amendment note under section 1221e–3 of this title.

§ 241b–1. Transferred

CODIFICATION

Section, Pub. L. 93–380, title I, § 101(a)(10), Aug. 21, 1974, 88 Stat. 501, which authorized appropriations for assistance to local educational agencies whose total basic grants allotment was 90 percent or less than the allotment during the preceding year, was transferred to section 2713 of this title and subsequently omitted from the Code.

PART A—BASIC GRANTS

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 2713 of this title.

SUBPART 1—GRANTS TO LOCAL EDUCATIONAL AGENCIES

§ 241c. Repealed. Pub. L. 95–561, title I, § 101(c), Nov. 1, 1978, 92 Stat. 2200

Section, act Sept. 30, 1950, ch. 1124, title II, § 103, formerly § 203, as added Apr. 11, 1965, Pub. L. 89–10, title I, § 2, 79 Stat. 28, amended July 21, 1965, Pub. L. 89–77, § 3, 79 Stat. 243; Nov. 1, 1965, Pub. L. 89–313, § 6(a), 79 Stat. 1161; Nov. 3, 1966, Pub. L. 89–750, title I, §§ 102, 103(a), 104, 105(a), (b)(1), (2), (c), 106, 107, 108(b)(1), 113(b), 117(a)(2), (3), 80 Stat. 1191–1195, 1197, 1198, and renumbered and amended Jan. 2, 1968, Pub. L. 90–247, title I, §§ 101, 103(a), 104(a), (b), 105, 107(a), 108(a)(2), 110, 81 Stat. 783–787; Oct. 16, 1968, Pub. L. 90–576, title III, § 307, 82 Stat. 1097; Apr. 13, 1970, Pub. L. 91–230, title I, §§ 101(b), 103, 104(a), 105(a), (b), 106, 107, 113(a), 84 Stat. 121–124, 126; June 23, 1972, Pub. L. 92–318, title IV, § 411(b)(1), (2), title V, § 508, 86 Stat. 338, 352; Aug. 21, 1974, Pub. L. 93–380, title I, § 101(a)(2)(A)(i)(II), (ii), (B)–(D), 88 Stat. 488, 490, 491; Apr. 21, 1976, Pub. L. 94–273, § 49(a)–(c), 90 Stat. 382, authorized grants to local educational agencies.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1978, see section 1530(a) of Pub. L. 95–561, set out as an Effective Date of 1978 Amendment note under section 1221e–3 of this title.

SUBPART 2—STATE OPERATED PROGRAMS

§§ 241c–1 to 241c–5. Repealed. Pub. L. 95–561, title I, § 101(c), Nov. 1, 1978, 92 Stat. 2200

Section 241c–1, act Sept. 30, 1950, ch. 1124, title II, § 121, as added Aug. 21, 1974, Pub. L. 93–380, title I, § 101(a)(2)(E), 88 Stat. 491, provided for programs for handicapped children.

Another section 121 of act Sept. 30, 1950, as added by Pub. L. 91–230, title I, § 113(b)(6), Apr. 13, 1970, 84 Stat. 126, and renumbered section ''126'' by Pub. L. 93–380, was classified to section 241d of this title.

Section 241c–2, act Sept. 30, 1950, title II, § 122, as added Aug. 21, 1974, Pub. L. 93–380, title I, § 101(a)(2)(E), 88 Stat. 492, provided for programs for migratory children.

Another section 122 of act Sept. 30, 1950, as added by Pub. L. 91–230, title I, § 113(b)(6), Apr. 13, 1970, 84 Stat. 126, and renumbered section ''127'' by Pub. L. 93–380, was classified to section 241d–1 of this title.

Section 241c–3, act Sept. 30, 1950, ch. 1124, title II, § 123, as added Aug. 21, 1974, Pub. L. 93–380, title I, § 101(a)(2)(E), 88 Stat. 494, provided for programs for neglected or delinquent children.

Another section 123 of act Sept. 30, 1950, as added by Pub. L. 91–230, title I, § 113(b)(6), Apr. 13, 1970, 84 Stat. 127, and renumbered section ''128'' by Pub. L. 93–380, was classified to section 241d–2 of this title.

Section 241c–4, act Sept. 30, 1950, ch. 1124, title II, § 124, as added Aug. 21, 1974, Pub. L. 93–380, title I, § 101(a)(2)(E), 88 Stat. 494, provided for the reservation of funds for territories.

Section 241c–5, act Sept. 30, 1950, ch. 1124, title II, § 125, as added Aug. 21, 1974, Pub. L. 93–380, title I, § 101(a)(2)(E), 88 Stat. 495, and amended Apr. 21, 1976, Pub. L. 94–273, § 3(8), 90 Stat. 376; Oct. 12, 1976, Pub. L. 94–482, title V, § 501(b)(1)(A), (*o*), 90 Stat. 2236, 2238; Sept. 24, 1977, Pub. L. 95–112, § 2(a)(1), 91 Stat. 911, related to minimum payments for State operated programs.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1978, see section 1530(a) of Pub. L. 95–561, set out as an Effective Date of 1978 Amendment note under section 1221e–3 of this title.

PART B—SPECIAL INCENTIVE GRANTS

§§ 241d to 241d–2. Repealed. Pub. L. 95–561, title I, § 101(c), Nov. 1, 1978, 92 Stat. 2200

Section 241d, act Sept. 30, 1950, ch. 1124, title II, § 126, formerly § 121, as added Apr. 13, 1970, Pub. L. 91–230, title I, § 113(b)(6), 84 Stat. 126, renumbered Aug. 21, 1974, Pub. L. 93–380, title I, § 101(a)(3), 88 Stat. 495, and amended Oct. 12, 1976, Pub. L. 94–482, title V, § 501(b)(1)(B), 90 Stat. 2236, related to maximum entitlement for special incentive grants.

A prior section 241d, act Sept. 30, 1950, ch. 1124, title I, § 104, formerly § 204, as added by Pub. L. 89–10, title I,

§ 2, Apr. 11, 1965, 79 Stat. 30, and renumbered by Pub. L. 90–247, title I, § 110, Jan. 2, 1968, 81 Stat. 787, making provision for special incentive grants to local educational agencies, was repealed by Pub. L. 89–750, title I, § 108(a), Nov. 3, 1966, 80 Stat. 1195. Such repeal, pursuant to section 191 of Pub. L. 89–750, was effective with respect to fiscal years beginning after June 30, 1966.

Provisions (for amount and distribution of special incentive grants) similar to those comprising this section, as added by Pub. L. 91–230, were contained in act Sept. 30, 1950, ch. 1124, title I, § 121(a), formerly title II, § 221(a), as added and renumbered Jan. 2, 1968, Pub. L. 90–247, title I, §§ 108(a)(5), 110, 81 Stat. 786, 787 (classified to section 241h–1(a) of this title), prior to repeal thereof by Pub. L. 91–230, § 113(b)(6).

Section 241d–1, act Sept. 30, 1950, ch. 1124, title II, § 127, formerly § 122, as added Apr. 13, 1970, Pub. L. 91–230, title I, § 113(b)(6), 84 Stat. 126, renumbered Aug. 21, 1974, Pub. L. 93–380, title I, § 101(a)(3), 88 Stat. 495, and amended Oct. 12, 1976, Pub. L. 94–482, title V, § 501(a)(1), 90 Stat. 2235, related to application made for special incentive grants by States.

Provisions (for application and information therein) similar to those comprising part of this section were contained in act Sept. 30, 1950, ch. 1124, title I, § 121(b), formerly title II, § 221(b), as added and renumbered Jan. 2, 1968, Pub. L. 90–247, title I, §§ 108(a)(5), 110, 81 Stat. 786, 787 (formerly classified to former section 241h–1(b) of this title), prior to repeal thereof by Pub. L. 91–230, § 113(b)(6).

Section 241d–2, act Sept. 30, 1950, ch. 1124, title II, § 128, formerly § 123, as added Apr. 13, 1970, Pub. L. 91–230, title I, § 113(b)(6), 84 Stat. 127, renumbered Aug. 21, 1974, Pub. L. 93–380, title I, § 101(a)(3), 88 Stat. 495, and amended Oct. 12, 1976, Pub. L. 94–482, title V, § 501(a)(1), 90 Stat. 2235, defined ''effort index''.

Provisions (defining ''State effort index'' and ''national effort index'') similar to those comprising this section were contained in act Sept. 30, 1950, ch. 1124, title I, § 121(c), formerly title II, § 221(c), as added and renumbered Jan. 2, 1968, Pub. L. 90–247, title I, §§ 108(a)(5), 110, 81 Stat. 786, 787 (formerly classified to former section 241h–1(c) of this title), prior to repeal thereof by Pub. L. 91–230, § 113(b)(6).

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1978, see section 1530(a) of Pub. L. 95–561, set out as an Effective Date of 1978 Amendment note under section 1221e–3 of this title.

PART C—SPECIAL GRANTS

§ 241d–11. Repealed. Pub. L. 95–561, title I, § 101(c), Nov. 1, 1978, 92 Stat. 2200

Section, act Sept. 30, 1950, ch. 1124, title II, § 131, as added Aug. 21, 1974, Pub. L. 93–380, title I, § 101(a)(4)(A), 88 Stat. 495, related to eligibility for and maximum amount of special grants.

A prior section 241d–11, act Sept. 30, 1950, ch. 1124, title II, § 131, as added Apr. 13, 1970, Pub. L. 91–230, title I, § 113(b)(6), 84 Stat. 127, which also related to eligibility and maximum amount of special grants for urban and rural schools serving areas with the highest concentrations of children from low-income families, was repealed by Pub. L. 93–380, title I, § 101(a)(4)(B), Aug. 21, 1974, 88 Stat. 496, effective July 1, 1975.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1978, see section 1530(a) of Pub. L. 95–561, set out as an Effective Date of 1978 Amendment note under section 1221e–3 of this title.

§ 241d–12. Repealed. Pub. L. 93–380, title I, § 101(a)(4)(B), Aug. 21, 1974, 88 Stat. 496

Section, act Sept. 30, 1950, ch. 1124, title II, § 132, as added Apr. 13, 1970, Pub. L. 91–230, title I, § 113(b)(6), 84 Stat. 128, related to uses of funds for such special grants.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1975, pursuant to Pub. L. 93–380, § 101(a)(4)(B).

PART D—GENERAL PROVISIONS

§§ 241e to 241h. Repealed. Pub. L. 95–561, title I, § 101(c), Nov. 1, 1978, 92 Stat. 2200

Section 241e, act Sept. 30, 1950, ch. 1124, title II, § 141, formerly § 205, as added Apr. 11, 1965, Pub. L. 89–10, title I, § 2, 79 Stat. 30, amended Nov. 3, 1966, Pub. L. 89–750, title I, §§ 103(b), 108(b)(1), (2), 110, 111(a)–(e), 80 Stat. 1192, 1195, 1196, renumbered title I, § 105 and amended Jan. 2, 1968, Pub. L. 90–247, title I, §§ 103(b), 106, 108(a)(2), 109, 110, 81 Stat. 783, 784, 786, 787, renumbered § 141 and amended Apr. 13, 1970, Pub. L. 91–230, title I, §§ 108, 109(a), 110, 111(b), 113(b)(3), (4), (7), 84 Stat. 124–126, 128; June 23, 1972, Pub. L. 92–318, title V, § 507(a), (b), 86 Stat. 352; Aug. 21, 1974, Pub. L. 93–380, title I, § 101(a)(5), (9)(A), (B), 88 Stat. 496, 500; Oct. 12, 1976, Pub. L. 94–482, title V, § 501(b)(1)(C), (D), 90 Stat. 2236, related to applications for grants by local agencies.

Section 241e–1, act Sept. 30, 1950, ch. 1124, title II, § 141A, as added Aug. 21, 1974, Pub. L. 93–380, title I, § 101(a)(6), 88 Stat. 497, related to participation of children enrolled in private schools.

Section 241f, act Sept. 30, 1950, ch. 1124, title II, § 142, formerly § 206, as added Apr. 11, 1965, Pub. L. 89–10, title I, § 2, 79 Stat. 31, amended Nov. 1, 1965, Pub. L. 89–313, § 6(b), 79 Stat. 1162; Nov. 3, 1966, Pub. L. 89–750, title I, § 103(c)(1), 80 Stat. 1193, renumbered § 106, and amended Jan. 2, 1968, Pub. L. 90–247, title I, §§ 103(c), 108(a)(2), 110, 81 Stat. 783, 786, 787, and renumbered § 142 and amended Apr. 13, 1970, Pub. L. 91–230, title I, §§ 111(a), 113(b)(3), (4), 84 Stat. 125, 126; Aug. 21, 1974, Pub. L. 93–380, title I, § 101(a)(9)(D), (E), 88 Stat. 500, related to assurances required from States desiring to participate.

Section 241g, act Sept. 30, 1950, ch. 1124, title II, § 143, formerly § 207, as added Apr. 11, 1965, Pub. L. 89–10, title I, § 2, 79 Stat. 32, amended Nov. 1, 1965, Pub. L. 89–313, § 7(a), 79 Stat. 1162; Nov. 3, 1966, Pub. L. 89–750, title I, §§ 103(c)(2), 108(b)(3), 112, 113(a), 80 Stat. 1193, 1195, 1197, renumbered § 107 and amended Jan. 2, 1968, Pub. L. 90–247, title I, §§ 102, 103(c), 108(a)(2), 110, 81 Stat. 783, 786, 787 and renumbered § 143 and amended Apr. 13, 1970, Pub. L. 91–230, title I, §§ 113(b)(3), (4), (8), 114, 84 Stat. 126, 129, 130; Aug. 21, 1974, Pub. L. 93–380, title I, § 101(a)(9)(C), (F), (G), title VIII, § 843(a)(1), 88 Stat. 500, 611; Oct. 12, 1976, Pub. L. 94–482, title III, § 323(a)(1), 90 Stat. 2217, related to payment of funds.

Section 241h, act Sept. 30, 1950, ch. 1124, title II, § 144, formerly § 208, as added Apr. 11, 1965, Pub. L. 89–10, title I, § 2, 79 Stat. 33, amended Nov. 3, 1966, Pub. L. 89–750, title I, § 114, 80 Stat. 1197, renumbered § 108 and amended Jan. 2, 1968, Pub. L. 90–247, title I, §§ 107(b), 110, 81 Stat. 785, 787, renumbered § 144 and amended Apr. 13, 1970, Pub. L. 91–230, title I, § 113(b)(3), (4), (c), (d), 84 Stat. 126, 129; Aug. 21, 1974, Pub. L. 93–380, title I, § 101(a)(7), (9)(H), 88 Stat. 498, 500, related to adjustments necessitated by appropriations.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1978, see section 1530(a) of Pub. L. 95–561, set out as an Effective Date of 1978 Amendment note under section 1221e–3 of this title.

§§ 241h–1, 241i. Repealed. Pub. L. 91–230, title I, § 113(b)(6), title IV, § 401(g)(1), Apr. 13, 1970, 84 Stat. 126, 174

Section 241h–1, act Sept. 30, 1950, ch. 1124, title II, § 121, formerly § 221, as added and renumbered Jan. 2, 1968, Pub. L. 90–247, §§ 108(a)(5), 110, 81 Stat. 786, 787, and amended Apr. 13, 1970, Pub. L. 91–230, title I, § 101(c), 84 Stat. 121, related to special incentive grants and provided in: subsec. (a) for amount and distribution of such grants; subsec. (b) for application for grant and disapproval only after notice and opportunity for hearing;

subsec. (c) definitions of ''State effort index'' and ''national effort index''; and subsec. (d) authorization of appropriations of $50,000,000 for fiscal year ending June 30, 1969, and for each of the succeeding fiscal years ending prior to July 1, 1973.

Section 241i, act Sept. 30, 1950, ch. 1124, title II, § 145, formerly § 209, as added Apr. 11, 1965, Pub. L. 89–10, title I, § 2, 79 Stat. 33, renumbered § 231 and further renumbered § 131, Jan. 2, 1968, Pub. L. 90–247, title I, §§ 108(a)(4), 110, 81 Stat. 786, 787, and renumbered § 145, Apr. 13, 1970, Pub. L. 91–230, title I, § 113(b)(4), 84 Stat. 126, related to labor standards requirements (prevailing wage rates). See section 1232b of this title.

§§ 241j to 241*o*. Repealed. Pub. L. 95–561, title I, § 101(c), Nov. 1, 1978, 92 Stat. 2200

Section 241j, act Sept. 30, 1950, ch. 1124, title II, § 146, formerly § 210, as added Apr. 11, 1965, Pub. L. 89–10, title I, § 2, 79 Stat. 33, amended Nov. 3, 1966, Pub. L. 89–750, title I, § 103(c)(3), 80 Stat. 1193, renumbered § 232, amended and further renumbered § 132, Jan. 2, 1968, Pub. L. 90–247, title I, §§ 108(a)(4), (b), 110, 81 Stat. 786, 787, and renumbered § 146, and amended Apr. 13, 1970, Pub. L. 91–230, title I, § 113(b)(4), (9), 84 Stat. 126, 129; Aug. 21, 1974, Pub. L. 93–380, title I, § 101(a)(9)(I), 88 Stat. 501, related to withholding of funds for noncompliance with assurances.

Section 241k, act Sept. 30, 1950, ch. 1124, title II, § 147, formerly § 211, as added Apr. 11, 1965, Pub. L. 89–10, title I, § 2, 79 Stat. 33, amended Nov. 3, 1966, Pub. L. 89–750, title I, § 103(c)(4), 80 Stat. 1193, renumbered § 233, amended and further renumbered § 133, Jan. 2, 1968, Pub. L. 90–247, title I, §§ 108(a)(4), (b), 110, 81 Stat. 786, 787, renumbered § 147, and amended Apr. 13, 1970, Pub. L. 91–230, title I, § 113(b)(4), (10), 84 Stat. 126, 129; Aug. 21, 1974, Pub. L. 93–380, title I, § 101(a)(9)(J), 88 Stat. 501, related to judicial review.

Section 241*l*, act Sept. 30, 1950, ch. 1124, title II, § 148, formerly § 212, as added Apr. 11, 1965, Pub. L. 89–10, title I, § 2, 79 Stat. 34, amended Nov. 3, 1966, Pub. L. 89–750, title I, § 115, 80 Stat. 1197, renumbered § 234, amended and further renumbered § 134, Jan. 2, 1968, Pub. L. 90–247, title I, §§ 108(a)(4), 110, 114, 81 Stat. 786–788, and renumbered § 148, and amended Apr. 13, 1970, Pub. L. 91–230, title I, §§ 112, 113(b)(4), 84 Stat. 125, 126; Aug. 21, 1974, Pub. L. 93–380, title VIII, § 845(a), 88 Stat. 612; Apr. 21, 1976, Pub. L. 94–273, § 3(8), 90 Stat. 376; Sept. 24, 1977, Pub. L. 95–112, § 2(a)(3), 91 Stat. 911, created National Advisory Council on the Education of Disadvantaged Children.

Section 241m, act Sept. 30, 1950, ch. 1124, title II, § 149, formerly § 213, as added Nov. 3, 1966, Pub. L. 89–750, title I, § 109, 80 Stat. 1195, renumbered § 235, and further renumbered § 135, Jan. 2, 1968, Pub. L. 90–247, title I, §§ 108(a)(4), 110, 81 Stat. 786, 787, and renumbered § 149, Apr. 13, 1970, Pub. L. 91–230, title I, § 113(b)(4), 84 Stat. 126, related to treatment of earnings for purposes of aid to families with dependent children.

Section 241n, act Sept. 30, 1950, ch. 1124, title II, § 150, as added Aug. 21, 1974, Pub. L. 93–380, title I, § 101(a)(8), 88 Stat. 499, related to allocation of funds within school districts of local educational agencies.

Section 241*o*, act Sept. 30, 1950, ch. 1124, title II, § 151, as added Aug. 21, 1974, Pub. L. 93–380, title I, § 101(a)(8), 88 Stat. 499; amended Apr. 21, 1976, Pub. L. 94–273, § 3(8), 90 Stat. 376; Oct. 12, 1976, Pub. L. 94–482, title V, § 501(b)(1)(E), (p), 90 Stat. 2236, 2238, related to system of program evaluation.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1978, see section 1530(a) of Pub. L. 95–561, set out as an Effective Date of 1978 Amendment note under section 1221e–3 of this title.

SUBCHAPTER III—FINANCIAL ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES FOR EDUCATION OF INDIAN CHILDREN

§§ 241aa, 241bb. Repealed. Pub. L. 100–297, title V, § 5352(1), Apr. 28, 1988, 102 Stat. 414

Section 241aa, act Sept. 30, 1950, ch. 1124, title III, § 302, as added June 23, 1972, Pub. L. 92–318, title IV, § 411(a), 86 Stat. 335; amended Nov. 1, 1978, Pub. L. 95–561, title XI, § 1142(a), 92 Stat. 2329; Oct. 19, 1984, Pub. L. 98–511, title V, § 513(a)(8), 98 Stat. 2400, related to Congressional declaration of policy.

Section 241bb, act Sept. 30, 1950, ch. 1124, title III, § 303, as added June 23, 1972, Pub. L. 92–318, title IV, § 411(a), 86 Stat. 335; amended Aug. 21, 1974, Pub. L. 93–380, title VI, §§ 631(b), 632(b), 88 Stat. 585, 586; Apr. 21, 1976, Pub. L. 94–273, § 3(5), 90 Stat. 376; Nov. 1, 1978, Pub. L. 95–561, title XI, §§ 1141(b), 1143, 92 Stat. 2328, 2329; Oct. 19, 1984, Pub. L. 98–511, title V, § 513(a)(1)–(3), (8), 98 Stat. 2399, 2400, related to grants to local educational agencies.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1988, see section 6303 of Pub. L. 100–297, set out as an Effective Date note under section 1201 of this title.

§ 241bb–1. Repealed. Pub. L. 100–297, title V, § 5116(1), Apr. 28, 1988, 102 Stat. 381

Section, Pub. L. 95–561, title XI, § 1146, Nov. 1, 1978, 92 Stat. 2330, deemed certain tribal schools to be local educational agencies for purposes of section 241bb(a) of this title.

§§ 241cc to 241ff. Repealed. Pub. L. 100–297, title V, § 5352(1), Apr. 28, 1988, 102 Stat. 414

Section 241cc, act Sept. 30, 1950, ch. 1124, title III, § 304, as added June 23, 1972, Pub. L. 92–318, title IV, § 411(a), 86 Stat. 335; amended Nov. 1, 1978, Pub. L. 95–561, title XI, § 1142(b), 92 Stat. 2329; Oct. 19, 1984, Pub. L. 98–511, title V, § 513(a)(8), 98 Stat. 2400; Oct. 27, 1986, Pub. L. 99–570, title IV, § 4133(b)(1), 100 Stat. 3207–133, set forth uses of Federal funds.

Section 241dd, act Sept. 30, 1950, ch. 1124, title III, § 305, as added June 23, 1972, Pub. L. 92–318, title IV, § 411(a), 86 Stat. 336; amended Nov. 1, 1978, Pub. L. 95–561, title XI, § 1144, 92 Stat. 2329; Oct. 19, 1984, Pub. L. 98–511, title V, § 513(a)(4), (8), 98 Stat. 2399, 2400, related to conditions for approval of grants.

Section 241ee, act Sept. 30, 1950, ch. 1124, title III, § 306, as added June 23, 1972, Pub. L. 92–318, title IV, § 411(a), 86 Stat. 337; amended Nov. 1, 1978, Pub. L. 95–561, title XI, § 1150(f), 92 Stat. 2333; Aug. 22, 1984, Pub. L. 98–396, title I, 98 Stat. 1390; Oct. 19, 1984, Pub. L. 98–511, title V, § 513(a)(8), 98 Stat. 2400, related to payments to local educational agencies.

Section 241ff, act Sept. 30, 1950, ch. 1124, title III, § 307, as added June 23, 1972, Pub. L. 92–318, title IV, § 411(a), 86 Stat. 337; amended Nov. 1, 1978, Pub. L. 95–561, title XI, § 1145, 92 Stat. 2330; Oct. 19, 1984, Pub. L. 98–511, title V, § 513(a)(5), 98 Stat. 2399, related to authorization of appropriations and adjustments.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1988, see section 6303 of Pub. L. 100–297, set out as an Effective Date note under section 1201 of this title.

SUBCHAPTER IV—GENERAL

§§ 242 to 244. Repealed. Pub. L. 103–382, title III, § 331(b), Oct. 20, 1994, 108 Stat. 3965

Section 242, acts Sept. 30, 1950, ch. 1124, title IV, § 401, formerly § 7, 64 Stat. 1107, renumbered title III, § 301, Apr. 11, 1965, Pub. L. 89–10, title I, § 3(c)(1), 79 Stat. 35;

amended Nov. 3, 1966, Pub. L. 89–750, title II, § 205, 80 Stat. 1212; Apr. 13, 1970, Pub. L. 91–230, title IV, § 401(f)(1), 84 Stat. 173, and renumbered title IV, § 401, June 23, 1972, Pub. L. 92–318, title IV, § 411(a), 86 Stat. 334; Apr. 28, 1988, Pub. L. 100–297, title II, § 2011(a)(1), 102 Stat. 294, related to supervision over schools.

Section 243, acts Sept. 30, 1950, ch. 1124, title IV, § 402, formerly § 8, 64 Stat. 1108; Aug. 8, 1953, ch. 402, § 9, 67 Stat. 536; Aug. 4, 1955, ch. 543, ch. 11, § 202, 69 Stat. 485; Aug. 12, 1955, ch. 868, § 1, 69 Stat. 713; Aug. 3, 1956, ch. 915, title II, § 210, 70 Stat. 972; Aug. 12, 1958, Pub. L. 85–620, title II, § 204, 72 Stat. 560; renumbered title III, § 302, and amended Apr. 11, 1965, Pub. L. 89–10, title I, § 3(c), 79 Stat. 35; Apr. 13, 1970, Pub. L. 91–230, title IV, § 401(c)(1), 84 Stat. 173; renumbered title IV, § 402, June 23, 1972, Pub. L. 92–318, title IV, § 411(a), 86 Stat. 334; Aug. 13, 1981, Pub. L. 97–35, title V, § 505(c)(1), 95 Stat. 442; Apr. 28, 1988, Pub. L. 100–297, title II, § 2011(a)(1), 102 Stat. 294, related to utilization of services and facilities of other Federal agencies.

Section 244, acts Sept. 30, 1950, ch. 1124, title IV, § 403, formerly § 9, 64 Stat. 1108; Aug. 8, 1953, ch. 402, § 10, 67 Stat. 536; Aug. 1, 1956, ch. 852, § 10, 70 Stat. 909; Aug. 3, 1956, ch. 915, title II, § 211, 70 Stat. 972; Aug. 12, 1958, Pub. L. 85–620, title II, § 205, 72 Stat. 560; June 25, 1959, Pub. L. 86–70, § 18(d)(4), 73 Stat. 145; July 12, 1960, Pub. L. 86–624, § 14(d)(4), 74 Stat. 414; Oct. 16, 1964, Pub. L. 88–665, title XI, § 1102(b), 78 Stat. 1109, renumbered title III, § 303, and amended Apr. 11, 1965, Pub. L. 89–10, title I, §§ 3(c)(1), 4(a)–(c), (d)(1), (e), 79 Stat. 35; Nov. 1, 1965, Pub. L. 89–313, § 6(c), 79 Stat. 1162; Nov. 3, 1966, Pub. L. 89–750, title I, § 117(a)(1), (b), title II, § 206, 80 Stat. 1198, 1199, 1213; Jan. 2, 1968, Pub. L. 90–247, title II, § 201, 81 Stat. 806; Apr. 13, 1970, Pub. L. 91–230, title II, § 203(b), 84 Stat. 156; Aug. 12, 1970, Pub. L. 91–375, §§ 4(a), 6(*o*), 84 Stat. 773, 783; renumbered title IV, § 403, June 23, 1972, Pub. L. 92–318, title IV, § 411(a), 86 Stat. 334, and amended Aug. 21, 1974, Pub. L. 93–380, title I, § 101(a)(9)(K), title III, § 304(d)(1), 88 Stat. 501, 523; Apr. 21, 1976, Pub. L. 94–273, § 49(d), 90 Stat. 382; Oct. 12, 1976, Pub. L. 94–482, title V, § 501(n), 90 Stat. 2237; Nov. 1, 1978, Pub. L. 95–561, title I, § 101(b), title X, §§ 1011–1014, 1031(a), 92 Stat. 2200, 2310–2312; Apr. 28, 1988, Pub. L. 100–297, title II, §§ 2011(a)(1), (3), 2021, 102 Stat. 294, 300; May 30, 1990, Pub. L. 101–305, § 3(f), 104 Stat. 257; Oct. 30, 1990, Pub. L. 101–476, title IX, § 901(a)(3), (f)(2), 104 Stat. 1142, 1151, defined terms for purposes of this chapter. See section 7713 of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1994, see section 3(a)(3)(B) of Pub. L. 103–382, set out as a note under section 236 of this title.

§ 244a. Transferred

CODIFICATION

Section, act July 16, 1940, ch. 629, 54 Stat. 761, which related to school facilities for children of Government employees and other residents in Indian reservations, national parks, and national monuments, was transferred to section 7713a of this title.

§ 245. Repealed. Pub. L. 85–620, title II, § 206, Aug. 12, 1958, 72 Stat. 561

Section, act Sept. 30, 1950, ch. 1124, § 10, as added Aug. 8, 1953, ch. 402, § 11, 67 Stat. 536; amended Aug. 12, 1955, ch. 868, § 1, 69 Stat. 713; Aug. 3, 1956, ch. 915, title II, § 212, 70 Stat. 972, related to election by States to receive payments with respect to education of Indian children.

EFFECTIVE DATE OF REPEAL

Section 207 of Pub. L. 85–620 provided that: ''The amendments made by this title [amending sections 237, 238, 239, 243, 244 of this title and repealing this section] shall be effective for the period beginning July 1, 1958.''

§ 246. Omitted

Section, Pub. L. 93–380, title VIII, § 842, Aug. 21, 1974, 88 Stat. 610; Pub. L. 94–482, title III, § 326, Oct. 12, 1976, 90 Stat. 2220; Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, related to development and submission of State equalization plans by not later than Oct. 1, 1978.

CHAPTER 14—SCHOOL CONSTRUCTION IN AREAS AFFECTED BY FEDERAL ACTIVITIES

§§ 251 to 255, 271 to 280, 291 to 302, 311. Omitted

CODIFICATION

The act of Sept. 23, 1950, ch. 995, 64 Stat. 967, as amended by acts Aug. 8, 1953, ch. 400, §§ 1, 2, 67 Stat. 522, 528; Aug. 2, 1954, ch. 649, title VIII, § 808(a), 68 Stat. 645; Aug. 31, 1954, ch. 1149, §§ 1–7, 68 Stat. 1005, 1006; Aug. 12, 1955, ch. 868, §§ 4–7, 69 Stat. 713–715; Aug. 1, 1956, ch. 852, § 11, 70 Stat. 909; Aug. 3, 1956, ch. 915, title I, §§ 101–109, 70 Stat. 968, 969; Aug. 21, 1957, Pub. L. 85–161, 71 Stat. 403; Sept. 2, 1957, Pub. L. 85–267, §§ 1–8, 71 Stat. 593, 594; Aug. 28, 1958, Pub. L. 85–791, § 32, 72 Stat. 951, formerly classified to this chapter, was completely amended and renumbered by Pub. L. 85–620, Aug. 12, 1958, 72 Stat. 548, and reclassified to chapter 19 (§ 631 et seq.) of this title, and was subsequently repealed by Pub. L. 103–382, title III, § 331(a), Oct. 20, 1994, 108 Stat. 3965.

Sections 251 to 254, act Sept. 23, 1950, ch. 995, title I, §§ 101 to 104, 64 Stat. 967, 968, authorized appropriations, provided for State applications for funds, allotments and payments to States, and to withholding of certification.

Section 255, acts Sept. 23, 1950, ch. 995, title I, § 105, 64 Stat. 969; Aug. 8, 1953, ch. 400, § 2(m), 67 Stat. 529, related to delegation of functions and payment of expenses.

Section 271, act Sept. 23, 1950, ch. 995, title II, § 201, 64 Stat. 969, contained declaration of policy for school construction in federally-affected areas.

Section 272, acts Sept. 23, 1950, ch. 995, title II, § 202, 64 Stat. 969; Aug. 2, 1954, ch. 649, title VIII, § 808(a), 68 Stat. 645, authorized payments to local education agencies.

Section 273, acts Sept. 23, 1950, ch. 995, title II, § 203, 64 Stat. 971; Aug. 12, 1955, ch. 868, § 4, 69 Stat. 713, related to payments where effect of Federal activities, would be temporary, and for donation of temporary school activities.

Section 274, act Sept. 23, 1950, ch. 995, title II, § 204, 64 Stat. 972, related to children for whom local agencies cannot provide education.

Section 275, acts Sept. 23, 1950, ch. 995, title II, § 205, 64 Stat. 972; Aug. 8, 1953, ch. 400, § 2(a), 67 Stat. 528, related to applications for assistance, construction projects, and reimbursement.

Section 276, act Sept. 23, 1950, ch. 995, title II, § 206, 64 Stat. 973, provided for certification and payment of funds.

Section 277, acts Sept. 23, 1950, ch. 995, title II, § 207, 64 Stat. 974; Aug. 8, 1953, ch. 400, § 2(b), 67 Stat. 528; Aug. 28, 1958, Pub. L. 85–791, § 32, 72 Stat. 951, related to withholding of certification and judicial review.

Section 278, act Sept. 23, 1950, ch. 995, title II, § 208, 64 Stat. 975, provided for administration of act Sept. 23, 1950.

Section 279, acts Sept. 23, 1950, ch. 995, title II, § 209, 64 Stat. 975; Aug. 8, 1953, ch. 400, § 2(c)–(f), 67 Stat. 528; Aug. 31, 1954, ch. 1149, § 7, 68 Stat. 1005; Aug. 3, 1956, ch. 915, title I, § 101, 70 Stat. 968; Sept. 2, 1957, Pub. L. 85–267, § 1, 71 Stat. 593, related to use of other Federal agencies; transfer and availability of appropriations, and additional grants for non-Federal share.

Section 280, acts Sept. 23, 1950, ch. 995, title II, § 210, 64 Stat. 976; Aug. 8, 1953, ch. 400, § 2(g)–(*l*), 67 Stat. 528; Aug. 1, 1956, ch. 852, § 11, 70 Stat. 909; Aug. 3, 1956, ch. 915, title I, § 102, 70 Stat. 968; Aug. 21, 1957, Pub. L. 85–161, 71 Stat. 403, contained definitions of terms used in act Sept. 23, 1950.

Section 291, act Sept. 23, 1950, ch. 995, title III, § 301, as added Aug. 8, 1953, ch. 400, § 1, 67 Stat. 522; amended

Aug. 31, 1954, ch. 1149, §1, 68 Stat. 1005; Aug. 3, 1956, ch. 915, title I, §103, 70 Stat. 968; Sept. 2, 1957, Pub. L. 85–267, §2, 71 Stat. 593, stated purpose of former sections 291 to 302 of this title and authorized appropriations.

Section 292, act Sept. 23, 1950, ch. 995, title III, §302, as added Aug. 8, 1953, ch. 400, §1, 67 Stat. 522, provided for annual apportionment of funds.

Section 293, act Sept. 23, 1950, ch. 995, title III, §303, as added Aug. 8, 1953, ch. 400, §1, 67 Stat. 522; amended Aug. 31, 1954, ch. 1149, §2, 68 Stat. 1005; Aug. 3, 1956, ch. 915, title I, §104, 70 Stat. 968; Sept. 2, 1957, Pub. L. 85–267, §3, 71 Stat. 593, related to dates for filing applications, and to priorities.

Section 294, act Sept. 23, 1950, ch. 995, title III, §304, as added Aug. 8, 1953, ch. 400, §1, 67 Stat. 522; amended Aug. 31, 1954, ch. 1149, §3, 68 Stat. 1005; Aug. 12, 1955, ch. 868, §5, 69 Stat. 714; Aug. 3, 1956, ch. 915, title I, §105, 70 Stat. 968; Sept. 2, 1957, Pub. L. 85–267, §4, 71 Stat. 593, related to Federal share of cost of projects.

Section 295, act Sept. 23, 1950, ch. 995, title III, §305, as added Aug. 8, 1953, ch. 400, §1, 67 Stat. 523; amended Aug. 31, 1954, ch. 1149, §§4, 5, 68 Stat. 1005; Aug. 3, 1956, ch. 915, title I, §106, 70 Stat. 968; Sept. 2, 1957, Pub. L. 85–267, §5, 71 Stat. 593, prescribed limitations on total payments to local agencies.

Section 296, act Sept. 23, 1950, ch. 995, title III, §306, as added Aug. 8, 1953, ch. 400, §1, 67 Stat. 524; amended Aug. 3, 1956, ch. 915, title I, §107, 70 Stat. 969, related to filing and approval of application for assistance.

Section 297, act Sept. 23, 1950, ch. 995, title III, §307, as added Aug. 8, 1953, ch. 400, §1, 67 Stat. 525, related to payments to local agencies.

Section 298, act Sept. 23, 1950, ch. 995, title III, §308, as added Aug. 8, 1953, ch. 400, §1, 67 Stat. 525; amended Aug. 12, 1955, ch. 868, §7, 69 Stat. 715, related to availability of appropriations, special fund for additional grants, and to payments in cases affected by change in regulations.

Section 299, act Sept. 23, 1950, ch. 995, title III, §309, as added Aug. 8, 1953, ch. 400, §1, 67 Stat. 525; amended Aug. 12, 1955, ch. 868, §4, 69 Stat. 713, prescribed procedure in cases of temporary Federal activities, and authorized donation of temporary school facilities.

Section 300, act Sept. 23, 1950, ch. 995, title III, §310, as added Aug. 8, 1953, ch. 400, §1, 67 Stat. 526; amended Aug. 31, 1954, ch. 1149, §6, 68 Stat. 1005; Aug. 3, 1956, ch. 915, title I, §108, 70 Stat. 969; Sept. 2, 1957, Pub. L. 85–267, §6, 71 Stat. 593, provided for children for whom local agencies are unable to provide education.

Section 301, act Sept. 23, 1950, ch. 995, title III, §311, as added Aug. 8, 1953, ch. 400, §1, 67 Stat. 526, authorized withholding of payments for noncompliance.

Section 302, act Sept. 23, 1950, ch. 995, title III, §312, as added Sept. 2, 1957, Pub. L. 85–267, §7, 71 Stat. 593, defined base year and increase period.

Section 311, act Sept. 23, 1950, ch. 995, title IV, §401, as added Aug. 8, 1953, ch. 400, §1, 67 Stat. 526; amended Aug. 12, 1955, ch. 868, §6, 69 Stat. 715; Aug. 3, 1956, ch. 915, title I, §109, 70 Stat. 969; Sept. 2, 1957, Pub. L. 85–267, §8, 71 Stat. 594, authorized assistance in other federally-affected areas.

CHAPTER 15—STUDIES AND RESEARCH ON PROBLEMS IN EDUCATION

§§ 331 to 332b. Omitted

CODIFICATION

Sections constituted the Cooperative Research Act and terminated on and after July 1, 1975, under provisions of section 402(c)(1) of Pub. L. 93–380. See provisions of Special Projects Act, section 1851 et seq. of this title.

Section 331, acts July 26, 1954, ch. 576, §1, 68 Stat. 533; Apr. 11, 1965, Pub. L. 89–10, title IV, §401, 79 Stat. 44, related to Congressional declaration of purpose.

Section 331a, act July 26, 1954, ch. 576, §2, as added Apr. 11, 1965, Pub. L. 89–10, title IV, §401, 79 Stat. 44; amended Nov. 3, 1966, Pub. L. 89–750, title I, §141, 80 Stat. 1202; Jan. 2, 1968, Pub. L. 90–247, title VII, §706, 81 Stat. 820; Apr. 13, 1970, Pub. L. 91–230, title I, §143(c), title VIII, §§808, 809(c), 84 Stat. 151, 193, 194; June 23, 1972, Pub. L. 92–318, title III, §303(a)(1), 86 Stat. 333, authorized grants, contracts, and jointly financed arrangements for exemplary projects and management studies, provided for an annual report to Congress, and provided for establishment of an Advisory Council on Research and development, its membership, and appointment of a Chairman.

Section 332, act July 26, 1954, ch. 576, §3, formerly §2, 68 Stat. 533, renumbered and amended Apr. 11, 1965, Pub. L. 89–10, title IV, §§401, 402, 79 Stat. 44, 46; June 23, 1972, Pub. L. 92–318, title III, §303(a)(2), 86 Stat. 333, authorized appropriations for fiscal years ending June 30, 1973, 1974, and 1975 of $58,000,000; $68,000,000; and $78,000,000 respectively.

Section 332a, act July 26, 1954, ch. 576, §4, as added Apr. 11, 1965, Pub. L. 89–10, title IV, §403, 79 Stat. 46; amended Nov. 3, 1966, Pub. L. 89–750, title I, §142, 80 Stat. 1203; Apr. 13, 1970, Pub. L. 91–230, title IV, §401(g)(2), title VIII, §810, 84 Stat. 174, 194, related to construction of regional facilities, authorizing appropriation of $100,000,000 in the aggregate for fiscal years ending June 30, 1966, through 1970, in subsec. (a); subsec. (b) relating to findings of Commissioner, grants for construction, transfer of title, and operation of facility; subsec. (c), as originally enacted, relating to labor standards; subsec. (d) relating to methods of payment, and subsec. (e) defining ''research and related purposes''.

Section 332b, act July 26, 1954, ch. 576, §5, as added Apr. 11, 1965, Pub. L. 89–10, title IV, §403, 79 Stat. 47; amended Nov. 3, 1966, Pub. L. 89–750, title I, §143, 80 Stat. 1203, provided for definitions of ''State'', ''State educational agency'', ''nonprofit'', and ''construction'' and ''cost of construction''.

§§ 333 to 337. Repealed. Pub. L. 91–230, title I, §143(b), Apr. 13, 1970, 84 Stat. 151

Section 333, act July 26, 1954, ch. 577, §1, 68 Stat. 533, provided for establishment of a National Advisory Committee on Education in the Department of Health, Education, and Welfare.

Section 334, act July 26, 1954, ch. 577, §2, 68 Stat. 533, provided for composition of the National Advisory Committee on Education, term of office, and ex officio membership of the Commissioner of Education.

Section 335, act July 26, 1954, ch. 577, §3, 68 Stat. 534, required minimum of three meetings each calendar year.

Section 336, act July 26, 1954, ch. 577, §4, 68 Stat. 534, authorized National Advisory Committee to make recommendations, appoint consultants, and submit an annual report to Congress.

Section 337, act July 26, 1954, ch. 577, §5, 68 Stat. 534, authorized travel expenses and per diem payments but denied compensation to members of the National Advisory Committee.

Sections 333 to 337 were generally superseded by provisions of section 868 of this title providing for a National Council on Quality in Education.

CHAPTER 16—PUBLIC LIBRARY SERVICES AND CONSTRUCTION

§§ 351 to 351g. Repealed. Pub. L. 104–208, div. A, title I, §101(e) [title VII, §708(a)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–312

Section 351, acts June 19, 1956, ch. 407, §2, 70 Stat. 293; Feb. 11, 1964, Pub. L. 88–269, §1(a)(1), 78 Stat. 11; July 19, 1966, Pub. L. 89–511, §2, 80 Stat. 313; Dec. 30, 1970, Pub. L. 91–600, §2(b), 84 Stat. 1660; Oct. 7, 1977, Pub. L. 95–123, §4(a), 91 Stat. 1095; Oct. 17, 1984, Pub. L. 98–480, title I, §102, 98 Stat. 2236, related to congressional declaration of policy.

Section 351a, act June 19, 1956, ch. 407, §3, as added Dec. 30, 1970, Pub. L. 91–600, §2(b), 84 Stat. 1660; amend-

ed Oct. 19, 1973, Pub. L. 93–133, §4(a), 87 Stat. 466; Oct. 7, 1977, Pub. L. 95–123, §4(b), 91 Stat. 1095; Oct. 17, 1984, Pub. L. 98–480, title I, §103(a), (b)(1), 98 Stat. 2237; Nov. 22, 1985, Pub. L. 99–159, title III, §301, 99 Stat. 902; Mar. 15, 1990, Pub. L. 101–254, §§2, 16(a), 23(b), 104 Stat. 101, 105, 113; July 25, 1991, Pub. L. 102–73, title VIII, §802(e)(1), 105 Stat. 361, provided definitions for this chapter.

Section 351b, act June 19, 1956, ch. 407, §4, as added Dec. 30, 1970, Pub. L. 91–600, §2(b), 84 Stat. 1662; amended May 3, 1973, Pub. L. 93–29, title VIII, §801(b), 87 Stat. 58; Oct. 7, 1977, Pub. L. 95–123, §2, 91 Stat. 1095; Oct. 17, 1984, Pub. L. 98–480, title I, §§103(b)(1), 4, 98 Stat. 2237; Oct. 31, 1988, Pub. L. 100–569, title I, §101, 102 Stat. 2862; Mar. 15, 1990, Pub. L. 101–254, §3, 104 Stat. 101; Oct. 20, 1994, Pub. L. 103–382, title III, §375(a), 108 Stat. 3978, related to authorization and availability of appropriations and provided for transition to advance funding method of timing appropriation action.

Section 351c, act June 19, 1956, ch. 407, §5, as added Dec. 30, 1970, Pub. L. 91–600, §2(b), 84 Stat. 1662; amended May 3, 1973, Pub. L. 93–29, title VIII, §801(c), 87 Stat. 58; Oct. 17, 1984, Pub. L. 98–480, title I, §§103(b)(1), 105, 98 Stat. 2237, 2238; Nov. 22, 1985, Pub. L. 99–159, title III, §302(a), 99 Stat. 902; Mar. 15, 1990, Pub. L. 101–254, §§4(a), 22(b), 104 Stat. 102, 107; July 25, 1991, Pub. L. 102–73, title VIII, §802(e)(2), 105 Stat. 361, related to allotments to States and Indian tribes.

Section 351d, act June 19, 1956, ch. 407, §6, as added Dec. 30, 1970, Pub. L. 91–600, §2(b), 84 Stat. 1663; amended May 3, 1973, Pub. L. 93–29, title VIII, §801(c), 87 Stat. 59; Aug. 21, 1974, Pub. L. 93–380, title VIII, §841(b), 88 Stat. 609; Oct. 17, 1984, Pub. L. 98–480, title I, §§103(b), 106, 98 Stat. 2237, 2239; Nov. 22, 1985, Pub. L. 99–159, title III, §302(b), 99 Stat. 903; Mar. 15, 1990, Pub. L. 101–254, §§4(b)–6, 104 Stat. 102, 103, required States desiring to receive an allotment under this chapter to have basic State plan in effect, submit annual programs and long-range program, and establish State Advisory Council on Libraries, provided procedure and grounds for Secretary to terminate or limit payments to States, procedure for judicial review of Secretary's final actions, procedure for receipt of allotments and allocations by Indian tribes, and required Secretary to coordinate programs under this chapter.

Section 351e, act June 19, 1956, ch. 407, §7, as added Dec. 30, 1970, Pub. L. 91–600, §2(b), 84 Stat. 1665; amended May 3, 1973, Pub. L. 93–29, title VIII, §801(d), 87 Stat. 59; Oct. 17, 1984, Pub. L. 98–480, title I, §§103(b)(1), 107, 98 Stat. 2237, 2239; Mar. 15, 1990, Pub. L. 101–254, §7(a), 104 Stat. 103; July 25, 1991, Pub. L. 102–73, title VIII, §802(e)(3), (4), 105 Stat. 361, 362, related to prerequisites for payments, calculation and promulgation of Federal share for each State, and payment to Indian tribes.

Section 351f, act June 19, 1956, ch. 407, §8, as added Oct. 7, 1977, Pub. L. 95–123, §3(a), 91 Stat. 1095; amended Oct. 17, 1984, Pub. L. 98–480, title I, §108, 98 Stat. 2240, permitted expenditure of funds received under subchapters I and II of this chapter for administrative costs in connection with programs and activities carried out under subchapters I, II, and III of this chapter.

Section 351g, act June 19, 1956, ch. 407, §9, as added Mar. 15, 1990, Pub. L. 101–254, §8(a), 104 Stat. 104, prohibited contracting out or transferring from Federal Government certain activities or functions of Department of Education Research Library.

SHORT TITLE

Section 1 of act June 19, 1956, as amended by section 10(a) of Pub. L. 88–269, which provided that this chapter be cited as the ''Library Services and Construction Act'', was repealed by Pub. L. 104–208, div. A, title I, §101(e) [title VII, §708(a)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–312.

SUBCHAPTER I—PUBLIC LIBRARY SERVICES

§§352 to 354. Repealed. Pub. L. 104–208, div. A, title I, §101(e) [title VII, §708(a)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–312

Section 352, acts June 19, 1956, ch. 407, title I, §101, formerly §3, 70 Stat. 293; Aug. 31, 1960, Pub. L. 86–679, §1, 74 Stat. 571; renumbered title I, §101, and amended Feb. 11, 1964, Pub. L. 88–269, §§1(a)(2), 2, 7(a), 78 Stat. 11–13; July 19, 1966, Pub. L. 89–511, §3, 80 Stat. 313; Dec. 30, 1970, Pub. L. 91–600, §2(b), 84 Stat. 1666; Oct. 7, 1977, Pub. L. 95–123, §4(c), 91 Stat. 1096; Oct. 17, 1984, Pub. L. 98–480, title I, §§103(b)(1), 109, 98 Stat. 2237, 2240; Mar. 15, 1990, Pub. L. 101–254, §§9–12, 16(b), 24(2), 104 Stat. 104, 105, 113, authorized Secretary to make grants to States for public library services.

Section 353, acts June 19, 1956, ch. 407, title I, §102, formerly §4, 70 Stat. 293; Aug. 1, 1956, ch. 852, §25(a), 70 Stat. 911; Aug. 31, 1960, Pub. L. 86–679, §2, 74 Stat. 571; Sept. 25, 1962, Pub. L. 87–688, §5(a)(1), 76 Stat. 587; renumbered title I, §102, and amended Feb. 11, 1964, Pub. L. 88–269, §§1(b), 3, 7(a), 78 Stat. 11–13; July 19, 1966, Pub. L. 89–511, §§4, 12(a), 80 Stat. 313, 318; Dec. 30, 1970, Pub. L. 91–600, §2(b), 84 Stat. 1667; Oct. 7, 1977, Pub. L. 95–123, §§3(b), 4(d), (e), 91 Stat. 1095, 1096; Oct. 17, 1984, Pub. L. 98–480, title I, §§103(b)(1), 110, 98 Stat. 2237, 2240; Nov. 22, 1985, Pub. L. 99–159, title III, §§303(b), 304, 99 Stat. 903; Mar. 15, 1990, Pub. L. 101–254, §§13, 14, 104 Stat. 105, enumerated uses of Federal funds and provided for reservation of State allotments.

Section 354, acts June 19, 1956, ch. 407, title I, §103, formerly §5, 70 Stat. 293; renumbered title I, §103, and amended Feb. 11, 1964, Pub. L. 88–269, §§1(c), 4, 7(a), 78 Stat. 11–13; Dec. 30, 1970, Pub. L. 91–600, §2(b), 84 Stat. 1667; Oct. 7, 1977, Pub. L. 95–123, §§4(f), 5, 91 Stat. 1096, 1097; Oct. 17, 1984, Pub. L. 98–480, title I, §§103(b)(1), 111, 98 Stat. 2237, 2241; Mar. 15, 1990, Pub. L. 101–254, §§7(b), 15, 104 Stat. 103, 105, required States to submit annual program for library services with certain specific content requirements, limited reduction of funds to urban resource library, and provided for ratable reduction of required State expenditures.

A prior section 355, acts June 19, 1956, ch. 407, title I, §104, formerly §6, 70 Stat. 295; Aug. 1, 1956, ch. 852, §25(b), (c), 70 Stat. 911; Aug. 31, 1960, Pub. L. 86–679, §§3, 4, 74 Stat. 571; Sept. 25, 1962, Pub. L. 87–688, §5(a)(2), (3), 76 Stat. 587; renumbered and amended Feb. 11, 1964, Pub. L. 88–269, §§5, 6, 7(a), (c)–(e), 78 Stat. 12–14; July 19, 1966, Pub. L. 89–511, §§5, 8, 12(a), (b), 80 Stat. 313, 318, related to the conditions under which payments were to be made to States, the amount of such payments, and the determination and promulgation of the Federal share, and was omitted in the general amendment of this chapter by Pub. L. 91–600, §2(b), Dec. 30, 1970, 84 Stat. 1660, effective after June 30, 1971.

SUBCHAPTER II—PUBLIC LIBRARY CONSTRUCTION AND TECHNOLOGY ENHANCEMENT

§§355a to 355c. Repealed. Pub. L. 104–208, div. A, title I, §101(e) [title VII, §708(a)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–312

Section 355a, act June 19, 1956, ch. 407, title II, §201, as added Feb. 11, 1964, Pub. L. 88–269, §7(a), 78 Stat. 13; amended July 19, 1966, Pub. L. 89–511, §6, 80 Stat. 313; Dec. 30, 1970, Pub. L. 91–600, §2(b), 84 Stat. 1668; Oct. 17, 1984, Pub. L. 98–480, title I, §103(b)(1), 98 Stat. 2237; Mar. 15, 1990, Pub. L. 101–254, §16(c)(2), (3), 104 Stat. 106, related to grants to States for public library construction and library and information technology enhancement.

Section 355b, act June 19, 1956, ch. 407, title II, §202, as added Feb. 11, 1964, Pub. L. 88–269, §7(a), 78 Stat. 13; amended July 19, 1966, Pub. L. 89–511, §§7, 12(a), 80 Stat. 313, 318; Dec. 30, 1970, Pub. L. 91–600, §2(b), 84 Stat. 1668; Oct. 7, 1977, Pub. L. 95–123, §6, 91 Stat. 1097; Oct. 17, 1984,

Pub. L. 98–480, title I, §112(a), (b)(1), 98 Stat. 2241; Mar. 15, 1990, Pub. L. 101–254, §16(c)(3), (4), 104 Stat. 106, related to Federal share of cost of construction and technology enhancement projects carried under State plans and recovery by United States of value of grant.

Section 355c, act June 19, 1956, ch. 407, title II, §203, as added Feb. 11, 1964, Pub. L. 88–269, §7(a), 78 Stat. 13; amended Apr. 13, 1970, Pub. L. 91–230, title IV, §401(g)(3), 84 Stat. 174; Dec. 30, 1970, Pub. L. 91–600, §2(b), 84 Stat. 1668; Oct. 17, 1984, Pub. L. 98–480, title I, §103(b)(1), 98 Stat. 2237; Mar. 15, 1990, Pub. L. 101–254, §§16(c)(3), (5), 17, 104 Stat. 106, required submission of annual program for construction and technology enhancement of public libraries by any State desiring to receive grant from its allotment and specified contents of such program.

A prior section 355d, act June 19, 1956, ch. 407, title II, §204, as added Feb. 11, 1964, Pub. L. 88–269, §7(a), 78 Stat. 14; amended July 19, 1966, Pub. L. 89–511, §§5(b), (8), 80 Stat. 313, related to payment to States of Federal share and determination of amount of such payment, and was omitted in the general amendment of this chapter by Pub. L. 91–600, §2(b), Dec. 30, 1970, 84 Stat. 1660, effective after June 30, 1971.

SUBCHAPTER III—INTERLIBRARY COOPERATION AND RESOURCE SHARING

§§ 355e to 355e–4. Repealed. Pub. L. 104–208, div. A, title I, §101(e) [title VII, §708(a)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–312

Section 355e, act June 19, 1956, ch. 407, title III, §301, as added July 19, 1966, Pub. L. 89–511, §9, 80 Stat. 314; amended Dec. 30, 1970, Pub. L. 91–600, §2(b), 84 Stat. 1668; Oct. 17, 1984, Pub. L. 98–480, title I, §§103(b)(1), 113(b), 98 Stat. 2237, 2242; Mar. 15, 1990, Pub. L. 101–254, §18(a), 104 Stat. 106, authorized Secretary to make grants to States for interlibrary cooperation and resource sharing.

Section 355e–1, act June 19, 1956, ch. 407, title III, §302, as added and amended July 19, 1966, Pub. L. 89–511, §§9, 12(a), 80 Stat. 314, 318; Dec. 30, 1970, Pub. L. 91–600, §2(b), 84 Stat. 1669; Mar. 15, 1990, Pub. L. 101–254, §16(d), 104 Stat. 106, related to payment and amount of Federal share of cost of carrying out State plans submitted and approved under section 355e–2 of this title.

Section 355e–2, act June 19, 1956, ch. 407, title III, §303, as added July 19, 1966, Pub. L. 89–511, §9, 80 Stat. 314; amended Nov. 24, 1967, Pub. L. 90–154, §1, 81 Stat. 509; Dec. 30, 1970, Pub. L. 91–600, §2(b), 84 Stat. 1669; Oct. 17, 1984, Pub. L. 98–480, title I, §§103(b)(1), 113(c), 98 Stat. 2237, 2242, required submission of annual program for interlibrary cooperation by any State desiring to receive grant from its allotment and specified contents of such program.

Section 355e–3, act June 19, 1956, ch. 407, title III, §304, as added Oct. 17, 1984, Pub. L. 98–480, title I, §113(d), 98 Stat. 2242; amended Mar. 15, 1990, Pub. L. 101–254, §18, 104 Stat. 106, related to statewide resource sharing plans in State annual and long-term programs.

A prior section 355e–3, act June 19, 1956, ch. 407, title III, §304, as added July 19, 1966, Pub. L. 89–511, §9, 80 Stat. 314, set forth the criteria for approval by the Commissioner of State plans for interlibrary cooperation, prior to the general amendment of this chapter by Pub. L. 91–600, §2(b), Dec. 30, 1970, 84 Stat. 1660, effective after June 30, 1971.

Section 355e–4, act June 19, 1956, ch. 407, title III, §305, as added Mar. 15, 1990, Pub. L. 101–254, §19, 104 Stat. 106, related to statewide preservation cooperation plans in State annual and long-range programs, specified plan compliance requirements, authorized use of funds to carry out such plans, and granted State library administrative agency authority to contract part or all of preservation program under this section to other agencies or institutions.

Prior sections 355f to 358 were omitted in the general amendment of this chapter by Pub. L. 91–600, §2(b), Dec. 30, 1970, 84 Stat. 1660, effective after June 30, 1971.

Prior sections 355f to 355f–7 comprised former subchapter IV of this chapter relating to specialized State library services.

Prior sections 356 to 358 comprised former subchapter V of this chapter relating to the administration of this chapter.

Section 355f, act June 19, 1956, ch. 407, title IV, §401, as added July 19, 1966, Pub. L. 89–511, §9, 80 Stat. 315, authorized appropriations for State institutional library services.

Section 355f–1, act June 19, 1956, ch. 407, title IV, §402, as added and amended July 19, 1966, Pub. L. 89–511, §§9, 12(a), 80 Stat. 315, 318, set forth the amount of allotments authorized to be made by the Commissioner to States, Guam, etc.

Section 355f–2, act June 19, 1956, ch. 407, title IV, §403, as added July 19, 1966, Pub. L. 89–511, §9, 80 Stat. 315; amended Nov. 24, 1967, Pub. L. 90–154, §2, 81 Stat. 509, related to the payment to the States of the Federal share and the determination of the amount of such payment.

Section 355f–3, act June 19, 1956, ch. 407, title IV, §404, as added July 19, 1966, Pub. L. 89–511, §9, 80 Stat. 316; amended Nov. 24, 1967, Pub. L. 90–154, §3, 81 Stat. 509, set forth the criteria for approval by the Commissioner of State plans for institutional library services.

Section 355f–4, act June 19, 1956, ch. 407, title IV, §411, as added July 19, 1966, Pub. L. 89–511, §9, 80 Stat. 316, authorized appropriations for State library services to the physically handicapped.

Section 355f–5, act June 19, 1956, ch. 407, title IV, §412, as added and amended July 19, 1966, Pub. L. 89–511, §§9, 12(a), 80 Stat. 316, 318, set forth the amount of allotments authorized to be made by the Commissioner to States, Guam, etc.

Section 355f–6, act June 19, 1956, ch. 407, title IV, §413, as added July 19, 1966, Pub. L. 89–511, §9, 80 Stat. 317; amended Nov. 24, 1967, Pub. L. 90–154, §4, 81 Stat. 509, related to the payment to the States of the Federal share and the determination of the amount of such payment.

Section 355f–7, act June 19, 1956, ch. 407, title IV, §414, as added July 19, 1966, Pub. L. 89–511, §9, 80 Stat. 317; amended Nov. 24, 1967, Pub. L. 90–154, §5, 81 Stat. 509, set forth the criteria for approval by the Commissioner of State plans for library services to the physically handicapped.

Section 356, act June 19, 1956, ch. 407, title V, §501, formerly §7, 70 Stat. 295, renumbered §301 and amended Feb. 11, 1964, Pub. L. 88–269, §7(f), (g), 78 Stat. 14, renumbered §501, July 19, 1966, Pub. L. 89–511, §10(b), 80 Stat. 317, authorized the Commissioner to withhold payments to the States, enumerated the grounds for such withholding, and provided that notice and an opportunity for a hearing to be accorded to the appropriate State agency.

Section 357, act June 19, 1956, ch. 407, title V, §502, formerly §8, 70 Stat. 295, renumbered §302 and amended Feb. 11, 1964, Pub. L. 88–269, §§1(d), 7(f), 8, 78 Stat. 11, 14, 15, renumbered §502 and amended July 19, 1966, Pub. L. 89–511, §10(b), (c), (e), 80 Stat. 317, 318, set forth the administrative provisions of this chapter.

Section 357a, act June 19, 1956, ch. 407, title V, §503, formerly §303, as added Feb. 11, 1964, Pub. L. 88–269, §7(h), 78 Stat. 14, renumbered and amended July 19, 1966, Pub. L. 89–511, §10(b), 80 Stat. 317, provided for the reallotment of unused funds under conditions determined by the Commissioner.

Section 358, act June 19, 1956, ch. 407, title V, §504, formerly §9, 70 Stat. 296; Aug. 1, 1956, ch. 852, §25(d), 70 Stat. 911; Aug. 31, 1960, Pub. L. 86–679, §5, 74 Stat. 572; Sept. 25, 1962, Pub. L. 87–688, §5(a)(3), 76 Stat. 587, renumbered §304 and amended Feb. 11, 1964, Pub. L. 88–269, §§1(e), 7(b), (f), 9, 78 Stat. 11, 14, 16, renumbered §504, and amended July 19, 1966, Pub. L. 89–511, §§10(b), 12(a), 80 Stat. 317, 318; Nov. 24, 1967, Pub. L. 90–154, §6, 81 Stat. 509, defined the terms ''State'', ''State library administrative agency'', ''public library'', ''construction'', and ''Secretary''.

SUBCHAPTER IV—LIBRARY SERVICES FOR INDIAN TRIBES

§§ 361 to 366. Repealed. Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 708(a)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–312

Section 361, act June 19, 1956, ch. 407, title IV, § 401, as added Oct. 17, 1984, Pub. L. 98–480, title I, § 114, 98 Stat. 2243, related to congressional findings and purpose of this subchapter and authorization of grants.

A prior section 361, act June 19, 1956, ch. 407, title IV, § 401, as added May 3, 1973, Pub. L. 93–29, title VIII, § 801(a), 87 Stat. 57; amended Oct. 17, 1984, Pub. L. 98–480, title I, § 103(b)(1), 98 Stat. 2237, related to grants to States for older readers services, prior to the general amendment of this subchapter by section 114 of Pub. L. 98–480.

Section 362, act June 19, 1956, ch. 407, title IV, § 402, as added Oct. 17, 1984, Pub. L. 98–480, title I, § 114, 98 Stat. 2243, specified permitted uses of funds, required maintenance of funding level for public library services, and provided that nothing in this chapter be construed to prohibit restricted collections of tribal cultural materials with funds made available under this chapter.

A prior section 362, act June 19, 1956, ch. 407, title IV, § 402, as added May 3, 1973, Pub. L. 93–29, title VIII, § 801(a), 87 Stat. 57, related to use of Federal funds and the amount of the Federal share for the cost of carrying out State plans for the provision of older readers' services, prior to the general amendment of this subchapter by section 114 of Pub. L. 98–480.

Section 363, act June 19, 1956, ch. 407, title IV, § 403, as added Oct. 17, 1984, Pub. L. 98–480, title I, § 114, 98 Stat. 2244, related to applications for library services to Indians.

A prior section 363, act June 19, 1956, ch. 407, title IV, § 403, as added May 3, 1973, Pub. L. 93–29, title VIII, § 801(a), 87 Stat. 58; amended Oct. 17, 1984, Pub. L. 98–480, title I, § 103(b)(1), 98 Stat. 2237, related to State annual programs for library services for the elderly, prior to the general amendment of this subchapter by section 114 of Pub. L. 98–480.

Section 364, act June 19, 1956, ch. 407, title IV, § 404, as added Oct. 17, 1984, Pub. L. 98–480, title I, § 114, 98 Stat. 2244, required submission of plans for library services, on or near Indian reservation, by Indian tribes desiring to receive special project grant.

A prior section 364, act June 19, 1956, ch. 407, title IV, § 404, as added May 3, 1973, Pub. L. 93–29, title VIII, § 801(a), 87 Stat. 58; amended Oct. 1, 1973, Pub. L. 93–113, title VI, § 601(d), 87 Stat. 416; Oct. 17, 1984, Pub. L. 98–480, title I, § 103(b)(1), 98 Stat. 2237, related to administrative coordination between programs for older readers services under this subchapter with other programs for older Americans, prior to the general amendment of this subchapter by section 114 of Pub. L. 98–480.

Section 365, act June 19, 1956, ch. 407, title IV, § 405, as added Oct. 17, 1984, Pub. L. 98–480, title I, § 114, 98 Stat. 2244, provided for coordination of programs under this subchapter with other programs for Indians.

Section 366, act June 19, 1956, ch. 407, title IV, § 406, as added Nov. 22, 1985, Pub. L. 99–159, title III, § 305, 99 Stat. 903, excluded Indian tribes and Indians in California, Oklahoma, and Alaska from provisions of this subchapter requiring that services be provided on or near Indian reservations, or to only those Indians who live on or near Indian reservations.

A prior subchapter IV of this chapter, comprising sections 355f to 355f–7 of this title, related to specialized State library services, prior to the general amendment of this chapter by Pub. L. 91–600, § 2(b), Dec. 30, 1970, 84 Stat. 1660, effective after June 30, 1971.

SUBCHAPTER V—FOREIGN LANGUAGE MATERIALS ACQUISITION

§ 371. Repealed. Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 708(a)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–312

Section, act June 19, 1956, ch. 407, title V, § 501, as added Oct. 17, 1984, Pub. L. 98–480, title I, § 115, 98 Stat. 2244; amended Mar. 15, 1990, Pub. L. 101–254, § 20, 104 Stat. 107, related to grants for foreign language material acquisition.

A prior subchapter V of this chapter, comprising sections 356 to 358 of this title, related to administration of this chapter, prior to the general amendment of this chapter by Pub. L. 91–600, § 2(b), Dec. 30, 1970, 84 Stat. 1660, effective after June 30, 1971.

SUBCHAPTER VI—LIBRARY LITERACY PROGRAMS

§ 375. Repealed. Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 708(a)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–312

Section, act June 19, 1956, ch. 407, title VI, § 601, as added Oct. 17, 1984, Pub. L. 98–480, title I, § 115, 98 Stat. 2245; amended Mar. 15, 1990, Pub. L. 101–254, § 21, 104 Stat. 107; July 25, 1991, Pub. L. 102–73, title V, § 502, 105 Stat. 356, related to State and local library grants.

SUBCHAPTER VII—EVALUATION AND ASSESSMENT

§ 381. Repealed. Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 708(a)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–312

Section, act June 19, 1956, ch. 407, title VII, § 701, as added Mar. 15, 1990, Pub. L. 101–254, § 22(a), 104 Stat. 107, authorized Secretary to carry out program for purpose of evaluating and assessing programs authorized under this chapter.

SUBCHAPTER VIII—LIBRARY LEARNING CENTER PROGRAMS

PART A—FAMILY LEARNING CENTERS

§§ 385 to 385e. Repealed. Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 708(a)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–312

Section 385, act June 19, 1956, ch. 407, title VIII, § 801, as added Mar. 15, 1990, Pub. L. 101–254, § 23(a), 104 Stat. 107, related to congressional statement of purpose of this part.

Section 385a, act June 19, 1956, ch. 407, title VIII, § 802, as added Mar. 15, 1990, Pub. L. 101–254, § 23(a), 104 Stat. 108, related to grants for family learning centers.

Section 385b, act June 19, 1956, ch. 407, title VIII, § 803, as added Mar. 15, 1990, Pub. L. 101–254, § 23(a), 104 Stat. 108, provided that funds made available under this part be used for initiation, expansion, and improvement of public library services, acquisition of resources and materials in print and electronic formats, and acquisition of computer hardware and software.

Section 385c, act June 19, 1956, ch. 407, title VIII, § 804, as added Mar. 15, 1990, Pub. L. 101–254, § 23(a), 104 Stat. 108, related to application to Secretary by local public library wishing to receive grant under this part.

Section 385d, act June 19, 1956, ch. 407, title VIII, § 805, as added Mar. 15, 1990, Pub. L. 101–254, § 23(a), 104 Stat. 109, provided for selection of family learning centers via competitive process, required equitable distribution of grants among States and between urban and rural communities under this subchapter, and established maximum amount per grant for any fiscal year.

Section 385e, act June 19, 1956, ch. 407, title VIII, § 806, as added Mar. 15, 1990, Pub. L. 101–254, § 23(a), 104 Stat.

109; amended Oct. 20, 1994, Pub. L. 103–382, title III, § 375(b), 108 Stat. 3979, authorized appropriations to carry out this part.

PART B—LIBRARY LITERACY CENTERS

§§ 386 to 386g. Repealed. Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 708(a)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–312

Section 386, act June 19, 1956, ch. 407, title VIII, § 811, as added Mar. 15, 1990, Pub. L. 101–254, § 23(a), 104 Stat. 109, related to congressional statement of purpose of this part.

Section 386a, act June 19, 1956, ch. 407, title VIII, § 812, as added Mar. 15, 1990, Pub. L. 101–254, § 23(a), 104 Stat. 110, related to grants to States for library literacy centers.

Section 386b, act June 19, 1956, ch. 407, title VIII, § 813, as added Mar. 15, 1990, Pub. L. 101–254, § 23(a), 104 Stat. 110, required any State wishing to receive grant to submit to Secretary, through its State library administrative agency, application containing certain required information and assurances, and permitted Secretary to consider priority programs and services in approving such application.

Section 386c, act June 19, 1956, ch. 407, title VIII, § 814, as added Mar. 15, 1990, Pub. L. 101–254, § 23(a), 104 Stat. 111, required library literacy centers to use funds made available under this part to initiate, expand, and improve literacy services and programs, and provided that no more than 25 percent of grant be used by each center to acquire literacy education computers and computer software.

Section 386d, act June 19, 1956, ch. 407, title VIII, § 815, as added Mar. 15, 1990, Pub. L. 101–254, § 23(a), 104 Stat. 111, required any local public library desiring to participate in programs and services conducted pursuant to this part to submit application to State or library literacy center, as selected by State under section 386f of this title, and listed requisite content of such application.

Section 386e, act June 19, 1956, ch. 407, title VIII, § 816, as added Mar. 15, 1990, Pub. L. 101–254, § 23(a), 104 Stat. 112, related to State advisory committees to assist in coordinating services and programs assisted under this part.

Section 386f, act June 19, 1956, ch. 407, title VIII, § 817, as added Mar. 15, 1990, Pub. L. 101–254, § 23(a), 104 Stat. 112, related to selection of literacy learning centers.

Section 386g, act June 19, 1956, ch. 407, title VIII, § 818, as added Mar. 15, 1990, Pub. L. 101–254, § 23(a), 104 Stat. 113; amended Oct. 20, 1994, Pub. L. 103–382, title III, § 375(c), 108 Stat. 3979, related to authorization of appropriations for this part.

CHAPTER 17—NATIONAL DEFENSE EDUCATION PROGRAM

SUBCHAPTER I—GENERAL PROVISIONS

Sec.
401 to 403. Omitted or Repealed.

SUBCHAPTER II—LOANS TO STUDENTS IN INSTITUTIONS OF HIGHER LEARNING

421 to 429. Omitted or Repealed.

SUBCHAPTER III—FINANCIAL ASSISTANCE FOR STRENGTHENING INSTRUCTION IN ACADEMIC SUBJECTS

PART A—GRANTS TO STATES

441 to 445. Omitted.

PART B—GRANTS TO LOCAL EDUCATIONAL AGENCIES

451 to 455. Omitted.

Sec.

SUBCHAPTER IV—NATIONAL DEFENSE FELLOWSHIPS

461 to 465. Omitted.

SUBCHAPTER V—GUIDANCE, COUNSELING, AND TESTING; IDENTIFICATION AND ENCOURAGEMENT OF ABLE STUDENTS

PART A—STATE PROGRAMS

481 to 485. Omitted.

PART B—COUNSELING AND GUIDANCE TRAINING INSTITUTES

491. Omitted.

SUBCHAPTER VI—FOREIGN STUDIES AND LANGUAGE DEVELOPMENT

PART A—CENTERS AND RESEARCH AND STUDIES

511 to 513. Repealed.

PART B—LANGUAGE INSTITUTES

521. Repealed.

SUBCHAPTER VII—RESEARCH AND EXPERIMENTATION IN MORE EFFECTIVE UTILIZATION OF TELEVISION, RADIO, MOTION PICTURES, AND RELATED MEDIA FOR EDUCATIONAL PURPOSES

PART A—RESEARCH AND EXPERIMENTATION

541, 542. Omitted.

PART B—DISSEMINATION OF INFORMATION ON NEW EDUCATIONAL MEDIA

551. Omitted.

PART C—GENERAL PROVISIONS

561 to 563. Omitted.

SUBCHAPTER VIII—MISCELLANEOUS PROVISIONS

581 to 589. Omitted or Repealed.

SUBCHAPTER IX—INSTITUTES

PART I—GENERAL

591, 592. Omitted.

PART II—INTERNATIONAL AFFAIRS

601, 602. Omitted.

SUBCHAPTER I—GENERAL PROVISIONS

§ 401. Omitted

CODIFICATION

The programs provided for in this chapter have not been funded for a number of years. See Codification notes set out under sections 421, 441, 451, 461, 481, 541, and 591 of this title.

Section, Pub. L. 85–864, title I, § 101, Sept. 2, 1958, 72 Stat. 1581; Pub. L. 88–665, title I, § 101, Oct. 16, 1964, 78 Stat. 1100, provided findings and declaration of policy for National Defense Education Act of 1958.

§ 402. Repealed. Pub. L. 91–230, title IV, § 401(f)(2), Apr. 13, 1970, 84 Stat. 173

Section, Pub. L. 85–864, title I, § 102, Sept. 2, 1958, 72 Stat. 1582, prohibited Federal control of education (curriculum, program of instruction, administration, or personnel of any educational institution or school system. See section 1232a of this title.

§ 403. Omitted

CODIFICATION

Section, Pub. L. 85–864, title I, § 103, Sept. 2, 1958, 72 Stat. 1582; Pub. L. 86–70, § 18(a)(1), June 25, 1959, 73 Stat.

144; Pub. L. 86–624, §14(a)(1), July 12, 1960, 74 Stat. 413; Pub. L. 88–210, title II, §201, formerly §21, Dec. 18, 1963, 77 Stat. 415, renumbered Pub. L. 90–576, title I, §101(a)(1), Oct. 16, 1968, 82 Stat. 1064; Pub. L. 88–665, title I, §§102, 103, Oct. 16, 1964, 78 Stat. 1100; Pub. L. 89–329, title IV, §491, formerly §461, Nov. 8, 1965, 79 Stat. 1251, renumbered Pub. L. 90–575, title I, §141, Oct. 16, 1968, 82 Stat. 1030; Pub. L. 89–752, §16(b), Nov. 3, 1966, 80 Stat. 1245; Pub. L. 90–575, title I, §174(a), title III, §351(c), Oct. 16, 1968, 82 Stat. 1035, 1058; Pub. L. 92–318, title I, §137(b), June 23, 1972, 86 Stat. 272; Pub. L. 94–482, title V, §501(m)(1), Oct. 12, 1976, 90 Stat. 2237; Pub. L. 96–88, title III, §301(a)(1), (2)(F), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, defined terms ''State'', ''institution of higher education'', ''Secretary'', ''State educational agency'', ''school-age population'', ''elementary school'', ''secondary school'', ''public'', ''nonprofit'', ''local educational agency'', ''school of nursing'', ''collegiate school of nursing'', ''associate degree school of nursing'', and ''accredited''. See Codification note set out under section 401 of this title.

SUBCHAPTER II—LOANS TO STUDENTS IN INSTITUTIONS OF HIGHER LEARNING

§§ 421 to 425. Omitted

CODIFICATION

This subchapter has not been funded since fiscal year 1975.

Section 421, Pub. L. 85–864, title II, §201, Sept. 2, 1958, 72 Stat. 1583; Pub. L. 87–344, title II, §201(a), Oct. 3, 1961, 75 Stat. 759; Pub. L. 88–210, title II, §202(a), formerly §22(a), Dec. 18, 1963, 77 Stat. 415, renumbered Pub. L. 90–576, title II, §101(a)(1), Oct. 16, 1968, 82 Stat. 1064; Pub. L. 88–665, title II, §201, Oct. 16, 1964, 75 Stat. 1100; Pub. L. 89–752, §15, Nov. 3, 1966, 80 Stat. 1245; Pub. L. 90–575, title I, §171(a), Oct. 16, 1968, 82 Stat. 1034; Pub. L. 91–95, §3, Oct. 22, 1969, 83 Stat. 143; Pub. L. 92–318, title I, §137(a)(1), June 23, 1972, 86 Stat. 272; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, authorized appropriations for the years ending June 30, 1959, to June 30, 1972, and each of the next three fiscal years as necessary, for low-interest loans to students in institutes of higher education under sections 421 to 425 and 427 to 429 of this title.

Section 422, Pub. L. 85–864, title II, §202, Sept. 2, 1958, 72 Stat. 1583; Pub. L. 87–344, title II, §201(b), Oct. 3, 1961, 75 Stat. 759; Pub. L. 88–210, title II, §202(b), formerly §22(b), Dec. 18, 1963, 77 Stat. 416, renumbered Pub. L. 90–576, title I, §101(a)(1), Oct. 16, 1968, 82 Stat. 1064; Pub. L. 88–665, title II, §202, Oct. 16, 1964, 78 Stat. 1101; Pub. L. 90–575, title I, §171(b), Oct. 16, 1968, 82 Stat. 1034; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to allotments to States from funds appropriated under section 421 of this title.

Section 423, Pub. L. 85–864, title II, §203, Sept. 2, 1958, 72 Stat. 1584; Pub. L. 88–210; title II, §202(c), formerly §22(c), Dec. 18, 1963, 77 Stat. 416, renumbered Pub. L. 90–576, title I, §101(a)(1), Oct. 16, 1968, 82 Stat. 1064; Pub. L. 88–665, title II, §203, Oct. 16, 1964, 78 Stat. 1101; Pub. L. 90–575, title I, §174(b), Oct. 16, 1968, 82 Stat. 1035; Pub. L. 92–318, title I, §137(b), June 23, 1972, 86 Stat. 272; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to Federal capital contributions to State institutions of higher education.

Section 424, Pub. L. 85–864, title II, §204, Sept. 2, 1958, 72 Stat. 1584; Pub. L. 88–665, title II, §204(a), Oct. 16, 1964, 78 Stat. 1101; Pub. L. 89–329, title IV, §§492, 496(b), formerly §§462, 466(b), Nov. 8, 1965, 79 Stat. 1252, 1254, renumbered and amended Pub. L. 90–575, title I, §§141, 172, 175, Oct. 16, 1968, 82 Stat. 1030, 1034, 1035; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to conditions of agreements between Secretary of Education and institutions of higher education and reimbursement of administrative expenses to such institutions.

Section 425, Pub. L. 85–864, title II, §205, Sept. 2, 1958, 72 Stat. 1584; Pub. L. 87–293, title I, §20, Sept. 22, 1961, 75 Stat. 623; Pub. L. 87–400, §1(a), Oct. 5, 1961, 75 Stat. 832; Pub. L. 88–210, title II, §202(d)(1), (2), formerly §22(d)(1), (2), Dec. 18, 1963, 77 Stat. 416, renumbered Pub. L. 90–576, title I, §101(a)(1), Oct. 16, 1968, 82 Stat. 1064; Pub. L. 88–665, title II, §205(a), (b), Oct. 16, 1964, 78 Stat. 1101, 1102; Pub. L. 89–253, §31(a), Oct. 9, 1965, 79 Stat. 979; Pub. L. 89–329, title IV, §§493(a), (b), 494(a), 495(a), 496(a), formerly §§463(a), (b), 464(a), 465(a), 466(a), Nov. 8, 1965, 79 Stat. 1252, 1253; Pub. L. 89–572, §5(a), Sept. 13, 1966, 80 Stat. 765; Pub. L. 89–752, §16(a), Nov. 3, 1966, 80 Stat. 1245; Pub. L. 89–794, title XI, §1101(a), Nov. 8, 1966, 80 Stat. 1476; renumbered and amended Pub. L. 90–575, title I, §§141, 173(a), Oct. 16, 1968, 82 Stat. 1030, 1034; Pub. L. 91–230, title V, §501(a), Apr. 13, 1970, 84 Stat. 174; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to terms of loans made to students from loan funds established by institutions of higher education.

§426. Repealed. Pub. L. 92–318, title I, §137(d)(2), June 23, 1972, 86 Stat. 280

Section, Pub. L. 85–864, title II, §206, Sept. 2, 1958, 72 Stat. 1586; Pub. L. 87–344, title II, §201(c), Oct. 3, 1961, 75 Stat. 759; Pub. L. 88–210, title II, §202(e), formerly §22(e), Dec. 18, 1963, 77 Stat. 416, renumbered Pub. L. 90–576, title I, §101(a)(1), Oct. 16, 1968, 82 Stat. 1064; Pub. L. 88–665, title II, §206, Oct. 16, 1964, 78 Stat. 1102; Pub. L. 90–575, title I, §171(c), Oct. 16, 1968, 82 Stat. 1034, provided for distributions of assets from student loan funds. See section 1087ff of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective June 23, 1972, see section 137(d)(2) of Pub. L. 92–318.

§§ 427 to 429. Omitted

CODIFICATION

This subchapter has not been funded since fiscal year 1975.

Section 427, Pub. L. 85–864, title II, §207, Sept. 2, 1958, 72 Stat. 1587; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to loans to help finance an institution's capital contribution to a student loan fund.

Section 428, Pub. L. 85–864, title II, §208, Sept. 2, 1958, 72 Stat. 1587; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to payments to cover reductions in amounts of student loans.

Section 429, Pub. L. 85–864, title II, §209, Sept. 2, 1958, 72 Stat. 1587; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, contained administrative provisions relating to modification of agreements and loans, compromise, waiver, or release of rights, and finality and conclusiveness of financial transactions and vouchers of the Secretary.

SUBCHAPTER III—FINANCIAL ASSISTANCE FOR STRENGTHENING INSTRUCTION IN ACADEMIC SUBJECTS

PART A—GRANTS TO STATES

§§ 441 to 445. Omitted

CODIFICATION

This part has not been funded since the fiscal year ending prior to Oct. 1, 1978.

Section 441, Pub. L. 85–864, title III, §301, Sept. 2, 1958, 72 Stat. 1588; Pub. L. 87–344, title II, §202(a), Oct. 3, 1961, 75 Stat. 760; Pub. L. 88–210, title II, §203(a), formerly §23(a), Dec. 18, 1963, 77 Stat. 416, renumbered Pub. L. 90–576, title I, §101(a)(1), Oct. 16, 1968, 82 Stat. 1064; Pub. L. 88–665, title III, §302, Oct. 16, 1964, 78 Stat. 1103; Pub. L. 89–329, title IV, §497(a)(2), formerly §467(a)(2), Nov. 8, 1965, 79 Stat. 1254; Pub. L. 89–752, §17(b), Nov. 3, 1966, 80 Stat. 1245; renumbered and amended Pub. L. 90–575, title I, §141, title III, §§301(a), (b), 304(b), Oct. 16, 1968,

82 Stat. 1030, 1052, 1053; Pub. L. 91–230, title VIII, §807(a)(3), Apr. 13, 1970, 84 Stat. 192; Pub. L. 92–318, title V, §502, June 23, 1972, 86 Stat. 345; Pub. L. 93–380, title VI, §651(a), Aug. 21, 1974, 88 Stat. 588; Pub. L. 94–482, title III, §301, title V, §501(k)(1), Oct. 12, 1976, 90 Stat. 2215, 2237; Pub. L. 95–112, §4, Sept. 24, 1977, 91 Stat. 912, authorized appropriations for the fiscal year ending June 30, 1959, through the fiscal year ending prior to Oct. 1, 1978, for payments to State educational agencies under sections 441 to 445 of this title.

Section 442, Pub. L. 85–864, title III, §302, Sept. 2, 1958, 72 Stat. 1588; Pub. L. 86–70, §18(a)(2), June 25, 1959, 73 Stat. 144; Pub. L. 86–624, §14(a)(2)(A), (C), July 12, 1960, 74 Stat. 413; Pub. L. 87–344, title II, §202(b), Oct. 3, 1961, 75 Stat. 760; Pub. L. 88–210, title II, §203(b), formerly §23(b), Dec. 18, 1963, 77 Stat. 416, renumbered Pub. L. 90–576, title I, §101(a)(1), Oct. 16, 1968, 82 Stat. 1064; Pub. L. 88–665, title III, §303, Oct. 16, 1964, 78 Stat. 1103; Pub. L. 90–575, title III, §§303(b), 304(b), 351(b), Oct. 16, 1968, 82 Stat. 1053, 1058; Pub. L. 94–482, title V, §501(m)(2), Oct. 12, 1976, 90 Stat. 2237; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to allotments to States from funds appropriated under section 441 of this title.

Section 443, Pub. L. 85–864, title III, §303, Sept. 2, 1958, 72 Stat. 1589; Pub. L. 88–210, title II, §203(c), formerly §23(c), Dec. 18, 1963, 77 Stat. 417, renumbered Pub. L. 90–576, title I, §101(a)(1), Oct. 16, 1968, 82 Stat. 1064; Pub. L. 88–665, title III, §304, Oct. 16, 1964, 78 Stat. 1103; Pub. L. 89–329, title IV, §497(a)(1), formerly §467(a)(1), Nov. 8, 1965, 79 Stat. 1254; Pub. L. 89–752, §17(a), Nov. 3, 1966, 80 Stat. 1245; renumbered and amended Pub. L. 90–575, title I, §141, title III, §§302, 304(b), Oct. 16, 1968, 82 Stat. 1030, 1052, 1053; Pub. L. 91–230, title VIII, §807(a)(1), (2), Apr. 13, 1970, 84 Stat. 192; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to the requirements of State plans of any State desiring to receive payments under sections 441 to 445 of this title.

Section 444, Pub. L. 85–864, title III, §304, Sept. 2, 1958, 72 Stat. 1589; Pub. L. 87–344, title II, §202(c), Oct. 3, 1961, 75 Stat. 760; Pub. L. 88–210, title II, §203(d), formerly §23(d), Dec. 18, 1963, 77 Stat. 417, renumbered Pub. L. 90–576, title I, §101(a)(1), Oct. 16, 1968, 82 Stat. 1064; Pub. L. 88–665, title III, §305, Oct. 16, 1964, 78 Stat. 1104; Pub. L. 90–575, title III, §301(c), Oct. 16, 1968, 82 Stat. 1052; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to payments to States with plans approved under section 443 of this title.

Section 445, Pub. L. 85–864, title III, §305, Sept. 2, 1958, 72 Stat. 1590; Pub. L. 88–665, title III, §306, Oct. 16, 1964, 78 Stat. 1104; Pub. L. 90–575, title III, §303(a), Oct. 16, 1968, 82 Stat. 1053; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to loans to private nonprofit elementary and secondary schools in any State.

PART B—GRANTS TO LOCAL EDUCATIONAL AGENCIES

§§ 451 to 455. Omitted

CODIFICATION

This part has not been funded since fiscal year 1971.

Section 451, Pub. L. 85–864, title III, §311, as added Pub. L. 90–575, title III, §304(b), Oct. 16, 1968, 82 Stat. 1054, authorized appropriations for the years ending June 30, 1969, to June 30, 1971, for carrying out the provisions of sections 451 to 455 of this title.

Section 452, Pub. L. 85–864, title III, §312, as added Pub. L. 90–575, title III, §304(b), Oct. 16, 1968, 82 Stat. 1054; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to allotments to local educational agencies from funds appropriated under section 451 of this title.

Section 453, Pub. L. 85–864, title III, §313, as added Pub. L. 90–575, title III, §304(b), Oct. 16, 1968, 82 Stat. 1054; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to applications for funds by local educational agencies, approved by the appropriate State educational agency.

Section 454, Pub. L. 85–864, title III, §314, as added Pub. L. 90–575, title III, §304(b), Oct. 16, 1968, 82 Stat. 1055; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to the requirements for applications of States desiring to participate in programs under sections 451 to 455 of this title.

Section 455, Pub. L. 85–864, title III, §315, as added Pub. L. 90–575, title III, §304(b), Oct. 16, 1968, 82 Stat. 1055; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to payments to States for distribution to eligible local educational agencies of such States.

SUBCHAPTER IV—NATIONAL DEFENSE FELLOWSHIPS

§§ 461 to 465. Omitted

CODIFICATION

Fellowships under this subchapter have not been authorized since the fiscal year ending June 30, 1973.

Section 461, Pub. L. 85–864, title IV, §401, Sept. 2, 1958, 72 Stat. 1590, authorized appropriations to carry out sections 461 to 465 of this title.

Section 462, Pub. L. 85–864, title IV, §402, Sept. 2, 1958, 72 Stat. 1591; Pub. L. 87–344, title II, §203, Oct. 3, 1961, 75 Stat. 760; Pub. L. 88–210, title II, §204(a), (b), formerly §24(a), (b), Dec. 18, 1963, 77 Stat. 417, renumbered Pub. L. 90–576, title I, §101(a)(1), Oct. 16, 1968, 82 Stat. 1064; Pub. L. 88–665, title IV, §401, Oct. 16, 1964, 78 Stat. 1104; Pub. L. 90–575, title III, §§311(a), 312(a), Oct. 16, 1968, 82 Stat. 1056; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to the number of fellowships to be awarded.

Section 463, Pub. L. 85–864, title IV, §403, Sept. 2, 1958, 72 Stat. 1591; Pub. L. 88–665, title IV, §402(a)–(c), Oct. 16, 1964, 78 Stat. 1104; Pub. L. 90–575, title III, §§311(b), 312(c), 314, Oct. 16, 1968, 82 Stat. 1056, 1057; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, contained requirements and limitations relating to the awarding of fellowships.

Section 464, Pub. L. 85–864, title IV, §404, Sept. 2, 1958, 72 Stat. 1591; Pub. L. 88–210, title II, §204(c), formerly §24(c), Dec. 18, 1963, 77 Stat. 417, renumbered Pub. L. 90–576, title I, §101(a)(1), Oct. 16, 1968, 82 Stat. 1064; Pub. L. 88–665, title IV, §403, Oct. 16, 1964, 78 Stat. 1105; Pub. L. 90–575, title III, §313(a), Oct. 16, 1968, 82 Stat. 1056; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to payment of stipends to persons awarded scholarships and payments to institutions of higher education at which such persons were pursuing courses of study.

Section 465, Pub. L. 85–864, title IV, §405, Sept. 2, 1958, 72 Stat. 1591; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, provided for conditions relating to continued receipt of payments under section 464 of this title to persons awarded fellowships.

SUBCHAPTER V—GUIDANCE, COUNSELING, AND TESTING; IDENTIFICATION AND ENCOURAGEMENT OF ABLE STUDENTS

PART A—STATE PROGRAMS

§§ 481 to 485. Omitted

CODIFICATION

This subchapter is no longer funded and was superseded by title III of the Elementary and Secondary Education Act of 1965, which was classified to subchapter II of chapter 24 of this title. Subchapter II of chapter 24 of this title was omitted in the general revision of title III of the Elementary and Secondary Education Act of 1965 by Pub. L. 95–561.

Section 481, Pub. L. 85–864, title V, §501, Sept. 2, 1958, 72 Stat. 1592; Pub. L. 87–344, title II, §204(a), Oct. 3, 1961,

75 Stat. 760; Pub. L. 88–210, title II, §205(a), formerly, §25(a), Dec. 18, 1963, 77 Stat. 417, renumbered Pub. L. 90–576, title I, §101(a)(1), Oct. 16, 1968, 82 Stat. 1064; Pub. L. 88–665, title V, §501, Oct. 16, 1964, 78 Stat. 1105; Pub. L. 90–575, title III, §321(a), Oct. 16, 1968, 82 Stat. 1057, authorized appropriations for the years ending June 30, 1963, to June 30, 1971, for making grants to State educational agencies under sections 481 to 484 of this title.

Section 482, Pub. L. 85–864, title V, §502, Sept. 2, 1958, 72 Stat. 1592; Pub. L. 88–210, title II, §205(b), formerly §25(b), Dec. 18, 1963, 77 Stat. 417, renumbered Pub. L. 90–576, title I, §101(a)(1), Oct. 16, 1968, 82 Stat. 1064; Pub. L. 90–575, title III, §351(b), Oct. 16, 1968, 82 Stat. 1058, related to allotments to States from sums appropriated under section 481 of this title.

Section 483, Pub. L. 85–864, title V, §503, Sept. 2, 1958, 72 Stat. 1592; Pub. L. 88–210, title II, §205(c), formerly §25(c), Dec. 18, 1963, 77 Stat. 418, renumbered Pub. L. 90–576, title I, §101(a)(1), Oct. 16, 1968, 82 Stat. 1064; Pub. L. 88–665, title V, §502, Oct. 16, 1964, 78 Stat. 1105; Pub. L. 90–575, title III, §322, Oct. 16, 1968, 82 Stat. 1057, related to requirements of State plans of any State desiring to receive payments under sections 481 to 484 of this title.

Section 484, Pub. L. 85–864, title V, §504, Sept. 2, 1958, 72 Stat. 1592; Pub. L. 87–344, title II, §204(b), (c), Oct. 3, 1961, 75 Stat. 760; Pub. L. 88–210, title II, §205(d), formerly §25(d), Dec. 18, 1963, 77 Stat. 418, renumbered Pub. L. 90–576, title I, §101(a)(1), Oct. 16, 1968, 82 Stat. 1064; Pub. L. 88–665, title V, §503, Oct. 16, 1964, 78 Stat. 1105; Pub. L. 90–575, title III, §321(b), Oct. 16, 1968, 82 Stat. 1057, related to payments to States with plans approved under section 483 of this title.

Section 485, Pub. L. 85–864, title V, §505, as added Pub. L. 88–665, title V, §504, Oct. 16, 1964, 78 Stat. 1106, defined ''junior colleges or technical institutes'' as used in this subchapter.

PART B—COUNSELING AND GUIDANCE TRAINING INSTITUTES

§ 491. Omitted

CODIFICATION

Section, Pub. L. 85–864, title V, §511, Sept. 2, 1958, 72 Stat. 1593; Pub. L. 87–344, title II, §204(d), Oct. 3, 1961, 75 Stat. 760; Pub. L. 88–210, title II, §205(e), formerly §25(e), Dec. 18, 1963, 77 Stat. 418, renumbered Pub. L. 90–576, title I, §101(a)(1), Oct. 16, 1968, 82 Stat. 1064; Pub. L. 88–665, title V, §505, Oct. 16, 1964, 78 Stat. 1106, authorized appropriations for the years ending June 30, 1959 and 1960 and the eight succeeding fiscal years for operation by institutes of higher education of institutes for advanced study. For further details see Codification note set out under section 481 of this title.

SUBCHAPTER VI—FOREIGN STUDIES AND LANGUAGE DEVELOPMENT

PART A—CENTERS AND RESEARCH AND STUDIES

§§ 511 to 513. Repealed. Pub. L. 96–374, title VI, § 601(c)(1), Oct. 3, 1980, 94 Stat. 1471

Section 511, Pub. L. 85–864, title VI, §601, Sept. 2, 1958, 72 Stat. 1593; Pub. L. 87–344, title II, §205(a), Oct. 3, 1961, 75 Stat. 760; Pub. L. 88–210, title II, §206(a), formerly §26(a), Dec. 18, 1963, 77 Stat. 418, renumbered Pub. L. 90–576, title I, §101(a)(1), Oct. 16, 1968, 82 Stat. 1064; Pub. L. 88–665, title VI, §601(a), Oct. 16, 1964, 78 Stat. 1106; Pub. L. 89–698, title II, §201, Oct. 29, 1966, 80 Stat. 1069; Pub. L. 90–575, title III, §331(a), Oct. 16, 1968, 82 Stat. 1057; Pub. L. 92–318, title I, §182(a), June 23, 1972, 86 Stat. 311, provided for language and area centers and programs. See section 1121 et seq. of this title.

Section 512, Pub. L. 85–864, title VI, §602, Sept. 2, 1958, 72 Stat. 1594; Pub. L. 94–482, title III, §302(d), Oct. 12, 1976, 90 Stat. 2216; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, authorized a program of research and studies. See section 1125 of this title.

Section 512a, Pub. L. 85–864, title VI, §603, as added Pub. L. 94–482, title III, §302(b), Oct. 12, 1976, 90 Stat. 2215; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, provided for a program of grants and contracts for promotion of cultural understanding.

Section 513, Pub. L. 85–864, title VI, §604, formerly §603, Sept. 2, 1958, 72 Stat. 1594; Pub. L. 88–665, title VI, §601(b), Oct. 16, 1964, 78 Stat. 1107; Pub. L. 90–575, title III, §331(b), Oct. 16, 1968, 82 Stat. 1057; Pub. L. 92–318, title I, §182(b), June 23, 1972, 86 Stat. 312; renumbered and amended Pub. L. 94–482, title III, §302(b), (c), Oct. 12, 1976, 90 Stat. 2215, 2216; Pub. L. 95–43, §1(c), June 15, 1977, 91 Stat. 219; Pub. L. 96–49, §15, Aug. 13, 1979, 93 Stat. 354, authorized appropriations for foreign studies and language development program. See sections 1127 and 1130b of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1980, see section 1393 of Pub. L. 96–374, set out as an Effective Date of 1980 Amendment note under section 1001 of this title.

PART B—LANGUAGE INSTITUTES

§ 521. Repealed. Pub. L. 88–665, title VI, § 602, Oct. 16, 1964, 78 Stat. 1107

Section, Pub. L. 85–864, title VI, §611, Sept. 2, 1958, 72 Stat. 1594; Pub. L. 87–344, title II, §205(b), Oct. 3, 1961, 75 Stat. 760; Pub. L. 88–210, title II, §206(b), formerly §26(b), Dec. 18, 1963, 77 Stat. 418, renumbered Pub. L. 90–576, title I, §101(a)(1), Oct. 16, 1968, 82 Stat. 1064, authorized appropriation of $7,250,000 for fiscal year ending June 30, 1959 and each of six succeeding fiscal years for language institutes.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1964, see section 602 of Pub. L. 88–665.

SUBCHAPTER VII—RESEARCH AND EXPERIMENTATION IN MORE EFFECTIVE UTILIZATION OF TELEVISION, RADIO, MOTION PICTURES, AND RELATED MEDIA FOR EDUCATIONAL PURPOSES

PART A—RESEARCH AND EXPERIMENTATION

§§ 541, 542. Omitted

CODIFICATION

This subchapter has not been funded since the fiscal year ending in 1968.

Section 541, Pub. L. 85–864, title VII, §701, Sept. 2, 1958, 72 Stat. 1595; Pub. L. 88–210, title II, §207(a), formerly §27(a), Dec. 18, 1963, 77 Stat. 419, renumbered Pub. L. 90–576, title I, §101(a)(1), Oct. 16, 1968, 82 Stat. 1064; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, directed Secretary of Education, in cooperation with Advisory Committee on New Educational Media, to conduct, assist, and foster research and experimentation in development and evaluation of projects involving communication media of possible value to State or local educational agencies.

Section 542, Pub. L. 85–864, title VII, §702, Sept. 2, 1958, 72 Stat. 1595; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, authorized Secretary to make grants-in-aid or contracts for projects of research or experimentation referred to in section 541 of this title.

PART B—DISSEMINATION OF INFORMATION ON NEW EDUCATIONAL MEDIA

§ 551. Omitted

CODIFICATION

Section, Pub. L. 85–864, title VII, §731, Sept. 2, 1958, 72 Stat. 1595; Pub. L. 88–210, title II, §207(b), formerly

§ 27(b), Dec. 18, 1963, 77 Stat. 419, renumbered Pub. L. 90–576, title I, § 101(a)(1), Oct. 16, 1968, 82 Stat. 1064; Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, related to functions of Secretary of Education with respect to dissemination of information on new educational media. See Codification note set out under sections 541, 542 of this title.

PART C—GENERAL PROVISIONS

§§ 561 to 563. Omitted

CODIFICATION

This subchapter has not been funded since the fiscal year ending in 1968.

Section 561, Pub. L. 85–864, title VII, § 761, Sept. 2, 1958, 72 Stat. 1596; Pub. L. 88–210, title II, § 207(c), formerly § 27(c), Dec. 18, 1963, 77 Stat. 419, renumbered Pub. L. 90–576, title I, § 101(a)(1), Oct. 16, 1968, 82 Stat. 1064; Pub. L. 91–230, title IV, § 401(h)(1), Apr. 13, 1970, 84 Stat. 174; Pub. L. 96–88, title III, § 301, title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, related to establishment, functions and utilization of services of Advisory Committee on New Educational Media.

Section 562, Pub. L. 85–864, title VII, § 762, Sept. 2, 1958, 72 Stat. 1597; Pub. L. 90–575, title III, § 341, Oct. 16, 1968, 82 Stat. 1058; Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, related to securing of assistance and advice of experts in utilization and adaptation of new media and technology for educational purposes.

Section 563, Pub. L. 85–864, title VII, § 763, Sept. 2, 1958, 72 Stat. 1597; Pub. L. 87–344, title II, § 206, Oct. 3, 1961, 75 Stat. 760; Pub. L. 88–210, title II, § 207(d), formerly § 27(d), Dec. 18, 1963; 77 Stat. 419, renumbered Pub. L. 90–576, title I, § 101(a)(1), Oct. 16, 1968, 82 Stat. 1064; Pub. L. 88–665, title VII, § 701, Oct. 16, 1964, 78 Stat. 1107, authorized appropriations for fiscal year ending June 30, 1959, and for each of nine succeeding fiscal years to carry out provisions of this subchapter.

SUBCHAPTER VIII—MISCELLANEOUS PROVISIONS

§ 581. Omitted

CODIFICATION

The programs provided for in this chapter have not been funded for a number of years. See Codification notes set out under section 421, 441, 451, 461, 481, 541, and 591 of this title.

Section, Pub. L. 85–864, title X, § 1001, Sept. 2, 1958, 72 Stat. 1602; Pub. L. 87–835, § 3, Oct. 16, 1962, 76 Stat. 1070; Pub. L. 90–575, title I, § 176, Oct. 16, 1968, 82 Stat. 1035; Pub. L. 91–230, title IV, § 401(c)(4), Apr. 13, 1970, 84 Stat. 173; Pub. L. 96–88, title III, § 301, title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, contained the general administrative provisions for the National Defense Education Act of 1958 [this chapter] including provisions as to reports to Congress, development of policies and procedures, consultation with agencies, agency functions and authority under other laws, restriction on loans, fellowships and stipends, oath or affirmation, statement of conviction, registration of Communist organization, criminal penalties, and authority to refuse or revoke fellowship awards.

§§ 582, 583. Repealed. Pub. L. 91–230, title IV, § 401(h)(1), Apr. 13, 1970, 84 Stat. 174

Section 582, Pub. L. 85–864, title X, § 1002, Sept. 2, 1958, 72 Stat. 1602, authorized Commissioner to appoint advisory committees to advise and consult with respect to administration of National Defense Act, prescribed a membership of twelve, four each from fields of science (engineering, mathematics, or science), humanities, and other appropriate fields, and provided for compensation ($50 per day limitation) and travel expenses of committee members.

Section 583, Pub. L. 85–864, title X, § 1003, Sept. 2, 1958, 72 Stat. 1603, exempted members of advisory committees or information councils from conflict-of-interest laws, with certain exceptions.

§§ 584 to 589. Omitted

CODIFICATION

The programs provided for in this chapter have not been funded for a number of years. See Codification notes set out under sections 421, 441, 451, 461, 481, 541, and 591 of this title.

Section 584, Pub. L. 85–864, title X, § 1004, Sept. 2, 1958, 72 Stat. 1603; Pub. L. 88–665, title VIII, § 801, Oct. 16, 1964, 78 Stat. 1107; Pub. L. 90–575, title III, § 304(c), Oct. 16, 1968, 82 Stat. 1055; Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, related to administration of State plans, including the requirements for approval of State plans, notice and hearing prior to disapproval of a State plan, and restrictions on payments to States for failure to comply with provisions of this chapter.

Section 585, Pub. L. 85–864, title X, § 1005, Sept. 2, 1958, 72 Stat. 1604; Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, provided for judicial review where a State was dissatisfied with Secretary's final action with respect to the approval of its State plan or with respect to restriction of payments to the State for failure to maintain compliance with conditions governing original approval of such plan.

Section 586, Pub. L. 85–864, title X, § 1006, Sept. 2, 1958, 72 Stat. 1604, provided that payments to any individual or to any State or Federal agency, institution of higher education, or any other organization, pursuant to a grant, loan, or contract, could be made in installments, and in advance or by way of reimbursement, and, in case of grants or loans, with necessary adjustments on account of overpayments or underpayments.

Section 587, Pub. L. 85–864, title X, § 1007, Sept. 2, 1958, 72 Stat. 1604, authorized appropriations for fiscal year ending June 30, 1959, and for each fiscal year thereafter, of such sums as might be necessary for administrative costs, including administrative expenses of State commissions.

Section 588, Pub. L. 85–864, title X, § 1008, Sept. 2, 1958, 72 Stat. 1605; Pub. L. 86–70, § 18(a)(3), June 25, 1959, 73 Stat. 144; Pub. L. 86–624, § 14(a)(3), July 12, 1960, 74 Stat. 413; Pub. L. 88–210, title II, § 208(a), formerly § 28(a), Dec. 18, 1963, 77 Stat. 419, renumbered Pub. L. 90–576, title I, § 101(a)(1), Oct. 16, 1968, 82 Stat. 1064; Pub. L. 90–575, title III, § 351(a), Oct. 16, 1968, 82 Stat. 1058; Pub. L. 94–482, title V, § 501(m)(3), Oct. 12, 1976, 90 Stat. 2237; Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, related to allotments to territories and possessions from amounts reserved by Secretary under provisions relating to allotments to States and educational institutions.

Section 589, Pub. L. 85–864, title X, § 1009, Sept. 2, 1958, 72 Stat. 1605; Pub. L. 87–344, title II, § 208, Oct. 3, 1961, 75 Stat. 761; Pub. L. 88–210, title II, § 208(b), formerly § 28(b), Dec. 18, 1963, 77 Stat. 419, renumbered Pub. L. 90–576, title I, § 101(a)(1), Oct. 16, 1968, 82 Stat. 1064; Pub. L. 88–665, title VIII, § 802, Oct. 16, 1964, 78 Stat. 1107, authorized appropriations for fiscal year ending June 30, 1959, and each of nine succeeding fiscal years for grants to States for improvement of statistical services of State educational agencies and prescribed terms and conditions for such grants.

SUBCHAPTER IX—INSTITUTES

PART I—GENERAL

§§ 591, 592. Omitted

CODIFICATION

This part has not been funded since the fiscal year ending June 30, 1968.

Section 591, Pub. L. 85–864, title XI, § 1101, as added Pub. L. 88–665, title IX, § 901(a), Oct. 16, 1964, 78 Stat.

1107; amended Pub. L. 89–329, title II, §225, title IV, §497(b), formerly §467(b), Nov. 8, 1965, 79 Stat. 1228, 1254, renumbered Pub. L. 90–575, title I, §141, Oct. 16, 1968, 82 Stat. 1030; Pub. L. 90–247, title VII, §705, Jan. 2, 1968, 81 Stat. 820; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, authorized appropriations for fiscal years ending June 30, 1965, to June 30, 1968, for grants to institutions of higher education for operation of institutes for advanced study.

Section 592, Pub. L. 85–864, title XI, §1102, as added Pub. L. 88–665, title IX, §901(a), Oct. 16, 1964, 78 Stat. 1108; amended Pub. L. 89–698, title II, §202(2), Oct. 29, 1966, 80 Stat. 1070, related to receipt of stipends by individuals attending institutes for advanced study.

PART II—INTERNATIONAL AFFAIRS

§§ 601, 602. Omitted

CODIFICATION

This part has not been funded since the fiscal year ending June 30, 1968.

Section 601, Pub. L. 85–864, title XI, §1111, as added Pub. L. 89–698, title II, §202(3), Oct. 29, 1966, 80 Stat. 1070; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, authorized appropriations for fiscal years ending June 30, 1967 and June 30, 1968, for international affairs institutes for secondary school teachers.

Section 602, Pub. L. 85–864, title XI, §1112, as added Pub. L. 89–698, title II, §202(3), Oct. 29, 1966, 80 Stat. 1070; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, authorized payment of stipends to individuals studying in programs assisted under section 601 of this title.

CHAPTER 18—GRANTS FOR TEACHING IN THE EDUCATION OF HANDICAPPED CHILDREN

§§ 611 to 618. Repealed. Pub. L. 91–230, title VI, § 662(2), (4), Apr. 13, 1970, 84 Stat. 188

Section 611, Pub. L. 85–926, §1, Sept. 6, 1958, 72 Stat. 1777; Pub. L. 88–164, title III, §301(a)(1)–(3), (b), Oct. 31, 1963, 77 Stat. 294; Pub. L. 90–576, title III, §304, Oct. 16, 1968, 82 Stat. 1096, authorized grants to public or nonprofit institutions and enumerated certain uses of the grants.

Section 612, Pub. L. 85–926, §2, Sept. 6, 1958, 72 Stat. 1777; Pub. L. 86–158, title II, §201, Aug. 14, 1959, 73 Stat. 346; Pub. L. 88–164, title III, §301(a)(3), Oct. 31, 1963, 77 Stat. 294, authorized grants to State educational agencies for fellowships.

Section 613, Pub. L. 85–926, §3, Sept. 6, 1958, 72 Stat. 1777; Pub. L. 88–164, title III, §301(a)(4), Oct. 31, 1963, 77 Stat. 294, related to payment of grants.

Section 614, Pub. L. 85–926, §4, Sept. 6, 1958, 72 Stat. 1777, required submission of report to Commissioner, including financial statement.

Section 615, Pub. L. 85–926, §5, Sept. 6, 1958, 72 Stat. 1777; Pub. L. 89–105, §7, Aug. 4, 1965, 79 Stat. 430, defined terms ''nonprofit institution'', ''State educational agency'' and ''State''.

Section 616, Pub. L. 85–926, §6, Sept. 6, 1958, 72 Stat. 1777, authorized delegation of functions.

Section 617, Pub. L. 85–926, §7, Sept. 6, 1958, 72 Stat. 1777; Pub. L. 88–164, title III, §301(a)(4), Oct. 31, 1963, 77 Stat. 294; Pub. L. 89–105, §8, Aug. 4, 1965, 79 Stat. 430; Pub. L. 90–170, §6, Dec. 4, 1967, 81 Stat. 530, authorized appropriations of $19,500,000; $29,500,000; $34,000,000; $37,500,000; and $55,000,000 for fiscal years ending June 30, 1966, 1967, 1968, 1969, and 1970, respectively.

Section 618, Pub. L. 88–164, title III, §302, Oct. 31, 1963, 77 Stat. 295; Pub. L. 89–105, §§4, 5, Aug. 4, 1965, 79 Stat. 429, 430; Pub. L. 90–247, title I, §156, Jan. 2, 1968, 81 Stat. 805, related to research and demonstration projects: authorization of appropriations, installments, advances, or reimbursements, and conditions; advisory committees; panel or experts; compensation and travel expenses; delegation of functions; construction, equipping and operation of facilities; wages of laborers and authority and functions of Secretary of Labor; definition of ''construction'' and ''cost of construction''; and definition of ''research and related purposes''.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1971, see section 662 of Pub. L. 91–230.

CHAPTER 18A—EARLY EDUCATION PROGRAMS FOR HANDICAPPED CHILDREN

§§ 621 to 624. Repealed. Pub. L. 91–230, title VI, § 662(5), Apr. 13, 1970, 84 Stat. 188

Sections 621 to 624, Pub. L. 90–538, §§2–5, Sept. 30, 1968, 82 Stat. 901, 902, popularly known as the ''Handicapped Children's Early Education Assistance Act'', related to the following subject matter:

Section 621, experimental preschool and early education programs for handicapped children: authorization, special problems of the handicapped, National distribution, urban and rural areas, and scope of activities and services; community coordination of programs; and Federal share and non-Federal contributions.

Section 622, evaluation.

Section 623, definition of handicapped children.

Section 624, appropriations authorization.

For general subject matter of these sections, see sections 1423, 1425, 1401(1), and 1426 of this title, respectively.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1971, see section 662 of Pub. L. 91–230.

CHAPTER 19—SCHOOL CONSTRUCTION IN AREAS AFFECTED BY FEDERAL ACTIVITIES

CODIFICATION

Act Sept. 23, 1950, ch. 995, 64 Stat. 967, as amended, was classified to chapter 14 (§251 et seq.) of this title prior to general amendment by Pub. L. 85–620, Aug. 12, 1958, 72 Stat. 548.

§§ 631 to 647. Repealed. Pub. L. 103–382, title III, § 331(a), Oct. 20, 1994, 108 Stat. 3965

Section 631, act Sept. 23, 1950, ch. 995, §1, as added Aug. 12, 1958, Pub. L. 85–620, title I, §101, 72 Stat. 548; amended Apr. 28, 1988, Pub. L. 100–297, title II, §2031(b), 102 Stat. 301, related to Congressional declaration of purpose and authorization of appropriations.

Section 632, act Sept. 23, 1950, ch. 995, §2, as added Aug. 12, 1958, Pub. L. 85–620, title I, §101, 72 Stat. 548; amended Apr. 28, 1988, Pub. L. 100–297, title II, §2032(a)(1), 102 Stat. 301, related to annual apportionment of funds and use of remainder of funds.

Section 633, act Sept. 23, 1950, ch. 995, §3, as added Aug. 12, 1958, Pub. L. 85–620, title I, §101, 72 Stat. 548; amended Oct. 3, 1961, Pub. L. 87–344, title I, §101(a), 75 Stat. 759; Dec. 18, 1963, Pub. L. 88–210, title III, §301(a), formerly §31(a), 77 Stat. 419, renumbered title III, §301(a), Oct. 16, 1968, Pub. L. 90–576, title I, §101(a)(1), 82 Stat. 1064; Oct. 16, 1964, Pub. L. 88–665, title XI, §1101(a), 78 Stat. 1109; Nov. 3, 1966, Pub. L. 89–750, title II, §221, 80 Stat. 1213; Jan. 2, 1968, Pub. L. 90–247, title III, §301(d)(1), 81 Stat. 813; Apr. 13, 1970, Pub. L. 91–230, title II, §§201(a)(1), 203(c)(3), 84 Stat. 154, 156; Aug. 21, 1974, Pub. L. 93–380, title III, §301(a)(1), 88 Stat. 521; Apr. 21, 1976, Pub. L. 94–273, §2(13), 90 Stat. 375; Nov. 1, 1978, Pub. L. 95–561, title X, §1021(a), 92 Stat. 2311; Oct. 19, 1984, Pub. L. 98–511, title III, §301(b)(1), 98 Stat. 2388; Apr. 28, 1988, Pub. L. 100–297, title II, §§2031(a)(1), 2032(a)(1), 102 Stat. 301, related to dates for filing applications and priorities.

Section 634, act Sept. 23, 1950, ch. 995, §4, as added Aug. 12, 1958, Pub. L. 85–620, title I, §101, 72 Stat. 549;

amended Nov. 3, 1966, Pub. L. 89–750, title II, §224, 80 Stat. 1214; Apr. 28, 1988, Pub. L. 100–297, title II, §2032(a)(1), 102 Stat. 301, related to Federal share of cost of any project.

Section 635, act Sept. 23, 1950, ch. 995, §5, as added Aug. 12, 1958, Pub. L. 85–620, title I, §101, 72 Stat. 549; amended Nov. 1, 1965, Pub. L. 89–313, §5, 79 Stat. 1161; Nov. 3, 1966, Pub. L. 89–750, title II, §§222(a), (e), 223, 226, 227, 80 Stat. 1213–1215; Jan. 2, 1968, Pub. L. 90–247, title II, §§205(b), 207, 81 Stat. 809; Apr. 13, 1970, Pub. L. 91–230, title II, §§203(a)(3), 204, 84 Stat. 155, 157; May 21, 1970, Pub. L. 91–260, 84 Stat. 254; Aug. 21, 1974, Pub. L. 93–380, title III, §302(a), 88 Stat. 521; Nov. 1, 1978, Pub. L. 95–561, title X, §1022, 92 Stat. 2312; Apr. 28, 1988, Pub. L. 100–297, title II, §2032(a)(1), 102 Stat. 301, related to limitation on total payments to local agencies.

Section 636, act Sept. 23, 1950, ch. 995, §6, as added Aug. 12, 1958, Pub. L. 85–620, title I, §101, 72 Stat. 551; amended Apr. 13, 1970, Pub. L. 91–230, title IV, §401(g)(4), 84 Stat. 174; Apr. 28, 1988, Pub. L. 100–297, title II, §2032(a)(1), 102 Stat. 301, related to applications for payment.

Section 637, act Sept. 23, 1950, ch. 995, §7, as added Aug. 12, 1958, Pub. L. 85–620, title I, §101, 72 Stat. 552; amended Apr. 28, 1988, Pub. L. 100–297, title II, §2032(a)(1), 102 Stat. 301, related to payments to local agencies.

Section 638, act Sept. 23, 1950, ch. 995, §8, as added Aug. 12, 1958, Pub. L. 85–620, title I, §101, 72 Stat. 552; amended Apr. 28, 1988, Pub. L. 100–297, title II, §2032(a)(1), 102 Stat. 301, related to additional payments in unusual cases.

Section 639, act Sept. 23, 1950, ch. 995, §9, as added Aug. 12, 1958, Pub. L. 85–620, title I, §101, 72 Stat. 553; amended Apr. 28, 1988, Pub. L. 100–297, title II, §2032(a)(1), 102 Stat. 301, related to procedure in cases of temporary Federal activities and donation of temporary school facilities.

Section 640, act Sept. 23, 1950, ch. 995, §10, as added Aug. 12, 1958, Pub. L. 85–620, title I, §101, 72 Stat. 553; amended May 6, 1960, Pub. L. 86–449, title V, §502, 74 Stat. 89; July 21, 1965, Pub. L. 89–77, §1, 79 Stat. 243; Nov. 3, 1966, Pub. L. 89–750, title II, §§228, 229, 80 Stat. 1215; Nov. 1, 1978, Pub. L. 95–561, title X, §§1023, 1031(b)(1), 92 Stat. 2312; Apr. 28, 1988, Pub. L. 100–297, title II, §2032(a)(1), 102 Stat. 301, related to children for whom local agencies are unable to provide education.

Section 641, act Sept. 23, 1950, ch. 995, §11, as added Aug. 12, 1958, Pub. L. 85–620, title I, §101, 72 Stat. 554; amended Apr. 28, 1988, Pub. L. 100–297, title II, §2032(a)(1), (2), 102 Stat. 301, related to withholding of payments for noncompliance.

Section 642, act Sept. 23, 1950, ch. 995, §12, as added Aug. 12, 1958, Pub. L. 85–620, title I, §101, 72 Stat. 554; amended Apr. 13, 1970, Pub. L. 91–230, title IV, §401(f)(3), (g)(4), 84 Stat. 173, 174; Apr. 28, 1988, Pub. L. 100–297, title II, §2032(a)(1), 102 Stat. 301, related to administration of this chapter.

Section 643, act Sept. 23, 1950, ch. 995, §13, as added Aug. 12, 1958, Pub. L. 85–620, title I, §101, 72 Stat. 554; amended Apr. 13, 1970, Pub. L. 91–230, title IV, §401(c)(3), 84 Stat. 173; Apr. 28, 1988, Pub. L. 100–297, title II, §2032(a)(1), 102 Stat. 301, related to Federal departments and agencies under this chapter.

Section 644, act Sept. 23, 1950, ch. 995, §14, as added Aug. 12, 1958, Pub. L. 85–620, title I, §101, 72 Stat. 555; amended Oct. 3, 1961, Pub. L. 87–344, title I, §101(b), 75 Stat. 759; Dec. 18, 1963, Pub. L. 88–210, title III, §301(b), formerly §31(b), 77 Stat. 419, renumbered Oct. 16, 1968, Pub. L. 90–576, title I, §101(a)(1), 82 Stat. 1064; Oct. 16, 1964, Pub. L. 88–665, title XI, §1101(b), 78 Stat. 1109; Nov. 3, 1966, Pub. L. 89–750, title II, §225, 80 Stat. 1214; Jan. 2, 1968, Pub. L. 90–247, title II, §203, 81 Stat. 807; Apr. 13, 1970, Pub. L. 91–230, title II, §§205(a), 206, 84 Stat. 158, 159; Apr. 28, 1988, Pub. L. 100–297, title II, §§2032(a)(1), 2034, 102 Stat. 301, related to assistance in other federally-affected areas.

Section 645, act Sept. 23, 1950, ch. 995, §15, as added Aug. 12, 1958, Pub. L. 85–620, title I, §101, 72 Stat. 556; amended June 25, 1959, Pub. L. 86–70, §18(c), 73 Stat. 144; July 12, 1960, Pub. L. 86–624, §14(c), 74 Stat. 414; Oct. 3, 1961, Pub. L. 87–344, title I, §101(c), 75 Stat. 759; Dec. 18, 1963, Pub. L. 88–210, title III, §301(c), formerly §31(c), 77 Stat. 419, renumbered Oct. 16, 1968, Pub. L. 90–576, title I, §101(a)(1), 82 Stat. 1064; Oct. 16, 1964, Pub. L. 88–665, title XI, §1101(c), (d), 78 Stat. 1109; Nov. 3, 1966, Pub. L. 89–750, title II, §§222(b)–(d), 230–232, 80 Stat. 1213–1216; Jan. 2, 1968, Pub. L. 90–247, title II, §201, title III, §301(d)(2), 81 Stat. 806, 813; Apr. 13, 1970, Pub. L. 91–230, title II, §§201(a)(2), 203(a)(1), (2), 84 Stat. 154, 155; Aug. 12, 1970, Pub. L. 91–375, §§4(a), 6(*o*), 84 Stat. 773, 783; Aug. 21, 1974, Pub. L. 93–380, title III, §301(a)(2), 88 Stat. 521; Nov. 1, 1978, Pub. L. 95–561, title X, §§1021(b), 1031(b)(2), 92 Stat. 2312; Apr. 28, 1988, Pub. L. 100–297, title II, §§2031(a)(3), 2032(a)(1), (3), 102 Stat. 301, defined terms used in this chapter.

Section 646, act Sept. 23, 1950, ch. 995, §16, as added Nov. 1, 1965, Pub. L. 89–313, §1, 79 Stat. 1158; amended Jan. 2, 1968, Pub. L. 90–247, title II, §217, 81 Stat. 810; Oct. 21, 1968, Pub. L. 90–608, ch. IV, §402, 82 Stat. 1194; Apr. 13, 1970, Pub. L. 91–230, title II, §201(c), 84 Stat. 154; Dec. 31, 1970, Pub. L. 91–606, title III, §301(f), 84 Stat. 1759; 1973 Reorg. Plan No. 1, §§1, 3(a)(1), eff. July 1, 1973, 38 F.R. 9579, 87 Stat. 1089; Dec. 10, 1973, Ex. Ord. No. 11749, §2(2), 38 F.R. 34177; May 22, 1974, Pub. L. 93–288, title VII, §702(f), formerly title VI, §602(f), 88 Stat. 164, renumbered title VII, §702(f), Oct. 5, 1994, Pub. L. 103–337, div. C, title XXXIV, §3411(a)(1), (2), 108 Stat. 3100; Aug. 21, 1974, Pub. L. 93–380, title III, §§301(b), 302(b), 88 Stat. 521, 522; Apr. 21, 1976, Pub. L. 94–273, §3(6), 90 Stat. 376; Nov. 1, 1978, Pub. L. 95–561, title X, §§1010(b), 1021(a), 1024, 92 Stat. 2310–2312; July 20, 1979, Ex. Ord. No. 12148, §4–106, 44 F.R. 43239; Oct. 19, 1984, Pub. L. 98–511, title III, §301(b)(2), 98 Stat. 2388; Apr. 28, 1988, Pub. L. 100–297, title II, §§2031(a)(2), 2032(a)(1), (b), 2033, 102 Stat. 301; Nov. 23, 1988, Pub. L. 100–707, title I, §109(j), 102 Stat. 4709, related to assistance in cases of certain disasters.

Section 647, act Sept. 23, 1950, ch. 995, §17, as added Nov. 1, 1965, Pub. L. 89–313, §3, 79 Stat. 1161; amended Apr. 28, 1988, Pub. L. 100–297, title II, §2032(a)(1), 102 Stat. 301, provided that announcement of decrease in or cessation of Federal activities in certain areas not to affect determination of payment.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1994, see section 3(a)(3)(B) of Pub. L. 103–382, set out as a note under section 236 of this title.

CHAPTER 20—GRANTS FOR TEACHING IN THE EDUCATION OF THE DEAF

§§ 671 to 676. Omitted

Chapter consisted of Pub. L. 87–276, Sept. 22, 1961, 75 Stat. 575, in its entirety. Under the terms of section 6(b) thereof, as amended, the provisions of Pub. L. 87–276 terminated on June 30, 1964. See section 1401 et seq. of this title and section 2495 of Title 42, The Public Health and Welfare.

Section 671, Pub. L. 87–276, §1, Sept. 22, 1961, 75 Stat. 575, authorized Commissioner of Education to conduct a program of grants-in-aid to help provide courses of training and study for teachers of the deaf and to improve existing courses.

Section 672, Pub. L. 87–276, §2, Sept. 22, 1961, 75 Stat. 575, provided for making of payments by Commissioner under such a program.

Section 673, Pub. L. 87–276, §3, Sept. 22, 1961, 75 Stat. 575, defined ''nonprofit'', ''accredited'', and ''approved''.

Section 674, Pub. L. 87–276, §4, Sept. 22, 1961, 75 Stat. 576, authorized Commissioner to delegate his functions under this chapter except the making of regulations.

Section 675, Pub. L. 87–276, §5, Sept. 22, 1961, 75 Stat. 576, established Advisory Committee on the Training of Teachers of the Deaf to review and otherwise make recommendations in connection with grants-in-aid program.

Section 676, Pub. L. 87–276, §6, Sept. 22, 1961, 75 Stat. 576; Pub. L. 88–164, title III, §301(c), Oct. 31, 1963, 77

Stat. 295, authorized appropriations up through fiscal year ending June 30, 1964, and provided for termination of this chapter on June 30, 1964. Pub. L. 91–230, title VI, § 662(4), Apr. 13, 1970, 84 Stat. 188, repealed title III of Pub. L. 88–164, cited above.

CHAPTER 20A—NATIONAL TECHNICAL INSTITUTE FOR THE DEAF

§§ 681 to 685. Repealed. Pub. L. 99–371, title II, § 210(d), formerly title IV, § 410(d), Aug. 4, 1986, 100 Stat. 794; renumbered title II, § 210(d), Pub. L. 102–421, title I, § 101(b)(5), (6), Oct. 16, 1992, 106 Stat. 2151

Section 681, Pub. L. 89–36, § 2, June 8, 1965, 79 Stat. 125, stated purpose of and authorized appropriations for National Technical Institute for the Deaf. See sections 4331 and 4360(b) of this title.

Section 682, Pub. L. 89–36, § 3, June 8, 1965, 79 Stat. 125; Pub. L. 96–88, title III, § 301(a)(1), (2)(M), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 678, 692, defined ''Secretary'', ''institution of higher education'', and ''construction''. See section 4351 of this title.

Section 683, Pub. L. 89–36, § 4, June 8, 1965, 79 Stat. 125, related to proposals for establishing and operating a National Technical Institute for the Deaf.

Section 684, Pub. L. 89–36, § 5, June 8, 1965, 79 Stat. 126, related to entering into an agreement for establishment and operation of a National Technical Institute for the Deaf. See section 4332 of this title.

Section 685, Pub. L. 89–36, § 6, June 8, 1965, 79 Stat. 127, related to a National Advisory Board for the establishment of a national technical institute for the deaf.

SHORT TITLE

Pub. L. 89–36, § 1, June 8, 1965, 79 Stat. 125, which provided that this chapter be cited as the ''National Technical Institute for the Deaf Act'', was repealed by Pub. L. 99–371, title II, § 210(d), formerly title IV, § 410(d), Aug. 4, 1986, 100 Stat. 794; renumbered title II, § 210(d), Pub. L. 102–421, title I, § 101(b)(5), (6), Oct. 16, 1992, 106 Stat. 2151.

§ 686. Transferred

Section, Pub. L. 95–355, title I, § 100, Sept. 8, 1978, 92 Stat. 531, which authorized National Technical Institute for the Deaf to make purchases through General Services Administration, was transferred to section 4362 of this title.

CHAPTER 20B—GALLAUDET COLLEGE

SUBCHAPTER I—CONTINUATION AND ADMINISTRATION

§§ 691 to 691g. Repealed. Pub. L. 99–371, title II, § 210(d), formerly title IV, § 410(a), Aug. 4, 1986, 100 Stat. 794; renumbered title II, § 210(a), Pub. L. 102–421, title I, § 101(b)(5), (6), Oct. 16, 1992, 106 Stat. 2151

Section 691, act June 18, 1954, ch. 324, § 1, 68 Stat. 265, directed that Gallaudet College be successor to Columbia Institution for the Deaf. See section 4301(a) of this title.

Section 691a, act June 18, 1954, ch. 324, § 2, 68 Stat. 265, stated purposes of Gallaudet College. See section 4301(b) of this title.

Section 691b, acts June 18, 1954, ch. 324, § 3, 68 Stat. 265; Sept. 13, 1960, Pub. L. 86–776, § 4, 74 Stat. 917; Oct. 17, 1979, Pub. L. 96–88, title III, § 301(a)(2)(M), title V, § 507, 93 Stat. 677, 692, related to property rights of Gallaudet College, assumption of outstanding liabilities and obligations against corporation under any former name, and conveyance or mortgage of property. See section 4302 of this title.

Section 691c, act June 18, 1954, ch. 324, § 4, 68 Stat. 265, related to gifts of property to Gallaudet College. See section 4352(a) of this title.

Section 691d, acts June 18, 1954, ch. 324, § 5, 68 Stat. 265; July 23, 1968, Pub. L. 90–415, §§ 1, 2, 82 Stat. 397, related to composition and appointment, etc., of Board of Directors of Gallaudet College. See section 4303(a) of this title.

Section 691e, act June 18, 1954, ch. 324, § 6, 68 Stat. 266, related to powers of Board of Directors of Gallaudet College. See section 4303(b) of this title.

Section 691f, acts June 18, 1954, ch. 324, § 7, 68 Stat. 266; Oct. 17, 1979, Pub. L. 96–88, title III, § 301(a)(2)(M), title V, § 507, 93 Stat. 677, 692, related to financial transactions and accounts of Gallaudet College and an annual report to Secretary of Education. See sections 4353 and 4354(a) of this title.

Section 691g, act June 18, 1954, ch. 324, § 8, 68 Stat. 266, authorized appropriations for Gallaudet College. See section 4360(a) of this title.

§§ 691h, 691i. Transferred

Section 691h, R.S. § 441; Mar. 4, 1911, ch. 285, 36 Stat. 1422; 1940 Reorg. Plan No. IV, § 11, eff. June 30, 1940, 5 F.R. 2421, 54 Stat. 1234; 1953 Reorg. Plan No. 1, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; June 18, 1954, ch. 324, § 1, 68 Stat. 265; Oct. 17, 1979, Pub. L. 96–88, title III, § 301(a)(2)(M), title V, § 507, 93 Stat. 677, 692, which charged Secretary of Education with supervision of public business of Gallaudet College, was transferred to section 4361 of this title.

Section 691i, Pub. L. 95–355, title I, § 100, Sept. 8, 1978, 92 Stat. 531, which authorized Gallaudet College to make purchases through General Services Administration, was transferred to section 4362 of this title.

SUBCHAPTER II—MODEL SECONDARY SCHOOL FOR THE DEAF

§§ 693 to 693b. Repealed. Pub. L. 99–371, title II, § 210(c), formerly title IV, § 410(c), Aug. 4, 1986, 100 Stat. 794; renumbered title II, § 210(c), Pub. L. 102–421, title I, § 101(b)(5), (6), Oct. 16, 1992, 106 Stat. 2151

Section 693, Pub. L. 89–694, § 2, Oct. 15, 1966, 80 Stat. 1027, authorized appropriations for a model secondary school for the deaf. See section 4360(a)(C) of this title.

Section 693a, Pub. L. 89–694, § 3, Oct. 15, 1966, 80 Stat. 1027; Pub. L. 96–88, title III, § 301(a)(2)(N), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 695, defined ''Secretary'', ''construction'', and ''secondary school''. See section 4351 of this title.

Section 693b, Pub. L. 89–694, § 4, Oct. 15, 1966, 80 Stat. 1027, related to an agreement with Gallaudet College to establish a model secondary school. See section 4322 of this title.

SHORT TITLE

Pub. L. 89–694, § 1, Oct. 15, 1966, 80 Stat. 1027, which provided that this subchapter be cited as the ''Model Secondary School for the Deaf Act'', was repealed by Pub. L. 99–371, title II, § 410(c), formerly title IV, § 410(c), Aug. 4, 1986, 100 Stat. 794; renumbered title II, § 210(c), Pub. L. 102–421, title I, § 101(b)(5), (6), Oct. 16, 1992, 106 Stat. 2151.

SUBCHAPTER III—DEMONSTRATION ELEMENTARY SCHOOL FOR THE DEAF

§§ 695 to 695c. Repealed. Pub. L. 99–371, title II, § 210(b), formerly title IV, § 410(b), Aug. 4, 1986, 100 Stat. 794; renumbered title II, § 210(b), Pub. L. 102–421, title I, § 101(b)(5), (6), Oct. 16, 1992, 106 Stat. 2151

Section 695, Pub. L. 91–587, § 1, Dec. 24, 1970, 84 Stat. 1579, authorized Gallaudet College to operate Kendall School as a demonstration elementary school for the deaf. See section 4311 of this title.

Section 695a, Pub. L. 91–587, § 2, Dec. 24, 1970, 84 Stat. 1579, defined ''elementary school'' and ''construction''. See section 4351 of this title.

Section 695b, Pub. L. 91–587, § 3, Dec. 24, 1970, 84 Stat. 1579, authorized appropriations for establishment and operation, including construction and equipment, of demonstration elementary school. See section 4360(a)(B) of this title.

Section 695c, Pub. L. 91–587, § 4, Dec. 24, 1970, 84 Stat. 1579, related to design and construction of facilities of demonstration elementary school.

CHAPTER 21—HIGHER EDUCATION FACILITIES

CODIFICATION

This chapter has been superseded generally by section 1132a et seq. of this title.

CONTINUATION OF PROGRAMS

Pub. L. 92–318, § 161(b)(1), June 23, 1972, 86 Stat. 303, provided that: ''The programs authorized by title VII of the Higher Education Act of 1965 [section 1132a et seq. of this title] shall be deemed to be a continuation of the comparable programs authorized by the Higher Education Facilities Act of 1963 [this chapter].''

§ 701. Omitted

CODIFICATION

Section, Pub. L. 88–204, § 2, Dec. 16, 1963, 77 Stat. 363, related to congressional findings and declaration of policy.

SUBCHAPTER I—GRANTS FOR CONSTRUCTION OF UNDERGRADUATE ACADEMIC FACILITIES

§§ 711 to 721. Repealed. Pub. L. 92–318, title I, § 161(b)(2), June 23, 1972, 86 Stat. 303

Section 711, Pub. L. 88–204, title I, § 101, Dec. 16, 1963, 77 Stat. 364; Pub. L. 89–329, title VII, § 701(b), Nov. 8, 1965, 79 Stat. 1267; Pub. L. 89–752, § 2(a), (b), Nov. 3, 1966, 80 Stat. 1240; Pub. L. 90–575, title IV, § 401(a)(1), (2), Oct. 16, 1968, 82 Stat. 1059, authorized appropriations for grants for construction of undergraduate academic facilities.

Section 712, Pub. L. 88–204, title I, § 102, Dec. 16, 1963, 77 Stat. 364; Pub. L. 89–752, § 2(c), Nov. 3, 1966, 80 Stat. 1241 provided for allotment of funds.

Section 713, Pub. L. 88–204, title I, § 103, Dec. 16, 1963, 77 Stat. 365; Pub. L. 89–329, title VII, § 702(a)(1), (2), Nov. 8, 1965, 79 Stat. 1267; Pub. L. 89–752, § 2(d), Nov. 3, 1966, 80 Stat. 1241; Pub. L. 90–575, title IV, §§ 401(a)(4), 406(a), Oct. 16, 1968, 82 Stat. 1059, 1061, provided for allotments for public community colleges and technical institutes, providing in former subsec. (a) for basis of computation and minimum amount; subsec. (b) availability of funds; subsec. (c) reallotment of unreserved funds at close of fiscal year and factors considered; subsec. (d) allotment ratio, specification and promulgation thereof, and definition of high school graduate.

Section 714, Pub. L. 88–204, title I, § 104, Dec. 16, 1963, 77 Stat. 366; Pub. L. 89–329, title VII, § 702(b)(1), (2), Nov. 8, 1965, 79 Stat. 1267; Pub. L. 89–752, § 2(d), Nov. 3, 1966, 80 Stat. 1241; Pub. L. 90–575, title IV, §§ 401(a)(4), 406(a), Oct. 16, 1968, 82 Stat. 1059, 1061, provided for allotments for institutions of higher education other than public community colleges and technical institutes, providing in former subsec. (a) for considerations and determinations affecting allotments and minimum; subsec. (b) availability of funds; and subsec. (c) reallotment of unreserved funds at close of fiscal year and factors considered.

Section 715, Pub. L. 88–204, title I, § 105, Dec. 16, 1963, 77 Stat. 367; Pub. L. 89–329, title VII, § 702(a)(3), (4), (b)(3), (c)(1), Nov. 8, 1965, 79 Stat. 1267, 1268; Pub. L. 89–752, § 3(a), Nov. 3, 1966, 80 Stat. 1241; Pub. L. 90–575, title IV, § 401(a)(3), Oct. 16, 1968, 82 Stat. 1059, provided for State commissions and plans and authorized expenditures.

Section 716, Pub. L. 88–204, title I, § 106, Dec. 16, 1963, 77 Stat. 368; Pub. L. 89–329, title VII, § 701(a), Nov. 8, 1965, 79 Stat. 1266; Pub. L. 90–575, title IV, § 402(a)(1), (b)(1), Oct. 16, 1968, 82 Stat. 1059, 1060, related to eligibility of institutions for grants and expansion of student enrollment capacity.

Section 717, Pub. L. 88–204, title I, § 107, Dec. 16, 1963, 77 Stat. 368; Pub. L. 89–329, title VII, § 702(c)(2), Nov. 8, 1965, 79 Stat. 1268; Pub. L. 90–575, title IV, §§ 402(a)(2), 405(a), Oct. 16, 1968, 82 Stat. 1059, 1061, provided basic criteria for determining priorities and Federal share.

Section 718, Pub. L. 88–204, title I, § 108, Dec. 16, 1963, 77 Stat. 369; Pub. L. 90–575, title IV, § 402(a)(3), Oct. 16, 1968, 82 Stat. 1059, related to applications for grants, providing in former subsec. (a) for submission of applications by institutions; subsec. (b) conditions for approval; and subsec. (c) amendments of applications.

Section 719, Pub. L. 88–204, title I, § 109, Dec. 16, 1963, 77 Stat. 370, provided for reservation and payment of grant.

Section 720, Pub. L. 88–204, title I, § 110, Dec. 16, 1963, 77 Stat. 370, provided for disapproval of State plans, notice and hearing, findings of Commissioner, and notification of non-eligibility.

Section 721, Pub. L. 88–204, title I, § 111, Dec. 16, 1963, 77 Stat. 370, related to judicial review, providing in former subsec. (a) for appeal by State of Commissioner's final action to court of appeals; subsec. (b) findings of Commissioner conclusive if substantially supported, remand for taking further evidence, and new or modified findings conclusive if supported; subsec. (c) jurisdiction of court of appeals and review by Supreme Court.

For general subject matter of former sections 711 to 721 of this title, see section 1132a et seq. of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1972, see section 161(b)(2) of Pub. L. 92–318.

SUBCHAPTER II—GRANTS FOR CONSTRUCTION OF GRADUATE ACADEMIC FACILITIES

§§ 731, 732. Repealed. Pub. L. 92–318, title I, § 161(b)(2), June 23, 1972, 86 Stat. 303

Section 731, Pub. L. 88–204, title II, § 201, Dec. 16, 1963, 77 Stat. 371; Pub. L. 89–329, title VII, §§ 701(c), 702(d), Nov. 8, 1965, 79 Stat. 1267, 1268; Pub. L. 89–752, § 4, Nov. 3, 1966, 80 Stat. 1242; Pub. L. 90–575, title IV, § 401(b), Oct. 16, 1968, 82 Stat. 1059, authorized appropriations for grants for construction of graduate academic facilities. See section 1132b of this title.

Section 732, Pub. L. 88–204, title II, § 202, Dec. 16, 1963, 77 Stat. 371; Pub. L. 90–575, title II, § 291(b)(2), title IV, § 405(b), Oct. 16, 1968, 82 Stat. 1050, 1061, related to grants, providing in subsec. (a) for eligible institutions and requirement of an application; subsec. (b) maximum allowable percentile of development cost; subsec. (c) action by panel of specialists required for application approval and considerations affecting approval; and subsec. (d) maximum amount of payments in any fiscal year. See section 1132b–1 of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1972, see section 161(b)(2) of Pub. L. 92–318.

§ 733. Repealed. Pub. L. 90–575, title II, § 291(b)(1), Oct. 16, 1968, 82 Stat. 1050

Section, Pub. L. 88–204, title II, § 203, Dec. 16, 1963, 77 Stat. 371, established an Advisory Committee on Graduate Education. See section 1145 of this title.

SUBCHAPTER III—LOANS FOR CONSTRUCTION OF ACADEMIC FACILITIES

§§ 741 to 745. Omitted

CODIFICATION

Section 741, Pub. L. 88–204, title III, § 301, Dec. 16, 1963, 77 Stat. 372, authorized the Commissioner to make loans for construction of academic facilities. See section 1132c(a)(2) of this title.

Section 742, Pub. L. 88–204, title III, § 302, Dec. 16, 1963, 77 Stat. 372, prescribed the maximum amount of loans allowable within any State.

Section 743, Pub. L. 88–204, title III, § 303, Dec. 16, 1963, 77 Stat. 372; Pub. L. 89–329, title VII, §§ 702(e), 703(a), Nov. 8, 1965, 79 Stat. 1268; Pub. L. 89–429, § 4(a), May 24, 1966, 80 Stat. 166; Pub. L. 89–752, § 5, Nov. 3, 1966, 80 Stat. 1242; Pub. L. 90–575, title IV, §§ 401(c), 402(a)(4), Oct. 16, 1968, 82 Stat. 1059, 1060, related to eligibility conditions, amounts and terms of loans, and authorization of appropriations. See sections 1132c(b) and 1132c–1 of this title.

Section 744, Pub. L. 88–204, title III, § 304, Dec. 16, 1963, 77 Stat. 373; Pub. L. 89–752, § 7, Nov. 3, 1966, 80 Stat. 1243, related to finality and conclusiveness of Commissioner's transactions and additional powers and duties of Commissioner. See section 1132c–2 of this title.

Section 745, Pub. L. 88–204, title III, § 305, as added Pub. L. 89–429, § 4(b), May 24, 1966, 80 Stat. 166, related to Revolving Loan Fund. See section 1132c–3 of this title.

§ 746. Repealed. Pub. L. 92–318, title I, § 161(b)(3), June 23, 1972, 86 Stat. 303

Section, Pub. L. 88–204, title III, § 306, as added Pub. L. 90–575, title IV, § 403, Oct. 16, 1968, 82 Stat. 1060, related to annual interest grants, providing in: subsec. (a) for power of Commissioner; subsec. (b) for maximum period and amount and approval by Secretary; subsec. (c) for authorization of appropriations and limitation on aggregate amount of contracts; subsec. (d) for maximum amount of funds usable in one State; and subsec. (e) certain prerequisites and nature of financing. See section 1132c–4 of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1972, see section 161(b)(3) of Pub. L. 92–318.

SUBCHAPTER IV—GENERAL PROVISIONS

§ 751. Omitted

CODIFICATION

Section, Pub. L. 88–204, title IV, § 401, Dec. 16, 1963, 77 Stat. 374; Pub. L. 89–329, title VII, § 702(c)(3), (f), Nov. 8, 1965, 79 Stat. 1268; Pub. L. 89–752, §§ 6, 8, Nov. 3, 1966, 80 Stat. 1243; Pub. L. 90–575, title IV, §§ 402(a)(5), 405(a), Oct. 16, 1968, 82 Stat. 1060, 1061, defined ''academic facilities'', ''construction'', ''equipment'', ''development cost'', ''Federal share'', ''higher education building agency'', ''institution of higher education'', ''public community college and public technical institute'', ''cooperative graduate center'', ''cooperative graduate center board'', ''high school'', ''nonprofit educational institution'', ''public educational institution'', and ''State''. See section 1132e–1 of this title.

§ 752. Repealed. Pub. L. 91–230, title IV, § 401(c)(6), (h)(2), Apr. 13, 1970, 84 Stat. 173, 174

Section, Pub. L. 88–204, title IV, § 402, Dec. 16, 1963, 77 Stat. 377, related to Federal administration as to higher education facilities, providing in subsecs. (a) and (b) for delegation of functions by Commissioner and for utilization of services and facilities of other agencies and payment for services in advance or by way of reimbursement, now superseded by section 1231 of this title, and in subsec. (c) for appointment of advisory committees and for compensation ($75 per day limitation) and travel expenses of members of such advisory committees.

§§ 753 to 756. Omitted

CODIFICATION

Section 753, Pub. L. 88–204, title IV, § 403, Dec. 16, 1963, 77 Stat. 378, related to labor standards on projects assisted by grant or loan. See section 1232b of this title.

Section 754, Pub. L. 88–204, title IV, § 404, Dec. 16, 1963, 77 Stat. 378, related to period of Federal interest in project and recovery of payments. See section 1132e of this title.

Section 755, Pub. L. 88–204, title IV, § 405, Dec. 16, 1963, 77 Stat. 378, related to method of payment. See section 1142 of this title.

Section 756, Pub. L. 88–204, title IV, § 406, Dec. 16, 1963, 77 Stat. 379, related to authorization of appropriations for administration.

§ 757. Repealed. Pub. L. 91–230, title IV, § 401(f)(4), Apr. 13, 1970, 84 Stat. 173

Section, Pub. L. 88–204, title IV, § 407, Dec. 16, 1963, 77 Stat. 379, prohibited Federal control of education (personnel, curriculum, methods of instruction, or administration), and was superseded by section 1232a of this title.

§ 758. Omitted

CODIFICATION

Section, Pub. L. 88–204, title IV, § 408, as added Pub. L. 89–769, § 7(a), Nov. 6, 1966, 80 Stat. 1318; amended Pub. L. 90–21, title I, § 101, May 29, 1967, 81 Stat. 36; Pub. L. 90–575, title IV, § 404, Oct. 16, 1968, 82 Stat. 1061; Pub. L. 91–606, title III, § 301(g), Dec. 31, 1970, 84 Stat. 1759; Pub. L. 93–288, title VII, § 702(g), formerly title VI, § 602(g), May 22, 1974, 88 Stat. 164, renumbered title VII, § 702(g), Pub. L. 103–337, div. C, title XXXIV, § 3411(a)(1), (2), Oct. 5, 1994, 108 Stat. 3100, related to assistance for higher education construction in major disaster areas.

CHAPTER 22—NATIONAL COUNCIL ON THE ARTS

§§ 781 to 788. Repealed. Pub. L. 91–346, § 5(d)(3)(B), July 20, 1970, 84 Stat. 445

For general subject matter of sections 781 to 788, see section 955 of this title.

Section 781, Pub. L. 88–579, § 2, Sept. 3, 1964, 78 Stat. 905, set forth a Congressional declaration of policy to encourage and promote the Nation's artistic and cultural progress by establishing a National Council on the Arts.

Section 782, Pub. L. 88–579, § 3, Sept. 3, 1964, 78 Stat. 905, proscribed Federal control over policy or program determination in the administration of this chapter.

Section 783, Pub. L. 88–579, § 4, Sept. 3, 1964, 78 Stat. 905, established in the Executive Office of the President a National Council on the Arts. See section 955 of this title and notes thereunder.

Section 784, Pub. L. 88–579, § 5, Sept. 3, 1964, 78 Stat. 905; Pub. L. 89–209, § 6(d)(1), (2), Sept. 29, 1965, 79 Stat. 849, 850, provided for appointment, composition, terms of office and vacancies in the National Council on the Arts.

Section 785, Pub. L. 88–579, § 6, Sept. 3, 1964, 78 Stat. 906; Pub. L. 89–209, § 5(d)(2)(A), Sept. 29, 1965, 79 Stat. 847; Pub. L. 90–83, § 10(b), Sept. 11, 1967, 81 Stat. 223, provided for appointment of a Chairman of the National Council on the Arts, his term of office and reimbursement for his expenses.

Section 786, Pub. L. 88–579, § 7, Sept. 3, 1964, 78 Stat. 906; Pub. L. 89–209, § 6(d)(3), (4), Sept. 29, 1965, 79 Stat.

850, provided that the National Council on the Arts meet at the call of the Chairman at least twice a year, established 14 Council members as constituting a quorum, and set forth functions and duties of the Council.

Section 787, Pub. L. 88–579, § 8, Sept. 3, 1964, 78 Stat. 907, provided for compensation of Council members.

Section 788, Pub. L. 88–579, § 9, Sept. 3, 1964, 78 Stat. 907, authorized appointment of and compensation for secretarial, clerical, and other staff and further authorized procurement by the Chairman of temporary and intermittent services.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1970, see section 5(d)(3)(B) of Pub. L. 91–346.

§ 789. Repealed. Pub. L. 89–209, § 6(d)(5), Sept. 29, 1965, 79 Stat. 850

Section, Pub. L. 88–579, § 10, Sept. 3, 1964, 78 Stat. 907; Pub. L. 89–125, Aug. 13, 1965, 79 Stat. 518, authorized $150,000 per annum to be appropriated to the Council to carry out the purpose of this chapter. See section 960 of this title.

Section was also repealed by Pub. L. 91–346, § 5(d)(3)(B), July 20, 1970, 84 Stat. 445.

§ 790. Repealed. Pub. L. 91–346, § 5(d)(3)(B), July 20, 1970, 84 Stat. 445

Section, Pub. L. 88–579, § 11, Sept. 3, 1964, 78 Stat. 907, provided that this chapter would not invalidate any act of Congress or Executive order vesting authority in the Commission of Fine Arts or any other Federal advisory body nor would this chapter authorize the National Council on the Arts to undertake any duty or responsibility which belongs to any other Federal advisory body established as of Sept. 3, 1964.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1970, see section 5(d)(3)(B) of Pub. L. 91–346.

CHAPTER 23—TRAINING AND FELLOWSHIP PROGRAMS FOR COMMUNITY DEVELOPMENT

Sec.

801. Congressional findings and purpose.
- (a) Need for training and research related to community development.
- (b) Fellowships for specialists and personnel in urban affairs; grants to institutions of higher education; assistance to States and localities.

802. Fellowships for city planning, management, housing specialists, and persons with general capacity in urban affairs and problems.
- (a) Criteria.
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803. Matching grants to States.
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803a. Project grants and contracts.
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804. Limitation on grants to any one State.

805. Technical assistance, studies, and publication of information.

806. Authorization of appropriations; availability of funds.

807. Definitions; authorization of appropriations for administrative and other expenses.

§ 801. Congressional findings and purpose

(a) Need for training and research related to community development

The Congress finds that the rapid expansion of the Nation's urban areas and urban population has caused severe problems in urban and suburban development and created a national need to (1) provide special training in skills needed for economic and efficient community development, and (2) support research in new or improved methods of dealing with community development problems.

(b) Fellowships for specialists and personnel in urban affairs; grants to institutions of higher education; assistance to States and localities

It is the purpose of this chapter to provide fellowships for the graduate training of professional city and regional planning, management, and housing specialists, and professionally trained personnel with a general capacity in urban affairs and problems: to make grants to and contracts with institutions of higher education (or combinations of such institutions) to assist them in planning, developing, strengthening, improving, or carrying out programs or projects for the preparation of graduate or professional students to enter the public service; and to assist and encourage the States and localities, in cooperation with public and private universities and colleges and urban centers and with business firms and associations, labor unions, and other interested associations and organizations, to (1) organize, initiate, develop, and expand programs which will provide special training in skills needed for economic and efficient community development to those technical, professional, and other persons with the capacity to master and employ such skills who are, or are training to be, employed by a governmental or public body which has responsibility for community development, or by a private nonprofit organization which is conducting or has responsibility for housing and community development programs, and (2) support State and local research that is needed in connection with housing programs and needs, public improvement programing, code problems, efficient land use, urban transportation, and similar community development problems.

(Pub. L. 88–560, title VIII, § 801, Sept. 2, 1964, 78 Stat. 802; Pub. L. 90–448, title XVII, § 1707(a), Aug. 1, 1968, 82 Stat. 605; Pub. L. 91–152, title III, § 307, Dec. 24, 1969, 83 Stat. 392; Pub. L. 93–383, title IV, § 402(a), Aug. 22, 1974, 88 Stat. 691.)

CODIFICATION

Pub. L. 93–383, § 402, provided for amendments to title VIII of the Housing and Urban Development Act of 1964. The amendments of the enumerated sections of such title VIII have been executed to comparable sections of title VIII of the Housing Act of 1964 as the probable intent of Congress.

AMENDMENTS

1974—Subsec. (b). Pub. L. 93–383 expanded purposes of chapter to include graduate training in regional planning and for training of personnel with a general capacity in urban affairs and problems and authorizing grants and contracts with institutions of higher education for training of graduate or professional students.

1969—Subsec. (a). Pub. L. 91–152 inserted a comma before ''and (2)''.

Subsec. (b). Pub. L. 91–152 inserted provision that it is the purpose of this chapter to grant fellowships for the graduate training of professional city planning and urban and housing technicians and specialists.

1968—Subsec. (b). Pub. L. 90–448 provided for cooperation with business firms and associations, labor unions, and other interested associations or organizations, included employment by a private nonprofit organization which is conducting or has responsibility for housing and community development programs, and substituted ''technical, professional, and other persons with the capacity to master and employ such skills'' for ''technical and professional people.''

§ 802. Fellowships for city planning, management, housing specialists, and persons with general capacity in urban affairs and problems

(a) Criteria

The Secretary is authorized to provide fellowships for the graduate training of professional city planning, management, and housing specialists, and other persons who wish to develop a general capacity in urban affairs and problems as herein provided. Persons shall be selected for such fellowships solely on the basis of ability and upon the recommendation of the Urban Studies Fellowship Advisory Board established pursuant to subsection (b) of this section. Fellowships shall be solely for training in public and private nonprofit institutions of higher education having programs of graduate study in the field of city planning or in related fields (including architecture, civil engineering, economics, municipal finance, public administration, urban affairs, and sociology) which programs are oriented to training for careers in city and regional planning, housing, urban renewal, and community development.

(b) Urban Studies Fellowship Board

There is hereby established the Urban Studies Fellowship Advisory Board (hereinafter referred to as the ''Board''), which shall consist of nine members to be appointed by the Secretary as follows: Three from public institutions of higher learning and three from private nonprofit institutions of higher education, who are the heads of departments which provide academic courses appropriately related to the fields referred to in subsection (a) of this section, and three from national organizations which are directly concerned with problems relating to urban, regional, and community development. The Board shall meet upon the request of the Secretary and shall make recommendations to him with respect to persons to be selected for fellowships under this section. Members of the Board shall be entitled to receive transportation expenses and a per diem in lieu of subsistence as authorized for members of advisory committees created pursuant to section 1701h of title 12.

(Pub. L. 88–560, title VIII, § 802, Sept. 2, 1964, 78 Stat. 802; Pub. L. 89–117, title XI, § 1103(a), Aug. 10, 1965, 79 Stat. 503; Pub. L. 90–19, § 21(d), May 25, 1967, 81 Stat. 26; Pub. L. 90–448, title XVII, § 1707(a)(2), (3), Aug. 1, 1968, 82 Stat. 606; Pub. L. 91–152, title III, § 307, Dec. 24, 1969, 83 Stat. 392; Pub. L. 93–383, title IV, § 402(b), Aug. 22, 1974, 88 Stat. 691.)

CODIFICATION

Pub. L. 93–383, § 402, provided for amendments to title VIII of the Housing and Urban Development Act of 1964. The amendments of the enumerated sections of such title VIII have been executed to comparable sections of title VIII of the Housing Act of 1964 as the probable intent of Congress.

AMENDMENTS

1974—Subsec. (a). Pub. L. 93–383 expanded authority of Secretary to include fellowships in graduate training in city management and for persons wishing to develop a general capacity in urban affairs and added urban affairs to authorized fields of study.

1969—Pub. L. 91–152 substituted provisions authorizing the Secretary to grant fellowships solely on the basis of ability for training in city planning at public and private nonprofit institutions of higher education and establishing the Urban Studies Fellowship Advisory Board for provisions authorizing the Secretary to make matching grants to States to assist in programs providing special training in community development and to support local research and setting forth the provisions required in any plan submitted to the Secretary in order to obtain grants. The former provisions of this section are now set forth in section 803 of this title with minor amendments.

1968—Subsec. (a)(1). Pub. L. 90–448 substituted ''technical, professional, and other persons with the capacity to master and employ such skills'' for ''technical and professional people'', and inserted provisions to include employment by a private nonprofit organization which is conducting or has responsibility for housing and community development programs.

1967—Subsecs. (a), (b). Pub. L. 90–19 substituted ''Secretary'' for ''Administrator'' wherever appearing.

1965—Subsec. (d). Pub. L. 89–117 substituted ''$30,000,000'' for ''$10,000,000''.

TERMINATION OF ADVISORY BOARDS

Advisory boards in existence on Jan. 5, 1973, to terminate not later than the expiration of the 2-year period following Jan. 5, 1973, unless, in the case of a board established by the President or an officer of the Federal Government, such board is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a board established by the Congress, its duration is otherwise provided for by law. See sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 803. Matching grants to States

(a) Purposes

Subject to the provisions of this chapter and in accordance with regulations prescribed by him, the Secretary may make matching grants to States to assist in—

(1) organizing, initiating, developing, or expanding programs to provide special training in skills needed for economic and efficient community development to those technical, professional, and other persons with the capacity to master and employ such skills who are, or are training to be, employed by a governmental or public body which has responsibilities for community development, or by a private nonprofit organization which is conducting or has responsibility for housing and community development programs; and

(2) supporting State and local research that is needed in connection with housing programs and needs, public improvement programing, code problems, efficient land use, urban transportation, and similar community develop-

ment problems, and collecting, collating, and publishing statistics and information relating to such research.

(b) Training in housing management

Grants may be made under subsection (a) of this section to support (1) the training of persons, especially persons of low income, in acquiring the skills needed in the management of housing for low- and moderate-income persons, and (2) research and the dissemination of information with respect to the problems involved in the management of housing for low- and moderate-income persons.

(c) State plan; required provisions

No grants may be made to a State under this section unless the Secretary has approved a plan for the State which—

(1) sets forth the proposed use of the funds and the objectives to be accomplished;

(2) explains the method by which the required amounts from non-Federal sources will be obtained;

(3) provides such fiscal control and fund accounting procedures as may be reasonably necessary to assure proper disbursement of, and accounting for, Federal funds paid to the State under this section;

(4) designates an officer or agency of the State government who has responsibility and authority for the administration of a statewide research and training program as the officer or agency with responsibility and authority for the execution of the State's program under this section; and

(5) provides that such officer or agency will make such reports to the Secretary, in such form, and containing such information, as may be reasonably necessary to enable the Secretary to perform his duties under this section.

(d) Matching funds from non-Federal sources

No grant may be made under this section for any use unless an amount at least equal to such grant is made available from non-Federal sources for the same purpose and for concurrent use.

(Pub. L. 88–560, title VIII, § 803, Sept. 2, 1964, 78 Stat. 803; Pub. L. 89–117, title XI, § 1103(b), Aug. 10, 1965, 79 Stat. 503; Pub. L. 91–152, title III, § 307, Dec. 24, 1969, 83 Stat. 393; Pub. L. 91–609, title IX, § 904, Dec. 31, 1970, 84 Stat. 1809.)

AMENDMENTS

1970—Subsecs. (b) to (d). Pub. L. 91–609 added subsec. (b) and redesignated former subsecs. (b) and (c) as (c) and (d), respectively.

1969—Pub. L. 91–152 substituted provisions authorizing the Secretary to make matching grants to States to assist in programs providing special training in community development and to support State and local research, provisions setting forth the required contents of any plan submitted to the Secretary in order to obtain grants, and provisions requiring the matching from non-Federal sources of any grant made pursuant to this section, for provisions requiring not more than 10 per centum of the total amount appropriated be used for making grants to any one State. The former provisions of this section are now set forth in section 804 of this title with minor amendments.

1965—Pub. L. 89–117 substituted ''appropriated for the purposes of this subchapter'' for ''authorized to be appropriated by section 802(d) of this title''.

§ 803a. Project grants and contracts

(a) Authorization; purposes; application

The Secretary is authorized to make grants to or contracts with institutions of higher education, or combinations of such institutions, to assist them in planning, developing, strengthening, improving, or carrying out programs or projects (1) for the preparation of graduate or professional students in the fields of city and regional planning and management, housing, and urban affairs, or (2) for research into, or development or demonstration of, improved methods of education for these professions. Such grants or contracts may include payment of all or part of the cost of programs or projects.

(b) Contents; use of payments

(1) A grant or contract authorized by this section shall be made only upon application to the Secretary at such time or times and containing such information as he may prescribe, except that no such application shall be approved unless it—

(A) sets forth programs, activities, research, or development for which a grant is authorized under this section;

(B) provides for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant under this subsection; and

(C) provides for making such reports, in such form and containing such information, as the Secretary may require to carry out his functions under this subsection, and for keeping such records and for affording such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports.

(2) Payments under this section may be used, in accordance with regulations of the Secretary, and subject to the terms and conditions set forth in an application approved under paragraph (1), to pay part of the compensation of students employed in professions referred to in subsection (a)(1) of this section, except students employed in any branch of the Government of the United States, as part of a program for which a grant has been approved pursuant to this subsection.

(Pub. L. 88–560, title VIII, § 804, as added Pub. L. 93–383, title IV, § 402(c)(2), Aug. 22, 1974, 88 Stat. 692.)

CODIFICATION

Pub. L. 93–383, § 402, provided for amendments to title VIII of the Housing and Urban Development Act of 1964. The amendments of the enumerated sections of such title VIII have been executed to comparable sections of title VIII of the Housing Act of 1964 as the probable intent of Congress.

§ 804. Limitation on grants to any one State

Not more than 10 per centum of the total amount appropriated for the purposes of this chapter may be used for making grants to any one State.

(Pub. L. 88–560, title VII, § 805, formerly § 804, Sept. 2, 1964, 78 Stat. 803; Pub. L. 90–19, § 21(d),

May 25, 1967, 81 Stat. 26; Pub. L. 91–152, title III, § 307, Dec. 24, 1969, 83 Stat. 394; renumbered § 805, Pub. L. 93–383, title IV, § 402(c)(1), Aug. 22, 1974, 88 Stat. 692.)

AMENDMENTS

1969—Pub. L. 91–152 substituted provisions that not more than 10 per centum of the total amount appropriated be used for making grants to any one State for provisions that authorized the Secretary to provide technical assistance, etc., to State and local bodies. The former provisions of the section are now set forth in section 805 of this title with minor amendments.

1967—Pub. L. 90–19 substituted ''Secretary'' for ''Administrator'' wherever appearing.

§ 805. Technical assistance, studies, and publication of information

In order to carry out the purpose of this chapter, the Secretary is authorized to provide technical assistance to State and local governmental or public bodies and to undertake such studies and publish and distribute such information, either directly or by contract, as he shall determine to be desirable. Nothing contained in this chapter shall limit any authority of the Secretary under any other provision of law.

(Pub. L. 88–560, title VIII, § 806, formerly § 805, Sept. 2, 1964, 78 Stat. 803; Pub. L. 90–19, § 21(e), May 25, 1967, 81 Stat. 26; Pub. L. 90–448, title XVII, § 1707(b), Aug. 1, 1968, 82 Stat. 606; Pub. L. 91–152, title III, § 307, Dec. 24, 1969, 83 Stat. 394; renumbered § 806, Pub. L. 93–383, title IV, § 402(c)(1), Aug. 22, 1974, 88 Stat. 692.)

AMENDMENTS

1969—Pub. L. 91–152 substituted provisions authorizing the Secretary to provide technical assistance, etc., to State and local bodies to carry out the purposes of this chapter for provisions defining ''State'' and ''Secretary'' and authorizing to be appropriated such sums as may be necessary for administrative and other expenses. The former provisions of this section are now set forth in section 807 of this title with minor amendments.

1968—Subsec. (a). Pub. L. 90–448 inserted ''Guam, American Samoa, the Trust Territory of the Pacific Islands,''.

1967—Subsec. (a). Pub. L. 90–19 substituted definition of ''Secretary'' meaning the Secretary of Housing and Urban Development for ''Administrator'' meaning the Housing and Home Finance Administrator.

§ 806. Authorization of appropriations; availability of funds

There is authorized to be appropriated for the purpose of making grants and providing fellowships under this chapter, without fiscal year limitation, not to exceed $30,000,000, which amount shall be increased by $3,500,000 on July 1, 1974, and by $3,500,000 on July 1, 1975. Any amounts appropriated under this section shall remain available until expended.

(Pub. L. 88–560, title VIII, § 807, formerly § 806, as added Pub. L. 91–152, title III, § 307, Dec. 24, 1969, 83 Stat. 394; renumbered § 807 and amended Pub. L. 93–383, title IV, § 402(c)(1), (d), Aug. 22, 1974, 88 Stat. 692.)

CODIFICATION

Pub. L. 93–383, § 402, provided for amendments to title VIII of the Housing and Urban Development Act of 1964. The amendments of the enumerated sections of such title VIII have been executed to comparable sections of title VIII of the Housing Act of 1964 as the probable intent of Congress.

AMENDMENTS

1974—Pub. L. 93–383, § 402(d), inserted provisions increasing amount by $3,500,000 on July 1, 1974, and by $3,500,000 on July 1, 1975.

§ 807. Definitions; authorization of appropriations for administrative and other expenses

(a) As used in this chapter the term ''State'' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Virgin Islands; and the term ''Secretary'' means the Secretary of Housing and Urban Development.

(b) There are authorized to be appropriated such sums as may be necessary for administrative and other expenses in carrying out this chapter.

(Pub. L. 88–560, title VIII, § 808, formerly § 807, as added Pub. L. 91–152, title III, § 307, Dec. 24, 1969, 83 Stat. 394; renumbered § 808, Pub. L. 93–383, title IV, § 402(c)(1), Aug. 22, 1974, 88 Stat. 692.)

CODIFICATION

This chapter formerly consisted of subchapters I and II prior to its general reorganization by Pub. L. 91–152, title III, § 307, Dec. 24, 1969, 83 Stat. 394. Former subchapter II, consisting of section 811, Pub. L. 88–560, VIII, § 810, Sept. 2, 1964, 78 Stat. 803; Pub. L. 90–19, § 21(d), (f), May 25, 1967, 81 Stat. 26; Pub. L. 90–66, Aug. 19, 1967, 81 Stat. 167, was omitted in the general reorganization of this chapter by Pub. L. 91–152. For subject matter of former section 811, see section 802 of this title.

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

CHAPTER 24—GRANTS FOR EDUCATIONAL MATERIALS, FACILITIES AND SERVICES, AND STRENGTHENING OF EDUCATIONAL AGENCIES

CODIFICATION

Titles I to IX of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, as amended, which were classified to this chapter (§ 821 et seq.), subchapter II (§ 241a et seq.) of chapter 13, and subchapter I (§ 1801 et seq.) of chapter 40 of this title, were amended generally by Pub. L. 95–561, Nov. 1, 1978, 92 Stat. 2152, known as the Education Amendments of 1978, and the Elementary and Secondary Education Act of 1965 was transferred to chapter 47 (§ 2701 et seq.) of this title. Subsequently, that act was amended generally by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519, and transferred to chapter 70 (§ 6301 et seq.) of this title.

SUBCHAPTER I—SCHOOL LIBRARY RESOURCES, TEXTBOOKS, AND OTHER INSTRUCTIONAL MATERIALS

§§ 821 to 827. Omitted

CODIFICATION

Sections were omitted in the general revision of title II of the Elementary and Secondary Education Act of

1965, Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 36, by Pub. L. 95–561, title II, § 201, Nov. 1, 1978, 92 Stat. 2201.

Section 821, Pub. L. 89–10, title II, § 201, Apr. 11, 1965, 79 Stat. 36; Pub. L. 89–750, title I, § 121, Nov. 3, 1966, 80 Stat. 1199; Pub. L. 90–247, title III, § 301(b), Jan. 2, 1968, 81 Stat. 813; Pub. L. 91–230, title I, § 121(a), Apr. 13, 1970, 84 Stat. 130; Pub. L. 93–380, title I, § 102(a), Aug. 21, 1974, 88 Stat. 501; Pub. L. 95–112, § 2(b)(1), Sept. 24, 1977, 91 Stat. 911, authorized appropriations for grants for the acquisition of books and school library resources for fiscal years ending prior to Oct. 1, 1979.

Section 822, Pub. L. 89–10, title II, § 202, Apr. 11, 1965, 79 Stat. 36; Pub. L. 89–750, title I, § 122, Nov. 3, 1966, 80 Stat. 1199; Pub. L. 90–247, title I, § 121, Jan. 2, 1968, 81 Stat. 788; Pub. L. 91–230, title I, § 121(b), Apr. 13, 1970, 84 Stat. 130; Pub. L. 92–318, title IV, § 421(b)(1)(A), June 23, 1972, 86 Stat. 341; Pub. L. 93–380, title I, § 102(b), title VIII, § 843(a), Aug. 21, 1974, 88 Stat. 502, 611, authorized additional appropriations for the territories and provided for the allotment of funds to States.

Section 823, Pub. L. 89–10, title II, § 203, Apr. 11, 1965, 79 Stat. 37; Pub. L. 89–750, title I, § 123, Nov. 3, 1966, 80 Stat. 1200; Pub. L. 92–318, title V, § 509(a)(1), June 23, 1972, 86 Stat. 353, set out the requirements for State plans.

Section 824, Pub. L. 89–10, title II, § 204, Apr. 11, 1965, 79 Stat. 38; Pub. L. 91–230, title I, § 121(c), Apr. 13, 1970, 84 Stat. 130; Pub. L. 94–482, title V, § 501(c), Oct. 12, 1976, 90 Stat. 2236; Pub. L. 95–112, § 2(b)(2), Sept. 24, 1977, 91 Stat. 911, made provision for payments to States.

Section 825, Pub. L. 89–10, title II, § 205, Apr. 11, 1965, 79 Stat. 38, provided for public control of furnished materials.

Section 826, Pub. L. 89–10, title II, § 206, Apr. 11, 1965, 79 Stat. 39, related to the administration of State plans.

Section 827, Pub. L. 89–10, title II, § 207, Apr. 11, 1965, 79 Stat. 39, related to judicial review of the Commissioner's final action.

SUBCHAPTER II—SUPPLEMENTARY EDUCATIONAL CENTERS AND SERVICES

§ 841. Omitted

CODIFICATION

Section, Pub. L. 89–10, title III, § 301, Apr. 11, 1965, 79 Stat. 39; Pub. L. 89–750, title I, § 131, Nov. 3, 1966, 80 Stat. 1201; Pub. L. 90–247, title I, § 131, Jan. 2, 1968, 81 Stat. 788; Pub. L. 91–230, title I, § 131(a)(1), Apr. 13, 1970, 84 Stat. 130; Pub. L. 93–380, title I, § 103(a), Aug. 21, 1974, 88 Stat. 502; Pub. L. 94–482, title V, § 501(a)(2), Oct. 12, 1976, 90 Stat. 2235; Pub. L. 95–112, § 2(c)(1), Sept. 24, 1977, 91 Stat. 911, which authorized appropriations for the making of grants for supplementary educational centers and services for fiscal years ending prior to Oct. 1, 1979, was omitted in the general revision of title III of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, title III, Apr. 11, 1965, 79 Stat. 39, by Pub. L. 95–561, title III, § 301, Nov. 1, 1978, 92 Stat. 2210.

APPROPRIATION UNDER NATIONAL DEFENSE PROVISIONS AS APPROPRIATION UNDER THIS SECTION

Pub. L. 91–230, title I, § 131(c), Apr. 13, 1970, 84 Stat. 141, provided that any appropriation for the purposes of title V of the National Defense Education Act of 1958, section 481 et seq. of this title, for any fiscal year ending after June 30, 1970, was to be deemed to have been appropriated pursuant to this section.

§§ 842 to 844a. Omitted

CODIFICATION

Sections were omitted in the general revision of title III of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, title III, Apr. 11, 1965, 79 Stat. 39, by Pub. L. 95–561, title III, § 301, Nov. 1, 1978, 92 Stat. 2210.

Section 842, Pub. L. 89–10, title III, § 302, Apr. 11, 1965, 79 Stat. 40; Pub. L. 89–750, title I, § 132, Nov. 3, 1966, 80 Stat. 1201; Pub. L. 90–247, title I, § 131, Jan. 2, 1968, 81 Stat. 789; Pub. L. 91–230, title I, § 131(a)(1), Apr. 13, 1970, 84 Stat. 131; Pub. L. 92–318, title IV, § 421(b)(1)(B), June 23, 1972, 86 Stat. 341; Pub. L. 93–380, title I, § 103(b), title VIII, § 843(a), Aug. 21, 1974, 88 Stat. 502, 611, provided for the allotment of appropriated funds for supplementary educational centers and services.

Section 843, Pub. L. 89–10, title III, § 303, Apr. 11, 1965, 79 Stat. 40; Pub. L. 89–750, title I, § 152(b), Nov. 3, 1966, 80 Stat. 1203; Pub. L. 90–247, title I, § 131, Jan. 2, 1968, 81 Stat. 790; Pub. L. 91–230, title I, § 131(a)(1), Apr. 13, 1970, 84 Stat. 132; Pub. L. 92–318, title V, § 509(a)(2), June 23, 1972, 86 Stat. 353, related to the uses of Federal funds for supplementary educational centers and services.

Section 844, Pub. L. 89–10, title III, § 304, Apr. 11, 1965, 79 Stat. 41; Pub. L. 89–750, title I, §§ 133, 134, Nov. 3, 1966, 80 Stat. 1201, 1202; Pub. L. 90–247, title I, § 131, Jan. 2, 1968, 81 Stat. 791; Pub. L. 91–230, title I, § 131(a)(1), Apr. 13, 1970, 84 Stat. 133, related to the content and form of applications for grant funds for supplementary educational centers and services.

Section 844a, Pub. L. 89–10, title III, § 305, as added Pub. L. 90–247, title I, § 131, Jan. 2, 1968, 81 Stat. 792; amended Pub. L. 91–230, title I, § 131(a)(1), Apr. 13, 1970, 84 Stat. 135; Pub. L. 93–380, title I, § 103(c), title IV, § 402(c)(2)(i), Aug. 21, 1974, 88 Stat. 502, 546; Pub. L. 94–273, § 3(8), Apr. 21, 1976, 90 Stat. 376; Pub. L. 95–112, § 2(c)(2), Sept. 24, 1977, 91 Stat. 911, set out the requisites for State plans for supplementary educational centers and services.

A prior section 305 of Pub. L. 89–10 was renumbered section 307 by section 131 of Pub. L. 90–247 and was set out as section 845 of this title.

§ 844b. Repealed. Pub. L. 93–380, title IV, § 402(c)(2)(ii), Aug. 21, 1974, 88 Stat. 546

Section, Pub. L. 89–10, title III, § 306, as added Pub. L. 90–247, title I, § 131, Jan. 2, 1968, 81 Stat. 796; amended Pub. L. 91–230, title I, § 131(a)(1), Apr. 13, 1970, 84 Stat. 139, provided for special programs and projects.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1975, see section 402(c)(2) of Pub. L. 93–380.

§§ 845 to 848. Omitted

CODIFICATION

Section 845, Pub. L. 89–10, title III, § 307, formerly § 305, Apr. 11, 1965, 79 Stat. 43, renumbered and amended Pub. L. 90–247, title I, § 131, Jan. 2, 1968, 81 Stat. 796; Pub. L. 91–230, title I, § 131(a)(1), Apr. 13, 1970, 84 Stat. 139; Pub. L. 93–380, title I, § 103(d), title IV, § 402(c)(2)(iii), title VIII, § 843(a)(2), Aug. 21, 1974, 88 Stat. 502, 546, 611; Pub. L. 94–482, title III, § 323(a)(2), Oct. 12, 1976, 90 Stat. 2217, which related to the payments to States to carry out plans for supplementary educational centers and services, was omitted in the general revision of title III of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, title III, Apr. 11, 1965, 79 Stat. 39, by Pub. L. 95–561, title III, § 301, Nov. 1, 1978, 92 Stat. 2210.

Section 846, Pub. L. 89–10, title III, § 306, Apr. 11, 1965, 79 Stat. 43, required the establishment of an Advisory Committee on Supplementary Educational Centers and Services in the Office of Education, specified its membership and functions and provided for the compensation of its members, and was omitted in the general reorganization of this subchapter by Pub. L. 90–247.

Sections 847 and 847a were omitted in the general revision of title III of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, title III, Apr. 11, 1965, 79 Stat. 39, by Pub. L. 95–561, title III, § 301, Nov. 1, 1978, 92 Stat. 2210.

Section 847, Pub. L. 89–10, title III, § 308, formerly § 307, Apr. 11, 1965, 79 Stat. 44, renumbered Pub. L. 90–247, title I, § 131, Jan. 2, 1968, 81 Stat. 797; amended Pub. L. 91–230, title I, § 131(a)(1), Apr. 13, 1970, 84 Stat.

140, related to the recovery of payments to supplementary educational centers and services.

Section 847a, Pub. L. 89–10, title III, §309, as added Pub. L. 90–247, title I, §131, Jan. 2, 1968, 81 Stat. 797; amended Pub. L. 91–230, title I, §131(a)(1), Apr. 13, 1970, 84 Stat. 140; Pub. L. 93–380, title VIII, §845(b), Aug. 21, 1974, 88 Stat. 612; Pub. L. 94–273, §3(8), Apr. 21, 1976, 90 Stat. 376; Pub. L. 95–112, §2(c)(3), Sept. 24, 1977, 91 Stat. 911, provided for the establishment of a National Advisory Council on Supplementary Centers and Services.

Section 848, Pub. L. 89–10, title III, §310, formerly §308, Apr. 11, 1965, 79 Stat. 44, renumbered Pub. L. 90–247, title I, §131, Jan. 2, 1968, 81 Stat. 798, which related to labor standards for grant-assisted construction projects, was eliminated in the general amendment of this subchapter by section 131(a)(1) of Pub. L. 91–230. See section 1232b of this title.

SUBCHAPTER III—STRENGTHENING STATE AND LOCAL EDUCATIONAL AGENCIES

PART A—GRANTS TO STRENGTHEN STATE DEPARTMENTS OF EDUCATION

§§ 861 to 865. Omitted

CODIFICATION

Sections were omitted in the general revision of title V of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, title V, Apr. 11, 1965, 79 Stat. 47, by Pub. L. 95–561, title V, §501, Nov. 1, 1978, 92 Stat. 2240.

Section 861, Pub. L. 89–10, title V, §501, Apr. 11, 1965, 79 Stat. 47; Pub. L. 89–750, title I, §151, Nov. 3, 1966, 80 Stat. 1203; Pub. L. 90–247, title I, §141, Jan. 2, 1968, 81 Stat. 799; Pub. L. 91–230, title I, §§141, 143(a)(4)(B), Apr. 13, 1970, 84 Stat. 141, 142; Pub. L. 93–380, title I, §104(a), Aug. 21, 1974, 88 Stat. 503; Pub. L. 95–112, §2(e)(1), Sept. 24, 1977, 91 Stat. 911, authorized appropriations for grants to strengthen State departments of education for fiscal years ending prior to Oct. 1, 1979.

Section 862, Pub. L. 89–10, title V, §502, Apr. 11, 1965, 79 Stat. 48; Pub. L. 89–750, title I, §152(c), Nov. 3, 1966, 80 Stat. 1203; Pub. L. 90–247, title I, §§142(a), 143, 145(b)(1), (2), Jan. 2, 1968, 81 Stat. 799, 800; Pub. L. 91–230, title I, §143(a)(4)(B), Apr. 13, 1970, 84 Stat. 142; Pub. L. 93–380, title VIII, §843(a)(2), (3), Aug. 21, 1974, 88 Stat. 611, related to the apportionment of grant funds among States.

Section 863, Pub. L. 89–10, title V, §503, Apr. 11, 1965, 79 Stat. 49; Pub. L. 89–750, title I, §§152(a), 154, Nov. 3, 1966, 80 Stat. 1203, 1204; Pub. L. 90–247, title I, §§144, 145(a), Jan. 2, 1968, 81 Stat. 799, 800; Pub. L. 91–230, title I, §§142(a), 143(a)(4)(C), Apr. 13, 1970, 84 Stat. 142; Pub. L. 92–318, title V, §509(a)(3), June 23, 1972, 86 Stat. 353, related to programs and activities covered.

Section 864, Pub. L. 89–10, title V, §504, Apr. 11, 1965, 79 Stat. 50; Pub. L. 89–750, title I, §152(d), Nov. 3, 1966, 80 Stat. 1203; Pub. L. 91–230, title I, §143(a)(4)(B), Apr. 13, 1970, 84 Stat. 142, related to the findings prerequisite to the approval of applications for apportioned funds.

Section 865, Pub. L. 89–10, title V, §505, Apr. 11, 1965, 79 Stat. 51; Pub. L. 90–247, title I, §§145(b)(3), 146, Jan. 2, 1968, 81 Stat. 800, related to special project grants.

PART B—LOCAL EDUCATIONAL AGENCIES

§§ 866 to 866d. Omitted

CODIFICATION

Sections were omitted in the general revision of title V of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, title V, Apr. 11, 1965, 79 Stat. 47, by Pub. L. 95–561, title V, §501, Nov. 1, 1978, 92 Stat. 2240.

Section 866, Pub. L. 89–10, title V, §521, as added Pub. L. 91–230, title I, §143(a)(4)(D), Apr. 13, 1970, 84 Stat. 142; amended Pub. L. 93–380, title I, §104(b), Aug. 21, 1974, 88 Stat. 503; Pub. L. 95–112, §2(e)(2), Sept. 24, 1977, 91 Stat. 911, authorized appropriations for grants to local educational agencies for fiscal years ending prior to Oct. 1, 1979.

A prior section 866, Pub. L. 89–10, title V, §506, Apr. 11, 1965, 79 Stat. 51, provided for payments to States: installments; advances or reimbursement; and adjustments, prior to repeal by Pub. L. 91–230, title I, §143(a)(4)(A), Apr. 13, 1970, 84 Stat. 142.

Section 866a, Pub. L. 89–10, title V, §522, as added Pub. L. 91–230, title I, §143(a)(4)(D), Apr. 13, 1970, 84 Stat. 143; amended Pub. L. 93–380, title VIII, §843(a)(2), (3), Aug. 21, 1974, 88 Stat. 611, related to the apportionment of grant funds among States.

Section 866b, Pub. L. 89–10, title V, §523, as added Pub. L. 91–230, title I, §143(a)(4)(D), Apr. 13, 1970, 84 Stat. 143, related to grants from apportioned funds and to the programs and activities covered.

Section 866c, Pub. L. 89–10, title V, §524, as added Pub. L. 91–230, title I, §143(a)(4)(D), Apr. 13, 1970, 84 Stat. 144, related to the approval of applications by the Commissioner.

Section 866d, Pub. L. 89–10, title V, §525, as added Pub. L. 91–230, title I, §143(a)(4)(D), Apr. 13, 1970, 84 Stat. 144, related to the approval of applications by State educational agencies.

PART C—COMPREHENSIVE EDUCATIONAL PLANNING AND EVALUATION

§§ 867 to 867c. Omitted

CODIFICATION

Sections were omitted in the general revision of title V of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, title V, Apr. 11, 1965, 79 Stat. 47, by Pub. L. 95–561, title V, §501, Nov. 1, 1978, 92 Stat. 2240.

Section 867, Pub. L. 89–10, title V, §531, as added Pub. L. 91–230, title I, §143(a)(4)(D), Apr. 13, 1970, 84 Stat. 145; amended Pub. L. 93–380, title I, §104(c), title VIII, §843(a)(2), (3), Aug. 21, 1974, 88 Stat. 503, 611; Pub. L. 95–112, §2(e)(3), Sept. 24, 1977, 91 Stat. 911, authorized the appropriation of funds for comprehensive planning and evaluation grants for fiscal years ending prior to Oct. 1, 1979.

A prior section 867, Pub. L. 89–10, title V, §507, Apr. 11, 1965, 79 Stat. 51, as amended, was renumbered §553 by Pub. L. 91–230, title I, §143(a)(3), Apr. 13, 1970, 84 Stat. 142, and was classified to section 869b of this title which was repealed by Pub. L. 91–648, title IV, §403, Jan. 5, 1971, 84 Stat. 1925.

Section 867a, Pub. L. 89–10, title V, §532, as added Pub. L. 91–230, title I, §143(a)(4)(D), Apr. 13, 1970, 84 Stat. 146, related to comprehensive planning and evaluation grants and to the establishment and functioning of State planning and evaluation agencies.

Section 867b, Pub. L. 89–10, title V, §533, as added Pub. L. 91–230, title I, §143(a)(4)(D), Apr. 13, 1970, 84 Stat. 147, related to the form and content of grant applications.

Section 867c, Pub. L. 89–10, title V, §534, as added Pub. L. 91–230, title I, §143(a)(4)(D), Apr. 13, 1970, 84 Stat. 148, related to the required annual reports.

§ 868. Omitted

CODIFICATION

Section, Pub. L. 89–10, title V, §541, as added Pub. L. 91–230, title I, §143(a)(4)(D), Apr. 13, 1970, 84 Stat. 148; amended Pub. L. 95–112, §2(e)(4), Sept. 24, 1977, 91 Stat. 912, which provided for the establishment of a National Council on Quality in Education and State advisory councils, was omitted in the general revision of title V of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, title V, Apr. 11, 1965, 79 Stat. 47, by Pub. L. 95–561, title V, §501, Nov. 1, 1978, 92 Stat. 2240.

A prior section 868, Pub. L. 89–10, title V, §508, Apr. 11, 1965, 79 Stat. 54, which provided for administration of State plan, was repealed by Pub. L. 91–230, title I, §143(a)(4)(A), Apr. 13, 1970, 84 Stat. 142.

Provisions similar to those comprising subsecs. (a)(1), (2)(A), (E), and (a)(3) of this section were contained in section 510(a), (b), (d) of Pub. L. 89–10, title V, Apr. 11,

1965, 79 Stat. 54, which was classified to section 870(a), (b), (d) of this title, prior to repeal of section 870 and general amendment of title V by section 143(a)(4)(A) and (D) of Pub. L. 91–230, respectively.

PART E—GENERAL PROVISIONS

§§ 869, 869a. Omitted

CODIFICATION

Section 869, Pub. L. 89–10, title V, § 551, as added Pub. L. 91–230, title I, § 143(a)(4)(D), Apr. 13, 1970, 84 Stat. 150, which related to the administration of plans, to hearings, and to the steps following a failure to comply with the provisions related of this subchapter, was omitted in the general revision of title V of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, title V, Apr. 11, 1965, 79 Stat. 47, by Pub. L. 95–561, title V, § 501, Nov. 1, 1978, 92 Stat. 2240.

A prior section 869, Pub. L. 89–10, title V, § 509, Apr. 11, 1965, 79 Stat. 54, which provided for judicial review, was repealed by Pub. L. 91–230, title I, § 143(a)(4)(A), Apr. 13, 1970, 84 Stat. 142.

Provisions similar to those comprising this section were contained in section 508 of Pub. L. 89–10, title V, Apr. 11, 1965, 79 Stat. 54, which was classified to section 868 of this title, prior to repeal of section 868 and general amendment of title V by section 143(a)(4)(A) and (D) of Pub. L. 91–230, respectively.

Section 869a, Pub. L. 89–10, title V, § 552, as added Pub. L. 91–230, title I, § 143(a)(4)(D), Apr. 13, 1970, 84 Stat. 151, which provided for judicial review of Commissioner's decision concerning approval of application or withholding of payments, was omitted in the general revision of title V of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, title V, Apr. 11, 1965, 79 Stat. 47, by Pub. L. 95–561, title V, § 501, Nov. 1, 1978, 92 Stat. 2240.

Provisions similar to those comprising this section were contained in section 509 of Pub. L. 89–10, title V, Apr. 11, 1965, 79 Stat. 54, which was classified to section 869 of this title, prior to repeal of section 869 and general amendment of title V by section 143(a)(4)(A) and (D) of Pub. L. 91–230, respectively.

§ 869b. Repealed. Pub. L. 91–648, title IV, § 403, Jan. 5, 1971, 84 Stat. 1925

Section, Pub. L. 89–10, title V, § 553, formerly § 507, Apr. 11, 1965, 79 Stat. 51, amended Pub. L. 89–750, title I, § 153, Nov. 3, 1966, 80 Stat. 1204; renumbered and amended Pub. L. 91–230, title I, § 143(a)(3), Apr. 13, 1970, 84 Stat. 142, relating to interchange of personnel of Office of Education with States, provided in subsec. (a), definitions; subsec. (b), authorization for interchange and period of assignment; subsec. (c), Federal personnel assigned to States, compensation, continuation of Federal employment benefits, and disability; subsec. (d), reimbursement by States for services of assigned Federal personnel; subsec. (e), travel expenses of assigned Federal personnel; subsec. (f), State personnel assigned duty with Office of Education; subsec. (g), conflict of interest, disability of State personnel assigned with Office of Education; subsec. (h), travel expenses of assigned personnel; and subsec. (i), assignments of personnel subject to regulations of Commissioner.

EFFECTIVE DATE OF REPEAL

Repeal effective sixty days after Jan. 5, 1971, see section 404 of Pub. L. 91–648, set out as an Effective Date note under section 3371 of Title 5, Government Organization and Employees.

§ 870. Repealed. Pub. L. 91–230, title I, § 143(a)(4)(A), title IV, § 401(h)(3), Apr. 13, 1970, 84 Stat. 142, 174

Section, Pub. L. 89–10, title V, § 510, Apr. 11, 1965, 79 Stat. 54, related to the Advisory Council on State Departments of Education, providing in: subsec. (a) for its appointment by the Secretary within ninety days after April 11, 1965 and its functions; subsec. (b) for the membership and their qualifications; subsec. (c) for engagement of technical, clerical, and other assistance and access to pertinent data of the Department; subsec. (d) for an annual report to the Secretary and transmittal of it to the President and Congress; and (e) for compensation ($100 per day limitation, including travel time) and travel expenses of members of the Council.

SUBCHAPTER IV—EDUCATION OF HANDICAPPED CHILDREN

§§ 871 to 880a. Repealed. Pub. L. 91–230, title VI, § 662(3), Apr. 13, 1970, 84 Stat. 188

Section 871, Pub. L. 89–10, title VI, § 601, formerly § 601(a), as added Pub. L. 89–750, title I, § 161, Nov. 3, 1966, 80 Stat. 1204; renumbered § 601 and amended Pub. L. 90–247, title I, §§ 151(4), 152(b)(2), title III, § 301(c)(1), Jan. 2, 1968, 81 Stat. 800, 803, 813, authorized grants to States for education of handicapped children.

Section 872, Pub. L. 89–10, title VI, § 602, formerly § 601(b), as added Pub. L. 89–750, title I, § 161, Nov. 3, 1966, 80 Stat. 1204; renumbered § 602 and amended Pub. L. 90–247, title I, §§ 151(4), 152(b)(3), title III, § 301(c)(2), Jan. 2, 1968, 81 Stat. 800, 803, 813, authorized appropriations of $50,000,000; $150,000,000; $162,500,000; and $200,000,000 for fiscal years ending June 30, 1967, 1968, 1969, 1970, respectively.

Section 873, Pub. L. 89–10, title VI, § 603, as added Pub. L. 89–750, title I, § 161, Nov. 3, 1966, 80 Stat. 1205; amended Pub. L. 90–247, title I, §§ 152(b)(3), 153 Jan. 2, 1968, 81 Stat. 803, 804, related to allotment of appropriated funds: additional appropriation for outlying areas, payments to Secretaries of Interior and Defense, allotment among States; determination of population figures by Commissioner; reallotment.

Section 874, Pub. L. 89–10, title VI, § 604, as added Pub. L. 89–750, title I, § 161, Nov. 3, 1966, 80 Stat. 1205; amended Pub. L. 90–247, title I, § 151(4), Jan. 2, 1968, 81 Stat. 800, related to submission of State plans to Commissioner and requirements of such plans.

Section 875, Pub. L. 89–10, title VI, § 605, as added Pub. L. 89–750, title I, § 161, Nov. 3, 1966, 80 Stat. 1207, provided for payments.

Section 876, Pub. L. 89–10, tile VI, § 606, as added Pub. L. 89–750, title I, § 161, Nov. 3, 1966, 80 Stat. 1207; amended Pub. L. 90–247, title I, § 151(4), Jan. 2, 1968, 81 Stat. 800, related to administration of State plans.

Section 877, Pub. L. 89–10, title VI, § 607, as added Pub. L. 89–750, title I, § 161, Nov. 3, 1966, 80 Stat. 1207, provided for judicial review: jurisdiction, record; findings, substantial evidence, remand; review by United States Supreme Court.

Section 877a, Pub. L. 89–10, title VI, § 608, as added Pub. L. 90–247, title I, § 151(5), Jan. 2, 1968, 81 Stat. 801, related to regional resource centers: authorization of appropriations of $7,500,000; $7,750,000; and $10,000,000 for fiscal years ending June 30, 1968, 1969, and 1970, respectively; availability of appropriations for grants and contracts, functions of centers; considerations governing approval, of application; and manner of payment, adjustment of overpayments and underpayments.

Section 877b, Pub. L. 89–10, title VI, § 609, as added Pub. L. 90–247, title I, § 151(5), Jan. 2, 1968, 81 Stat. 801, related to model centers for deaf-blind children: Congressional declaration of purpose; authorization of Secretary to make grants and contracts; considerations governing making of grants or contracts; necessary services to be provided by centers; payment of costs of research, development, training and dissemination; definition of ''construction''; recovery of payments; determination of children who are both deaf and blind; manner of payment, adjustment of overpayments and underpayments; and authorization of appropriations of $1,000,000; $3,000,000; and $7,000,000 for fiscal years ending June 30, 1968, 1969, and 1970, respectively.

Section 877c, Pub. L. 89–10, title VI, § 610, as added Pub. L. 90–247, title I, § 151(5), Jan. 2, 1968, 81 Stat. 803,

authorized grants or contracts to improve recruitment of educational personnel and dissemination of information concerning educational opportunities for handicapped.

Section 878, Pub. L. 89–10, title VI, §611, formerly §608, as added Pub. L. 89–750, title I, §161, Nov. 3, 1966, 80 Stat. 1207; renumbered §611, Pub. L. 90–247, title I, §151(3), Jan. 2, 1968, 81 Stat. 800, provided for National Advisory Committee on Handicapped Children: membership; functions, annual report, recommendations; compensation, travel and per diem expenses; advisory professional and technical personnel.

Section 879, Pub. L. 89–10, title VI, §612, formerly §609, as added Pub. L. 89–750, title I, §161, Nov. 3, 1966, 80 Stat. 1208; renumbered §612, Pub. L. 90–247, title I, §151(3), Jan. 2, 1968, 81 Stat. 800, provided for a bureau for education and training of the handicapped.

Section 880, Pub. L. 89–10, title VI, §613, formerly §610, as added Pub. L. 89–750, title I, §161, Nov. 3, 1966, 80 Stat. 1208; renumbered §613, Pub. L. 90–247, title I, §151(3), Jan. 2, 1968, 81 Stat. 800, provided for labor standards requirement (prevailing wage rates).

Section 880a, Pub. L. 89–10, title VI, §614, formerly §602, as added Pub. L. 89–750, title I, §161, Nov. 3, 1966, 80 Stat. 1204; renumbered §614, Pub. L. 90–247, title I, §152(a), Jan. 2, 1968, 81 Stat. 803, defined ''handicapped children''.

Such sections 871 to 877 comprised Part A—Assistance to States for education of handicapped children.

Section 877a comprised Part B—Regional resource centers for improvement of education of handicapped children.

Section 877b comprised Part C—Centers and services for deaf-blind children.

Section 877c comprised Part D—Recruitment of personnel and information on education of handicapped.

Sections 878 to 880a comprised Part E—General provisions.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1971, see section 662 of Pub. L. 91–230.

SHORT TITLE

Section 615 of Pub. L. 89–10, as added by Pub. L. 90–247, title I, §154, Jan. 2, 1968, 81 Stat. 804, which provided that title VI of Pub. L. 89–10 [enacting this subchapter] was to be cited as the ''Education of the Handicapped Act'', was repealed by Pub. L. 91–230, title VI, §662(3), Apr. 13, 1970, 84 Stat. 188.

SUBCHAPTER IV–A—BILINGUAL EDUCATION

§ 880b. Omitted

CODIFICATION

Section 880b, Pub. L. 89–10, title VII, §702, as added Pub. L. 93–380, title I, §105(a)(1), Aug. 21, 1974, 88 Stat. 503, which set out the Congressional declaration of policy with regard to bilingual education and authorized appropriations for fiscal years through the 1978 fiscal year, was omitted in the general revision of title VII of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, title VII, as added Pub. L. 93–380, title I, §105(a)(1), Aug. 21, 1974, 88 Stat. 511, by Pub. L. 95–561, title VII, §701, Nov. 1, 1978, 92 Stat. 2268.

A prior section 880b, Pub. L. 89–10, title VII, §702, as added Pub. L. 90–247, title VII, §702, Jan. 2, 1968, 81 Stat. 816, provided for Congressional declaration of policy and defined ''children of limited English-speaking ability''. Such provision remaining in effect through June 30, 1975, to the extent not inconsistent with the amendment made by section 105 of Pub. L. 93–380, see section 105(a)(2)(A) of Pub. L. 93–380, title I, Aug. 21, 1974, 88 Stat. 503.

SHORT TITLE

Pub. L. 89–10, title VII, §701, as added by Pub. L. 90–247, title VII, §702, Jan. 2, 1968, 81 Stat. 816, and reenacted by Pub. L. 93–380, title I, §105(a)(1), Aug. 21, 1974, 88 Stat. 503, which provided that this subchapter be cited as the ''Bilingual Education Act'', was omitted in the general revision of this subchapter, title VII of the Elementary and Secondary Education Act of 1965, as added by Pub. L. 93–380, title I, §105(a)(1), Aug. 21, 1974, 88 Stat. 511, by Pub. L. 95–561, title VII, §701, Nov. 1, 1978, 92 Stat. 2268. See Codification note above.

§ 880b–1. Omitted

CODIFICATION

Section 880b–1, Pub. L. 89–10, title VII, §703, as added and amended Pub. L. 93–380, title I, §105(a)(1), (b), Aug. 21, 1974, 88 Stat. 504, 512, which made general provisions for the bilingual education program, was omitted in the general revision of title VII of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, title VII, as added Pub. L. 93–380, title I, §105(a)(1), Aug. 21, 1974, 88 Stat. 511, by Pub. L. 95–561, title VII, §701, Nov. 1, 1978, 92 Stat. 2268.

A prior section 880b–1, Pub. L. 89–10, title VII, §703, as added Pub. L. 90–247, title VII, §702, Jan. 2, 1968, 81 Stat. 816; amended Pub. L. 91–230, title I, §151, Apr. 13, 1970, 84 Stat. 151, authorized appropriation of 15, 30, 40, 80, 100, and 135 million dollars for fiscal years ending June 30, 1968 through 1973, respectively, and for distribution of funds.

§§ 880b–2 to 880b–5. Omitted

CODIFICATION

Sections 880b–2 to 880b–5, were to remain in effect through June 30, 1975. See section 105(a)(2)(A) of Pub. L. 93–380, Aug. 21, 1974, 88 Stat. 512.

Section 880b–2, Pub. L. 89–10, title VII, §704, as added Pub. L. 90–247, title VII, §702, Jan. 2, 1968, 81 Stat. 817, related to uses for Federal funds.

Section 880b–3, Pub. L. 89–10, title VII, §705, as added Pub. L. 90–247, title VII, §702, Jan. 2, 1968, 81 Stat. 817 related to applications for grants, providing in subsec.: (a) for time of and contents of applications; (b) conditions for approval; and (c) amendments.

Section 880b–3a, Pub. L. 89–10, title VII, §706, as added Pub. L. 91–230, title I, §152(a), Apr. 13, 1970, 84 Stat. 151; amended Pub. L. 92–318, title IV, §452, June 23, 1972, 86 Stat. 345, provided for children in schools on or near reservations, subsec. (a) relating to local educational agency status of Indian institution or organization and subsec. (b) to payments to Secretary of Interior and criteria for such payments.

Section 880b–4, Pub. L. 89–10, title VII, §707, formerly §706, as added Pub. L. 90–247, title VII, §702, Jan. 2, 1968, 81 Stat. 819; renumbered §707 and amended Pub. L. 91–230, title I, §152(a), (b), Apr. 13, 1970, 84 Stat. 151, 152, related to payments to applicants.

Section 880b–5, Pub. L. 89–10, title VII, §708, formerly §707, as added Pub. L. 90–247, title VII, §702, Jan. 2, 1968, 81 Stat. 819; renumbered §708 and amended Pub. L. 91–230, title I, §§152(a), 153, title IV, §401(h)(3), Apr. 13, 1970, 84 Stat. 151, 152, 174; Pub. L. 93–380, title VIII, §845(c), Aug. 21, 1974, 88 Stat. 612; Pub. L. 94–482, title V, §501(a)(21), Oct. 12, 1976, 90 Stat. 2236, related to establishment of an Advisory Committee on Education of Bilingual Children.

§ 880b–6. Repealed. Pub. L. 91–230, title IV, § 401(g)(5), Apr. 13, 1970, 84 Stat. 174

Section, Pub. L. 89–10, title VII, §709, formerly §708, as added Pub. L. 90–247, title VII, §702, Jan. 2, 1968, 81 Stat. 819; renumbered §709 Pub. L. 91–230, title I, §152(a), Apr. 13, 1970, 84 Stat. 151, related to labor standards requirement (prevailing wage rates).

PART A—FINANCIAL ASSISTANCE FOR BILINGUAL EDUCATION PROGRAMS

§§ 880b–7 to 880b–9. Omitted

CODIFICATION

Sections were omitted in the general revision of title VII of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, title VII, as added Pub. L. 93–380, title I, §105(a)(1), Aug. 21, 1974, 88 Stat. 511, by Pub. L. 95–561, title VII, §701, Nov. 1, 1978, 92 Stat. 2268.

Section 880b–7, Pub. L. 89–10, title VII, §721, as added Pub. L. 93–380, title I, §105(a)(1), Aug. 21, 1974, 88 Stat. 506, provided for bilingual education programs.

Section 880b–8, Pub. L. 89–10, title VII, §722, as added Pub. L. 93–380, Title I, §105(a)(1), Aug. 21, 1974, 88 Stat. 507, related to Indian children in schools.

Section 880b–9, Pub. L. 89–10, title VII, §723, as added Pub. L. 93–380, title I, §105(a)(1), Aug. 21, 1974, 88 Stat. 508; amended Pub. L. 94–273, §3(7), Apr. 21, 1976, 90 Stat. 376; S. Res. 4, Feb. 4, 1977, related to grants and contract for training.

PART B—ADMINISTRATION

§§ 880b–10, 880b–11. Omitted

CODIFICATION

Sections were omitted in the general revision of title VII of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, title VII, as added Pub. L. 93–380, title I, §105(a)(1), Aug. 21, 1974, 88 Stat. 511, by Pub. L. 95–561, title VII, §701, Nov. 1, 1978, 92 Stat. 2268.

Section 880b–10, Pub. L. 89–10, title VII, §731, as added Pub. L. 93–380, title I, §105(a)(1), Aug. 21, 1974, 88 Stat. 509; amended Pub. L. 94–273, §3(7), Apr. 21, 1976, 90 Stat. 376; Pub. L. 94–482, title V, §501(d)(1), Oct. 12, 1976, 90 Stat. 2237, established the Office of Bilingual Education.

Section 880b–11, Pub. L. 89–10, title VII, §732, as added Pub. L. 93–380, title I, §105(a)(1), Aug. 21, 1974, 88 Stat. 510; amended Pub. L. 94–482, title V, §501(a)(21), (d)(2), Oct. 12, 1976, 90 Stat. 2236, 2237, provided for the establishment of the National Advisory Council on Bilingual Education.

APPOINTMENT OF NATIONAL ADVISORY COUNCIL ON BILINGUAL EDUCATION

Pub. L. 93–380, title I, §105(a)(2)(B), Aug. 21, 1974, 88 Stat. 512, provided for the appointment of the National Advisory Council on Bilingual Education, which Council was provided for by section 880b–11, within 90 days after Aug. 21, 1974. See Codification note above.

PART C—SUPPORTIVE SERVICES AND ACTIVITIES

§§ 880b–12, 880b–13. Omitted

CODIFICATION

Sections were omitted in the general revision of title VII of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, title VII, as added Pub. L. 93–380, title I, §105(a)(1), Aug. 21, 1974, 88 Stat. 511, by Pub. L. 95–561, title VII, §701, Nov. 1, 1978, 92 Stat. 2268.

Section 880b–12, Pub. L. 89–10, title VII, §741, as added Pub. L. 93–380, title I, §105(a)(1), Aug. 21, 1974, 88 Stat. 511, provided for the administration of the research and demonstration projects program.

Section 880b–13, Pub. L. 89–10, title VII, §742, as added Pub. L. 93–380, title I, §105(a)(1), Aug. 21, 1974, 88 Stat. 511; amended Pub. L. 94–482, title V, §501(d)(3), Oct. 12, 1976, 90 Stat. 2237, related to research and demonstration projects.

SUBCHAPTER V—GENERAL PROVISIONS

§ 881. Transferred

CODIFICATION

Section, Pub. L. 89–10, title VIII, §801, formerly title VI, §601, Apr. 11, 1965, 79 Stat. 55, renumbered title VII, §701, Pub. L. 89–750, title I, §161, Nov. 3, 1966, 80 Stat. 1204, renumbered title VIII, §801, and amended Pub. L. 90–247, title I, §§142(b), 152(c), title VII, §§702, 703, Jan. 2, 1968, 81 Stat. 799, 803, 816, 819; Pub. L. 91–230, title I, §162, Apr. 13, 1970, 84 Stat. 152; Pub. L. 94–193, §1(c), Dec. 31, 1975, 89 Stat. 1102; Pub. L. 94–482, title V, §501(*l*), Oct. 12, 1976, 90 Stat. 2237, which related to definitions, was renumbered Pub. L. 89–10, title X, §1001 by Pub. L. 95–561, title VIII, §801(1), (2), Nov. 1, 1978, 92 Stat. 2284, and transferred to section 3381 of this title, and was subsequently omitted in the general amendment of Pub. L. 89–10 by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519.

§ 882. Repealed. Pub. L. 91–230, title IV, § 401(h)(3), Apr. 13, 1970, 84 Stat. 174

Section, Pub. L. 89–10, title VIII, §802, formerly title VI, §602, Apr. 11, 1965, 79 Stat. 57, renumbered title VII, §702, Pub. L. 89–750, title I, §161, Nov. 3, 1966, 80 Stat. 1204, renumbered title VIII, §802, Pub. L. 90–247, title VII, §702, Jan. 2, 1968, 81 Stat. 816, provided for appointment of advisory council and for compensation ($100 per day limitation, including travel time) and travel expenses of the members.

§§ 883 to 885. Transferred

CODIFICATION

Section 883, Pub. L. 89–10, title VIII, §803, formerly title VI, §603, Apr. 11, 1965, 79 Stat. 57; renumbered title VII, §703, and amended Pub. L. 89–750, title I, §§111(f), 161, Nov. 3, 1966, 80 Stat. 1196, 1204; renumbered title VIII, §803, Pub. L. 90–247, title VII, §702, Jan. 2, 1968, 81 Stat. 816; amended Pub. L. 91–230, title I, §163, title IV, §401(c)(2), Apr. 13, 1970, 84 Stat. 152, 173, was comprised of subsecs. (a) to (c). Subsecs. (a) and (b) were repealed by Pub. L. 91–230, title IV, §401(c)(2), Apr. 13, 1970, 84 Stat. 173. Subsec. (c), which related to federal administration, was renumbered Pub. L. 89–10, title X, §1002 by Pub. L. 95–561, title VIII, §801(1), (2), Nov. 1, 1978, 92 Stat. 2284, and transferred to section 3382 of this title, and was subsequently omitted in the general amendment of Pub. L. 89–10 by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519.

Section 884, Pub. L. 89–10, title VIII, §804, as added Pub. L. 93–380, title I, §106, Aug. 21, 1974, 88 Stat. 512, which related to limitations on refund of payments, was renumbered Pub. L. 89–10, title X, §1003 by Pub. L. 95–561, title VIII, §801(1), (2), Nov. 1, 1978, 92 Stat. 2284, and transferred to section 3383 of this title, and was subsequently omitted in the general amendment of Pub. L. 89–10 by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519.

A prior section 884, Pub. L. 89–10, title VIII, §804, formerly title VI, §604, Apr. 11, 1965, 79 Stat. 57; renumbered title VII, §704, and amended Pub. L. 89–750, title I, §§161, 181, Nov. 3, 1966, 80 Stat. 1204, 1209; renumbered title VIII, §804, Pub. L. 90–247, title VII, §702, Jan. 2, 1968, 81 Stat. 816, prohibited Federal control of education (curriculum, program of instruction, administration, personnel of any educational institution or system, selection of library resources, textbooks, or other printed or published instructional material, and assignment or transportation of students or teachers in order to overcome racial imbalance), was repealed by Pub. L. 91–230, title IV, §401(f)(5), Apr. 13, 1970, 84 Stat. 173.

Section 885, Pub. L. 89–10, title VIII, §805, formerly title VI, §605, Apr. 11, 1965, 79 Stat. 58; renumbered title VII, §705, Pub. L. 89–750, title I, §161, Nov. 3, 1966, 80 Stat. 1204; renumbered title VIII, §805, Pub. L. 90–247, title VII, §702, Jan. 2, 1968, 81 Stat. 816, which prohibited the use of funds for religious worship or instruction, was renumbered Pub. L. 89–10, title X, §1004 by Pub. L. 95–561, title VIII, §801(1), (2), Nov. 1, 1978, 92 Stat. 2284 and transferred to section 3384 of this title. Section 1004 of Pub. L. 89–10, as so renumbered, was amended by Pub. L. 95–561, title IX, §901(b), Nov. 1, 1978, 92 Stat. 2305, by substituting provisions waiving re-

quirements for certain jurisdictions for those prohibiting use of funds for religious worship or instruction.

§ 886. Repealed. Pub. L. 91–230, title IV, § 401(d)(4), Apr. 13, 1970, 84 Stat. 173

Section, Pub. L. 89–10, title VIII, § 806, formerly title VII, § 706, as added Pub. L. 89–750, title I, § 171, Nov. 3, 1966, 80 Stat. 1209; renumbered § 806 and amended Pub. L. 90–247, title I, § 171, title VII, § 702, Jan. 2, 1968, 81 Stat. 805, 816, provided for dissemination of information and authorization of appropriations of $1,500,000; $3,500,000; $3,700,000; and $4,000,000 for fiscal years ending June 30, 1967, 1968, 1969, and 1970.

TERMINATION OF SECTION

Pub. L. 90–576, title III, § 303(e), Oct. 16, 1968, 82 Stat. 1096, which provided that this section shall become ineffective the first fiscal year for which funds are appropriated to carry out the provisions of section 6 of this title, was repealed by section 401(d)(3) of Pub. L. 91–230.

§§ 887, 887a. Omitted

CODIFICATION

Section 887, Pub. L. 89–10, title VIII, § 807, formerly title VII, § 707, as added and renumbered Pub. L. 90–247, title I, § 172, title VII, § 702, Jan. 2, 1968, 81 Stat. 806, 816; amended Pub. L. 91–230, title I, § 161, Apr. 13, 1970, 84 Stat. 152; Pub. L. 93–380, title I, § 107(a), Aug. 21, 1974, 88 Stat. 512; Pub. L. 95–112, § 2(f)(1), Sept. 24, 1977, 91 Stat. 912, which related to dropout prevention projects, was omitted in the general revision of title VII of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, title VII, as added Pub. L. 93–380, title I, § 105(a)(1), Aug. 21, 1974, 88 Stat. 511, by Pub. L. 95–561, title VII, § 701, Nov. 1, 1978, 92 Stat. 2268.

Section 887a, Pub. L. 89–10, title VIII, § 808, as added Pub. L. 91–230, title I, § 164, Apr. 13, 1970, 84 Stat. 153; amended Pub. L. 93–380, title I, § 108(a), Aug. 21, 1974, 88 Stat. 513; Pub. L. 95–112, § 2(f)(2), Sept. 24, 1977, 91 Stat. 912, which related to school nutrition and health services for children from low-income families, was omitted in the general revision of title VII of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, title VII, as added Pub. L. 93–380, title I, § 105(a)(1), Aug. 21, 1974, 88 Stat. 511, by Pub. L. 95–561, title VII, § 701, Nov. 1, 1978, 92 Stat. 2268.

§ 887b. Repealed. Pub. L. 93–380, title IV, § 402(c)(3), Aug. 21, 1974, 88 Stat. 546

Section, Pub. L. 89–10, title VIII, § 809, as added Pub. L. 91–230, title I, § 164, Apr. 13, 1970, 84 Stat. 154; amended Pub. L. 93–380, title I, § 109(a), Aug. 21, 1974, 88 Stat. 513, related to correction education services, providing in subsecs. (a) for grants for research and demonstration projects; (b) for appointment and functions of advisory committees and furnishing of advice and recommendations of Federal officials and other persons and organizations to the Commissioner; and (c) for authorization of $500,000 for fiscal years ending June 30, 1974, and 1975.

Section 109(b) of Pub. L. 93–380 made such authorizations effective on and after July 1, 1974.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1975, see section 402(c)(3) of Pub. L. 93–380.

§§ 887c to 887c–2. Transferred

CODIFICATION

Section 887c, Pub. L. 89–10, title VIII, § 810, as added Pub. L. 92–318, title IV, § 421(a), June 23, 1972, 86 Stat. 339; amended Pub. L. 93–380, title VI, §§ 631(a), 632(a), Aug. 21, 1974, 88 Stat. 585, 586, which related to improvement of educational opportunities for Indian children, was renumbered Pub. L. 89–10, title X, § 1005, by Pub. L. 95–561, title VIII, § 801(1), (2), Nov. 1, 1978, 92 Stat. 2284, and transferred to section 3385 of this title, and was subsequently repealed by Pub. L. 100–297, title V, § 5352(2), Apr. 28, 1988, 102 Stat. 414.

Section 887c–1, Pub. L. 92–318, title IV, § 422, as added Pub. L. 93–380, title VI, § 632(c), Aug. 21, 1974, 88 Stat. 586; amended Pub. L. 95–561, title XI, §§ 1141(c)(1), 1152(a), Nov. 1, 1978, 92 Stat. 2329, 2333, which related to special educational training programs for teachers of Indian people, was transferred to section 3385a of this title, and was subsequently repealed by Pub. L. 100–297, title V, § 5352(4), Apr. 28, 1988, 102 Stat. 414.

Section 887c–2, Pub. L. 92–318, title IV, § 423, as added Pub. L. 93–380, title VI, § 632(c), Aug. 21, 1974, 88 Stat. 586; amended Pub. L. 95–561, title XI, §§ 1141(c)(2), 1152(b), Nov. 1, 1978, 92 Stat. 2329, 2333, which related fellowships for Indian students, was transferred to section 3385b of this title, and was subsequently repealed by Pub. L. 100–297, title V, § 5352(4), Apr. 28, 1988, 102 Stat. 414.

§ 887d. Repealed. Pub. L. 95–561, title III, § 301(b)(1)(F), Nov. 1, 1978, 92 Stat. 2228

Section, Pub. L. 89–10, title VIII, § 811, as added Pub. L. 92–318, title V, § 505(a)(3), June 23, 1972, 86 Stat. 348; amended Pub. L. 93–380, title IV, § 407(a), Aug. 21, 1974, 88 Stat. 553, related to consumers' education programs.

EFFECTIVE DATE OF REPEAL

Repeal effective Sept. 30, 1979, see section 301(b)(1) of Pub. L. 95–561.

CONGRESSIONAL DECLARATION OF FINDINGS AND PURPOSE

Pub. L. 92–318, § 505(a)(1), (2), June 23, 1972, 86 Stat. 348, provided the findings and purpose of Congress for this section.

§ 887e. Transferred

CODIFICATION

Section, Pub. L. 89–10, title VIII, § 812, as added Pub. L. 93–380, title I, § 110, Aug. 21, 1974, 88 Stat. 513, which provided for open meetings of educational agencies, was renumbered Pub. L. 89–10, title X, § 1006, by Pub. L. 95–561, title VIII, § 801(1), (2), Nov. 1, 1978, 92 Stat. 2284, and transferred to section 3386 of this title, and was subsequently omitted in the general amendment of Pub. L. 89–10 by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519.

§ 888. Repealed. Pub. L. 91–230, title IV, § 401(e)(1), Apr. 13, 1970, 84 Stat. 173

Section, Pub. L. 90–247, § 2, Jan. 2, 1968, 81 Stat. 783, which was not enacted as part of Pub. L. 89–10 which comprised this subchapter, provided for citation of authority and uniform application of rules and regulations.

SUBCHAPTER VI—ETHNIC HERITAGE PROGRAM

§§ 900 to 900a–5. Omitted

CODIFICATION

Sections were omitted in the general revision of title IX of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, title IX, as added Pub. L. 92–318, title V, § 504(a), June 23, 1972, 86 Stat. 347, by Pub. L. 95–561, title VIII, § 802, Nov. 1, 1978, 92 Stat. 2292.

Section 900, Pub. L. 89–10, title IX, § 901, as added Pub. L. 92–318, title V, § 504(a), June 23, 1972, 86 Stat. 346, contained the Congressional statement of policy with regard to the ethnic heritage program.

Section 900a, Pub. L. 89–10, title IX, § 902, as added Pub. L. 92–318, title V, § 504(a), June 23, 1972, 86 Stat. 347, authorized grants for the ethnic heritage studies program.

Section 900a–1, Pub. L. 89–10, title IX, § 903, as added Pub. L. 92–318, title V, § 504(a), June 23, 1972, 86 Stat. 347; amended Pub. L. 93–380, title I, § 111(b), Aug. 21, 1974, 88 Stat. 513, described the authorized activities for the ethnic heritage program.

Section 900a–2, Pub. L. 89–10, title IX, § 904, as added Pub. L. 92–318, title V, § 504(a), June 23, 1972, 86 Stat. 347, related to the form and content of applications for assistance.

Section 900a–3, Pub. L. 89–10, title IX, § 905, as added Pub. L. 92–318, title V, § 504(a), June 23, 1972, 86 Stat. 347, related to the administration of the program.

Section 900a–4, Pub. L. 89–10, title IX, § 906, as added Pub. L. 92–318, title V, § 504(a), June 23, 1972, 86 Stat. 348, established the National Advisory Council on Ethnic Heritage Studies.

Section 900a–5, Pub. L. 89–10, title IX, § 907, as added Pub. L. 92–318, title V, § 504(a), June 23, 1972, 86 Stat. 348; amended Pub. L. 93–380, title I, § 111(a)(1), Aug. 21, 1974, 88 Stat. 513, authorized appropriations for fiscal years through fiscal year 1978.

CHAPTER 25—PAY AND PERSONNEL PROGRAM FOR OVERSEAS TEACHERS

Sec.

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(b) Post differential.
907. Applicability of other laws.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 922 of this title; title 5 section 5722; title 25 section 2012.

§ 901. Definitions

For the purposes of this chapter, the term—

(1) ''teaching position'' means those duties and responsibilities which—

(A) are performed on a school-year basis principally in a school operated by the Department of Defense in an overseas area for dependents of members of the Armed Forces and dependents of civilian employees of the Department of Defense, or are performed by an individual who carried out certain teaching activities identified in regulations prescribed by the Secretary of Defense; and

(B) involve—

(i) classroom or other instruction or the supervision or direction of classroom or other instruction; or

(ii) any activity (other than teaching) which requires academic credits in educational theory and practice equal to the academic credits in educational theory and practice required for a bachelor's degree in education from an accredited institution of higher education; or

(iii) any activity in or related to the field of education notwithstanding that academic credits in educational theory and practice are not a formal requirement for the conduct of such activity.

(2) ''teacher'' means an individual—

(A) who is a citizen of the United States,

(B) who is a civilian, and

(C) who is employed in a teaching position described in paragraph (1).

(3) ''overseas area'' means any area situated outside the United States.

(4) ''United States'', when used in a geographical sense, means the several States of the United States of America, the District of Columbia, Hawaii, the Commonwealth of Puerto Rico, the Canal Zone, and the possessions of the United States (excluding the Trust Territory of the Pacific Islands and Midway Islands).

(Pub. L. 86–91, § 2, July 17, 1959, 73 Stat. 213; Pub. L. 104–201, div. A, title XVI, § 1606(a), Sept. 23, 1996, 110 Stat. 2736; Pub. L. 105–85, div. A, title X, § 1073(c)(9)(A), Nov. 18, 1997, 111 Stat. 1904.)

REFERENCES IN TEXT

For definition of Canal Zone, referred to in par. (4), see section 3602(b) of Title 22, Foreign Relations and Intercourse.

CODIFICATION

Section was formerly classified to section 2351 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, § 1, Sept. 6, 1966, 80 Stat. 378.

AMENDMENTS

1997—Par. (1)(A). Pub. L. 105–85 made technical corrections to Pub. L. 104–201, § 1606(a)(1). See 1996 Amendment note below.

1996—Par. (1)(A). Pub. L. 104–201, § 1606(a)(1), as amended by Pub. L. 105–85, inserted ''or are performed by an individual who carried out certain teaching activities identified in regulations prescribed by the Secretary of Defense;'' after ''Defense,''.

Par. (2)(C). Pub. L. 104–201, § 1606(a)(2), added subpar. (C) and struck out former subpar. (C) which read as follows: ''whose services are required on a school-year basis in a teaching position.''

EFFECTIVE DATE OF 1997 AMENDMENT

Section 1073(c) of Pub. L. 105–85 provided that the amendment made by that section is effective as of Sept. 23, 1996, and as if included in the National Defense Authorization Act for Fiscal Year 1997, Pub. L. 104–201, as enacted.

SHORT TITLE

Section 1 of Pub. L. 86–91 provided that: ''This Act [enacting this chapter and provisions now contained in section 5102(c)(22) of Title 5, Government Organization and Employees] may be cited as the 'Defense Department Overseas Teachers Pay and Personnel Practices Act'.''

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 5 sections 5102, 5334, 5541, 6301, 8331, 8701.

§ 902. Regulations of Secretary of Defense

(a) Employment, compensation, etc., of teachers

Not later than the ninetieth day following July 17, 1959, the Secretary of Defense shall prescribe and issue regulations to carry out the purposes of this chapter. Such regulations shall govern—

(1) the establishment of teaching positions;

(2) the fixing of basic compensation for teachers and teaching positions at rates equal to the average of the range of rates of basic compensation for similar positions of a comparable level of duties and responsibilities in urban school jurisdictions in the United States of 100,000 or more population;

(3) the entitlement of teachers to compensation;

(4) the payment of compensation to teachers;

(5) the appointment of teachers;

(6) the conditions of employment of teachers;

(7) the length of the school year or school years applicable to teaching positions;

(8) the leave system for teachers;

(9) quarters, allowances, and additional compensation for teachers; and

(10) such other matters as may be relevant and appropriate to the purposes of this chapter.

(b) Effective date of regulations

The regulations prescribed and issued by the Secretary of Defense under subsection (a) of this section shall become effective on such date as the Secretary of Defense shall prescribe but not later than the ninetieth day following the date of issuance of such regulations.

(Pub. L. 86–91, § 4, July 17, 1959, 73 Stat. 214; Pub. L. 89–391, § 1(a), Apr. 14, 1966, 80 Stat. 117.)

CODIFICATION

Section was formerly classified to section 2352 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, § 1, Sept. 6, 1966, 80 Stat. 378.

AMENDMENTS

1966—Subsec. (a)(2). Pub. L. 89–391 substituted provisions for issuance of regulations to fix basic compensation for teachers and teaching positions at rates equal to the average of the range of rates of basic compensation for similar positions of a comparable level of duties and responsibilities in urban school jurisdictions in the United States of 100,000 or more population for former provisions fixing basic compensation for teaching positions in relation to rates of basic compensation for similar positions in the United States.

EFFECTIVE DATE OF 1966 AMENDMENT

Section 2 of Pub. L. 89–391 provided that: ''The amendments made by the first section of this Act [amending this section and section 903 of this title] shall become effective on the first day of the first pay period which begins after the date of enactment of this Act [Apr. 14, 1966].''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 903, 904 of this title.

§ 903. Administration

(a) Employment and salary practices

The Secretary of Defense shall conduct the employment and salary practices applicable to teachers and teaching positions in the Department of Defense in accordance with this chapter, other applicable law, and the regulations prescribed and issued by the Secretary of Defense under section 902 of this title.

(b) Determination of exempt positions and individuals; establishment of annual salary rate

Subject to section 5103 of title 5, the Secretary of Defense—

(1) shall determine the applicability of paragraph (22) of section 5102(c) of title 5 to positions and individuals in the Department of Defense; and

(2) shall establish the appropriate annual salary rate in accordance with this chapter for each such position and individual to which such paragraph (22) is determined to be applicable.

(c) Rates of basic compensation

The Secretary of Defense shall fix the basic compensation for teachers and teaching positions in the Department of Defense at rates equal to the average of the range of rates of basic compensation for similar positions of a comparable level of duties and responsibilities in urban school jurisdictions in the United States of 100,000 or more population.

(d) Issuance of regulations by Secretary of Defense

The Secretary of Defense may prescribe and issue such regulations as he deems appropriate to carry out his functions under this chapter.

(Pub. L. 86–91, § 5, July 17, 1959, 73 Stat. 214; Pub. L. 86–370, § 6(b), Sept. 23, 1959, 73 Stat. 652; Pub. L. 89–391, § 1(b), (c), Apr. 14, 1966, 80 Stat. 117; Pub. L. 96–470, title I, § 104(b), Oct. 19, 1980, 94 Stat. 2238; Pub. L. 104–201, div. A, title XVI, § 1606(b), Sept. 23, 1996, 110 Stat. 2737; Pub. L. 105–85, div. A, title X, § 1073(c)(9)(B), (C), Nov. 18, 1997, 111 Stat. 1904.)

CODIFICATION

In subsec. (b), ''section 5103 of title 5'' and ''paragraph (22) of section 5102(c) of title 5'' substituted for ''section 202 of the Classification Act of 1949'' and ''paragraph

(33) of section 202 of such Act, added by section 3 of this Act'' respectively, on authority of Pub. L. 89–554, §7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

Provisions of section 1(b) and (c) of Pub. L. 89–391 for amendment of subsec. (c) of this section and addition of other provisions as another subsec. (c), have been executed in the Code as an amendment of subsec. (c) of this section and addition of subsec. (e) of this section, respectively.

Section was formerly classified to section 2353 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, §1, Sept. 6, 1966, 80 Stat. 378.

AMENDMENTS

1997—Subsec. (a). Pub. L. 105–85, §1073(c)(9)(B), made technical correction to Pub. L. 104–201, §1606(b)(1)(A). See 1996 Amendment note below.

Subsec. (b)(1). Pub. L. 105–85, §1073(c)(9)(C), made technical correction to Pub. L. 104–201, §1606(b)(2)(B). See 1996 Amendment note below.

1996—Subsec. (a). Pub. L. 104–201, §1606(b)(1)(B), substituted ''the Department of Defense'' for ''his military department''.

Pub. L. 104–201, §1606(b)(1)(A), as amended by Pub. L. 105–85, §1073(c)(9)(B), substituted ''Secretary of Defense shall'' for ''secretary of each military department in the Department of Defense shall''.

Subsec. (b). Pub. L. 104–201, §1606(b)(2)(A), substituted ''Secretary of Defense—'' for ''secretary of each military department—'' in introductory provisions.

Subsec. (b)(1). Pub. L. 104–201, §1606(b)(2)(B), as amended by Pub. L. 105–85, §1073(c)(9)(C), substituted ''the Department of Defense;'' for ''his military department,''.

Subsec. (c). Pub. L. 104–201, §1606(b)(3), substituted ''Secretary of Defense'' for ''Secretary of each military department'' and ''the Department of Defense'' for ''his military department''.

Subsec. (d). Pub. L. 104–201, §1606(b)(4), substituted ''Secretary of Defense'' for ''Secretary of each military department''.

1980—Subsec. (e). Pub. L. 96–470 struck out subsec. (e) which required the Secretary of Defense, on or before the 15th day of January in each calendar year beginning after Apr. 14, 1966, to report to the respective Committees on Post Office and Civil Service of the Senate and House of Representatives information on teachers separated from teaching positions subsequent to the close of the immediately preceding full school year and the number of new teachers appointed to teaching positions at the beginning of the school year current at time of the report, including the number of such new teachers obtained through voluntary reciprocal interchange agreements with school jurisdictions in the United States.

1966—Subsec. (c). Pub. L. 89–391, §1(b), substituted provisions for fixing the basic compensation for teachers and teaching positions at rates equal to the average of the range of rates of basic compensation for similar positions of a comparable level of duties and responsibilities in urban school jurisdictions in the United States of 100,000 or more population for former provisions fixing such rates in relation to the rates of basic compensation for similar positions in the United States but not exceeding the highest rate of basic compensation for similar positions of a comparable level of duties and responsibilities under the municipal government of the District of Columbia.

Subsec. (e). Pub. L. 89–391, §1(c), inserted provisions designated as subsec. (c) to section 5 of Pub. L. 86–91, but codified as subsec. (e) of this section.

1959—Subsec. (b). Pub. L. 86–370 substituted ''(33)'' for ''(32)'' in two places.

EFFECTIVE DATE OF 1997 AMENDMENT

Section 1073(c) of Pub. L. 105–85 provided that the amendment made by that section is effective as of Sept. 23, 1996, and as if included in the National Defense Authorization Act for Fiscal Year 1997, Pub. L. 104–201, as enacted.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendments of this section by Pub. L. 89–391 effective on first day of first pay period beginning after Apr. 14, 1966, see section 2 of Pub. L. 89–391, set out as a note under section 902 of this title.

EFFECTIVE DATE OF 1959 AMENDMENT

Amendment by Pub. L. 86–370 effective on first day of first pay period which begins after Sept. 23, 1959, see section 7(b) of Pub. L. 86–370, set out as a note under section 3 of Title 35, Patents.

TEACHERS EMPLOYED BY CANAL ZONE GOVERNMENT SCHOOL SYSTEM ON SEPTEMBER 30, 1979

Subsec. (c) of this section not to apply with respect to any teacher who was employed by the Canal Zone Government school system on September 30, 1979, and who was transferred from such position to a teaching position which is under the Department of Defense Overseas Dependent School System and the permanent duty station of which is in the Republic of Panama, until the rates of basic compensation established under subsec. (c) of this section equal or exceed the rates of basic compensation then in effect for teachers who were so transferred, see section 3671(c)(1) of Title 22, Foreign Relations and Intercourse.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 22 section 3671.

§ 904. Leave

(a) Entitlement; amount

Subject to the regulations prescribed and issued by the Secretary of Defense under section 902 of this title, each teacher (other than an individual employed as a substitute teacher) shall be entitled to cumulative leave, with pay, which shall accrue at the rate of one day for each calendar month, or part thereof, of a school year, except that if the school year includes more than eight months, any such teacher who shall have served for the entire school year shall be entitled to ten (or, if such teacher is employed in a supervisory position or higher, not less than ten and not more than thirteen) days of cumulative leave with pay.

(b) Saturdays, Sundays, holidays, and nonwork days

Saturdays, Sundays, regularly scheduled holidays, and other administratively authorized nonwork days shall not be considered to be days of leave for the purposes of subsection (a) of this section.

(c) Purposes for taking leave

Subject to the regulations prescribed and issued by the Secretary of Defense, leave earned by any teacher under subsection (a) of this section may be used by such teacher—

(1) for maternity purposes,

(2) in the event of the illness of such teacher,

(3) in the event of illness, contagious disease, or death in the immediate family of such teacher, and

(4) in the event of any personal emergency.

If appropriate advance notice is given of the intended absence of a teacher, not to exceed three days of such leave may be granted for any purpose in each school year to such teacher.

(d) Credit for persons holding teaching positions and for employees transferred, promoted or reappointed

Any individual—

(1) who is holding a position which is determined to be a teaching position, or

(2) who is an employee of the Federal Government or the municipal government of the District of Columbia who is transferred, promoted, or reappointed, without break in service, from a position under a different leave system to a teaching position,

shall be credited, for the purposes of the leave system provided by this section, with the annual and sick leave to his credit immediately prior to the effective date of such determination, transfer, promotion, or reappointment. Sick leave so credited shall be included in the leave provided for in subsection (a) of this section. Annual leave so credited shall not be included in the leave provided for in such subsection but shall be used under regulations which shall be prescribed by the Secretary of Defense.

(e) Excess of maximum amount of accumulated leave; reduction

In any case in which the amount of sick leave, which is to the credit of any individual under a different leave system immediately prior to the date on which he becomes subject as a teacher to the leave system provided by this section and which is included in the leave provided for in subsection (a) of this section, is in excess of the maximum amount of accumulated leave allowable under subparagraph (2) of such subsection, such excess shall remain to the credit of such teacher until used, but the use during any leave year of an amount in excess of the aggregate amount which shall have accrued during such year shall reduce automatically the maximum allowable amount of accumulated leave at the beginning of the next leave year until such amount no longer exceeds the maximum amount allowable under subparagraph (2) of subsection (a) of this section.

(f) Liquidation of unused leave upon separation

Any annual leave remaining, upon his separation from the service, to the credit of an individual within the purview of this section shall be liquidated in accordance with section 5551 of title 5, except that leave earned or included under subsection (a) of this section shall not be liquidated.

(g) Transfer of leave credit for teachers transferred, promoted or reappointed to positions under different leave system

In the case of any teacher who is transferred, promoted, or reappointed, without break in service, to a position under a different leave system, the annual leave, and any other leave earned or credited under this section, which is to his credit immediately prior to such transfer, promotion, or reappointment, shall be transferred to his credit in the employing agency on an adjusted basis in accordance with regulations which shall be prescribed by the Director of the Office of Personnel Management.

(h) Voluntary leave transfer and bank programs

The Director of Dependents' Education, in consultation with the Director of the Office of Personnel Management—

(1) shall establish for teachers a voluntary leave transfer program similar to the one under subchapter III of chapter 63 of title 5; and

(2) may establish for teachers a voluntary leave bank program similar to the one under subchapter IV of chapter 63 of title 5.

Only leave described in the last sentence of subsection (c) of this section (relating to leave that may be used by a teacher for any purpose) may be transferred under any program established under this subsection.

(Pub. L. 86–91, § 6, July 17, 1959, 73 Stat. 214; 1978 Reorg. Plan No. 2, § 102, eff. Jan. 1, 1979, 43 F.R. 36037, 92 Stat. 3783; Pub. L. 98–369, div. B, title II, § 2204, July 18, 1984, 98 Stat. 1059; Pub. L. 103–425, § 1, Oct. 31, 1994, 108 Stat. 4369.)

CODIFICATION

In subsec. (f), ''section 5551 of title 5'' substituted for ''the Act of December 21, 1944 (5 U.S.C. 61b and the following)'' on authority of Pub. L. 89–554, § 7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

Section was formerly classified to section 2354 of Title 5 prior to the general revision and enactment of Title 5 by Pub. L. 89–554, § 1, Sept. 6, 1966, 80 Stat. 378.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–425, § 1(1), inserted ''(or, if such teacher is employed in a supervisory position or higher, not less than ten and not more than thirteen)'' after ''ten''.

Subsec. (d). Pub. L. 103–425, § 1(2), substituted ''Secretary of Defense'' for ''Secretary of the military department concerned'' in concluding provisions.

Subsec. (h). Pub. L. 103–425, § 1(3), added subsec. (h).

1984—Subsec. (a). Pub. L. 98–369 struck out provisions which had directed that not more than seventy-five days of leave could be accumulated to the credit of a teacher at any one time under this subsection.

TRANSFER OF FUNCTIONS

''Director of the Office of Personnel Management'' substituted for ''United States Civil Service Commission'' in subsec. (g), pursuant to Reorg. Plan No. 2 of 1978, § 102, 43 F.R. 36037, 92 Stat. 3783, set out under section 1101 of Title 5, Government Organization and Employees, which transferred functions vested by statute in Civil Service Commission to Director of Office of Personnel Management (except as otherwise specified), effective Jan. 1, 1979, as provided by section 1–102 of Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, set out under section 1101 of Title 5.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 22 section 3671.

§ 905. Quarters, quarters allowances, and storage

(a) Entitlement

Under regulations which shall be prescribed by or under authority of the President, each teacher (other than a teacher employed in a substitute capacity) shall be entitled, in addition to basic compensation, to quarters, quarters allowance, and storage as provided by this section.

(b) Furnishing of living quarters or grant of allowance

Each teacher (other than a teacher employed in a substitute capacity) shall be entitled, for

each school year for which he performs services as a teacher, to quarters or a quarters allowance equal to those authorized by section 5912 of title 5.

(c) Recess periods

Each teacher (other than a teacher employed in a substitute capacity) who is performing services as a teacher at the close of a school year and agrees in writing to serve as a teacher for the next school year may be authorized, for the recess period immediately preceding such next school year—

(1) quarters or a quarters allowance equal to those authorized by section 5912 of title 5, or

(2) in lieu of such quarters or quarters allowance, storage (including packing, drayage, unpacking, and transportation to and from storage) of his household effects and personal possessions.

(d) Failure to report for service; liability to United States

If a teacher does not report for service at the beginning of the next school year, he shall, except for reasons beyond his control and acceptable to the Department of Defense, be obligated to the United States in an amount equal to any quarters allowance which he may have received under subsection (c) of this section or in an amount equal to the reasonable value of any quarters or storage which he may have received under such subsection, or both, as the case may be.

(e) Employment in other positions during recess periods

Quarters, quarters allowance, and storage provided under this section shall be in lieu of any quarters, quarters allowance, and storage to which he otherwise might be entitled by reason of employment in another position during any recess period between two school years.

(Pub. L. 86–91, § 7, July 17, 1959, 73 Stat. 216; Pub. L. 87–172, § 1, Aug. 30, 1961, 75 Stat. 409.)

CODIFICATION

In subsecs. (b) and (c)(1), ''section 5912 of title 5'' substituted for ''the Act of June 26, 1930 (5 U.S.C. 118a)'' on authority of Pub. L. 89–554, § 7(b), June 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

Section was formerly classified to section 2355 of Title 5 prior to the general revision and enactment of Title 5 by Pub. L. 89–554, § 1, Sept. 6, 1966, 80 Stat. 378.

AMENDMENTS

1961—Subsec. (d). Pub. L. 87–172 inserted ''except for reasons beyond his control and acceptable to the Department of Defense''.

DELEGATION OF FUNCTIONS

Functions vested in President by subsec. (a) of this section concerning authority to prescribe regulations relating to quarters and quarters allowances delegated to Secretary of State pursuant to Ex. Ord. No. 12228, July 24, 1980, 45 F.R. 49903, set out as a note under section 707 of Title 38, Veterans' Benefits.

Authority of President under subsec. (a) of this section to prescribe regulations relating to storage (including packing, drayage, unpacking, and transportation to and from storage) of household effects and personal possessions delegated to Administrator of General Services, see section 1(19) of Ex. Ord. No. 11609, July 22, 1971, 36 F.R. 13747, set out as a note under section 301 of Title 3, The President.

Secretary of State empowered to prescribe regulations relating to cost-of-living allowances, see section 4(a) of Ex. Ord. No. 10903, Jan. 11, 1961, 26 F.R. 217, set out as a note under section 5921 of Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 907 of this title.

§ 906. Entitlements in addition to basic compensation

(a) Cost-of-living increase and additional compensation

Under regulations which shall be prescribed by or under authority of the President, each teacher (other than a teacher employed in a substitute capacity) shall be entitled, in addition to basic compensation, to—

(1) cost-of-living allowances equal to those authorized by section 5924 of title 5, and

(2) additional compensation equal to that authorized under section 5941 of title 5.

(b) Post differential

The cost-of-living allowances and additional compensation provided under subsection (a) of this section for any teacher shall be based on the teaching position in which he rendered services on a school-year basis, except that, if such teacher is employed in another position during any recess period between two school years, such allowances and compensation for such recess period shall be based on the position in which he is employed during such recess period.

(Pub. L. 86–91, § 8, July 17, 1959, 73 Stat. 216; Pub. L. 96–465, title II, § 2206(d), Oct. 17, 1980, 94 Stat. 2162.)

CODIFICATION

In subsec. (a)(2), ''section 5941 of title 5'' substituted for ''section 207 of the Independent Offices Appropriation Act, 1949 (5 U.S.C. 118h)'' on authority of Pub. L. 89–554, § 7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

Section was formerly classified to section 2356 of Title 5 prior to the general revision and enactment of Title 5 by Pub. L. 89–554, § 1, Sept. 6, 1966, 80 Stat. 378.

AMENDMENTS

1980—Subsec. (a)(1). Pub. L. 96–465 substituted reference to section 5924 of title 5 for reference to section 1131(2) of title 22.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–465 effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of Title 22, Foreign Relations and Intercourse.

DELEGATION OF FUNCTIONS

Functions vested in President by subsec. (a) of this section concerning authority to prescribe regulations relating to cost of living allowances delegated to Secretary of State pursuant to Ex. Ord. No. 12228, July 24, 1980, 45 F.R. 49903, set out as a note under section 707 of Title 38, Veterans' Benefits.

Functions of President under subsec. (a) of this section delegated to Director of Bureau of the Budget, now Director of Office of Management and Budget, see section 1(10) of Ex. Ord. No. 11230, June 28, 1965, 30 F.R. 8447, set out as a note under section 301 of Title 3, The President.

Secretary of State empowered to prescribe regulations relating to quarters and quarters allowance, see section 4(a) of Ex. Ord. No. 10903, Jan. 11, 1961, 26 F.R. 217, set out as a note under section 5921 of Title 5, Government Organization and Employees.

REGULATIONS APPLICABLE TO PAYMENT OF ADDITIONAL COMPENSATION

For provisions relating to payment of additional compensation authorized by subsec. (a)(2) of this section in accordance with the regulations contained in Ex. Ord. No. 10000, see section 1–101 of Ex. Ord. No. 12228, July 24, 1980, 45 F.R. 49903, set out as a note under section 707 of Title 38, Veterans' Benefits.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 907 of this title.

§ 907. Applicability of other laws

In the case of any teacher who—

(1) is performing services as a teacher at the close of a school year,

(2) agrees in writing to serve as a teacher for the next school year, and

(3) is employed in another position in the recess period immediately preceding such next school year, or, during such recess period, receives quarters, allowances, or additional compensation referred to in sections 905 and 906 of this title, or both, as the case may be,

section 5533 of title 5 shall not apply to such teacher by reason of any such employment during a recess period or any such receipt of quarters, allowances, or additional compensation, or both, as the case may be.

(Pub. L. 86–91, § 10(b), July 17, 1959, 73 Stat. 217; Pub. L. 88–448, title IV, § 401(n), Aug. 19, 1964, 78 Stat. 492.)

CODIFICATION

''Section 5533 of title 5'' substituted in text for ''section 301 of the Dual Compensation Act'' on authority of Pub. L. 89–554, § 7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

Section was formerly classified to section 2358(b) of Title 5 period to the general revision and enactment of Title 5 by Pub. L. 89–554, § 1, Sept. 6, 1966, 80 Stat. 378.

AMENDMENTS

1964—Subsec. (b). Pub. L. 88–448 made section 301 of the Dual Compensation Act inapplicable and struck out provisions which referred to former section 62 of title 5 and section 6 of the act of May 10, 1916.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 5 section 5533.

CHAPTER 25A—OVERSEAS DEFENSE DEPENDENTS' EDUCATION

Sec.

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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 3489 of this title; title 10 section 2605; title 15 sections 2642, 2643, 2646; title 37 sections 429, 430; title 42 section 300j–21.

§ 921. Defense dependents' education system

(a) Establishment

The Secretary of Defense shall establish and operate a program (hereinafter in this chapter referred to as the ''defense dependents' education system'') to provide a free public education through secondary school for dependents in overseas areas.

(b) Program purposes and activities

(1) The Secretary shall ensure that individuals eligible to recieve[1] a free public education under subsection (a) of this section receive an education of high quality.

(2) In establishing the defense dependents' education system under subsection (a) of this sec-

[1] So in original. Probably should be ''receive''.

tion, the Secretary shall provide programs designed to meet the special needs of—

(A) the handicapped,

(B) individuals in need of compensatory education,

(C) individuals with an interest in vocational education,

(D) gifted and talented individuals, and

(E) individuals of limited English-speaking ability.

(3) The Secretary shall provide a developmental preschool program to individuals eligible to receive a free public education under subsection (a) of this section who are of preschool age if a preschool program is not otherwise available for such individuals and if funds for such a program are available.

(c) Consultation requirements

The Secretary of Defense shall consult with the Secretary of Education on the educational programs and practices of the defense dependents' education system.

(d) Optional summer school programs

(1) The Secretary of Defense may provide optional summer school programs in the defense dependents' education system.

(2) The Secretary shall provide in regulations for fees to be charged for the students enrolling in a summer school program under this subsection in amounts determined on the basis of family income.

(3) The amounts received by the Secretary in payment of the fees shall be available to the Department of Defense for defraying the costs of conducting summer school programs under this subsection.

(Pub. L. 95–561, title XIV, § 1402, Nov. 1, 1978, 92 Stat. 2365; Pub. L. 99–145, title XII, § 1204(b)(1), Nov. 8, 1985, 99 Stat. 720; Pub. L. 102–484, div. A, title III, § 382, Oct. 23, 1992, 106 Stat. 2392.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original ''this title'', meaning title XIV of Pub. L. 95–561, Nov. 1, 1978, 92 Stat. 2365, as amended, known as the Defense Dependents' Education Act of 1978, which enacted this chapter, section 429 of Title 37, Pay and Allowances of the Uniformed Services, and section 1769b of Title 42, The Public Health and Welfare, amended sections 1773 and 1789 of Title 42, and enacted provisions set out as notes under this section. For complete classification of this title to the Code, see Short Title note below and Tables.

AMENDMENTS

1992—Subsec. (d). Pub. L. 102–484 added subsec. (d).
1985—Subsec. (c). Pub. L. 99–145 added subsec. (c).

EFFECTIVE DATE

Section 1415 of title XIV of Pub. L. 95–561 provided that:

''(a)(1) Except as provided in paragraph (2) this title [see Short Title note below] shall take effect on July 1, 1979.

''(2) Section 1407(b) [enacting section 926(b) of this title] and the amendments made by section 1407(c) [enacting section 429 of Title 37, Pay and Allowances of the Uniformed Services], 1408(a) [enacting section 1769b of Title 42, The Public Health and Welfare], and 1408(b) [amending sections 1773 and 1789 of Title 42] shall take effect on October 1, 1978.

''(b) Notwithstanding subsection (a) or any other provision of this title no provision of this title shall be construed to impair or prevent the taking effect of the provision of any other Act providing for the transfer of the functions described in this title to an executive department having responsibility for education.''

SHORT TITLE

Section 1401 of title XIV of Pub. L. 95–561 provided that: ''This title [enacting this chapter, section 429 of Title 37, Pay and Allowances of the Uniformed Services, and section 1769b of Title 42, The Public Health and Welfare, amending sections 1773 and 1789 of Title 42, and enacting provisions set out as a note under this section] may be cited as the 'Defense Dependents' Education Act of 1978'.''

PILOT PROGRAM ON PRIVATE OPERATION OF DEFENSE DEPENDENTS' SCHOOLS

Pub. L. 104–106, div. A, title III, § 355, Feb. 10, 1996, 110 Stat. 269, provided that:

''(a) PILOT PROGRAM.—The Secretary of Defense may conduct a pilot program to evaluate the feasibility of using private contractors to operate schools of the defense dependents' education system established under section 1402(a) of the Defense Dependents' Education Act of 1978 (20 U.S.C. 921(a)).

''(b) SELECTION OF SCHOOL FOR PROGRAM.—If the Secretary conducts the pilot program, the Secretary shall select one school of the defense dependents' education system for participation in the program and provide for the operation of the school by a private contractor for not less than one complete school year.

''(c) REPORT.—Not later than 30 days after the end of the first school year in which the pilot program is conducted, the Secretary shall submit to Congress a report on the results of the program. The report shall include the recommendation of the Secretary with respect to the extent to which other schools of the defense dependents' education system should be operated by private contractors.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 927 of this title; title 10 section 2164.

§ 922. Office of Dependents' Education

(a) Establishment; appointment, etc., of Director

(1) There is established within the Department of Defense an office to be known as the Office of Dependents' Education.

(2) The Office of Dependents' Education shall be headed by a Director of Dependents' Education (hereinafter in this chapter referred to as the ''Director''), who shall be a civilian and who shall be selected by the Secretary of Defense and shall report to the Assistant Secretary of Defense for Manpower, Reserve Affairs, and Logistics.

(b) Implementation of program functions of Secretary of Defense through Director

Except with respect to the authority to prescribe regulations, the Secretary of Defense may carry out his functions under this chapter through the Director.

(c) Functions of Director

The Director shall—

(1) establish personnel policies, consistent with the Defense Department Overseas Teachers Pay and Personnel Practices Act [20 U.S.C. 901 et seq.], for employees in the defense dependents' education system,

(2) have authority to transfer professional employees in the defense dependents' education system from one position to another,

(3) prepare a unified budget for each fiscal year, which shall include necessary funds for construction and operation and maintenance of facilities, for the defense dependents' education system for inclusion in the Department of Defense budget for that year,

(4) have authority to establish, in accordance with section 928 of this title, local school advisory committees,

(5) have authority to arrange for inservice and other training programs for employees in the defense dependents' education system, and

(6) perform such other functions as may be required or delegated by the Secretary of Defense or the Assistant Secretary of Defense for Manpower, Reserve Affairs, and Logistics.

(d) Establishment of regional or area offices; organizational, etc., report to Congress; authorized number of civilian employees

(1) The Director shall establish appropriate regional or area offices for the Office of Dependents' Education in order to provide for thorough and efficient administration of the defense dependents' education system.

(2) Not later than six months after November 1, 1978, the Secretary of Defense shall submit to the Congress a report (A) describing the organization of the Office of Dependents' Education in accordance with paragraph (1), (B) describing the assignment of personnel to the central office of the Office of Dependents' Education and to such regional or area offices as are established pursuant to paragraph (1), and (C) detailing the personnel requirements of the defense dependents' education system. Whenever the Office of Dependents' Education is reorganized after the submission of the report required under the preceding sentence, the Secretary of Defense shall submit an additional report to the Congress describing the reorganization.

(3) Subject to the approval of the Secretary of Defense, the Office of Dependents' Education is authorized an appropriate number of civilian employees in its central office and such regional or area office as are established pursuant to paragraph (1).

(Pub. L. 95–561, title XIV, §1403, Nov. 1, 1978, 92 Stat. 2365.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (b), was in the original ''this Act'', probably meaning the ''Defense Dependents' Education Act of 1978'', title XIV of Pub. L. 95–561, Nov. 1, 1978, 92 Stat. 2365, as amended. See References in Text note set out under section 921 of this title.

The Defense Department Overseas Teachers Pay and Personnel Practices Act, referred to in subsec. (c)(1), is Pub. L. 86–91, July 17, 1959, 73 Stat. 213, as amended, which is classified generally to chapter 25 (§901 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 901 of this title and Tables.

§923. Tuition-paying students

(a) Enrollment of ineligible child in system school

Subject to subsection (b) of this section and in accordance with regulations issued under subsection (c) of this section, the Director may authorize the enrollment in a school of the defense dependents' education system of a child not otherwise eligible to enroll in such a school if and to the extent that there is space available for such child in the school.

(b) Determination of amount of tuition; use of payments

(1) Except as otherwise provided under subsection (c) of this section, any child permitted to enroll in a school of the defense dependents' education system under this section shall be required to pay tuition at a rate determined by the Secretary of Defense, which shall not be less than the rate necessary to defray the average cost of the enrollment of children in the system under this section.

(2) Amounts received under paragraph (1) shall be available to the defense dependents' education system to assist in defraying the cost of enrollment of children in the system under this section.

(c) Regulations respecting enrollment requirements

The Secretary of Defense may by regulation identify classes of children who shall be eligible to enroll in schools of the defense dependents' education system under this section if and to the extent that there is space available, establish priorities among such classes, waive the tuition requirement of subsection (b)(1) of this section with respect to any such class, and issue such other regulations as may be necessary to carry out this section.

(d) Enrollment of certain children in overseas schools

(1) The Secretary of Defense may authorize the enrollment in schools of the defense dependents' education system of children in the following classes:

(A) Children of officers and employees of the United States (other than civilian officers and employees who are sponsors under section 932(2) of this title) stationed in overseas areas.

(B) Children of employees of contractors employed in carrying out work for the United States in overseas areas.

(C) Children of other citizens or nationals of the United States or of foreign nationals, if the Secretary determines that enrollment of such children is in the national interest.

(2) Notwithstanding subsection (c) of this section, the Secretary may not waive the tuition requirements of subsection (b)(1) of this section with respect to children referred to in paragraph (1).

(Pub. L. 95–561, title XIV, §1404, Nov. 1, 1978, 92 Stat. 2366; Pub. L. 99–145, title XII, §1205, Nov. 8, 1985, 99 Stat. 721; Pub. L. 101–189, div. A, title III, §325(b), Nov. 29, 1989, 103 Stat. 1415.)

AMENDMENTS

1989—Subsec. (d)(1)(A). Pub. L. 101–189 substituted ''(other than civilian officers and employees who are sponsors under section 932(2) of this title)'' for ''(including employees of nonappropriated fund activities of the Department of Defense)''.

1985—Subsec. (d). Pub. L. 99–145 added subsec. (d).

EFFECTIVE DATE OF 1989 AMENDMENT

Section 325(c) of Pub. L. 101–189 provided that: ''The amendments made by this section [amending this sec-

tion and section 932 of this title] shall apply with respect to periods of enrollment in schools of the defense dependents' education system beginning after September 30, 1989.''

§ 924. Annual educational assessment

(a) Contents

The Director shall assess each year the performance of the defense dependents' education system in providing an education of high quality to children enrolled in the system. Such assessment may include the use of educational assessment measures and such other means as the Director determines to be suitable for assessing student performance.

(b) Availability

The results of each annual assessment under subsection (a) of this section with respect to an individual enrolled in the defense dependents' education system shall be made available to the sponsor of such individual, and summary results of each such annual assessment shall be made available to Members of Congress and to professional employees in the system.

(Pub. L. 95–561, title XIV, § 1405, Nov. 1, 1978, 92 Stat. 2366.)

§ 925. Budget request for school construction funds for Director of Dependents' Education

The President shall include in his budget for each fiscal year a separate request for funds for construction of school facilities by the Director.

(Pub. L. 95–561, title XIV, § 1406, Nov. 1, 1978, 92 Stat. 2367.)

§ 926. School system for dependents in overseas areas

(a) Establishment and operation

The Secretary of Defense shall establish and operate a school system for dependents in overseas areas as part of the defense dependents' education system.

(b) Tuition payment requirements for attendance in schools outside of system

Under such circumstances as he may by regulation prescribe, the Secretary of Defense may provide tuition to allow dependents in an overseas area where a school operated by the Secretary is not reasonably available to attend schools other than schools established under subsection (a) of this section on a tuition-free basis. Any school to which tuition is paid under this subsection to allow a dependent in an overseas area to attend such school shall provide an educational program satisfactory to the Secretary.

(c) Continuation of enrollment for certain dependents of members of Armed Forces involuntarily separated

(1) A member of the Armed Forces serving on active duty on September 30, 1990, who is involuntarily separated during the nine-year period beginning on October 1, 1990, and who has a dependent described in paragraph (2) who is enrolled in a school of the defense dependents' education system (or a school for which tuition is provided under subsection (b) of this section) on the date of that separation shall be eligible to enroll or continue the enrollment of that dependent at that school (or another school serving the same community) for the final year of secondary education of that dependent in the same manner as if the member were still on active duty.

(2) A dependent referred to in paragraph (1) is a dependent who on the date of the separation of the member has completed the eleventh grade and is likely to complete secondary education within the one-year period beginning on that date.

(Pub. L. 95–561, title XIV, § 1407, Nov. 1, 1978, 92 Stat. 2367; Pub. L. 101–510, div. A, title V, § 504(a), Nov. 5, 1990, 104 Stat. 1559; Pub. L. 103–160, div. A, title V, § 561(n), Nov. 30, 1993, 107 Stat. 1668.)

CODIFICATION

Section is comprised of section 1407 of Pub. L. 95–561. Subsec. (d), formerly subsec. (c), of section 1407 enacted section 429 of Title 37, Pay and Allowances of the Uniformed Services.

AMENDMENTS

1993—Subsec. (c)(1). Pub. L. 103–160 substituted ''nine-year period'' for ''five-year period''.

1990—Subsec. (c). Pub. L. 101–510 added subsec. (c) and redesignated former subsec. (c) as (d). See Codification note above.

§ 927. Allotment formula

(a) Establishment by regulation of minimum allotment formula; criteria

The Director shall by regulation establish a formula for determining the minimum allotment of funds necessary for the operation of each school in the defense dependents' education system. In establishing such formula, the Director shall take into consideration—

(1) the number of students served by a school and the size of the school;

(2) special cost factors for a school, including—

(A) geographic isolation of the school,

(B) a need for special staffing, transportation, or educational programs at the school, and

(C) unusual food and housing costs,

(3) the cost of providing academic services of a high quality as required by section 921(b)(1) of this title; and

(4) such other factors as the Director considers appropriate.

(b) Issuance, etc., of regulations

Any regulation under subsection (a) of this section shall be issued, and shall become effective, in accordance with the procedures applicable to regulations required to be issued by the Secretary of Education in accordance with section 1232[1] of this title.

(c) Applicability of certain provisions

(1) Children with disabilities

Notwithstanding the provisions of section 921(b)(3) of this title, the provisions of part B of the Individuals with Disabilities Education Act [20 U.S.C. 1411 et seq.], other than the

[1] See References in Text note below.

funding and reporting provisions, shall apply to all schools operated by the Department of Defense under this chapter, including the requirement that children with disabilities, aged 3 to 5, inclusive, receive a free appropriate public education by academic year 1993–1994.

(2) Infants and toddlers with disabilities

The responsibility to provide comparable early intervention services to infants and toddlers with disabilities and their families in accordance with individualized family service plans described in section 677[1] of the Individuals with Disabilities Education Act and to comply with the procedural safeguards set forth in part H[1] of such Act shall apply with respect to all eligible dependents overseas.

(3) Implementation timelines

In carrying out the provisions of paragraph (2), the Secretary shall—

(A) in academic year 1991–1992 and the 2 succeeding academic years, plan and develop a comprehensive, coordinated, multidisciplinary program of early intervention services for infants and toddlers with disabilities among Department of Defense entities involved in the provision of such services to such individuals;

(B) in academic year 1994–1995, implement the program described in subparagraph (A), except the Secretary need only conduct multidisciplinary assessments, develop individualized family service plans, and make available case management services; and

(C) in academic year 1995–1996 and succeeding academic years, have in effect the program described in subparagraph (A).

(Pub. L. 95–561, title XIV, §1409, Nov. 1, 1978, 92 Stat. 2369; Pub. L. 96–88, title III, §301(a)(2)(A), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692; Pub. L. 102–119, §24, Oct. 7, 1991, 105 Stat. 605.)

REFERENCES IN TEXT

Section 1232 of this title, referred to in subsec. (b), was in the original a reference to section 431 of the General Education Provisions Act. Sections 422 and 431 of that Act were renumbered sections 431 and 437, respectively, by Pub. L. 103–382, title II, §212(b)(1), Oct. 20, 1994, 108 Stat. 3913, and are classified to sections 1231a and 1232, respectively, of this title.

The Individuals with Disabilities Education Act, referred to in subsec. (c)(1), (2), is title VI of Pub. L., 91–230, Apr. 13, 1970, 84 Stat. 175, as amended. Part B of the Act is classified generally to subchapter II (§1411 et seq.) of chapter 33 of this title. Part H of the Act and section 677 of the Act were classified generally to subchapter VIII (§1471 et seq.) of chapter 33 of this title and section 1477 of this title, respectively, prior to repeal by Pub. L. 105–17, title II, §203(b), June 4, 1997, 111 Stat. 157, effective July 1, 1998. For complete classification of this Act to the Code, see section 1400 of this title and Tables.

AMENDMENTS

1991—Subsec. (c). Pub. L. 102–119 amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: ''The provisions of the Education for All Handicapped Children Act of 1975 shall apply with respect to all schools operated by the Department of Defense under this chapter.''

EFFECTIVE DATE OF 1991 AMENDMENT

Section 27 of Pub. L. 102–119 provided that:

''(a) SECTIONS 8, 9, AND 10.—The amendments made by sections 8, 9, and 10 [amending sections 1423, 1431, 1434, and 1435 of this title] shall take effect on October 1, 1991, or on the date of enactment of this Act [Oct. 7, 1991], whichever is later.

''(b) SECTIONS 5, 12, 13, 14, 15, 17, AND 18.—The amendments made by sections 5, 12, 13, 14, 15, 17, and 18 [amending sections 1413, 1472, 1476, 1477, 1478, 1480, and 1482 of this title] shall take effect July 1, 1992, except that each State shall have the option to have any of the amendments apply earlier than such date.

''(c) REMAINING PROVISIONS.—The remaining sections of this Act [enacting section 1484a of this title, amending this section, sections 241, 1087ee, 1400 to 1402, 1404, 1405, 1407, 1411 to 1417, 1419, 1421 to 1425, 1431 to 1433, 1435, 1442, 1443, 1451, 1452, 1461, 1471 to 1473, and 1475 to 1485 of this title, sections 2503 and 2504 of Title 25, Indians, sections 721, 774, 777a, 795m, and 796d of Title 29, Labor, and sections 1396b, 1396n, 6022, 6024, 9835, 9855d, 9862, and 9886 of Title 42, The Public Health and Welfare, and enacting provisions set out as notes under this section and sections 1400 and 1484 of this title] and the amendments made by such sections shall take effect on the date of the enactment of this Act [Oct. 7, 1991].''

TRANSFER OF FUNCTIONS

''Secretary of Education'' substituted for ''Department of Health, Education, and Welfare'' in subsec. (b) pursuant to sections 301(a)(2)(A) and 507 of Pub. L. 96–88, which are classified to sections 3441(a)(2)(A) and 3507 of this title and which transferred all functions of Department of Health, Education, and Welfare under section 1232 of this title to Secretary of Education.

§ 928. School advisory committees

(a) Establishment; functions; membership

(1) The Director shall provide for the establishment of an advisory committee for each school in the defense dependents' education system. An advisory committee for a school shall advise the principal or superintendent of the school with respect to the operation of the school, may make recommendations with respect to curriculum and budget matters, and, except as provided under paragraph (2), shall advise the local military commander with respect to problems concerning dependents' education within the jurisdiction of the commander. The membership of each such advisory committee shall include an equal number of parents of students enrolled in the school and of employees working at the school and, when appropriate, may include a student enrolled in the school. The membership of each such advisory committee shall also include one nonvoting member designated by the organization recognized as the exclusive bargaining representative of the employees working at the school.

(2) In the case of any military installation or overseas area where there is more than one school in the defense dependents' education system, the Director shall provide for the establishment of an advisory committee for such military installation or overseas area to advise the local military commander with respect to problems concerning dependents' education within the jurisdiction of the commander.

(b) Election of members; regulations respecting qualifications and election procedures

Except in the case of a nonvoting member designated under the last sentence of subsection (a)(1) of this section, members of a school advi-

sory committee established under this section shall be elected by individuals of voting age residing in the area to be served by the advisory committee. The Secretary of Defense shall by regulation prescribe the qualifications for election to an advisory committee and procedures for conducting elections of advisory committee members.

(c) Members to serve without pay

Members of school advisory committees established under this section shall serve without pay.

(Pub. L. 95–561, title XIV, § 1410, Nov. 1, 1978, 92 Stat. 2369; Pub. L. 96–88, title V, § 508(j)(1), (2), Oct. 17, 1979, 93 Stat. 693; Pub. L. 99–145, title XII, § 1204(b)(2), Nov. 8, 1985, 99 Stat. 720.)

AMENDMENTS

1985—Subsec. (a)(1). Pub. L. 99–145, § 1204(b)(2)(A), included as member of the advisory committee the designee of the exclusive bargaining representative of the employees.

Subsec. (b). Pub. L. 99–145, § 1204(b)(2)(B), (C), substituted ''Except in the case of a nonvoting member designated under the last sentence of subsection (a)(1) of this section, members'' for ''Members'' and ''The Secretary of Defense'' for ''The Secretary of Education, in consultation with the Secretary of Defense,''.

1979—Subsec. (a)(1). Pub. L. 96–88, § 508(j)(1), substituted ''parents'' for ''representatives of sponsors''.

Subsec. (b). Pub. L. 96–88, § 508(j)(2), empowered the Secretary of Education, in consultation with the Secretary of Defense, to prescribe election qualifications and procedures in regard to advisory committees rather than vesting such power in the Secretary of Defense exclusively.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–88, effective May 4, 1980, with specified exceptions, see section 601 of Pub. L. 96–88, set out as an Effective Date note under section 3401 of this title.

TERMINATION OF ADVISORY COMMITTEES

Advisory committees established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided for by law. See section 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 922 of this title.

§ 929. Advisory Council on Dependents' Education

(a) Establishment; membership; Director

(1) There is established in the Department of Defense an Advisory Council on Dependents' Education (hereinafter in this section referred to as the ''Council''). The Council shall be composed of—

(A) the Secretary of Defense and the Secretary of Education, or their respective designees;

(B) 12 individuals appointed jointly by the Secretary of Defense and the Secretary of Education who shall be individuals who have demonstrated an interest in the field of primary or secondary education and who shall include representatives of professional employee organizations, school administrators, and parents of students enrolled in the defense dependents' education system, and one student enrolled in such system; and

(C) a representative of the Secretary of Defense and of the Secretary of Education.

(2) Individuals appointed to the Council from professional employee organizations shall be individuals designated by those organizations.

(3) The Secretary of Defense, or the Secretary's designee, and the Secretary of Education, or the Secretary's designee, shall serve as cochairmen of the Council.

(4) The Director shall be the Executive Secretary of the Council.

(b) Terms of office of members

The term of office of each member of the Council appointed under subsection (a)(2) of this section shall be three years, except that—

(1) of the members first appointed under such paragraph, four shall serve for a term of one year, four shall serve for a term of two years, and four shall serve for a term of three years, as determined by the Secretary of Defense and the Secretary of Education at the time of their appointment, and

(2) any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term.

No member appointed under subsection (a)(2) of this section shall serve more than two full terms on the Council.

(c) Meetings; functions

The Council shall meet at least two times each year. The functions of the Council shall be to—

(1) recommend to the Director general policies for operation of the defense dependents' education system with respect to curriculum selection, administration, and operation of the system,

(2) provide information to the Director from other Federal agencies concerned with primary and secondary education with respect to education programs and practices which such agencies have found to be effective and which should be considered for inclusion in the defense dependents' education system,

(3) advise the Director on the design of the study and the selection of the contractor referred to in section 930(a)(2) of this title, and

(4) perform such other tasks as may be required by the Secretary of Defense.

(d) Compensation, etc., of members

Members of the Council who are not in the regular full-time employ of the United States shall, while attending meetings or conferences of the Council or otherwise engaged in the business of the Council, be entitled to receive compensation at the daily equivalent of the rate specified at the time of such service for grade GS–18 in section 5332 of title 5, including traveltime, and while so serving on the business of

the Council away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5 for persons employed intermittently in the Government service.

(e) Termination

The Council shall continue in existence until terminated by law.

(Pub. L. 95–561, title XIV, § 1411, Nov. 1, 1978, 92 Stat. 2370; Pub. L. 96–88, title V, § 508(j)(3)–(8), Oct. 17, 1979, 93 Stat. 693, 694; Pub. L. 99–145, title XII, § 1204(b)(3)–(5), Nov. 8, 1985, 99 Stat. 720, 721.)

AMENDMENTS

1985—Subsec. (a). Pub. L. 99–145, § 1204(b)(3)(A), amended subsec. (a) generally. Prior to amendment subsec. (a) read as follows: ''There is established in the Department of Education an Advisory Council on Dependents' Education (hereinafter in this section referred to as the 'Council'). The Council shall be composed of—

''(1) the Assistant Secretary of Defense for Manpower, Reserve Affairs, and Logistics, and the Administrator of Education for Overseas Dependents of such department, who shall be co-chairman of the Council;

''(2) twelve individuals appointed by the Secretary of Education, who shall be individuals who have demonstrated an interest in the fields of primary or secondary education and who shall include representatives of professional employee organizations, school administrators, parents of dependents enrolled in the dependents' education system, and one student enrolled in such system;

''(3) a representative of the Secretary of Education and of the Secretary of Defense.

The Director shall be the Executive Secretary of the Council.''

Subsec. (b)(1). Pub. L. 99–145, § 1204(b)(4), inserted reference to Secretary of Defense.

Subsec. (c). Pub. L. 99–145, § 1204(b)(5)(A), substituted ''two times each year'' for ''four times each year'' in provisions before par. (1).

Subsec. (c)(2), (3). Pub. L. 99–145, § 1204(b)(5)(B), (C), redesignated par. (3) as (2), and struck out par. (2) which required the Council to make recommendations to the Director and to the Secretary of Education on the orderly transfer of the functions under this chapter to the Secretary and Department of Education.

Subsec. (c)(4), (5). Pub. L. 99–145, § 1204(b)(5)(C), (D), redesignated par. (5) as (4), and substituted Secretary of Defense for Secretary of Education. Former par. (4) redesignated (3).

1979—Subsec. (a). Pub. L. 96–88, § 508(j)(3), substituted ''Department of Education'' for ''Department of Defense'' in text preceding par. (1).

Subsec. (a)(1). Pub. L. 96–88, § 508(j)(4), provided that the Administrator of Education for Overseas Dependents of the Department of Education was to be a member of the council and its co-chairman.

Subsec. (a)(2). Pub. L. 96–88, § 508(j)(5), substituted ''Secretary of Education'' for ''Assistant Secretary'', ''demonstrated an interest'' for ''versed by training or experience'', ''parents of dependents'' for ''sponsors of students'', and ''dependents' education system'' for ''defense dependents' education system''.

Subsec. (a)(3). Pub. L. 96–88, § 508(j)(5), required membership on the Council for representatives of the Secretaries of Education and Defense and struck out requirements for representation of the Commissioner of Education, Director of the National Institute of Education, Director of the Educational Directorate of the National Science Foundation, Chairman of the National Endowment for the Arts, Chairman of the National Endowment for the Humanities, and the Secretaries of the military departments.

Subsec. (b)(1). Pub. L. 96–88, § 508(j)(6), substituted ''Secretary of Education'' for ''Assistant Secretary''.

Subsec. (c)(2) to (5). Pub. L. 96–88, § 508(j)(7), (8), added par. (2), redesignated former pars. (2), (3), and (4) as (3), (4), and (5), respectively, and in par. (5), as so redesignated, substituted ''Secretary of Education'' for ''Assistant Secretary''.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–88 effective May 4, 1980, with specified exceptions, see section 601 of Pub. L. 96–88, set out as an Effective Date note under section 3401 of this title.

REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, § 101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 930 of this title.

§ 930. Study of defense dependents' education system

(a) Scope; conduct and report to Director by contractor

(1) As soon as practicable after November 1, 1978, the Director shall provide for a comprehensive study of the entire defense dependents' education system, which shall include a detailed analysis of the education programs and the facilities of the system.

(2) The study required by this subsection shall be conducted by a contractor selected by the Director after an open competition. After conducting such study, the contractor shall submit a report to the Director not later than two years after July 1, 1979, describing the results of the study and giving its assessment of the defense dependents' education system.

(b) Consultation requirements respecting study specifications and contractor selection

In designing the specifications for the study to be conducted pursuant to subsection (a)(1) of this section, and in selecting a contractor to conduct such study under subsection (a)(2) of this section, the Director shall consult with the Advisory Council on Dependents' Education established under section 929 of this title.

(c) Reporting requirements of Director

The Director shall submit to the Congress not later than one year after July 1, 1979, the report submitted to him under subsection (a)(2) of this section describing the results of the study carried out pursuant to subsection (a)(1) of this section, together with the recommendations, if any, of the contractor for legislation or any increase in funding needed to improve the defense dependents' education system. Notwithstanding any law, rule, or regulation to the contrary, such report shall not be submitted to any review before its transmittal to the Congress, but the Secretary of Defense shall, at the time of the transmittal of such report, submit to the Congress such recommendations as he may have with respect to legislation or any increase in funding needed to improve the defense dependents' education system.

(d) Additional studies authorized by Director; conduct, reports, etc.

The Director may provide for additional studies of the defense dependents' education system to be conducted in accordance with the provisions of this section, but such studies shall not be conducted more frequently than once a year. A report of each study shall be submitted to the Congress in accordance with subsection (c) of this section, and the second sentence of such subsection shall apply with respect to the transmission of each such report.

(Pub. L. 95–561, title XIV, § 1412, Nov. 1, 1978, 92 Stat. 2371; Pub. L. 96–46, § 2(a)(8), Aug. 6, 1979, 93 Stat. 340.)

AMENDMENTS

1979—Subsec. (a)(2). Pub. L. 96–46 substituted ''two years after July 1, 1979'' for ''one year after July 1, 1979''.

EFFECTIVE DATE OF 1979 AMENDMENT

Section 8 of Pub. L. 96–46 provided that: ''The amendments made by this Act [enacting section 3164 of this title, amending this section, sections 240, 241–1, 1211a, 1221–3, 1221h, 1226c, 1232g, 2308, 2310, 2603, 2721, 2733 to 2735, 2740, 2762, 2763, 2772, 2782, 2902, 3084, 3163, 3200, 3289, 3381 to 3386 of this title, and sections 2001, 2002, 2006, 2008, 2012 of Title 25, Indians, enacting a provision set out as a note under section 1221e of this title, and amending provisions set out as notes under sections 236, 1211b, 1221–1, 1231a, and 2701 of this title and section 13 of Title 25] shall take effect October 1, 1978.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 929 of this title.

§ 931. Regulations; issuance and contents

Not later than 180 days after July 1, 1979, the Secretary of Defense shall issue regulations to carry out this chapter. Such regulations shall—

(1) prescribe the educational goals and objectives of the defense dependents' education system,

(2) establish standards for the development of curricula for the system and for the selection of instructional materials,

(3) prescribe professional standards for professional personnel employed in the system,

(4) provide for arrangements between the Director and commanders of military installations for necessary logistic support for schools of the system located on military installations,

(5) provide for a recertification program for professional personnel employed in the system, and

(6) provide for such other matters as may be necessary to ensure the efficient organization and operation of the defense dependents' education system.

(Pub. L. 95–561, title XIV, § 1413, Nov. 1, 1978, 92 Stat. 2372.)

§ 932. Definitions

For purposes of this chapter:

(1) The term ''dependent'' means a minor individual—

(A) who has not completed secondary schooling, and

(B) who is the child, stepchild, adopted child, ward, or spouse of a sponsor, or who is a resident in the household of a sponsor who stands in loco parentis to such individual and who receives one-half or more of his support from such sponsor.

(2) The term ''sponsor'' means a person—

(A) who is—

(i) a member of the Armed Forces serving on active duty, or

(ii) a full-time civilian officer or employee of the Department of Defense and a citizen or national of the United States; and

(B) who is authorized to transport dependents to or from an overseas area at Government expense and is provided an allowance for living quarters in that area.

(3) The term ''overseas area'' means any area situated outside the United States.

(4) The term ''United States'', when used in a geographical sense, means the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the possessions of the United States (excluding the Trust Territory of the Pacific Islands and Midway Island).

(5) The term ''involuntarily separated'' has the meaning given that term in section 1141 of title 10.

(Pub. L. 95–561, title XIV, § 1414, Nov. 1, 1978, 92 Stat. 2372; Pub. L. 101–189, div. A, title III, § 325(a), Nov. 29, 1989, 103 Stat. 1415; Pub. L. 101–510, div. A, title V, § 504(b), Nov. 5, 1990, 104 Stat. 1559.)

AMENDMENTS

1990—Par. (5). Pub. L. 101–510 added par. (5).

1989—Par. (2). Pub. L. 101–189 amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''The term 'sponsor' means—

''(A) a member of the Armed Forces serving on active duty, or

''(B) a civilian officer or employee of the Department of Defense paid from appropriated funds.''

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101–189 applicable with respect to periods of enrollment in schools of the defense dependents' education system beginning after Sept. 30, 1989, see section 325(c) of Pub. L. 101–189, set out as a note under section 923 of this title.

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 923 of this title.

CHAPTER 26—SUPPORT AND SCHOLARSHIP IN HUMANITIES AND ARTS; MUSEUM SERVICES

SUBCHAPTER I—NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 2104 of this title.

SUBCHAPTER I—NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in title 29 section 653.

§ 951. Declaration of findings and purposes

The Congress finds and declares the following:

(1) The arts and the humanities belong to all the people of the United States.

(2) The encouragement and support of national progress and scholarship in the humanities and the arts, while primarily a matter for private and local initiative, are also appropriate matters of concern to the Federal Government.

(3) An advanced civilization must not limit its efforts to science and technology alone, but must give full value and support to the other great branches of scholarly and cultural activity in order to achieve a better understanding of the past, a better analysis of the present, and a better view of the future.

(4) Democracy demands wisdom and vision in its citizens. It must therefore foster and support a form of education, and access to the arts and the humanities, designed to make people of all backgrounds and wherever located masters of their technology and not its unthinking servants.

(5) It is necessary and appropriate for the Federal Government to complement, assist, and add to programs for the advancement of the humanities and the arts by local, State, regional, and private agencies and their organizations. In doing so, the Government must be sensitive to the nature of public sponsorship. Public funding of the arts and humanities is subject to the conditions that traditionally govern the use of public money. Such funding should contribute to public support and confidence in the use of taxpayer funds. Public funds provided by the Federal Government must ultimately serve public purposes the Congress defines.

(6) The arts and the humanities reflect the high place accorded by the American people to the nation's rich cultural heritage and to the fostering of mutual respect for the diverse beliefs and values of all persons and groups.

(7) The practice of art and the study of the humanities require constant dedication and devotion. While no government can call a great artist or scholar into existence, it is necessary and appropriate for the Federal Government to help create and sustain not only a climate encouraging freedom of thought, imagination, and inquiry but also the material conditions facilitating the release of this creative talent.

(8) The world leadership which has come to the United States cannot rest solely upon superior power, wealth, and technology, but must be solidly founded upon worldwide respect and admiration for the Nation's high qualities as a leader in the realm of ideas and of the spirit.

(9) Americans should receive in school, background and preparation in the arts and humanities to enable them to recognize and appreciate the aesthetic dimensions of our lives, the diversity of excellence that comprises our cultural heritage, and artistic and scholarly expression.

(10) It is vital to a democracy to honor and preserve its multicultural artistic heritage as well as support new ideas, and therefore it is essential to provide financial assistance to its artists and the organizations that support their work.

(11) To fulfill its educational mission, achieve an orderly continuation of free society, and provide models of excellence to the American people, the Federal Government must transmit the achievement and values of civilization from the past via the present to the future, and make widely available the greatest achievements of art.

(12) In order to implement these findings and purposes, it is desirable to establish a National Foundation on the Arts and the Humanities.

(Pub. L. 89–209, § 2, Sept. 29, 1965, 79 Stat. 845; Pub. L. 91–346, § 2, July 20, 1970, 84 Stat. 443; Pub. L. 93–133, § 2(a)(1), Oct. 19, 1973, 87 Stat. 462; renumbered title I, § 2, and amended Pub. L. 98–306, §§ 2, 3, May 31, 1984, 98 Stat. 223; renumbered § 2 and amended Pub. L. 99–194, title I, §§ 101(1), 102, Dec. 20, 1985, 99 Stat. 1332; Pub. L. 101–512, title III, § 318 [title I, § 101], Nov. 5, 1990, 104 Stat. 1960, 1961.)

AMENDMENTS

1990—Pub. L. 101–512 amended section generally, substituting provisions relating to declaration of findings and purposes consisting of pars. (1) to (12) for provisions relating to declaration of purpose consisting of cls. (1) to (9).

1985—Cl. (2). Pub. L. 99–194, § 102(1), struck out ''man's'' before ''scholarly and cultural activity''.

Cl. (3). Pub. L. 99–194, § 102(2), inserted '', and access to the arts and the humanities,'' after ''form of education'' and substituted ''people of all backgrounds and wherever located'' for ''men''.

Cls. (8), (9). Pub. L. 99–194, § 102(3)–(5), added cl. (8) and redesignated former cl. (8) as (9).

1984—Cls. (6) to (8). Pub. L. 98–306, § 3, added cl. (6) and redesignated former cls. (6) and (7) as (7) and (8), respectively.

1973—Cl. (7). Pub. L. 93–133 struck out provisions relating to strengthening the responsibilities of the Office of Education with respect to education in the arts and the humanities.

1970—Cl. (2). Pub. L. 91–346 inserted ''in order to achieve a better understanding of the past, a better analysis of the present, and a better view of the future''.

EFFECTIVE DATE OF 1990 AMENDMENT

Section 318 [title IV, § 403] of Pub. L. 101–512 provided that:

''(a) GENERAL EFFECTIVE DATE.—Except as provided in subsection (b), this Act [probably means section, see Short Title of 1990 Amendment note below] and the amendments made by this Act shall take effect on October 1, 1990.

''(b) SPECIAL EFFECTIVE DATE.—The amendments made by sections 110, 204, and 301 [amending sections 960, 967, and 974 of this title] shall take effect on the date of the enactment of this Act [Nov. 5, 1990] or October 1, 1990, whichever is earlier.''

EFFECTIVE DATE OF 1973 AMENDMENT

Section 2(b) of Pub. L. 93–133 provided that: ''The amendments made by subsection (a) [amending this section and sections 952 and 954 to 960 of this title and repealing sections 962 and 963 of this title] shall be effective on and after July 1, 1973.''

SHORT TITLE OF 1990 AMENDMENT

Section 318 of Pub. L. 101–512 provided that: ''This section [enacting sections 954a and 969 of this title, amending this section, sections 952, 954, 955, 956, 958, 959, 960, 963, 964, 965, 967, and 974 of this title, and section 5315 of Title 5, Government Organization and Employees, and enacting notes under this section and section 954 of this title] may be cited as the 'Arts, Humanities, and Museums Amendments of 1990'.''

SHORT TITLE OF 1985 AMENDMENT

Section 1 of Pub. L. 99–194 provided that: ''This Act [enacting section 177 of title 2, The Congress, amending this section and sections 952 to 955, 956, 957, 958 to 960, 963, 964, 967, 971, 972, and 974 of this title, enacting provisions set out as notes under sections 954 and 972 of this title, and amending provisions set out as a note under this section] may be cited as the 'Arts, Humanities, and Museums Amendments of 1985'.''

SHORT TITLE OF 1984 AMENDMENT

Section 1 of Pub. L. 98–306 provided that: ''This Act [enacting section 955b of this title and section 310 of Title 25, Indians, amending this section and sections 952 to 955, 956, 957, 958 to 960, 962, 963, 964, and 967 of this title, amending provisions set out as a note under this section and repealing provisions set out as notes under sections 960 and 967 of this title] may be cited as the 'National Foundation on the Arts and the Humanities Act Amendments of 1983'.''

SHORT TITLE OF 1980 AMENDMENT

Pub. L. 96–496, § 1, Dec. 4, 1980, 94 Stat. 2583, provided that: ''This Act [amending sections 952, 954, 955, 956, 957, 958 to 960, 962, 963, 964, 965, 967, 974, and 3473 of this title] may be cited as the 'Arts and Humanities Act of 1980'.''

SHORT TITLE OF 1976 AMENDMENT

Pub. L. 94–462, § 1, Oct. 8, 1976, 90 Stat. 1971, provided: ''That this Act [enacting sections 961 to 968 of this title, amending sections 954, 955, 956, 957, 958, 960, and 1867 of this title, and enacting provisions set out as notes under sections 956, 960, and 961 of this title] may be cited as the 'Arts, Humanities, and Cultural Affairs Act of 1976'.''

SHORT TITLE OF 1973 AMENDMENT

Section 1 of Pub. L. 93–133 provided: ''That this Act [amending this section and sections 351a, 952, 954, 955, 956, 957, and 958 to 960 of this title, repealing sections 962 and 963 of this title, and enacting provisions set out as notes under this section and section 351a of this title] may be cited as the 'National Foundation on the Arts and the Humanities Amendments of 1973'.''

SHORT TITLE OF 1970 AMENDMENT

Section 1 of Pub. L. 91–346 provided: ''That this Act [amending this section and sections 952, 954, 955, 956, 957, and 958 to 960 of this title, repealing sections 781 to 788 and 790 of this title, and enacting provisions set out as notes under section 955 of this title and section 781 of this title] may be cited as 'The National Foundation on the Arts and the Humanities Amendments of 1970'.''

SHORT TITLE

Section 1 of Pub. L. 89–209, as renumbered title I, § 1, and amended by Pub. L. 98–306, § 2, May 31, 1984, 98 Stat. 223; renumbered § 1 and amended by Pub. L. 99–194, title I, § 101, Dec. 20, 1985, 99 Stat. 1332, provided that: ''This Act [enacting this subchapter, amending sections 784 to 786 of this title, repealing section 789 of this title, and enacting provisions formerly set out as a note under section 785 of this title] may be cited as the 'National Foundation on the Arts and the Humanities Act of 1965'.''

SENSE OF CONGRESS REGARDING PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS

Section 318 [title IV, §§ 401, 402] of Pub. L. 101–512 provided that:

''SEC. 401. SENSE OF CONGRESS.

''It is the sense of the Congress that a recipient (including a nation, individual, group, or organization) of any form of subsidy, aid, or other Federal assistance under the Acts amended by this Act [probably means this section, see Short Title of 1990 Amendment note above] should, in expending that assistance, purchase American-made equipment and products.

''SEC. 402. NOTICE.

''Any entity that provides a form of subsidy, aid, or other Federal assistance under the Acts amended by this Act shall provide to each recipient of such form of subsidy, aid, or other Federal assistance a notice describing the sense of the Congress stated under section 401.''

1979 WHITE HOUSE CONFERENCE ON THE ARTS

Pub. L. 95–272, title I, §§ 101–109, May 3, 1978, 92 Stat. 222–224, called for a White House Conference on the Arts to be held no later than Dec. 31, 1979, to help develop a climate in which the arts can flourish and to formulate recommendations relating to the appropriate growth of the arts in all parts of the Nation, established a National Conference Planning Council on the Arts to provide guidance and planning for the Conference, directed the Council to submit a report of the Conference to the President and to the Congress no later than 180 days following the date on which the Conference was called, and provided the Council cease to exist 180 days, unless extended by the President, but in no event to exceed one year, after submission of the report.

1979 WHITE HOUSE CONFERENCE ON THE HUMANITIES

Pub. L. 95–272, title II, §§ 201–209, May 3, 1978, 92 Stat. 224–226, called for a White House Conference on the Humanities to be held no later than Dec. 31, 1979, to help develop a climate in which the humanities can flourish

and to formulate recommendations relating to the appropriate growth of the humanities in all parts of the Nation, established a National Planning Council on the Humanities to provide guidance and planning for the Conference, directed the Council to submit a report of the Conference to the President and to the Congress no later than 180 days following the date on which the Conference was called, and provided the Council cease to exist 180 days, unless extended by the President, but in no event to exceed one year, after submission of the report.

EXECUTIVE ORDER NO. 12275

Ex. Ord. No. 12275, Jan. 16, 1981, 46 F.R. 5857, which established the Design Liaison Council and provided for its membership, functions, etc., was revoked by Ex. Ord. No. 12379, §10, Aug. 17, 1982, 47 F.R. 36099, set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5, Government Organization and Employees.

§ 952. Definitions

As used in this subchapter—

(a) The term ''humanities'' includes, but is not limited to, the study and interpretation of the following: language, both modern and classical; linguistics; literature; history; jurisprudence; philosophy; archeology; comparative religion; ethics; the history, criticism, and theory of the arts; those aspects of the social sciences which have humanistic content and employ humanistic methods; and the study and application of the humanities to the human environment with particular attention to reflecting our diverse heritage, traditions, and history and to the relevance of the humanities to the current conditions of national life.

(b) The term ''the arts'' includes, but is not limited to, music (instrumental and vocal), dance, drama, folk art, creative writing, architecture and allied fields, painting, sculpture, photography, graphic and craft arts, industrial design, costume and fashion design, motion pictures, television, radio, film, video, tape and sound recording, the arts related to the presentation, performance, execution, and exhibition of such major art forms, all those traditional arts practiced by the diverse peoples of this country.[1] and the study and application of the arts to the human environment.

(c) The term ''production'' means plays (with or without music), ballet, dance and choral performances, concerts, recitals, operas, exhibitions, readings, motion pictures, television, radio, film, video, and tape and sound recordings, and any other activities involving the execution or rendition of the arts and meeting such standards as may be approved by the National Endowment for the Arts established by section 954 of this title.

(d) The term ''project'' means programs organized to carry out the purposes of this subchapter, including programs to foster American artistic creativity, to commission works of art, to create opportunities for individuals to develop artistic talents when carried on as a part of a program otherwise included in this definition, and to develop and enhance the widest public knowledge and understanding of the arts, and includes, where appropriate, rental or purchase of facilities, purchase or rental of land, and acquisition of equipment. Such term also includes—

(1) the renovation of facilities if (A) the amount of the expenditure of Federal funds for such purpose in the case of any project does not exceed $250,000, or (B) two-thirds of the members of the National Council on the Arts or the National Council on the Humanities, as the case may be (who are present and voting) approve of the grant or contract involving an expenditure for such purpose; and

(2) for purposes of sections 954(p), 956(c)(10), and 956(h) of this title only, the construction of facilities if (A) such construction is for demonstration purposes or under unusual circumstances where there is no other manner in which to accomplish an artistic or humanistic purpose, and (B) two-thirds of the members of the National Council on the Arts and the National Council on the Humanities, as the case may be, (who are present and voting) approve of the grant or contract involving an expenditure for such purpose.

(e) The term ''group'' includes any State or other public agency, and any nonprofit society, institution, organization, association, museum, or establishment in the United States, whether or not incorporated.

(f) The term ''workshop'' means an activity the primary purpose of which is to encourage the artistic development or enjoyment of amateur, student, or other nonprofessional participants, or to promote scholarship and teaching among the participants.

(g) The term ''State'' includes, in addition to the several States of the Union, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Northern Mariana Islands, and the Virgin Islands.

(h) The term ''local arts agency'' means a community organization, or an agency of local government, that primarily provides financial support, services, or other programs for a variety of artists and arts organizations, for the benefit of the community as a whole.

(i) The term ''developing arts organization'' means a local arts organization of high artistic promise which—

(1) serves as an important source of local arts programming in a community; and

(2) has the potential to develop artistically and institutionally to broaden public access to the arts in rural and innercity areas and other areas that are underserved artistically.

(j) The term ''determined to be obscene'' means determined, in a final judgment of a court of record and of competent jurisdiction in the United States, to be obscene.

(k) The term ''final judgment'' means a judgment that is either—

(1) not reviewed by any other court that has authority to review such judgment; or

(2) is not reviewable by any other court.

(*l*) The term ''obscene'' means with respect to a project, production, workshop, or program that—

(1) the average person, applying contemporary community standards, would find that such project, production, workshop, or program, when taken as a whole, appeals to the prurient interest;

[1] So in original. The period probably should be a comma.

(2) such project, production, workshop, or program depicts or describes sexual conduct in a patently offensive way; and

(3) such project, production, workshop, or program, when taken as a whole, lacks serious literary, artistic, political, or scientific value.

(Pub. L. 89–209, §3, Sept. 29, 1965, 79 Stat. 845; Pub. L. 90–348, §§1, 7, June 18, 1968, 82 Stat. 184, 187; Pub. L. 91–346, §3, July 20, 1970, 84 Stat. 443; Pub. L. 93–133, §2(a)(2), Oct. 19, 1973, 87 Stat. 462; Pub. L. 96–496, title I, §101, Dec. 4, 1980, 94 Stat. 2583; renumbered title I, §3, Pub. L. 98–306, §2, May 31, 1984, 98 Stat. 223; renumbered §3 and amended Pub. L. 99–194, title I, §§101(1), 103, Dec. 20, 1985, 99 Stat. 1332; Pub. L. 101–512, title III, §318 [title I, §102], Nov. 5, 1990, 104 Stat. 1960, 1962.)

AMENDMENTS

1990—Subsec. (b). Pub. L. 101–512, §318 [title I, §102(a)(1), (b)(1)], inserted ''all those traditional arts practiced by the diverse peoples of this country.'' after ''forms,'' and ''film, video,'' after ''radio,''.

Subsec. (c). Pub. L. 101–512, §318 [title I, §102(b)(2)], inserted ''film, video,'' after ''radio,''.

Subsec. (d). Pub. L. 101–512, §318 [title I, §102(b)(3)(A)], inserted ''the widest'' after ''enhance''.

Subsec. (d)(2). Pub. L. 101–512, §318 [title I, §102(b)(3)(B)], which directed the substitution of ''sections 954(p), 956(c)(10),'' for ''sections 954(1)'', was executed by making the substitution for ''sections 954(*l*)'' to reflect the probable intent of Congress.

Subsecs. (h), (i). Pub. L. 101–512, §318 [title I, §102(a)(2)], added subsecs. (h) and (i).

Subsecs. (j) to (*l*). Pub. L. 101–512, §318 [title I, §102(c)], added subsecs. (j) to (*l*).

1985—Subsec. (a). Pub. L. 99–194, §103(1), substituted ''study and interpretation of the following'' for ''study of the following'' and inserted ''to reflecting our diverse heritage, traditions, and history and'' after ''particular attention''.

Subsec. (d)(2). Pub. L. 99–194, §103(2), inserted ''for purposes of sections 954(*l*) and 956(h) of this title only,'' before ''the construction of facilities if'', ''or humanistic'' after ''artistic'', and ''and the National Council on the Humanities, as the case may be,'' after ''the National Council on the Arts''.

1980—Subsec. (a). Pub. L. 96–496, §101(a), substituted ''and theory of the arts'' for ''theory, and practice of the arts''.

Subsec. (d)(1)(B). Pub. L. 96–496, §101(b), inserted ''or the National Council on the Humanities, as the case may be''.

Subsec. (g). Pub. L. 96–496, §101(c), inserted ''the Northern Mariana Islands''.

1973—Subsec. (d). Pub. L. 93–133 substituted ''or purchase of facilities'' for '', purchase, renovation, or construction of facilities'' and added pars. (1) and (2).

1970—Subsec. (a). Pub. L. 91–346 extended term ''humanities'' to include the study of comparative religion and ethics, and emphasized that particular attention be paid to relevance of humanities to current conditions of national life when engaging in study and application of humanities to human environment.

1968—Subsec. (a). Pub. L. 90–348, §7, extended term ''humanities'' to include the study and application of enumerated fields to human environment.

Subsec. (b). Pub. L. 90–348, §7, extended term ''arts'' to include study and application of enumerated art forms to human environment.

Subsec. (f). Pub. L. 90–348, §1, substituted ''activity'' for ''production'' in definition of ''workshop'' and extended enumerated purposes to include promotion of scholarship and teaching among participants.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–512 effective Oct. 1, 1990, see section 318 [title IV, §403(a)] of Pub. L. 101–512, set out as a note under section 951 of this title.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–133 effective on and after July 1, 1973, see section 2(b) of Pub. L. 93–133, set out as a note under section 951 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 954, 956 of this title.

§ 953. National Foundation on the Arts and the Humanities

(a) Establishment; composition

There is established a National Foundation on the Arts and the Humanities (hereinafter referred to as the ''Foundation''), which shall be composed of a National Endowment for the Arts, a National Endowment for the Humanities, a Federal Council on the Arts and the Humanities, and an Institute of Museum Services.

(b) Purpose

The purpose of the Foundation shall be to develop and promote a broadly conceived national policy of support for the humanities and the arts in the United States, and for institutions which preserve the cultural heritage of the United States pursuant to this subchapter.

(c) Prohibition against Federal supervision over policy determination, personnel, or curriculum, or administration or operation of any school or other non-Federal body

In the administration of this subchapter no department, agency, officer, or employee of the United States shall exercise any direction, supervision, or control over the policy determination, personnel, or curriculum, or the administration or operation of any school or other non-Federal agency, institution, organization, or association.

(Pub. L. 89–209, §4, Sept. 29, 1965, 79 Stat. 846; renumbered title I, §4, and amended Pub. L. 98–306, §§2, 4, May 31, 1984, 98 Stat. 223; renumbered §4 and amended Pub. L. 99–194, title I, §§101(1), 104, Dec. 20, 1985, 99 Stat. 1332, 1333.)

AMENDMENTS

1985—Subsec. (a). Pub. L. 99–194, §104, struck out a second comma after ''a National Endowment for the Humanities'' and ''(hereinafter established)'' after ''Institute of Museum Services''.

1984—Subsec. (a). Pub. L. 98–306, §4(a), substituted '', a Federal Council'' for ''and a Federal Council'' and inserted '', and an Institute of Museum Services''.

Subsec. (b). Pub. L. 98–306, §4(b), inserted '', and for institutions which preserve the cultural heritage of the United States''.

§ 954. National Endowment for the Arts

(a) Establishment

There is established within the Foundation a National Endowment for the Arts.

(b) Chairperson of the Endowment; term of office; vacancies

(1) The Endowment shall be headed by a chairperson, to be known as the Chairperson of the National Endowment for the Arts, who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) The term of office of the Chairperson shall be four years and the Chairperson shall be eligi-

ble for reappointment. The provisions of this subsection shall apply to any person appointed to fill a vacancy in the office of Chairperson. Upon expiration of the chairperson's term of office the Chairperson shall serve until the Chairperson's successor shall have been appointed and shall have qualified.

(c) Program of contracts, grants-in-aid, or loans to groups and individuals for projects and productions; traditionally underrepresented recipients of financial assistance

The Chairperson, with the advice of the National Council on the Arts, is authorized to establish and carry out a program of contracts with, or grants-in-aid or loans to, groups or, in appropriate cases, individuals of exceptional talent engaged in or concerned with the arts, for the purpose of enabling them to provide or support—

(1) projects and productions which have substantial national or international artistic and cultural significance, giving emphasis to American creativity and cultural diversity and to the maintenance and encouragement of professional excellence;

(2) projects and productions, meeting professional standards or standards of authenticity or tradition, irrespective of origin, which are of significant merit and which, without such assistance, would otherwise be unavailable to our citizens for geographic or economic reasons;

(3) projects and productions that will encourage and assist artists and enable them to achieve wider distribution of their works, to work in residence at an educational or cultural institution, or to achieve standards of professional excellence;

(4) projects and productions which have substantial artistic and cultural significance and that reach, or reflect the culture of, a minority, inner city, rural, or tribal community;

(5) projects and productions that will encourage public knowledge, education, understanding, and appreciation of the arts;

(6) workshops that will encourage and develop the appreciation and enjoyment of the arts by our citizens;

(7) programs for the arts at the local level;

(8) projects that enhance managerial and organizational skills and capabilities;

(9) projects, productions, and workshops of the kinds described in paragraphs (1) through (8) through film, radio, video, and similar media, for the purpose of broadening public access to the arts; and

(10) other relevant projects, including surveys, research, planning, and publications relating to the purposes of this subsection.

In the case of publications under paragraph (10) of this subsection such publications may be supported without regard for the provisions of section 501 of title 44 only if the Chairperson consults with the Joint Committee on Printing of the Congress and the Chairperson submits to the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives a report justifying any exemption from such section 501. Any loans made by the Chairperson under this subsection shall be made in accordance with terms and conditions approved by the Secretary of the Treasury. In selecting individuals and groups of exceptional talent as recipients of financial assistance to be provided under this subsection, the Chairperson shall give particular regard to artists and artistic groups that have traditionally been underrepresented.

(d) Application for payment; regulations and procedures

No payment shall be made under this section except upon application therefor which is submitted to the National Endowment for the Arts in accordance with regulations issued and procedures established by the Chairperson. In establishing such regulations and procedures, the Chairperson shall ensure that—

(1) artistic excellence and artistic merit are the criteria by which applications are judged, taking into consideration general standards of decency and respect for the diverse beliefs and values of the American public; and

(2) applications are consistent with the purposes of this section. Such regulations and procedures shall clearly indicate that obscenity is without artistic merit, is not protected speech, and shall not be funded. Projects, productions, workshops, and programs that are determined to be obscene are prohibited from receiving financial assistance under this subchapter from the National Endowment for the Arts.

The disapproval or approval of an application by the Chairperson shall not be construed to mean, and shall not be considered as evidence that, the project, production, workshop, or program for which the applicant requested financial assistance is or is not obscene.

(e) Limitation on amount of grant to group; grants and contracts of the National Endowment for the Arts

The total amount of any grant to any group pursuant to subsection (c) of this section shall not exceed 50 per centum of the total cost of such project or production, except that not more than 20 per centum of the funds allotted by the National Endowment for the Arts for the purposes of subsection (c) of this section for any fiscal year may be available for grants and contracts in that fiscal year without regard to such limitation.

(f) Eligibility for financial assistance

Any group shall be eligible for financial assistance pursuant to this section only if (1) no part of its net earnings inures to the benefit of any private stockholder or stockholders, or individual or individuals, and (2) donations to such group are allowable as a charitable contribution under the standards of subsection (c) of section 170 of title 26.

(g) Grants to States for projects and productions; applications; terms and conditions of State plans; minimum allotments; excess appropriations; cost limitations; grants to regional groups; non-Federal funding; definitions

(1) The Chairperson, with the advice of the National Council on the Arts, is authorized to establish and carry out a program of grants-in-aid

to assist the several States in supporting existing projects and productions which meet the standards enumerated in subsection (c) of this section, and in developing projects and productions in the arts in such a manner as will furnish adequate programs, facilities, and services in the arts to all the people and communities in each of the several States.

(2) In order to receive assistance under this subsection in any fiscal year, a State shall submit an application for such grants at such time as shall be specified by the Chairperson and accompany such application with a plan which the Chairperson finds—

(A) designates or provides for the establishment of a State agency (hereinafter in this section referred to as the ''State agency'') as the sole agency for the administration of the State plan;

(B) provides that funds paid to the State under this subsection will be expended solely on projects and productions approved by the State agency which carry out one or more of the objectives of subsection (c) of this section;

(C) provides that the State agency will make such reports, in such form and containing such information, as the Chairperson may from time to time require, including a description of the progress made toward achieving the goals of the State plan;

(D) provides—

(i) assurances that the State agency has held, after reasonable notice, public meetings in the State to allow all groups of artists, interested organizations, and the public to present views and make recommendations regarding the State plan; and

(ii) a summary of such recommendations and the State agency's response to such recommendations; and

(E) contains—

(i) a description of the level of participation during the most recent preceding year for which information is available by artists, artists' organizations, and arts organizations in projects and productions for which financial assistance is provided under this subsection;

(ii) for the most recent preceding year for which information is available, a description of the extent projects and productions receiving financial assistance from the State arts agency are available to all people and communities in the State; and

(iii) a description of projects and productions receiving financial assistance under this subsection that exist or are being developed to secure wider participation of artists, artists' organizations, and arts organizations identified under clause (i) of this subparagraph or that address the availability of the arts to all people or communities identified under clause (ii) of this subparagraph.

No application may be approved unless the accompanying plan satisfies the requirements specified in this subsection.

(3) Of the sums available to carry out this subsection for any fiscal year, each State which has a plan approved by the Chairperson shall be allotted at least $200,000. If the sums appropriated are insufficient to make the allotments under the preceding sentence in full, such sums shall be allotted among such States in equal amounts. In any case where the sums available to carry out this subsection for any fiscal year are in excess of the amount required to make the allotments under the first sentence of this paragraph—

(A) the amount of such excess which is no greater than 25 per centum of the sums available to carry out this subsection for any fiscal year shall be available only to the Chairperson for making grants under this subsection to States and regional groups, and

(B) the amount of such excess, if any, which remains after reserving in full for the Chairperson the amount required under clause (A) shall be allotted among the States which have plans approved by the Chairperson in equal amounts

but in no event shall any State be allotted less than $200,000.

(4)(A) The amount of each allotment to a State for any fiscal year under this subsection shall be available to each State, which has a plan approved by the Chairperson in effect on the first day of such fiscal year, to pay not more than 50 per centum of the total cost of any project or production described in paragraph (1). The amount of any allotment made under paragraph (3) for any fiscal year which exceeds $125,000 shall be available, at the discretion of the Chairperson, to pay up to 100 per centum of such cost of projects and productions if such projects and productions would otherwise be unavailable to the residents of that State: *Provided*, That the total amount of any such allotment for any fiscal year which is exempted from such 50 per centum limitation shall not exceed 20 per centum of the total of such allotment for such fiscal year.

(B) Any amount allotted to a State under the first sentence of paragraph (3) for any fiscal year which is not obligated by the State prior to 60 days prior to the end of the fiscal year for which such sums are appropriated shall be available for making grants to regional groups.

(C) Funds made available under this subsection shall not be used to supplant non-Federal funds.

(D) For the purpose of paragraph (3) and paragraph (4) of this section the term ''regional group'' means any multistate group, whether or not representative of contiguous States.

(E) For purposes of paragraph (3)(B), the term ''State'' includes, in addition to the several States of the Union, only those special jurisdictions specified in section 952(g) of this title which have a population of 200,000 or more, according to the latest decennial census.

(5) All amounts allotted or made available under paragraph (3) for a fiscal year which are not granted to a State during such year shall be available at the end of such year to the National Endowment for the Arts for the purpose of carrying out subsection (c) of this section.

(h) Suspension of grants for defaults, noncompliance with provisions and plans, and diversion of funds; repayment of funds

Whenever the Chairperson, after reasonable notice and opportunity for hearing, finds that—

(1) a group is not complying substantially with the provisions of this section;

(2) a State agency is not complying substantially with the terms and conditions of its State plan approved under this section; or

(3) any funds granted to a group or State agency under this section have been diverted from the purposes for which they were allotted or paid,

the Chairperson shall immediately notify the Secretary of the Treasury and the group or State agency with respect to which such finding was made that no further grants will be made under this section to such group or agency until there is no longer any default or failure to comply or the diversion has been corrected, or, if compliance or correction is impossible, until such group or agency repays or arranges the repayment of the Federal funds which have been improperly diverted or expended.

(i) Application for financial assistance; requirements

It shall be a condition of the receipt of financial assistance provided under this section by the Chairperson or the State agency that the applicant for such assistance include in its application—

(1) a detailed description of the proposed project, production, workshop, or program for which the applicant requests such assistance;

(2) a timetable for the completion of such proposed project, production, workshop, or program;

(3) an assurance that the applicant will submit—

(A) interim reports describing the applicant's—

(i) progress in carrying out such project, production, workshop, or program; and

(ii) compliance with this subchapter and the conditions of receipt of such assistance;

(B) if such proposed project, production, workshop, or program will be carried out during a period exceeding 1 year, an annual report describing the applicant's—

(i) progress in carrying out such project, production, workshop, or program; and

(ii) compliance with this subchapter and the conditions of receipt of such assistance; and

(C) not later than 90 days after—

(i) the end of the period for which the applicant receives such assistance; or

(ii) the completion of such project, production, workshop, or program;

whichever occurs earlier, a final report to the Chairperson or the State agency (as the case may be) describing the applicant's compliance with this subchapter and the conditions of receipt of such assistance; and

(4) an assurance that the project, production, workshop, or program for which assistance is requested will meet the standards of artistic excellence and artistic merit required by this subchapter.

(j) Regulations for distribution of financial assistance in installments; implementation

The Chairperson shall issue regulations to provide for the distribution of financial assistance to recipients in installments except in those cases where the Chairperson determines that installments are not practicable. In implementing any such installments, the Chairperson shall ensure that—

(1) not more than two-thirds of such assistance may be provided at the time such application is approved; and

(2) the remainder of such assistance may not be provided until the Chairperson finds that the recipient of such assistance is complying substantially with this section and with the conditions under which such assistance is provided to such recipient.

(k) Reviews to ensure compliance with regulations

The Inspector General of the Endowment shall conduct appropriate reviews to ensure that recipients of financial assistance under this section comply with the regulations under this subchapter that apply with respect to such assistance, including regulations relating to accounting and financial matters.

***(l)* Use of financial assistance for obscene project, production, etc.; repayment of assistance; exceptions**

(1) If, after reasonable notice and opportunity for a hearing on the record, the Chairperson determines that a recipient of financial assistance provided under this section by the Chairperson or any non-Federal entity, used such financial assistance for a project, production, workshop, or program that is determined to be obscene, then the Chairperson shall require that until such recipient repays such assistance (in such amount, and under such terms and conditions, as the Chairperson determines to be appropriate) to the Endowment; no subsequent financial assistance be provided under this section to such recipient.

(2) Financial assistance repaid under this section to the Endowment shall be deposited in the Treasury of the United States and credited as miscellaneous receipts.

(3)(A) This subsection shall not apply with respect to financial assistance provided before the effective date of this subsection.

(B) This subsection shall not apply with respect to a project, production, workshop, or program after the expiration of the 7-year period beginning on the latest date on which financial assistance is provided under this section for such project, production, workshop, or program.

(m) Labor standards of professional performers and personnel; healthy and safe working conditions

It shall be a condition of the receipt of any grant under this section that the group or individual of exceptional talent or the State or State agency receiving such grant furnish adequate assurances to the Secretary of Labor that (1) all professional performers and related or supporting professional personnel (other than laborers and mechanics with respect to whom labor standards are prescribed in subsection (n) of this section) employed on projects or productions which are financed in whole or in part under this section will be paid, without subsequent deduction or rebate on any account, not

less than the minimum compensation as determined by the Secretary of Labor to be the prevailing minimum compensation for persons employed in similar activities; and (2) no part of any project or production which is financed in whole or in part under this section will be performed or engaged in under working conditions which are unsanitary or hazardous or dangerous to the health and safety of the employees engaged in such project or production. Compliance with the safety and sanitary laws of the State in which the performance or part thereof is to take place shall be prima facie evidence of compliance. The Secretary of Labor shall have the authority to prescribe standards, regulations, and procedures as the Secretary of Labor may deem necessary or appropriate to carry out the provisions of this subsection.

(n) Labor standards of laborers and mechanics

It shall be a condition of the receipt of any grant under this section that the group or individual of exceptional talent or the State or State agency receiving such grant furnish adequate assurances to the Secretary of Labor that all laborers and mechanics employed by contractors or subcontractors on construction projects assisted under this section shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended [40 U.S.C. 276a et seq.]. The Secretary of Labor shall have with respect to the labor standards specified in this subsection the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 and section 276c of title 40.

(*o*) Correlation and development of endowment programs with other Federal and non-Federal programs; expenditure of appropriations

The Chairperson shall correlate the programs of the National Endowment for the Arts insofar as practicable, with existing Federal programs and with those undertaken by other public agencies or private groups, and shall develop the programs of the Endowment with due regard to the contribution to the objectives of this subchapter which can be made by other Federal agencies under existing programs. The Chairperson may enter into interagency agreements to promote or assist with the arts-related activities of other Federal agencies, on a reimbursable or nonreimbursable basis, and may use funds authorized to be appropriated for the purposes of subsection (c) of this section for the costs of such activities.

(p) Program of contracts or grants-in-aid to public agencies and private nonprofit organizations; limitation on payments; authority of Chairperson

(1) The Chairperson of the National Endowment for the Arts, with the advice of the National Council on the Arts, is authorized, in accordance with the provisions of this subsection, to establish and carry out a program of contracts with, or grants-in-aid to, public agencies and private nonprofit organizations, on a national, State, or local level, for the purpose of strengthening quality by—

(A) enabling cultural organizations and institutions to increase the levels of continuing support and to increase the range of contributors to the programs of such organizations or institutions;

(B) providing administrative and management improvements for cultural organizations and institutions, particularly in the field of long-range financial planning;

(C) enabling cultural organizations and institutions to increase audience participation in, and appreciation of, programs sponsored by such organizations and institutions;

(D) providing additional support for cooperative efforts undertaken by State arts agencies with local arts groups and local arts agencies to promote effective arts activity at the State and local level, including—

(i) support of professional artists in community based residencies;

(ii) support of rural arts development;

(iii) support of and models for regional, statewide, or local organizations to provide technical assistance to cultural organizations and institutions;

(iv) support of and models for visual and performing arts touring; and

(v) support of and models for professional staffing of arts organizations and for stabilizing and broadening the financial base for arts organizations;

(E) stimulating greater cooperation among cultural organizations and institutions especially designed to serve better the communities in which such organizations or institutions are located;

(F) fostering greater citizen involvement in planning the cultural development of a community; and

(G) stimulating artistic activity and awareness which are in keeping with the varied cultural traditions of this Nation.

(2)(A) The Chairperson of the National Endowment for the Arts, with the advice of the National Council on the Arts, is authorized in accordance with this subsection, to establish and carry out a program of contracts with, or grants to, States for the purposes of—

(i) raising the artistic capabilities of developing arts organizations by providing for—

(I) artistic and programmatic development to enhance artistic capabilities, including staff development; and

(II) technical assistance to improve managerial and organizational skills, financial systems management, and long-range fiscal planning; and

(ii) stimulating artistic activity and awareness and broadening public access to the arts in rural and innercity areas and other areas that are underserved artistically.

(B) For purposes of providing financial assistance under this paragraph, the Chairperson shall give priority to the activities described in subparagraph (A)(i).

(C) The Chairperson may not provide financial assistance under this paragraph to a particular applicant in more than 3 fiscal years for the purpose specified in subparagraph (A)(i).

(3) The total amount of any payment made under this subsection for a program or project

may not exceed 50 per centum of the cost of such program or project.

(4) In carrying out the program authorized by this subsection, the Chairperson of the National Endowment for the Arts shall have the same authority as is established in subsection (c) of this section and section 959 of this title.

(q) National information and data collection system on the arts, artists and art groups, and audiences; development and implementation plan; state of the arts reports

The Chairperson of the National Endowment for the Arts shall, in ongoing consultation with State and local agencies, relevant organizations, and relevant Federal agencies, continue to develop and implement a practical system of national information and data collection and public dissemination on the arts, artists and arts groups, and their audiences. Such system shall include artistic and financial trends in the various artistic fields, trends in audience participation, and trends in arts education on national, regional, and State levels. Such system shall also include information regarding the availability of the arts to various audience segments, including rural communities. Such system shall be used, along with a summary of the data submitted with State plans under subsection (g) of this section, to prepare a periodic report on the state of the arts in the Nation. The state of the arts report shall include a description of the availability of the Endowment's programs to emerging, rural, and culturally diverse artists, arts organizations, and communities and of the participation by such artists, organizations, and communities in such programs. The state of the arts report shall be submitted to the President and the Congress, and provided to the States, not later than October 1, 1992, and quadrennially thereafter.

(Pub. L. 89–209, § 5, Sept. 29, 1965, 79 Stat. 846; Pub. L. 90–83, § 10(b), Sept. 11, 1967, 81 Stat. 223; Pub. L. 90–348, §§ 2, 3, June 18, 1968, 82 Stat. 185; Pub. L. 91–346, §§ 4, 5(a)(1), (2), 6, 7, July 20, 1970, 84 Stat. 443, 445; Pub. L. 93–133, § 2(a)(3), (4), Oct. 19, 1973, 87 Stat. 462; Pub. L. 94–462, title I, §§ 101, 102, title III, § 301(a), title IV, § 401(a), Oct. 8, 1976, 90 Stat. 1971, 1978, 1980; Pub. L. 96–496, title I, §§ 102, 109(a), (b), Dec. 4, 1980, 94 Stat. 2583, 2591; renumbered title I, § 5, Pub. L. 98–306, § 2, May 31, 1984, 98 Stat. 223; renumbered § 5 and amended Pub. L. 99–194, title I, §§ 101(1), 105, Dec. 20, 1985, 99 Stat. 1332, 1333; Pub. L. 101–512, title III, § 318 [title I, §§ 103(a)–(i)(1), 104], Nov. 5, 1990, 104 Stat. 1960, 1963–1966.)

REFERENCES IN TEXT

The effective date of this subsection, referred to in subsec. (*l*)(3)(A), is October 1, 1990, see section 318 [title IV, § 403(a)] of Pub. L. 101–512, set out as an Effective Date of 1990 Amendment note under section 951 of this title.

The Davis-Bacon Act, as amended, referred to in subsec. (n), is act Mar. 3, 1931, ch. 411, 46 Stat. 1494, as amended, which is classified generally to sections 276a to 276a–5 of Title 40, Public Buildings, Property, and Works. For complete classification of this Act to the Code, see Short Title note set out under section 276a of Title 40 and Tables.

Reorganization Plan Numbered 14 of 1950, referred to in subsec. (n), is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

1990—Subsec. (c). Pub. L. 101–512, § 318 [title I, § 103(a)(7)], substituted ''paragraph (10)'' for ''clause (8)'' in concluding provisions.

Subsec. (c)(1). Pub. L. 101–512, § 318 [title I, § 103(a)(1)], amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''projects and productions which have substantial artistic and cultural significance, giving emphasis to American creativity and cultural diversity and the maintenance and encouragement of professional excellence;''.

Subsec. (c)(2). Pub. L. 101–512, § 318 [title I, § 103(a)(2)], inserted ''or tradition'' after ''authenticity''.

Subsec. (c)(5). Pub. L. 101–512, § 318 [title I, § 103(a)(3)], inserted ''education,'' after ''knowledge,''.

Subsec. (c)(8) to (10). Pub. L. 101–512, § 318 [title I, § 103(a)(4)–(6)], added pars. (8) and (9) and redesignated former par. (8) as (10).

Subsec. (d). Pub. L. 101–512, § 318 [title I, § 103(b)], amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: ''No payment may be made to any group under this section except upon application therefor which is submitted to the National Endowment for the Arts in accordance with regulations and procedures established by the Chairperson.''

Subsec. (f). Pub. L. 101–512, § 318 [title I, § 103(c)], substituted ''Internal Revenue Code of 1986'' for ''Internal Revenue Code of 1954'', which for purposes of codification was translated as ''title 26'' thus requiring no change in text.

Subsec. (g)(2)(E)(i), (ii). Pub. L. 101–512, § 318 [title I, § 103(d)], added cls. (i) and (ii) and struck out former cls. (i) and (ii) which read as follows:

''(i) a description of the level of participation during the previous 2 years by artists, artists' organizations, and arts organizations in projects and productions for which financial assistance is provided under this subsection;

''(ii) a description of the extent to which projects and productions receiving financial assistance under this subsection are available to all people and communities in the State; and''.

Subsecs. (i) to (k). Pub. L. 101–512, § 318 [title I, § 103(g)(2)], added subsecs. (i) to (k), and redesignated former subsecs. (i) to (k) as (*l*) to (n), respectively.

Subsec. (*l*). Pub. L. 101–512, § 318 [title I, § 103(h)(2)], added subsec. (*l*). Former subsec. (*l*), redesignated (m).

Pub. L. 101–512, § 318 [title I, § 103(g)(1)], redesignated subsec. (i) as (*l*). Former subsec. (*l*) redesignated (*o*).

Subsec. (m). Pub. L. 101–512, § 318 [title I, § 103(i)(1)], substituted ''subsection (n)'' for ''subsection (j)''.

Pub. L. 101–512, § 318 [title I, § 103(h)(1)], redesignated subsec. (*l*) as (m). Former subsec. (m) redesignated (n).

Pub. L. 101–512, § 318 [title I, § 103(g)(1)], redesignated subsec. (j) as (m). Former subsec. (m) redesignated (p).

Subsecs. (n), (*o*). Pub. L. 101–512, § 318 [title I, § 103(h)(1)], redesignated subsecs. (m) and (n) as (n) and (*o*), respectively. Former subsecs. (n) and (*o*) redesignated (*o*) and (p), respectively.

Pub. L. 101–512, § 318 [title I, § 103(g)(1)], redesignated subsecs. (k) and (*l*) as (n) and (*o*), respectively.

Subsec. (p). Pub. L. 101–512, § 318 [title I, § 103(h)(1)], redesignated subsec. (*o*) as (p). Former subsec. (p) redesignated (q).

Pub. L. 101–512, § 318 [title I, § 103(g)(1)], redesignated subsec. (m) as (p).

Subsec. (p)(1)(G). Pub. L. 101–512, § 318 [title I, § 103(e)], added subpar. (G).

Subsec. (p)(2) to (4). Pub. L. 101–512, § 318 [title I, § 104], added par. (2), redesignated former pars. (2) and (3) as (3) and (4), respectively, and in par. (4), substituted ''subsection (c)'' for ''section 5(c)'', which for purposes of codification was translated as ''subsection (c) of this section'' thus requiring no change in text.

Subsec. (q). Pub. L. 101–512, § 318 [title I, § 103(h)(1)], redesignated subsec. (p) as (q).

Pub. L. 101–512, § 318 [title I, § 103(f)], inserted ''ongoing'' after ''shall, in'', substituted ''continue to develop and implement'' for ''develop'', inserted ''and

public dissemination'' after ''collection'', struck out ''Not later than one year after December 20, 1985, the Chairperson shall submit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate a plan for the development and implementation of such system, including a recommendation regarding the need for any additional funds to be appropriated to develop and implement such system.'' after ''including rural communities.'', and substituted ''1992, and quadrennially'' for ''1988, and biennially''.

1985—Subsec. (b)(1). Pub. L. 99–194, §105(1), (6), substituted ''chairperson'' for ''chairman'' and ''Chairperson'' for ''Chairman''.

Subsec. (b)(2). Pub. L. 99–194, §105(6), (7), substituted ''Chairperson'' for ''Chairman'' wherever appearing and ''the Chairperson's'' for ''his'' in two places.

Subsec. (c). Pub. L. 99–194, §105(2)(C), (D), (6), substituted ''Chairperson'' for ''Chairman'' in provisions preceding par. (1), and in provisions following cl. (8) substituted ''Chairperson'' for ''Chairman'' wherever appearing and ''clause (8)'' for ''clause (5)'', and inserted ''In selecting individuals and groups of exceptional talent as recipients of financial assistance to be provided under this subsection, the Chairperson shall give particular regard to artists and artistic groups that have traditionally been underrepresented''.

Subsec. (c)(4) to (8). Pub. L. 99–194, §105(2)(A), (B), added cls. (4) and (5) and redesignated former cls. (4) to (6) as (6) to (8), respectively.

Subsec. (d). Pub. L. 99–194, §105(6), substituted ''Chairperson'' for ''Chairman''.

Subsec. (g). Pub. L. 99–194, §105(3), (6), substituted ''Chairperson'' for ''Chairman'' wherever appearing, and in par. (2) struck out ''and'' at end of cl. (B), substituted '', including a description of the progress made toward achieving the goals of the State plan;'' for the period at end of cl. (C), and added cls. (D) and (E).

Subsec. (h). Pub. L. 99–194, §105(6), substituted ''Chairperson'' for ''Chairman'' wherever appearing.

Subsec. (i). Pub. L. 99–194, §105(4), substituted ''Secretary of Labor may deem'' for ''he may deem'' in last sentence.

Subsec. (k). Pub. L. 99–194, §105(6), substituted ''Chairperson'' for ''Chairman'' wherever appearing.

Subsec. (*l*)(1). Pub. L. 99–194, §105(6), substituted ''Chairperson'' for ''Chairman'' in provisions preceding subpar. (A).

Subsec. (*l*)(1)(D). Pub. L. 99–194, §105(5), inserted ''and local arts agencies'' after ''local arts groups'', designated existing provisions as cl. (i), and added cls. (ii) to (v).

Subsec. (*l*)(3). Pub. L. 99–194, §105(6), substituted ''Chairperson'' for ''Chairman''.

Subsec. (m). Pub. L. 99–194, §105(8), added subsec. (m).

1980—Subsec. (c). Pub. L. 96–496, §§102(a), 109(a), inserted ''or loans'' in provisions preceding cl. (1) and ''and cultural diversity'' in cl. (1), redesignated cl. (5) as (6), added cl. (5), substituted ''Committee on Labor and Human Resources'' for ''Committee on Labor and Public Welfare'' in provisions following cl. (6), and provided that any loans made by the Chairman under subsec. (c) were to be made in accordance with terms and conditions approved by the Secretary of the Treasury.

Subsec. (g)(2)(A). Pub. L. 96–496, §102(b)(1), struck out provision that the Recreation Board, or any successor designated for purposes of this subchapter by the Commissioner of the District of Columbia, was to be considered the ''State agency'' within the District of Columbia.

Subsec. (g)(4)(A). Pub. L. 96–496, §109(b), substituted ''such projects'' for ''such project''.

Subsec. (g)(4)(E). Pub. L. 96–496, §102(b)(2), added subpar. (E).

Subsec. (k). Pub. L. 96–496, §102(c), authorized the Chairman to enter into interagency agreements to promote or assist the arts-related activities of other Federal agencies, on a reimbursable or nonreimbursable basis, and to use funds authorized to be appropriated for the purposes of subsec. (c) of this section for the costs of such activities.

Subsec. (*l*). Pub. L. 96–496, §102(d), inserted '', on a national, State, or local level,'' and ''strengthening quality by'' in provisions of par. (1) preceding subpar. (A), redesignated subpars. (D) and (E) as (E) and (F), respectively, and added subpar. (D).

Subsec. (m). Pub. L. 96–496, §102(e), struck out subsec. (m) which related to grants or contracts to State arts agencies for photography and film projects.

1976—Subsec. (c). Pub. L. 94–462, §101, struck out in provisions preceding par. (1) ''in the United States'' after ''provide or support''.

Subsec. (g)(4)(A). Pub. L. 94–462, §102, inserted provision that amount of each allotment to a State for any fiscal year shall be available to each State which has a plan approved by the Chairman to pay not more than 50 percent of total cost of any project or production described in subsec. (g)(1).

Subsec. (*l*). Pub. L. 94–462, §301(a), added subsec. (*l*).

Subsec. (m). Pub. L. 94–462, §401(a), added subsec. (m).

1973—Subsec. (c). Pub. L. 93–133, §3, in opening paragraph, struck out reference to Federal Council on the Arts and Humanities, in cl. (1), substituted ''projects and productions'' for ''production'', in cl. (2), substituted ''projects and productions'' and ''for geographic or economic reasons'' for ''production'' and ''in many areas of the country'' respectively, in cl. (3), substituted ''projects and productions'' for ''projects'', in cl. (5), substituted '', planning, and publications relating to the purposes of this subsection'' for ''and planning in the arts'', and added paragraph following cl. (5).

Subsec. (g)(1). Pub. L. 93–133, §2(a)(4)(A), struck out reference to Federal Council on the Arts and Humanities.

Subsec. (g)(2). Pub. L. 93–133, §2(a)(4)(B), (C), in provisions preceding cl. (A), substituted ''assistance under this subsection'' and ''at such time as shall be specified by the Chairman'' for ''such assistance'' and ''prior to the first day of such fiscal year'' respectively, and in cl. (B), struck out exception that in the first fiscal year in which the state was allotted funds after Sept. 29, 1965, the plan may provide that amount not exceeding $25,000 will be expended to conduct a study to plan the development and the establishment of a State agency.

Subsec. (g)(3). Pub. L. 93–133, §2(a)(4)(D), added par. (3) and struck out former par. (3) which read as follows: ''From the sums appropriated to carry out the purposes of this subsection for any fiscal year, not less than $65,000 shall be allotted to each State. That part of such sums as may remain after such allotment shall be allotted among the States in equal amounts, except that for the purposes of this sentence the term 'State' shall not include Guam and American Samoa. If the sums appropriated for any fiscal year to carry out the purposes of this subsection are insufficient to satisfy allotments under the first sentence of this paragraph, such sums shall be allotted among the States in equal amounts.''

Subsec. (g)(4). Pub. L. 93–133, §2(a)(4)(D), added par. (4) and struck out former par. (4) which read as follows: ''The amount of each allotment to a State for any fiscal year under this subsection shall be available to each State, which has a plan approved by the Chairman in effect on the first day of such fiscal year, to pay not more than 50 per centum of the total cost of any project or production described in paragraph (1), and to pay up to 100 per centum of the cost of conducting a study and establishing a State agency under paragraph (2)(B) of this subsection.''

Subsec. (g)(5). Pub. L. 93–133, §2(a)(4)(E), substituted ''All amounts allotted or made available'' for ''All amounts allotted''.

1970—Subsec. (b). Pub. L. 91–346, §5(a)(1), designated existing provisions as cl. (1), and, in cl. (1) as so designated, provided for appointment of the Chairman of the National Endowment for the Arts by the President with the advice and consent of the Senate, and added cl. (2).

Subsec. (c)(3). Pub. L. 91–346, §4, expanded grants-in-aid program to enable talented groups or individuals to achieve wider distribution of their works and to work in residence at an educational or cultural institution.

Subsecs. (d) to (*l*). Pub. L. 91–346, §5(a)(2), struck out subsec. (d) which provided for the individual appointed as Chairman of the National Council on the Arts to also serve as the Chairman of the National Endowment for the Arts, and redesignated subsecs. (e) to (*l*), and all references thereto, as subsecs. (d) to (k), respectively.

Subsec. (g)(2)(A). Pub. L. 91–346, §6, permitted the Commissioner of the District of Columbia to designate a successor to the Recreation Board for the purpose of this chapter.

Subsec. (g)(3). Pub. L. 91–346, §7, provided minimum of $65,000 allotment to each State from sums appropriated for this subsec., authorized remaining funds to be equally allotted among the States, excluded Guam and American Samoa from term ''State'', and provided for equal allotments to States if the sums appropriated are insufficient to satisfy the minimum allotment.

1968—Subsec. (c). Pub. L. 90–348, §2(a), authorized contracts with groups, or in appropriate cases, individuals engaged in the arts, for the purpose of enabling them to provide or support programs and productions in the arts.

Subsec. (f). Pub. L. 90–348, §2(a), provided that contracts as well as grants made by the National Endowment for the Arts be subject to the amount limitation, and eliminated the provision requiring that groups seeking funds from the National Endowment for the Arts submit evidence to the Endowment that it had attempted unsuccessfully to secure an amount of funds equal to the grant applied for by such group, together with a statement of the proportion which any funds it had secured represent the funds applied for by such group.

Subsec. (h)(3). Pub. L. 90–348, §3, substituted ''Funds appropriated to carry out the purpose of this subsection'' for ''The funds appropriated pursuant to section 960(c) of this title''.

Subsec. (h)(5). Pub. L. 90–348, §3, struck out provision that amounts available to the National Endowment for the Arts at the end of the fiscal year shall be limited to the excess of the value of gifts, bequests, and devises received by the Endowment over the amounts appropriated to the Endowment, the appropriated amounts to be equal to the amounts received by the Endowment in the form of donations, bequests, and devises, but not to exceed $2,250,000.

Subsecs. (j), (k). Pub. L. 90–348, §2(b), inserted ''of exceptional talent'' after ''the group or individual''.

1967—Subsec. (d). Pub. L. 90–83 struck out provisions setting the compensation for the Chairman of the National Council on the Arts and the National Endowment for the Arts.

CHANGE OF NAME

Committee on Education and Labor of House of Representatives treated as referring to Committee on Economic and Educational Opportunities of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Economic and Educational Opportunities of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Fifth Congress, Jan. 7, 1997.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–512 effective Oct. 1, 1990, see section 318 [title IV, §403(a)] of Pub. L. 101–512, set out as a note under section 951 of this title.

APPLICABILITY OF 1985 AMENDMENT

Section 112 of Pub. L. 99–194 provided that: ''The amendments made by sections 105(3) and 107(3) [amending this section and section 956 of this title] shall not apply with respect to plans submitted for financial assistance to be provided with funds appropriated for fiscal year 1986.''

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–133 effective on and after July 1, 1973, see section 2(b) of Pub. L. 93–133, set out as a note under section 951 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by section 5(a)(1), (2) of Pub. L. 91–346 effective after June 30, 1970, see section 5(d)(3)(A) of Pub. L. 91–346, set out as a note under section 955 of this title.

GAO STUDY REGARDING FEDERAL, STATE, AND LOCAL FUNDING OF THE ARTS

Section 318 [title I, §111] of Pub. L. 101–512 provided that:

''(a) STUDY REQUIRED.—The Comptroller General of the United States shall conduct a study—

''(1) to evaluate the roles and responsibilities of the National Endowment for the Arts, the States (including State agencies), and local arts agencies, in providing financial assistance under section 5 of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 954),

''(2) the relative effectiveness of the Endowment, the States (including State agencies), and local arts agencies in maximizing the amount of financial assistance they make available under such section, and

''(3) the existing capacity of the States to receive increased allocations under section 5 of such Act and the ability of the States to manage such increased allocations effectively.

''(b) REPORT REQUIRED.—Not later than October 1, 1992, the Comptroller General shall submit, to the Speaker of the House of Representatives and the President pro tempore of the Senate, a report summarizing the results of the study conducted under subsection (a).''

TEMPORARY INDEPENDENT COMMISSION TO REVIEW GRANT MAKING PROCEDURES AND CONSIDER STANDARDS FOR PUBLICLY FUNDED ART

Pub. L. 101–121, title III, §304(a)–(c), Oct. 23, 1989, 103 Stat. 741, 742, prohibited use of funds for National Endowment for the Arts or National Endowment for the Humanities to promote, disseminate, or produce materials which in judgment of National Endowment for the Arts or National Endowment for the Humanities may be considered obscene; stated the sense of Congress concerning present procedures employed for awarding National Endowment for the Arts grants; and established Independent Commission, to expire Sept. 30, 1990, for purpose of reviewing National Endowment for the Arts grant making procedures, and considering whether standard for publicly funded art should be different than standard for privately funded art.

CROSS REFERENCES

Compensation of Director of the National Endowment for the Arts, see section 5314 of Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 952, 955, 959, 960 of this title.

§ 954a. Access to the arts through support of education

(a) Purposes

The purposes of this section are—

(1) to increase accessibility to the arts through providing education to all Americans, including diverse cultures, urban and rural populations by encouraging and developing quality education in the arts at all levels, in conjunction with programs of nonformal education for all age groups, with formal systems

of elementary, secondary, and postsecondary education;

(2) to develop and stimulate research to teach quality education in the arts; and

(3) to encourage and facilitate the work of artists, arts institutions, and Federal, State, regional, and local agencies in the area of education in the arts.

(b) Program of contracts or grants

The Chairperson of the National Endowment for the Arts,[1] is authorized to establish and carry out a program of contracts with, or grants to, any State or other public agency, individual, artist, any nonprofit society, performing and nonperforming arts and educational institution or organization, association, or museum in the United States, in order to foster and encourage exceptional talent, public knowledge, understanding, and appreciation of the arts, and to support the education, training, and development of this Nation's artists, through such activities as projects that will—

(1) promote and improve the availability of arts instruction for American youth and lifelong learning in the arts;

(2) enhance the quality of arts instruction in programs of teacher education;

(3) develop arts faculty resources and talents;

(4) support and encourage the development of improved curriculum materials in the arts;

(5) improve evaluation and assessment of education in the arts programs and instruction;

(6) foster cooperative programs with the Department of Education and encourage partnerships between arts and education agencies at State and local levels, arts organizations, business colleges and universities;

(7) support apprenticeships, internships, and other career oriented work-study experiences for artists and arts teachers, and encourage residencies of artists at all educational levels;

(8) support the use of technology and improved facilities and resources in education in the arts programs at all levels; and

(9) foster the development of demonstration projects, demonstration productions, demonstration workshops, and demonstration programs in arts education and collect, and make available to the public, information on their implementation and effectiveness.

(c) Advisory council on arts education

In order to provide advice and counsel concerning arts education, the Chairperson shall appoint an advisory council on arts education.

(Pub. L. 89–209, § 5A, as added Pub. L. 101–512, title III, § 318 [title I, § 105], Nov. 5, 1990, 104 Stat. 1960, 1967.)

EFFECTIVE DATE

Section effective Oct. 1, 1990, see section 318 [title IV, § 403(a)] of Pub. L. 101–512, set out as an Effective Date of 1990 Amendment note under section 951 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 960 of this title.

[1] So in original. The comma probably should not appear.

§ 955. National Council on the Arts

(a) Inclusion within the National Endowment for the Arts

There shall be, within the National Endowment for the Arts, a National Council on the Arts (hereinafter in this section referred to as the ''Council'').

(b) Appointment and composition of Council

(1) The Council shall be composed of members as follows:

(A) The Chairperson of the National Endowment for the Arts, who shall be the chairperson of the Council.

(B) Members of Congress appointed for a 2-year term beginning on January 1 of each odd-numbered year as follows:

(i) Two Members of the House of Representatives appointed by the Speaker of the House of Representatives.

(ii) One Member of the House of Representatives appointed by the Minority Leader of the House of Representatives.

(iii) One Senator appointed by the Majority Leader of the Senate.

(iv) One Senator appointed by the Minority Leader of the Senate.

Members of the Council appointed under this subparagraph shall serve ex officio and shall be nonvoting members of the Council.

(C) 14 members appointed by the President, by and with the advice and consent of the Senate, who shall be selected—

(i) from among private citizens of the United States who—

(I) are widely recognized for their broad knowledge of, or expertise in, or for their profound interest in the arts; and

(II) have established records of distinguished service, or achieved eminence, in the arts;

(ii) so as to include practicing artists, civic cultural leaders, members of the museum profession, and others who are professionally engaged in the arts; and

(iii) so as collectively to provide an appropriate distribution of membership among major art fields and interested citizens groups.

In making such appointments, the President shall give due regard to equitable representation of women, minorities, and individuals with disabilities who are involved in the arts and shall make such appointments so as to represent equitably all geographical areas in the United States.

(2) TRANSITION TO THE NEW COUNCIL COMPOSITION.—

(A) Notwithstanding subsection (b)(1)(B) of this section, members first appointed pursuant to such subsection shall be appointed not later than December 31, 1997. Notwithstanding such subsection, such members shall be appointed to serve until December 31, 1998.

(B) Members of the Council serving on the effective date of this subsection may continue to serve on the Council until their current terms expire and new members shall not be appointed under subsection (b)(1)(C) of this sec-

tion until the number of Presidentially appointed members is less than 14.

(c) Terms of office; vacancies

Each member appointed under subsection (b)(1)(C) of this section shall hold office for a term of six years, and the terms of office shall be staggered. The terms of office of all Council members appointed under subsection (b)(1)(C) of this section shall expire on the third day of September in the year of expiration. No member appointed under subsection (b)(1)(C) of this section shall be eligible for reappointment during the two-year period following the expiration of such member's term. Any member appointed under subsection (b)(1)(C) of this section appointed [1] to fill a vacancy shall serve for the remainder of the term for which such member's predecessor was appointed. Notwithstanding any other provision of this subsection, a member appointed under subsection (b)(1)(C) of this section shall serve after the expiration of such member's term until such member's successor takes office.

(d) Meetings of Council; quorum; written records

(1) The Council shall meet at the call of the Chairperson but not less often than twice during each calendar year. Eight members of the Council shall constitute a quorum. All policy meetings of the Council shall be open to the public.

(2) The Council shall—

(A) create written records summarizing—

(i) all meetings and discussions of the Council; and

(ii) the recommendations made by the Council to the Chairperson; and

(B) make such records available to the public in a manner that protects the privacy of individual applicants, panel members, and Council members.

(e) Compensation of members

Members shall receive compensation at a rate to be fixed by the Chairperson but not to exceed the per diem equivalent of the rate authorized for grade GS–18 by section 5332 of title 5 and be allowed travel expenses including per diem in lieu of subsistence, as authorized by law (section 5703 of title 5) for persons in the Government service employed intermittently.

(f) Advisory functions; policies, programs, and procedures; recommendations; authority of Chairperson; action by Chairperson pursuant to delegation of authority

The Council shall advise the Chairperson with respect to policies, programs, and procedures for carrying out the Chairperson's functions, duties, or responsibilities under this subchapter, and review applications for financial assistance under this subchapter and make recommendations to the Chairperson with respect to the approval of each application and the amount of financial assistance (if any) to provide to each applicant. The Council shall make recommendations to the Chairperson concerning—

(1) whether to approve particular applications for financial assistance under subsections (c) and (p) of section 954 of this title that are determined by panels under section 959(c) of this title to have artistic excellence and artistic merit; and

(2) the amount of financial assistance the Chairperson should provide with respect to each such application the Council recommends for approval.

The Chairperson shall not approve or disapprove any such application until the Chairperson has received the recommendation of the Council on such application. The Chairperson shall have final authority to approve each application, except that the Chairperson may only provide to an applicant the amount of financial assistance recommended by the Council and may not approve an application with respect to which the Council makes a negative recommendation. In the case of an application involving $30,000, or less, the Chairperson may approve or disapprove such request if such action is taken pursuant to the terms of an expressed and direct delegation of authority from the Council to the Chairperson, and provided that each such action by the Chairperson shall be reviewed by the Council, and that such action shall be used with discretion and shall not become a normal practice of providing assistance under such subsections, except that the terms of any such delegation of authority shall not permit obligations for expenditure of funds under such delegation for any fiscal year which exceed an amount equal to 10 per centum of the sums appropriated for that fiscal year pursuant to subparagraph (A) of paragraph (1) of section 960(a) of this title.

(Pub. L. 89–209, § 6, Sept. 29, 1965, 79 Stat. 849; Pub. L. 90–348, § 4, June 18, 1968, 82 Stat. 185; Pub. L. 91–346, § 5(b), July 20, 1970, 84 Stat. 444; Pub. L. 93–133, § 2(a)(5), Oct. 19, 1973, 87 Stat. 463; Pub. L. 94–462, title I, § 103(a), Oct. 8, 1976, 90 Stat. 1971; Pub. L. 96–496, title I, § 103, Dec. 4, 1980, 94 Stat. 2584; renumbered title I, § 6, and amended Pub. L. 98–306, §§ 2, 5(a), May 31, 1984, 98 Stat. 223, 224; renumbered § 6 and amended Pub. L. 99–194, title I, §§ 101(1), 106, Dec. 20, 1985, 99 Stat. 1332, 1335; Pub. L. 101–512, title III, § 318 [title I, § 106], Nov. 5, 1990, 104 Stat. 1960, 1968; Pub. L. 105–83, title III, § 346(e), (f), Nov. 14, 1997, 111 Stat. 1605, 1606; Pub. L. 105–119, title VI, § 624, Nov. 26, 1997, 111 Stat. 2522.)

REFERENCES IN TEXT

The effective date of this subsection, referred to in subsec. (b)(2)(B), probably means Nov. 14, 1997, the date of enactment of Pub. L. 105–83 which amended subsec. (b) of this section generally.

AMENDMENTS

1997—Subsec. (b). Pub. L. 105–83, § 346(e), inserted heading and amended text of subsec. (b) generally. Prior to amendment, text read as follows: ''The Council shall be composed of the Chairperson of the National Endowment for the Arts, who shall be Chairperson of the Council, and twenty-six other members appointed by the President, by and with the advice and consent of the Senate, who shall be selected—

''(1) from among private citizens of the United States who (A) are widely recognized for their broad knowledge of, or expertise in, or for their profound interest in, the arts and (B) have established records of distinguished service, or achieved eminence, in the arts;

''(2) so as to include practicing artists, civic cultural leaders, members of the museum profession, and

[1] So in original.

others who are professionally engaged in the arts; and

''(3) so as collectively to provide an appropriate distribution of membership among the major art fields. The President is requested, in the making of such appointments, to give consideration to such recommendations as may, from time to time, be submitted to the President by leading national organizations in these fields. In making such appointments, the President shall give due regard to equitable representation of women, minorities, and individuals with disabilities who are involved in the arts. Members of the Council shall be appointed so as to represent equitably all geographical areas in the United States.''

Subsec. (c). Pub. L. 105–83, §346(f), inserted ''appointed under subsection (b)(1)(C) of this section'' after ''member'' wherever appearing and after ''all Council members'' in second sentence.

Subsec. (d)(1). Pub. L. 105–119, which directed the substitution of ''eight'' for ''fourteen'', was executed by substituting ''Eight'' for ''Fourteen'' to reflect the probable intent of Congress.

1990—Subsec. (b). Pub. L. 101–512, §318 [title I, §106(a)], inserted at end ''Members of the Council shall be appointed so as to represent equitably all geographical areas in the United States.''

Subsec. (d). Pub. L. 101–512, §318 [title I, §106(b)], designated existing text as par. (1), inserted at end ''All policy meetings of the Council shall be open to the public.'', and added par. (2).

Subsec. (f). Pub. L. 101–512, §318 [title I, §106(c)], struck out ''(1)'' and ''(2)'' before ''advise the Chairperson'' and ''review applications for'', respectively, struck out ''thereon'' before ''to the Chairperson'', inserted before period at end of first sentence ''with respect to the approval of each application and the amount of financial assistance (if any) to provide to each applicant'', struck out '', unless the Council fails to make a recommendation thereon within a reasonable time'' after ''on such application'', substituted ''an expressed and direct delegation'' for ''a delegation'' and '', and that such action shall be used with discretion and shall not become a normal practice of providing assistance under such subsections, except that'' for ''; *Provided*, That'', inserted ''The Chairperson shall have final authority to approve each application, except that the Chairperson may only provide to an applicant the amount of financial assistance recommended by the Council and may not approve an application with respect to which the Council makes a negative recommendation.'', and inserted ''The Council shall make recommendations to the Chairperson concerning—'' and added pars. (1) and (2) immediately thereafter.

1985—Subsec. (b). Pub. L. 99–194, §106(1), substituted ''Chairperson'' for ''Chairman'' in two places in provisions preceding par. (1), in par. (1) designated existing provisions following ''who'' as cl. (A) and added cl. (B), and in provisions following par. (3) substituted ''the President'' for ''him'' and inserted ''In making such appointments, the President shall give due regard to equitable representation of women, minorities, and individuals with disabilities who are involved in the arts.''

Subsec. (c). Pub. L. 99–194, §106(2), substituted ''such member's'' for ''his'' wherever appearing.

Subsecs. (d), (e). Pub. L. 99–194, §106(3), (4), substituted ''Chairperson'' for ''Chairman''.

Subsec. (f). Pub. L. 99–194, §106(5), substituted ''Chairperson'' for ''Chairman'' wherever appearing, ''the Chairperson's'' for ''his'', ''until the Chairperson has received'' for ''until he has received'', and ''$30,000'' for ''$17,500''.

1984—Subsec. (c). Pub. L. 98–306, §5(a), inserted ''Notwithstanding any other provision of this subsection, a member shall serve after the expiration of his term until his successor takes office.''

1980—Subsec. (c). Pub. L. 96–496 provided that the terms of office of all Council members were to expire on the third day of September in the year of expiration.

1976—Subsec. (b). Pub. L. 94–462 inserted '', by and with the advice and consent of the Senate,'' after ''by the President''.

1973—Subsec. (f). Pub. L. 93–133 substituted ''$17,500'' for ''$10,000'' and inserted proviso that the terms of delegation of authority shall not permit obligations for expenditure of funds under such delegation for any fiscal year which exceed an amount equal to 10 per centum of the sums appropriated for that fiscal year.

1970—Pub. L. 91–346 generally incorporated into this section the substantive provisions of the National Arts and Cultural Development Act of 1964 except for the independent study authority of the National Council on the Arts under the 1964 Act, provided for the appointment and composition of the Council, prescribed the terms of office for members of the Council, provided that the Council meet at the call of the Chairman at least twice a year, established 14 as the number of members constituting a quorum, set forth provisions governing compensation of persons employed for the Government service on an intermittent basis, and set forth functions and duties of the council essentially similar to the function and duties of the Council as set out in this section prior to this amendment.

1968—Subsec. (b). Pub. L. 90–348 inserted provision which authorized the Chairman, in the case of any application involving $10,000 or less, to approve or disapprove the application if such action is pursuant to the terms of a delegation of authority from the Endowment Council and such action is reviewed by the Endowment Council.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–512 effective Oct. 1, 1990, see section 318 [title IV, §403(a)] of Pub. L. 101–512, set out as a note under section 951 of this title.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–133 effective on and after July 1, 1973, see section 2(b) of Pub. L. 93–133, set out as a note under section 951 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Section 5(d)(3)(A) of Pub. L. 91–346 provided that: ''The amendments made by subsections (a) and (b) [amending this section and sections 954, 959, and 960 of this title] shall be effective after June 30, 1970.''

REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, §101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

CONTINUATION OF COUNCIL AS ESTABLISHED UNDER THE NATIONAL ARTS AND CULTURAL DEVELOPMENT ACT OF 1964

Section 5(d)(1) of Pub. L. 91–346 provided that: ''The National Council on the Arts established under section 6 of the National Foundation on the Arts and the Humanities Act of 1965 [this section], as amended by subsection (b), shall, for any purpose determined to be necessary by the Chairman of the National Endowment for the Arts, be deemed to be a continuation of the National Council on the Arts established under the National Arts and Cultural Development Act of 1964, Public Law 88–579 [section 781 et seq. of this title], without interruption.''

APPOINTEES TO COUNCIL UNDER NATIONAL ARTS AND CULTURAL DEVELOPMENT ACT OF 1964 DEEMED APPOINTED UNDER 1965 ACT

Section 5(d)(2) of Pub. L. 91–346 provided that: ''Members appointed to the National Council on the Arts pursuant to section 5 of the National Arts and Cultural Development Act of 1964 [section 784 of this title] shall be deemed to have been appointed as members of the Na-

tional Council on the Arts established under section 6 of the National Foundation on the Arts and the Humanities Act of 1965 [this section], with such terms of office as may be remaining under the prior appointment on the effective date of the amendments made by subsection (b) [July 1, 1970].''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 959 of this title.

§ 955a. Omitted

CODIFICATION

Section, Pub. L. 98–146, title II, Nov. 4, 1983, 97 Stat. 949, which provided that persons serving on National Council on the Arts continue until their successors are qualified for office, was omitted as superseded. See section 955(c) of this title as amended by Pub. L. 98–306. Similar provisions were contained in Pub. L. 97–394, title II, Dec. 30, 1982, 96 Stat. 1994.

§ 955b. National Medal of Arts

(a) Establishment

There is hereby established a National Medal of Arts, which shall be a medal of such design as is deemed appropriate by the President, on the basis of recommendations submitted by the National Council on the Arts, and which shall be awarded as provided in subsection (b) of this section.

(b) Award of Medal; conditions; recipients; presentation ceremonies

(1) The President shall from time to time award the National Medal of Arts, on the basis of recommendations from the National Council on the Arts, to individuals or groups who in the President's judgment are deserving of special recognition by reason of their outstanding contributions to the excellence, growth, support, and availability of the arts in the United States.

(2) Not more than twelve of such medals may be awarded in any calendar year.

(3) An individual may be awarded the National Medal of Arts only if at the time such award is made such individual—

(A) is a citizen or other national of the United States; or

(B) is an alien lawfully admitted to the United States for permanent residence who (i) has filed an application or petition for naturalization in the manner prescribed by section 1445 of title 8 and (ii) is not permanently ineligible to become a citizen of the United States.

(4) A group may be awarded the National Medal of Arts only if such group is organized or incorporated in the United States.

(5) The presentation of the National Medal of Arts shall be made by the President with such ceremonies as the President may deem proper, including attendance by appropriate Members of Congress.

(c) Availability of funds

Funds made available to the National Endowment for the Arts shall be used to carry out this section.

(Pub. L. 98–306, § 13, May 31, 1984, 98 Stat. 225.)

CODIFICATION

Section was enacted as part of the National Foundation on the Arts and the Humanities Act Amendments of 1983, and not as part of the National Foundation on the Arts and the Humanities Act of 1965 which comprises this subchapter.

§ 956. National Endowment for the Humanities

(a) Establishment

There is established within the Foundation the National Endowment for the Humanities.

(b) Chairperson of the Endowment; appointment, term, reappointment; vacancy; expiration of term

(1) The Endowment shall be headed by a chairperson, who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) The term of office of the Chairperson shall be four years, and the Chairperson shall be eligible for reappointment. The provisions of this paragraph shall apply to any person appointed to fill a vacancy in the office of the Chairperson. Upon expiration of the Chairperson's term of office the Chairperson shall serve until the Chairperson's successor shall have been appointed and shall have qualified.

(c) Functions of the Endowment; publications; traditionally underrepresented recipients of financial assistance

The Chairperson, with the advice of the National Council on the Humanities (hereinafter established), is authorized to enter into arrangements, including contracts, grants, loans, and other forms of assistance, to—

(1) develop and encourage the pursuit of a national policy for the promotion of progress and scholarship in the humanities;

(2) initiate and support research and programs to strengthen the research and teaching potential of the United States in the humanities by making arrangements with individuals or groups to support such activities; any loans made by the Endowment shall be made in accordance with terms and conditions approved by the Secretary of the Treasury;

(3) initiate and support training and workshops in the humanities by making arrangements with institutions or individuals (fellowships awarded to individuals under this authority may be for the purpose of study or research at appropriate nonprofit institutions selected by the recipient of such aid, for stated periods of time);

(4) initiate and support programs and research which have substantial scholarly and cultural significance and that reach, or reflect the diversity and richness of our American cultural heritage, including the culture of, a minority, inner city, rural, or tribal community;

(5) foster international programs and exchanges;

(6) foster the interchange of information in the humanities;

(7) foster, with groups, education in, and public understanding and appreciation of the humanities;

(8) support the publication of scholarly works in the humanities;

(9) insure that the benefit of its programs will also be available to our citizens where

such programs would otherwise be unavailable due to geographic or economic reasons; and

(10) foster programs and projects that provide access to, and preserve materials important to research, education, and public understanding of, the humanities.

In the case of publications under clause (8) of this subsection such publications may be supported without regard for the provisions of section 501 of title 44 only if the Chairperson consults with the Joint Committee on Printing of the Congress and the Chairperson submits to the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives a report justifying any exemption from such section 501. In selecting individuals and groups of exceptional talent as recipients of financial assistance to be provided under this subsection, the Chairperson shall give particular regard to scholars, and educational and cultural institutions, that have traditionally been underrepresented.

(d) Coordination and development of Endowment programs with other Federal and non-Federal programs

The Chairperson shall coordinate the programs of the National Endowment for the Humanities, insofar as practicable, with existing Federal programs, designated State humanities agencies and with those undertaken by other public agencies or private groups, and shall develop the programs of the Endowment with due regard to the contribution to the objectives of this subchapter which can be made by other Federal agencies under existing programs.

(e) Limitation on amount of grant for workshop activities for which an admission or other charge is made to the general public

The total amount of any grant under subsection (c)(3) of this section to any group engaging in workshop activities for which an admission or other charge is made to the general public shall not exceed 30 per centum of the total cost of such activities.

(f) Grants-in-aid programs; designation of State administrative agency; matching funds; applications and plans; allotments; cost limitations; grants to regional groups; non-Federal funding; definitions; suspension of grants; single entity limitation

(1) The Chairperson, with the advice of the National Council on the Humanities, is authorized, in accordance with the provisions of this subsection, to establish and carry out a program of grants-in-aid in each of the several States in order to support not more than 50 per centum of the cost of existing activities which meet the standards enumerated in subsection (c) of this section, and in order to develop a program in the humanities in such a manner as will furnish adequate programs in the humanities in each of the several States.

(2)(A) Whenever a State desires to designate or to provide for the establishment of a State agency as the sole agency for the administration of the State plan, such State shall designate the humanities council in existence on the date the State agency is established as the State agency, and shall match from State funds a sum equal to 50 per centum of that portion of Federal financial assistance received by such State under this subsection which is described in the first sentence of paragraph (4) relating to the minimum State grant, or 25 per centum of the total amount of Federal financial assistance received by such State under this subsection, whichever is greater, for the fiscal year involved. In any State in which the State selects the option described in this subparagraph, the State shall submit, before the beginning of each fiscal year, an application for grants and accompany such application with a plan which the Chairperson finds—

(i) designates or provides for the establishment of a State agency (hereinafter in this section referred to as the ''State agency'') as the sole agency for the administration of the State plan;

(ii) provides that the chief executive officer of the State will appoint new members to the State humanities council designated under the provisions of this subparagraph, as vacancies occur as a result of the expiration of the terms of members of such council, until the chief executive officer has appointed all of the members of such council;

(iii) provides, from State funds, an amount equal to 50 per centum of that portion of Federal financial assistance received by such State under this subsection which is described in the first sentence of paragraph (4) relating to the minimum State grant, or 25 per centum of the total amount of Federal financial assistance received by such State under this subsection, whichever is greater, for the fiscal year involved;

(iv) provides that funds paid to the State under this subsection will be expended solely on programs approved by the State agency which carry out the objectives of subsection (c) of this section and which are designed to bring the humanities to the public;

(v) provides assurances that State funds will be newly appropriated for the purpose of meeting the requirements of this subparagraph;

(vi) provides that the State agency will make such reports, in such form and containing such information, as the Chairperson may require, including a description of the progress made toward achieving the goals of the State plan;

(vii) provides—

(I) assurances that the State agency has held, after reasonable notice, public meetings in the State to allow scholars, interested organizations, and the public to present views and make recommendations regarding the State plan; and

(II) a summary of such recommendations and of the response of the State agency to such recommendations; and

(viii) contains—

(I) a description of the level of participation during the most recent preceding year for which information is available by scholars and scholarly organizations in programs receiving financial assistance under this subsection;

(II) for the most recent preceding year for which information is available, a description

of the extent to which the programs receiving financial assistance under this subsection are available to all people and communities in the State; and

(III) a description of programs receiving financial assistance under this subsection that exist or are being developed to secure wider participation of scholars and scholarly organizations identified under subclause (I) of this clause or that address the availability of the humanities to all people or communities identified under subclause (II) of this clause.

No application may be approved unless the accompanying plan satisfies the requirements specified in this subsection.

(B) In any State in which the chief executive officer of the State fails to submit an application under subparagraph (A), the grant recipient in such State shall—

(i) establish a procedure which assures that six members of the governing body of such grant recipient shall be appointed by an appropriate officer or agency of such State, except that in no event may the number of such members exceed 25 per centum of the total membership of such governing body; and

(ii) provide, from any source, an amount equal to the amount of Federal financial assistance received by such grant recipient under this subsection for the fiscal year involved.

(3) Whenever a State selects to receive Federal financial assistance under this subsection for any fiscal year under paragraph (2)(B), any appropriate entity desiring to receive such assistance shall submit an application for such assistance at such time as shall be specified by the Chairperson. Each such application shall be accompanied by a plan which the Chairperson finds—

(A) provides assurances that the grant recipient will comply with the requirements of paragraph (2)(B);

(B) provides that funds paid to the grant recipient will be expended solely on programs which carry out the objectives of subsection (c) of this section;

(C) establishes a membership policy which is designed to assure broad public representation with respect to programs administered by such grant recipient;

(D) provides a nomination process which assures opportunities for nomination to membership from various groups within the State involved and from a variety of segments of the population of such State, and including individuals who by reason of their achievement, scholarship, or creativity in the humanities, are especially qualified to serve;

(E) provides for a membership rotation process which assures the regular rotation of the membership and officers of such grant recipient;

(F) establishes reporting procedures which are designed to inform the chief executive officer of the State involved, and other appropriate officers and agencies, of the activities of such grant recipient;

(G) establishes procedures to assure public access to information relating to such activities;

(H) provides that such grant recipient will make reports to the Chairperson, in such form, at such times, and containing such information, as the Chairperson may require, including a description of the progress made toward achieving the goals of the plan;

(I) provides—

(i) assurances that the grant recipient has held, after reasonable notice, public meetings in the State to allow scholars, interested organizations, and the public to present views and make recommendations regarding the plan; and

(ii) a summary of such recommendations and of the response of the grant recipient to such recommendations; and

(J) contains—

(i) a description of the level of participation during the most recent preceding year for which information is available by scholars and scholarly organizations in programs receiving financial assistance under this subsection;

(ii) for the most recent preceding year for which information is available, a description of the extent to which the programs receiving financial assistance under this subsection are available to all people and communities in the State; and

(iii) a description of programs receiving financial assistance under this subsection that exist or are being developed to secure wider participation of scholars and scholarly organizations identified under clause (i) of this subparagraph or that address the availability of the humanities to all people or communities identified under clause (ii) of this subparagraph.

No application may be approved unless the accompanying plan satisfies the requirements specified in this subsection.

(4) Of the sums available to carry out this subsection for any fiscal year, each State and each grant recipient which has a plan approved by the Chairperson shall be allotted at least $200,000. If the sums appropriated are insufficient to make the allotments under the preceding sentence in full, such sums shall be allotted among such States and grant recipients in equal amounts. In any case where the sums available to carry out this subsection for any fiscal year are in excess of the amount required to make the allotments under the first sentence of this paragraph—

(A) 34 per centum of the amount of such excess for such fiscal year shall be available to the Chairperson for making grants under this subsection to States and regional groups and entities applying for such grants;

(B) 44 per centum of the amount of such excess for such fiscal year shall be allotted in equal amounts among the States and grant recipients which have plans approved by the Chairperson; and

(C) 22 per centum of the amount of such excess for such fiscal year shall be allotted among the States and grant recipients which have plans approved by the Chairperson in amounts which bear the same ratio to such excess as the population of the State for which the plan is approved (or, in the case of a grant

recipient other than a State, the population of the State in which such grant recipient is located) bears to the population of all the States.

(5)(A) The amount of each allotment to a State for any fiscal year under this subsection shall be available to each State or grant recipient, which has a plan or application approved by the Chairperson in effect on the first day of such fiscal year, to pay not more than 50 per centum of the total cost of any project or production described in paragraph (1). The amount of any allotment made under paragraph (4) for any fiscal year—

(i) which exceeds $125,000, but

(ii) which does not exceed 20 per centum of such allotment,

shall be available, at the discretion of the Chairperson, to pay up to 100 per centum of the cost of programs under this subsection if such programs would otherwise be unavailable to the residents of that State.

(B) Any amount allotted to a State under the first sentence of paragraph (4) for any fiscal year which is not obligated by the State agency or grant recipient prior to sixty days prior to the end of the fiscal year for which such sums are appropriated shall be available to the Chairperson for making grants to regional groups.

(C) Funds made available under this subsection shall not be used to supplant non-Federal funds.

(D) For the purposes of this paragraph, the term ''regional group'' means any multistate group, whether or not representative of contiguous States.

(E) For purposes of paragraph (4)(B), the term ''State'' and the term ''grant recipient'' include, in addition to the several States of the Union, only those special jurisdictions specified in section 952(g) of this title which have a population of 200,000 or more, according to the latest decennial census.

(6) All amounts allotted or made available under paragraph (4) for a fiscal year which are not granted to any entity during such fiscal year shall be available to the National Endowment for the Humanities for the purpose of carrying out subsection (c) of this section.

(7) Whenever the Chairperson, after reasonable notice and opportunity for hearing, finds that—

(A) a group or grant recipient is not complying substantially with the provisions of this subsection;

(B) a State agency or grant recipient is not complying substantially with terms and conditions of its State plan or grant recipient application approved under this subsection; or

(C) any funds granted to any group or State agency or grant recipient under this subsection have been diverted from the purposes for which they are allotted or paid,

the Chairperson shall immediately notify the Secretary of the Treasury and the group, State agency, or grant recipient with respect to which such finding was made that no further grants will be made under this subsection to such group, State agency, or grant recipient until there is no longer a default or failure to comply or the diversion has been corrected, or, if the compliance or correction is impossible, until such group, State agency, or grant recipient repays or arranges the repayment of the Federal funds which have been improperly diverted or expended.

(8) Except as provided in the third sentence of paragraph (4), and paragraphs (5) and (6), the Chairperson may not make grants under this subsection to more than one entity in any State.

(g) Payment of performers and supporting personnel; standards, regulations, and procedures

It shall be a condition of the receipt of any grant under this section that the group, individual, or State agency or entity receiving such grant furnish adequate assurances to the Secretary of Labor that (1) all professional performers and related or supporting professional personnel employed on projects or productions which are financed in whole or in part under this section will be paid, without subsequent deduction or rebate on any account, not less than the minimum compensation as determined by the Secretary of Labor to be the prevailing minimum compensation for persons employed in similar activities; and (2) no part of any project or production which is financed in whole or in part under this section will be performed or engaged in under working conditions which are unsanitary or hazardous or dangerous to the health and safety of the employees engaged in such project or production. Compliance with the safety and sanitary laws of the State in which the performance or part thereof is to take place shall be prima facie evidence of compliance. The Secretary of Labor shall prescribe standards, regulations, and procedures necessary to carry out this subsection.

(h) Program of contracts or grants-in-aid to public agencies and private nonprofit organizations; limitation on payments

(1) The Chairperson of the National Endowment for the Humanities, with the advice of the National Council on the Humanities, is authorized, in accordance with the provisions of this subsection, to establish and carry out a program of contracts with, or grants-in-aid to, public agencies and private nonprofit organizations for the purpose of—

(A) enabling cultural organizations and institutions to increase the levels of continuing support and to increase the range of contributors to the program of such organizations or institutions;

(B) providing administrative and management improvements for cultural organizations and institutions, particularly in the field of long-range financial planning;

(C) enabling cultural organizations and institutions to increase audience participation in, and appreciation of, programs sponsored by such organizations and institutions;

(D) stimulating greater cooperation among cultural organizations and institutions especially designed to serve better the communities in which such organizations or institutions are located;

(E) fostering greater citizen involvement in planning the cultural development of a community; and

(F) for bicentennial programs, assessing where our society and Government stand in relation to the founding principles of the Republic, primarily focused on projects which will bring together the public and private citizen sectors in an effort to find new processes for solving problems facing our Nation in its third century.

(2)(A) Except as provided in subparagraph (B) of this paragraph, the total amount of any payment made under this subsection for a program or project may not exceed 50 per centum of the cost of such program or project.

(B) The Chairperson, with the advice of the Council, may waive all or part of the requirement of matching funds provided in subparagraph (A) of this paragraph, but only for the purposes described in clause (F) of paragraph (1), whenever he determines that highly meritorious proposals for grants and contracts under such clause, could not otherwise be supported from non-Federal sources or from Federal sources other than funds authorized by section 960(a)(3) of this title, unless such matching requirement is waived. Such waiver may not exceed 15 per centum of the amount appropriated in any fiscal year and available to the National Endowment for the Humanities for the purpose of this subsection.

(3) In carrying out the program authorized by this subsection, the Chairperson of the National Endowment for the Humanities shall have the same authority as is established in subsection (c) of this section and section 959 of this title.

(i) Interagency agreements

The Chairperson may enter into interagency agreements to promote or assist with the humanities-related activities of other Federal agencies, on either a reimbursable or nonreimbursable basis, and may use funds authorized to be appropriated for the purposes of subsection (c) of this section for the costs of such activities.

(j) Payment of wages at prevailing rates; authority of Secretary of Labor

It shall be a condition of the receipt of any grant under this section that the group or individual of exceptional talent or the State, State agency, or entity receiving such grant furnish adequate assurances to the Secretary of Labor that all laborers and mechanics employed by contractors or subcontractors on construction projects assisted under this section shall be paid wages at rates not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended [40 U.S.C. 276a et seq.]. The Secretary of Labor shall have, with respect to the labor standards specified in this subsection, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 and section 276c of title 40.

(k) National information and data collection system on humanities, scholars, educational and cultural groups, and audiences; development and implementation plan; state of the humanities reports

The Chairperson of the National Endowment for the Humanities shall, in ongoing consultation with State and local agencies, other relevant organizations, and relevant Federal agencies, continue to develop and implement a practical system of national information and data collection and public dissemination on the humanities, scholars, educational and cultural groups, and their audiences. Such system shall include cultural and financial trends in the various humanities fields, trends in audience participation, and trends in humanities education on national, regional, and State levels. Such system shall be used, along with a summary of the data submitted with plans under subsection (f) of this section, to prepare a report on the state of the humanities in the Nation. The state of the humanities report shall include a description of the availability of the Endowment's programs to emerging and culturally diverse scholars, cultural and educational organizations, and communities and of the participation of such scholars, organizations, and communities in such programs. The state of the humanities report shall be submitted to the President and the Congress, and provided the States, not later than October 1, 1992, and quadrennially thereafter.

(*l*) Eligibility of group for financial assistance

Any group shall be eligible for financial assistance under this section only if—

(1) no part of its net earnings inures to the benefit of any private stockholder or stockholders, or individual or individuals; and

(2) donations to such group are allowable as a charitable contribution under the standards of section 170(c) of title 26.

(m) Annual awards

The Chairperson, with the advice of the National Council on the Humanities, is authorized to make the following annual awards:

(1) The Jefferson Lecture in the Humanities Award to one individual for distinguished intellectual achievement in the humanities. The annual award shall not exceed $10,000.

(2) The Charles Frankel Prize to honor individuals who have made outstanding contributions to the public understanding of the humanities. Not more than 5 individuals may receive such prize each year. Each prize shall not exceed $5,000.

(Pub. L. 89–209, § 7, Sept. 29, 1965, 79 Stat. 850; Pub. L. 90–83, § 10(b), Sept. 11, 1967, 81 Stat. 223; Pub. L. 91–346, § 8, July 20, 1970, 84 Stat. 445; Pub. L. 93–133, §§ 2(a)(6), 3, Oct. 19, 1973, 87 Stat. 464, 465; Pub. L. 94–462, title I, §§ 104(a), 105, title III, § 301(b), Oct. 8, 1976, 90 Stat. 1971, 1974, 1979; Pub. L. 96–496, title I, §§ 104, 109(c), Dec. 4, 1980, 94 Stat. 2584, 2591; renumbered title I, § 7, Pub. L. 98–306, § 2, May 31, 1984, 98 Stat. 223; renumbered § 7 and amended Pub. L. 99–194, title I, §§ 101(1), 107, Dec. 20, 1985, 99 Stat. 1332, 1335; Pub. L. 101–512, title III, § 318 [title I, § 107], Nov. 5, 1990, 104 Stat. 1960, 1969.)

REFERENCES IN TEXT

The Davis-Bacon Act, as amended, referred to in subsec. (j), is act Mar. 3, 1931, ch. 411, 46 Stat. 1494, as amended, which is classified generally to sections 276a to 276a–5 of Title 40, Public Buildings, Property, and Works. For complete classification of this Act to the Code, see Short Title note set out under section 276a of Title 40 and Tables.

Reorganization Plan Numbered 14 of 1950, referred to in subsec. (j), is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

1990—Subsec. (a). Pub. L. 101–512, § 318 [title I, § 107(a)], substituted ''the'' for ''a'' after ''Foundation''.

Subsec. (c). Pub. L. 101–512, § 318 [title I, § 107(b)(1)], inserted ''enter into arrangements, including contracts, grants, loans, and other forms of assistance, to'' after ''is authorized to''.

Subsec. (c)(2). Pub. L. 101–512, § 318 [title I, § 107(b)(2)], struck out ''(including contracts, grants, loans, and other forms of assistance)'' after ''arrangements''.

Subsec. (c)(3). Pub. L. 101–512, § 318 [title I, § 107(b)(3)], substituted ''initiate and support training and workshops in the humanities by making arrangements with institutions or individuals (fellowships'' for ''award fellowships and grants to institutions or individuals for training and workshops in the humanities. Fellowships'', and inserted closing parenthesis after ''periods of time''.

Subsec. (c)(7). Pub. L. 101–512, § 318 [title I, § 107(b)(4)], struck out ''through grants or other arrangements'' after ''foster,''.

Subsec. (c)(10). Pub. L. 101–512, § 318 [title I, § 107(b)(5)–(7)], added par. (10).

Subsec. (d). Pub. L. 101–512, § 318 [title I, § 107(c)], substituted ''coordinate'' for ''correlate''.

Subsec. (f)(2)(A). Pub. L. 101–512, § 318 [title I, § 107(d)(1)], substituted ''the date the State agency is established'' for ''December 20, 1985,''.

Subsec. (f)(2)(A)(viii)(I). Pub. L. 101–512, § 318 [title I, § 107(d)(2)(A)], substituted ''most recent preceding year for which information is available'' for ''previous two years''.

Subsec. (f)(2)(A)(viii)(II). Pub. L. 101–512, § 318 [title I, § 107(d)(2)(B)], inserted ''for the most recent preceding year for which information is available,''.

Subsec. (f)(3)(J)(i). Pub. L. 101–512, § 318 [title I, § 107(d)(3)(A)], substituted ''most recent preceding year for which information is available'' for ''previous two years''.

Subsec. (f)(3)(J)(ii). Pub. L. 101–512, § 318 [title I, § 107(d)(3)(B)], inserted ''for the most recent preceding year for which information is available,''.

Subsec. (g). Pub. L. 101–512, § 318 [title I, § 107(e)], struck out ''not later than 180 days after December 20, 1985'' before period at end.

Subsec. (h)(2)(B). Pub. L. 101–512, § 318 [title I, § 107(f)], substituted ''Endowment for'' for ''Endowment on''.

Subsec. (k). Pub. L. 101–512, § 318 [title I, § 107(g)], inserted ''ongoing'' after ''shall, in'', substituted ''continue to develop and implement'' for ''develop'', inserted ''and public dissemination'' after ''collection'', struck out ''Not later than one year after December 20, 1985, the Chairperson shall submit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate a plan for the development and implementation of such system, including a recommendation regarding the need for any additional funds to be appropriated to develop and implement such system.'' after ''and State levels.'', and substituted ''1992, and quadrennially'' for ''1988, and biennially''.

Subsecs. (*l*), (m). Pub. L. 101–512, § 318 [title I, § 107(h)], added subsecs. (*l*) and (m) and struck out former subsec. (*l*) which related to reports and plans required by regulation or directives and the transmittal of such reports and plans to the Equal Employment Opportunity Commission.

1985—Subsec. (b). Pub. L. 99–194, § 107(1), (5), substituted ''chairperson'' for ''chairman'' in par. (1), and in par. (2), substituted ''Chairperson'' for ''Chairman'' and ''the Chairperson's'' for ''his'' wherever appearing.

Subsec. (c). Pub. L. 99–194, § 107(2), (5), substituted ''Chairperson'' for ''Chairman'' wherever appearing, substituted ''workshops'' for ''workships'' in cl. (3), added cls. (4) and (5) and redesignated existing cls. (4) to (7) as (6) to (9), respectively, substituted ''clause (8)'' for ''clause (6)'' in second sentence, and inserted at end ''In selecting individuals and groups of exceptional talent as recipients of financial assistance to be provided under this subsection, the Chairperson shall give particular regard to scholars, and educational and cultural institutions, that have traditionally been underrepresented.''

Subsec. (d). Pub. L. 99–194, § 107(5), substituted ''Chairperson'' for ''Chairman''.

Subsec. (f). Pub. L. 99–194, § 107(3), (5), substituted ''Chairperson'' for ''Chairman'' wherever appearing; in par. (2)(A) substituted ''December 20, 1985'' for ''December 4, 1980'', inserted ''officer'' after ''chief executive'' wherever appearing in cl. (ii), struck out ''and'' at end of cl. (v), substituted '', including a description of the progress made toward achieving the goals of the State plan;'' for the period at end of cl. (vi), and added cls. (vii) and (viii) and sentence providing that no application may be approved unless the accompanying plan satisfies the requirements specified in this subsection; in par. (2)(B)(i) substituted ''six'' and ''25'' for ''four'' and ''20'', respectively; and in par. (3) struck out ''and'' at end of cl. (G), substituted '', including a description of the progress made toward achieving the goals of the plan;'' for the period at end of cl. (H), and added cls. (I) and (J) and sentence providing that no application may be approved unless the accompanying plan satisfies the requirements specified in this subsection.

Subsec. (g). Pub. L. 99–194, § 107(4), substituted ''The Secretary of Labor shall prescribe standards, regulations, and procedures necessary to carry out this subsection not later than 180 days after December 20, 1985'' for ''The Secretary of Labor shall have the authority to prescribe standards, regulations, and procedures as he may deem necessary or appropriate to carry out the provisions of this subsection''.

Subsecs. (h)(1), (2)(B), (3), (i). Pub. L. 99–194, § 107(5), substituted ''Chairperson'' for ''Chairman'' wherever appearing.

Subsecs. (j) to (*l*). Pub. L. 99–194, § 107(6), added subsecs. (j) to (*l*).

1980—Subsec. (c). Pub. L. 96–496, § 109(c), substituted ''Committee on Labor and Human Resources'' for ''Committee on Labor and Public Welfare'' in last sentence.

Subsec. (f)(2). Pub. L. 96–496, § 104(a)(1), substituted provisions relating to the designation of State humanities councils as State administrative agencies, requiring matching State funding and submission by States wishing to designate administrative State agencies of grant applications and accompanying administrative plans, and prescribing a grant recipient application procedure for provisions requiring entities desiring to receive financial assistance under this subsection to submit grant applications and accompanying administrative plans.

Subsec. (f)(3). Pub. L. 96–496, § 104(a)(2), substituted provisions requiring entities desiring to receive financial assistance under this subsection to submit grant applications and accompanying administrative plans for provisions relating to the appointment of grant recipient members.

Subsec. (f)(4). Pub. L. 96–496, § 104(a)(3), in provisions preceding subpar. (A), substituted ''each State and each grant recipient'' for ''each grant recipient'' and ''such States and grant recipients'' for ''such grant recipients'', in subpar. (A), substituted ''34 per centum of the amount of such excess for such'' for ''the amount of such excess which is no greater than 25 per centum of the sums available to carry out this subsection for any'' and inserted ''States and regional groups and'', in subpar. (B), substituted ''44 per centum of the amount of such excess for such fiscal year'' for ''the amount of such excess, if any, which remains after reserving in full for the Chairman the amount required under subparagraph (A)'' and ''States and grant recipients'' for ''grant recipients'' and struck out ''but in no event shall any grant recipient be allotted less than $200,000'' after ''Chairman'' and added subpar. (C).

Subsec. (f)(5)(A). Pub. L. 96–496, § 104(a)(4)(A), substituted ''The amount of each allotment to a State for

any fiscal year under this subsection shall be available to each State or grant recipient, which has a plan or application approved by the Chairman in effect on the first day of such fiscal year, to pay not more than 50 per centum of the total cost of any project or production described in paragraph (1). The amount of any'' for ''Whenever the provisions of paragraph (3)(B) of this subsection apply in any State, that part of any''.

Subsec. (f)(5)(B). Pub. L. 96–496, §104(a)(4)(B), inserted ''State agency or''.

Subsec. (f)(5)(E). Pub. L. 96–496, §104(a)(4)(C), added subpar. (E).

Subsec. (f)(7). Pub. L. 96–496, §104(a)(5), inserted ''group or'' in subpar. (A), inserted ''State agency or'' and substituted ''State plan or grant recipient application'' for ''plan'' in subpar. (B), inserted ''group or State agency or'' in subpar. (C), and inserted ''group, State agency, or'' in three places in provisions following subpar. (C).

Subsec. (f)(8). Pub. L. 96–496, §104(a)(6), substituted ''the third sentence of paragraph (4), and paragraphs (5) and (6)'' for ''paragraphs (4), (5), and (6)''.

Subsec. (g). Pub. L. 96–496, §104(b), substituted ''State agency or'' for ''State''.

Subsec. (i). Pub. L. 96–496, §104(c), added subsec. (i).

1976—Subsecs. (f), (g). Pub. L. 94–462, §§104(a), 105, added subsecs. (f) and (g).

Subsec. (h). Pub. L. 94–462, §301(b), added subsec. (h).

1973—Subsec. (c). Pub. L. 93–133, §2(a)(6), in provisions preceding cl. (1) struck out reference to the Federal Council on the Arts and the Humanities, in cl. (2) inserted proviso that loans made by the Endowment shall be made in accordance with terms and conditions approved by the Secretary of the Treasury, in cl. (6) struck out reference to section 111 of title 44, and added cl. (7) and provisions following cl. (7).

Subsec. (d). Pub. L. 93–133, §3, required the Chairman to correlate the programs of the National Endowment for the Humanities with designated State humanities agencies.

1970—Subsec. (b)(2). Pub. L. 91–346, §8(a), provided that upon expiration of his term of office the Chairman shall serve until his successor shall have been appointed and shall have qualified.

Subsec. (c)(2). Pub. L. 91–346, §8(b), announced intention of the Endowment for the Humanities to strengthen teaching potential as well as research potential and authorized the Endowment to make contracts as well as grants etc., in its efforts to accomplish its goals.

Subsec. (c)(5). Pub. L. 91–346, §8(c), announced intention to foster education in as well as public understanding and appreciation of the humanities.

1967—Subsec. (b)(1). Pub. L. 90–83 struck out provision setting the compensation of the Chairman at the level prescribed by law for the Director of the National Science Foundation.

CHANGE OF NAME

Committee on Education and Labor of House of Representatives treated as referring to Committee on Economic and Educational Opportunities of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Economic and Educational Opportunities of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Fifth Congress, Jan. 7, 1997.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–512 effective Oct. 1, 1990, see section 318 [title IV, §403(a)] of Pub. L. 101–512, set out as a note under section 951 of this title.

APPLICABILITY OF 1985 AMENDMENT

Amendment by section 107(3) of Pub. L. 99–194 not applicable with respect to plans submitted for financial assistance to be provided with funds appropriated for fiscal year 1986, see section 112 of Pub. L. 99–194, set out as a note under section 954 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Section 104(b) of Pub. L. 94–462 provided that: ''The amendment made by subsection (a) [amending this section] shall be effective with respect to fiscal year 1977 and succeeding fiscal years.''

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by section 2(a)(6) of Pub. L. 93–133 effective on and after July 1, 1973, see section 2(b) of Pub. L. 93–133, set out as a note under section 951 of this title.

CROSS REFERENCES

Compensation of Chairman of the National Endowment for the Humanities, see section 5314 of Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 952, 959, 960 of this title.

§ 956a. National Capital arts and cultural affairs; grant programs

There is hereby authorized a program to support artistic and cultural programs in the Nation's Capital to be established under the direction of the Commission of Fine Arts. Not to exceed $7,500,000 annually is authorized to provide grants for general operating support to eligible organizations located in the District of Columbia whose primary purpose is performing, exhibiting and/or presenting arts.

Eligibility for grants shall be limited to not-for-profit, non-academic institutions of demonstrated national repute and is further limited to organizations having annual income, exclusive of Federal funds, in excess of $1,000,000 for each of the three years prior to receipt of a grant. The following organizations are deemed eligible to receive grants under this section: Folger Theater, Corcoran Gallery of Art, Phillips Gallery, Arena Stage, the National Building Museum, the National Capital Children's Museum, the National Symphony Orchestra, the Washington Opera Society, and Ford's Theater.

The Chairman of the Commission of Fine Arts shall establish an application process and shall, along with the Chairman of the National Endowment for the Arts and the Chairman of the National Endowment for the Humanities determine the eligibility of applicant organizations in addition to those herein named.

Of the funds provided for grants, 70 per centum shall be equally distributed among all qualifying organizations and 30 per centum shall be distributed based on the size of an organization's total annual income, exclusive of Federal funds, compared to the combined total of the annual income, exclusive of Federal funds, of all eligible institutions. No organization shall receive a grant in excess of $500,000 in a single year.

An application process shall be established no later than March 1, 1986, and initial grants shall be awarded no later than June 1, 1986.

(Pub. L. 99–190, §101(d) [title II, §201], Dec. 19, 1985, 99 Stat. 1224, 1261; Pub. L. 99–500, §101(h) [title II, §201], Oct. 18, 1986, 100 Stat. 1783–242, 1783–281, and Pub. L. 99–591, §101(h) [title II, §201], Oct. 30, 1986, 100 Stat. 3341–242, 3341–281; Pub. L. 100–202, §101(g) [title II, §201], Dec. 22, 1987, 101 Stat. 1329–213, 1329–250; Pub. L. 101–121, title II, Oct. 23, 1989, 103 Stat. 739.)

CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

Section was not enacted as part of the National Foundation on the Arts and the Humanities Act of 1965 which comprises this subchapter.

AMENDMENTS

1989—Pub. L. 101–121 substituted ''$7,500,000'' for ''$5,000,000'' in first par.

1987—Pub. L. 100–202 substituted ''direction of the Commission of Fine Arts'' for ''direction of the National Endowment for the Humanities'' in first par. and amended third par. generally. Prior to amendment, third par. read as follows: ''The Chairman of the National Endowment for the Humanities shall establish an application process and shall, along with the Chairman of the National Endowment for the Arts and the Chairman of the Commission on Fine Arts determine the eligibility of applicant organizations in addition to those herein named.''

1986—Pub. L. 99–500 and Pub. L. 99–591 substituted ''whose primary purpose is'' for ''which are engaged primarily in'' in first par. and ''annual income, exclusive of Federal Funds,'' for ''an annual operating budget'', ''operating budget'', and ''operating budgets'' in third and fourth pars.

CROSS REFERENCES

National Capital region arts and cultural affairs grant program under the direction of the National Park Service, see section 1e of Title 16, Conservation.

§ 957. National Council on the Humanities

(a) Establishment

There is established in the National Endowment for the Humanities a National Council on the Humanities.

(b) Composition; basis for selection of members; representation of interests; recommendations of national organizations

The Council shall be composed of the Chairperson of the National Endowment for the Humanities, who shall be the Chairperson of the Council, and twenty-six other members appointed by the President, by and with the advice and consent of the Senate, from private life. Such members shall be individuals who (1) are selected from among private citizens of the United States who are recognized for their broad knowledge of, expertise in, or commitment to the humanities, and (2) have established records of distinguished service and scholarship or creativity and in a manner which will provide a comprehensive representation of the views of scholars and professional practitioners in the humanities and of the public throughout the United States. The President is requested in the making of such appointments to give consideration to such recommendations as may from time to time be submitted to him by leading national organizations concerned with the humanities. In making such appointments, the President shall give due regard to equitable representation of women, minorities, and individuals with disabilities who are involved in the humanities.

(c) Term of office; vacancies; reappointment

Each member shall hold office for a term of six years, except that (1) the members first taking office shall serve, as designated by the President, nine for terms of two years, nine for terms of four years, and eight for terms of six years, and (2) any member appointed to fill a vacancy shall serve for the remainder of the term for which such member's predecessor was appointed. No member shall be eligible for reappointment during the two-year period following the expiration of such member's term. Notwithstanding any other provisions of this subsection, a member shall serve after the expiration of such member's term until such member's successor takes office.

(d) Meetings; quorum

The Council shall meet at the call of the Chairperson but not less often than twice during each calendar year. Fourteen members of the Council shall constitute a quorum.

(e) Compensation and travel expenses

Members shall receive compensation at a rate to be fixed by the Chairperson but not to exceed the per diem equivalent of the rate authorized for grade GS–18 by section 5332 of title 5 and be allowed travel expenses including per diem in lieu of subsistence, as authorized by law (section 5703 of title 5) for persons in the Government service employed intermittently.

(f) Advisory functions: policies, programs, and procedures; review of applications for financial support; recommendations prerequisite to action of Chairperson; unilateral action by Chairperson pursuant to delegation of authority

The Council shall (1) advise the Chairperson with respect to policies, programs, and procedures for carrying out the Chairperson's functions, and (2) shall review applications for financial support and make recommendations thereon to the Chairperson. The Chairperson shall not approve or disapprove any such application until the Chairperson has received the recommendation of the Council on such application, unless the Council fails to make a recommendation thereon within a reasonable time. In the case of any application involving $30,000, or less, the Chairperson may approve or disapprove such request if such action is taken pursuant to the terms of a delegation of authority from the Council to the Chairperson, and provided that each such action by the Chairperson shall be reviewed by the Council: *Provided*, That the terms of any such delegation of authority shall not permit obligations for expenditure of funds under such delegation for any fiscal year which exceed an amount equal to 10 per centum of the sums appropriated for that fiscal year pursuant to subparagraph (B) of paragraph (1) of section 960(a) of this title.

(Pub. L. 89–209, § 8, Sept. 29, 1965, 79 Stat. 851; Pub. L. 90–348, § 4, June 18, 1968, 82 Stat. 186; Pub. L. 91–346, § 5(c), July 20, 1970, 84 Stat. 444; Pub. L. 93–133, § 2(a)(7), Oct. 19, 1973, 87 Stat. 464; Pub. L. 94–462, title I, § 103(b), Oct. 8, 1976, 90 Stat. 1971; Pub. L. 96–496, title I, § 105, Dec. 4, 1980, 94 Stat. 2587; renumbered title I, § 8, and amended Pub. L. 98–306, §§ 2, 5(b), May 31, 1984, 98 Stat. 223, 224; renumbered § 8 and amended Pub. L. 99–194, title I, §§ 101(1), 108, Dec. 20, 1985, 99 Stat. 1332, 1338.)

AMENDMENTS

1985—Subsec. (b). Pub. L. 99–194, § 108(1), substituted ''Chairperson'' for ''Chairman'' in two places, sub-

stituted ''individuals who (1) are selected from among private citizens of the United States who are recognized for their broad knowledge of, expertise in, or commitment to the humanities, and (2) have established records of'' for ''selected on the basis of'', and inserted provision that in making such appointments, the President shall give due regard to equitable representation of women, minorities, and individuals with disabilities who are involved in the humanities.

Subsec. (c). Pub. L. 99–194, § 108(2), substituted ''such member's'' for ''his'' wherever appearing.

Subsecs. (d), (e). Pub. L. 99–194, § 108(3), substituted ''Chairperson'' for ''Chairman'' wherever appearing.

Subsec. (f). Pub. L. 99–194, § 108(3), (4), substituted ''Chairperson'' for ''Chairman'' wherever appearing, ''the Chairperson's'' for ''his'', and ''until the Chairperson has received'' for ''until he has received''.

1984—Subsec. (c). Pub. L. 98–306, § 5(b), inserted ''Notwithstanding any other provisions of this subsection, a member shall serve after the expiration of his term until his successor takes office.''

1980—Subsec. (f). Pub. L. 96–496 substituted ''$30,000'' for ''$17,500''.

1976—Subsec. (b). Pub. L. 94–462 inserted '', by and with the advice and consent of the Senate,'' after ''by the President''.

1973—Subsec. (f). Pub. L. 93–133 substituted ''$17,500'' for ''$10,000'' and inserted proviso that the terms of delegation of authority shall not permit obligations for expenditure of funds under such delegation for any fiscal year which exceeds an amount equal to 10 per centum of the sums appropriated for that fiscal year.

1970—Subsec. (e). Pub. L. 91–346 set forth provisions governing compensation of persons employed for the Government service on an intermittent basis.

1968—Subsec. (f). Pub. L. 90–348 inserted provisions which authorized the Chairman, in the case of any application involving $10,000 or less, to approve or disapprove the application if such action is pursuant to the terms of a delegation of authority from the Endowment Council and such action is reviewed by the Endowment Council.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–133 effective on and after July 1, 1973, see section 2(b) of Pub. L. 93–133, set out as a note under section 951 of this title.

REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, § 101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 959 of this title.

§ 957a. Omitted

CODIFICATION

Section, Pub. L. 98–146, title II, Nov. 4, 1983, 97 Stat. 949, which directed that persons serving on National Council on the Humanities continue until their successors are qualified for office, was omitted as superseded. See section 957(c) of this title, as amended by Pub. L. 98–306. Similar provisions were contained in Pub. L. 97–394, title II, Dec. 30, 1982, 96 Stat. 1994.

§ 958. Federal Council on the Arts and the Humanities

(a) Establishment

There is established within the Foundation a Federal Council on the Arts and the Humanities.

(b) Composition; presiding officer; changes in membership to meet changes in programs or executive branch organization

The Council shall be composed of the Chairperson of the National Endowment for the Arts, the Chairperson of the National Endowment for the Humanities, the Director of the Institute of Museum Services, the Secretary of Education, the Secretary of the Smithsonian Institution, the Director of the National Science Foundation, the Librarian of Congress, the Director of the National Gallery of Art, the Chairman of the Commission of Fine Arts, the Archivist of the United States, the Commissioner, Public Buildings Service, General Services Administration, the Assistant Secretary for Aging, a member designated by the Director of the United States Information Agency and a member designated by the Secretary of the Interior, a member designated by the Chairman of the Senate Commission on Art and Antiquities, and a member designated by the Speaker of the House. The President shall designate the presiding officer of the Council from among the members. The President is authorized to change the membership of the Council from time to time as the President deems necessary to meet changes in Federal programs or executive branch organization.

(c) Functions

The Council shall—

(1) advise and consult with the Chairperson of the National Endowment for the Arts and the Chairperson of the National Endowment for the Humanities on major problems arising in carrying out the purposes of the Foundation;

(2) advise and consult with the National Museum Services Board and with the Director of the Institute of Museum Services on major problems arising in carrying out the purposes of such Institute;

(3) coordinate, by advice and consultation, so far as is practicable, the policies and operations of the National Endowment for the Arts, the National Endowment for the Humanities, and the Institute of Museum Services, including joint support of activities, as appropriate;

(4) promote coordination between the programs and activities of the Foundation and related programs and activities of other Federal agencies;

(5) plan and coordinate appropriate participation (including productions and projects) in major and historic national events;

(6) undertake studies and make reports which address the state of the arts and humanities, particularly with respect to their economic needs and problems; and

(7) encourage an ongoing dialogue in support of the arts and the humanities among Federal agencies.

(Pub. L. 89–209, § 9, Sept. 29, 1965, 79 Stat. 851; Pub. L. 91–346, § 9, July 20, 1970, 84 Stat. 446; Pub. L. 93–133, § 2(a)(8), Oct. 19, 1973, 87 Stat. 464; Pub. L. 94–462, title II, § 208, Oct. 8, 1976, 90 Stat. 1977; 1977 Reorg. Plan No. 2, § 7(a)(12), 42 F.R. 62461, 91 Stat. 1637; Pub. L. 96–496, title I, §§ 106, 109(d), Dec. 4, 1980, 94 Stat. 2587, 2591; Pub. L. 97–241, title III, § 303(b), Aug. 24, 1982, 96 Stat. 291; re-

numbered title I, § 9, and amended Pub. L. 98–306, §§ 2, 6, May 31, 1984, 98 Stat. 223, 224; renumbered § 9 and amended Pub. L. 99–194, title I, §§ 101(1), 109, Dec. 20, 1985, 99 Stat. 1332, 1339; Pub. L. 101–512, title III, § 318 [title I, § 108], Nov. 5, 1990, 104 Stat. 1960, 1970; Pub. L. 103–171, § 3(b)(2), Dec. 2, 1993, 107 Stat. 1991.)

AMENDMENTS

1993—Subsec. (b). Pub. L. 103–171 substituted ''Assistant Secretary for Aging'' for ''Commissioner on Aging''.

1990—Subsec. (c)(7). Pub. L. 101–512, § 318 [title I, § 108(a)], added par. (7).

Subsec. (d). Pub. L. 101–512, § 318 [title I, § 108(b)], struck out subsec. (d) which related to studies on Federal support to museums and the impact of Institute of Museum Services and of conservation and preservation practices.

1985—Subsec. (b). Pub. L. 99–194, § 109(1), substituted ''Chairperson'' for ''Chairman'' in two places in first sentence, ''presiding officer'' for ''Chairman'' in second sentence, and ''the President'' for ''he'' in last sentence.

Subsec. (c)(1). Pub. L. 99–194, § 109(2), substituted ''Chairperson'' for ''Chairman'' wherever appearing.

Subsec. (d). Pub. L. 99–194, § 109(3), added subsec. (d). Former subsec. (d), relating to a study and report to the President and the Congress on artistic employment opportunities, was struck out.

Subsec. (e). Pub. L. 99–194, § 109(3), struck out subsec. (e) which provided for a study and report to the President and the Congress on arts and artifacts indemnification.

1984—Subsec. (b). Pub. L. 98–306, § 6(a), inserted ''the Director of the Institute of Museum Services,''.

Subsec. (c)(4). Pub. L. 98–306, § 6(b), struck out ''and the Institute of Museum Services'' after ''Foundation''.

1980—Subsec. (b). Pub. L. 96–496, §§ 106(a), 109(d), inserted ''the Commissioner on Aging,'' and substituted ''Secretary of Education'' for ''United States Commissioner of Education''.

Subsec. (c)(6). Pub. L. 96–496, § 106(b), added par. (6).

Subsecs. (d), (e). Pub. L. 96–496, § 106(c), added subsecs. (d) and (e).

1976—Subsec. (c)(2), (3). Pub. L. 94–462, § 208(1), (2), added par. (2), redesignated former par. (2) as (3), and as so redesignated inserted ''and the Institute of Museum Services,'' after ''Humanities,''. Former par. (3) redesignated (4).

Subsec. (c)(4), (5). Pub. L. 94–462, § 208(1), (3), redesignated former par. (3) as (4), inserted ''and the Institute of Museum Services'' after ''Foundation'', and redesignated former par. (4) as (5).

1973—Subsec. (b). Pub. L. 93–133 included the Commissioner, Public Buildings Service, General Service Administration, a member designated by the Secretary of the Interior, a member designated by the Chairman of the Senate Commission on Art and Antiquities, and a member designated by the Speaker of the House, as members of the Federal Council on the Arts and Humanities.

1970—Subsec. (b). Pub. L. 91–346 included the Archivist of the United States as a member of the Federal Council on the Arts and Humanities.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–512 effective Oct. 1, 1990, see section 318 [title IV, § 403(a)] of Pub. L. 101–512, set out as a note under section 951 of this title.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–133 effective on and after July 1, 1973, see section 2(b) of Pub. L. 93–133, set out a a note under section 951 of this title.

TRANSFER OF FUNCTIONS

''Director of the United States Information Agency'' substituted in text for ''Director of the International Communication Agency'' in subsec. (b), pursuant to section 303(b) of Pub. L. 97–241, title III, Aug. 24, 1982, 96 Stat. 291, set out as a note under section 1461 of Title 22, Foreign Relations and Intercourse.

Previously, ''Director of the International Communication Agency'' was substituted for ''Secretary of State'' in subsec. (b), pursuant to Reorg. Plan No. 2 of 1977, § 7(a)(12), 42 F.R. 62461, 91 Stat. 1637, set out in the Appendix to Title 5, Government Organization and Employees, effective on or before July 1, 1978, at such time as specified by the President, which transferred all functions vested in the Secretary of State under subsec. (b) of this section to the Director of the International Communication Agency.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 971 of this title.

§ 959. Administrative provisions

(a) General authority of Chairpersons

In addition to any authorities vested in them by other provisions of this subchapter, the Chairperson of the National Endowment for the Arts and the Chairperson of the National Endowment for the Humanities, in carrying out their respective functions, shall each have authority—

(1) to prescribe such regulations as the Chairperson deems necessary governing the manner in which the Chairperson's functions shall be carried out;

(2) in the discretion of the Chairperson of an Endowment, after receiving the recommendation of the National Council of that Endowment, to receive money and other property donated, bequeathed, or devised to that Endowment with or without a condition or restriction, including a condition that the Chairperson use other funds of that Endowment for the purposes of the gift, except that a Chairperson may receive a gift without a recommendation from the Council to provide support for any application or project which can be approved without Council recommendation under the provisions of sections 955(f) and 957(f) of this title, and may receive a gift of $15,000, or less, without Council recommendation in the event the Council fails to provide such recommendation within a reasonable period of time, and to use, sell, or otherwise dispose of such property for the purpose of carrying out sections 954(c) and 956(c) of this title;

(3) to appoint employees, subject to the civil service laws, as necessary to carry out the Chairperson's functions, define their duties, and supervise and direct their activities;

(4) to utilize experts and consultants, including panels of experts, who may be employed as authorized by section 3109 of title 5;

(5) to accept and utilize the services of voluntary and uncompensated personnel and reimburse them for travel expenses, including per diem, as authorized by section 5703 of title 5 for persons in the Government service employed without compensation;

(6) to make advance, progress, and other payments without regard to section 3324 of title 31;

(7) to rent office space in the District of Columbia; and

(8) to make other necessary expenditures.

(b) Rules for distribution of donations, bequests, and devises; gifts with or without conditions; transfers for tax purposes

(1) In any case in which any money or other property is donated, bequeathed, or devised to the Foundation without designation of the Endowment for the benefit of which such property is intended, and without condition or restriction other than that it be used for the purposes of the Foundation, such property shall be deemed to have been donated, bequeathed, or devised in equal shares to each Endowment and each Chairperson of an Endowment shall have authority to receive such property.

(2) In any case in which any money or other property is donated, bequeathed, or devised to the Foundation with a condition or restriction, such property shall be deemed to have been donated, bequeathed, or devised to that Endowment whose function it is to carry out the purpose or purposes described or referred to by the terms of such condition or restriction, and each Chairperson of an Endowment shall have authority to receive such property.

(3) For the purposes of the preceding sentence, if one or more of the purposes of such a condition or restriction is covered by the functions of both Endowments, or if some of the purposes of such a condition or restriction are covered by the functions of one Endowment and other of the purposes of such a condition or restriction are covered by the functions of the other Endowment, the Federal Council on the Arts and the Humanities shall determine an equitable manner for distribution between each of the Endowments of the property so donated, bequeathed, or devised.

(4) For the purposes of the income tax, gift tax, and estate tax laws of the United States, any money or other property donated, bequeathed, or devised to the Foundation or one of its Endowments and received by the Chairperson of an Endowment pursuant to authority derived under this subsection shall be deemed to have been donated, bequeathed, or devised to or for the use of the United States.

(c) Advisory panels; membership; procedures

The Chairperson of the National Endowment for the Arts shall utilize advisory panels to review applications, and to make recommendations to the National Council on the Arts in all cases except cases in which the Chairperson exercises authority delegated under section 955(f) of this title. When reviewing applications, such panels shall recommend applications for projects, productions, and workshops solely on the basis of artistic excellence and artistic merit. The Chairperson shall issue regulations and establish procedures—

(1) to ensure that all panels are composed, to the extent practicable, of individuals reflecting a wide geographic, ethnic, and minority representation as well as individuals reflecting diverse artistic and cultural points of view;

(2) to ensure that all panels include representation of lay individuals who are knowledgeable about the arts but who are not engaged in the arts as a profession and are not members of either artists' organizations or arts organizations;

(3) to ensure that, when feasible, the procedures used by panels to carry out their responsibilities are standardized;

(4) to require panels—

(A) to create written records summarizing—

(i) all meetings and discussions of such panel; and

(ii) the recommendations made by such panel to the Council; and

(B) to make such records available to the public in a manner that protects the privacy of individual applicants and panel members;

(5) to require, when necessary and feasible, the use of site visitations to view the work of the applicant and deliver a written report on the work being reviewed, in order to assist panelists in making their recommendations; and

(6) to require that the membership of each panel change substantially from year to year and to provide that each individual is ineligible to serve on a panel for more than 3 consecutive years.

In making appointments to panels, the Chairperson shall ensure that an individual who has a pending application for financial assistance under this subchapter, or who is an employee or agent of an organization with a pending application, does not serve as a member of any panel before which such application is pending. The prohibition described in the preceding sentence shall commence with respect to such individual beginning on the date such application is submitted and shall continue for so long as such application is pending.

(d) Endowment activities reports

The Chairperson of the National Endowment for the Arts and the Chairperson of the National Endowment for the Humanities shall each submit an annual report to the President for transmittal to the Congress on or before the 15th day of April of each year. The report shall summarize the activities of the Endowment for the preceding year, and may include such recommendations as the Chairperson deems appropriate.

(e) Council activities reports

The National Council on the Arts and the National Council on the Humanities, respectively, may each submit an annual report to the President for transmittal to the Congress on or before the 15th day of April of each year setting forth a summary of its activities during the preceding year or its recommendations for any measures which it considers necessary or desirable.

(f) Post-award evaluation of assisted projects, productions, and programs; reports; extension of time for compliance; failure to satisfy purposes of assistance

(1) The Chairperson of the National Endowment for the Arts and the Chairperson of the National Endowment for the Humanities shall conduct a post-award evaluation of projects, productions, and programs for which financial assistance is provided by their respective Endowments under sections 954(c) and 956(c) of this title. Such evaluation may include an audit to determine the accuracy of the reports required

to be submitted by recipients under clauses (i) and (ii) of paragraph (2)(A). As a condition of receiving such financial assistance, a recipient shall comply with the requirements specified in paragraph (2) that are applicable to the project, production, or program for which such financial assistance is received.

(2)(A) The recipient of financial assistance provided by either of the Endowments shall submit to the Chairperson of the Endowment involved—

(i) a financial report containing such information as the Chairperson deems necessary to ensure that such financial assistance is expended in accordance with the terms and conditions under which it is provided;

(ii) a report describing the project, production, or program carried out with such financial assistance; and

(iii) if practicable, as determined by the Chairperson, a copy of such project, production, or program.

(B) Such recipient shall comply with the requirements of this paragraph not later than 90 days after the end of the period for which such financial assistance is provided. The Chairperson may extend the 90-day period only if the recipient shows good cause why such an extension should be granted.

(3) If such recipient substantially fails to satisfy the purposes for which such financial assistance is provided and the criteria specified in subsection (c)(3)(A)[1] of this section, as determined by the Chairperson of the Endowment that provided such financial assistance, then such Chairperson may—

(A) for purposes of determining whether to provide any subsequent financial assistance, take into consideration the results of the post-award evaluation conducted under this subsection;

(B) prohibit the recipient of such financial assistance to use the name of, or in any way associate such project, production, or program with the Endowment that provided such financial assistance; and

(C) if such project, production, or program is published, require that the publication contain the following statement: ''The opinions, findings, conclusions, and recommendations expressed herein do not reflect the views of the National Endowment for the Arts or the National Endowment for the Humanities.''

(Pub. L. 89–209, §10, Sept. 29, 1965, 79 Stat. 852; Pub. L. 90–348, §5, June 18, 1968, 82 Stat. 186; Pub. L. 91–346, §§5(a)(3), 10, 11, July 20, 1970, 84 Stat. 443, 446; Pub. L. 93–133, §2(a)(9), (10), Oct. 19, 1973, 87 Stat. 465; Pub. L. 96–496, title I, §107, Dec. 4, 1980, 94 Stat. 2588; renumbered title I, §10, Pub. L. 98–306, §2, May 31, 1984, 98 Stat. 223; renumbered §10 and amended Pub. L. 99–194, title I, §§101(1), 110, Dec. 20, 1985, 99 Stat. 1332, 1339; Pub. L. 101–512, title III, §318 [title I, §109], Nov. 5, 1990, 104 Stat. 1960, 1970.)

REFERENCES IN TEXT

The civil service laws, referred to in subsec. (a)(3), are set forth in Title 5, Government Organization and Employees. See, particularly, section 3301 et seq. of Title 5.

The income tax, gift tax, and estate tax laws of the United States, referred to in subsec. (b)(4), are classified generally to Title 26, Internal Revenue Code.

CODIFICATION

In subsec. (a)(5), reference to ''section 5703 of title 5'' substituted for ''law (5 U.S.C. 73b–2)'' on authority of Pub. L. 89–554, §7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

AMENDMENTS

1990—Subsec. (a). Pub. L. 101–512, §318 [title I, §109(5)(A)], redesignated concluding provisions of subsec. (a) as subsec. (b).

Subsec. (a)(4). Pub. L. 101–512, §318 [title I, §109(1)(A)], struck out ''from time to time, as appropriate,'' after ''to utilize''.

Subsec. (a)(6). Pub. L. 101–512, §318 [title I, §109(1)(B)], substituted ''section 3324 of title 31'' for ''the provisions of section 3648 of the Revised Statutes (31 U.S.C. 529)''.

Subsec. (b). Pub. L. 101–512, §318 [title I, §109(9)], which directed amendment of this section by striking the sixth sentence and all that follows through ''pending.'' was executed by striking all that follows through ''pending.'' the second place it appeared to reflect the probable intent of Congress. The provisions struck out read as follows: ''In selecting panels of experts under clause (4) to review and make recommendations with respect to the approval of applications for financial assistance under this subchapter, each Chairperson shall appoint individuals who have exhibited expertise and leadership in the field under review, who broadly represent diverse characteristics in terms of aesthetic or humanistic perspective, and geographical factors, and who broadly represent cultural diversity. Each Chairperson shall assure that the membership of panels changes substantially from year to year, and that no more than 20 per centum of the annual appointments shall be for service beyond the limit of three consecutive years on a subpanel. In making appointments, each Chairperson shall give due regard to the need for experienced as well as new members on each panel. Panels of experts appointed to review or make recommendations with respect to the approval of applications or projects for funding by the National Endowment for the Arts shall, when reviewing such applications and projects, recommend for funding only applications and projects that in the context in which they are presented, in the experts' view, foster excellence, are reflective of exceptional talent, and have significant literary, scholarly, cultural, or artistic merit. Whenever there is pending an application submitted by an individual for financial assistance under section 954(c) of this title, such individual may not serve as a member of any subpanel (or panel where a subpanel does not exist) before which such application is pending. The prohibition described in the previous sentence shall commence on the date the application is submitted and continue for so long as the application is pending.''

Pub. L. 101–512, §318 [title I, §109(8)], which directed amendment of the fifth sentence of this section by making the substitution for ''For the purpose'', was executed by substituting ''(4) For the purposes'' for ''For the purposes'' to reflect the probable intent of Congress.

Pub. L. 101–512, §318 [title I, §109(4)–(7)], redesignated concluding provisions of subsec. (a) as subsec. (b), inserted pars. (1), (2), and (3) designations, and struck out ''(A)'' before ''without designation'' and ''(B)'' before ''without condition''. Former subsec. (b) redesignated (d).

Subsecs. (c) to (e). Pub. L. 101–512, §318 [title I, §109(3), (4), (9)], added subsec. (c), redesignated former subsecs. (b) and (c) as (d) and (e), respectively, and struck out former subsec. (e) which related to studies and reports on the state and quality of arts and human-

[1] So in original. Subsec. (c)(3) of this section does not contain a subpar. (A).

ities education in public elementary and secondary schools. Former subsec. (d) redesignated (f).

Subsec. (f). Pub. L. 101–512, §318 [title I, §109(2)–(4)], redesignated subsec. (d) as (f) and, in par. (3), substituted ''subsection (c)(3)(A) of this section'' for ''the last sentence of subsection (a) of this section'', and struck out former subsec. (f) which related to report to Congress on selection of experts for appointment to panels, and procedures for recommendations on financial assistance applications.

1985—Subsec. (a). Pub. L. 99–194, §110(1), substituted ''Chairperson'' for ''Chairman'' in two places in provisions preceding cl. (1); in cl. (1) substituted ''the chairperson'' and ''the chairperson's'' for ''he'' and ''his'', respectively; in cl. (2) substituted ''Chairperson'' for ''Chairman'' wherever appearing; in cl. (3) substituted ''the Chairperson's'' for ''his''; in cl. (4) substituted ''section 3109 of title 5'' for ''section 15 of the Administrative Expenses Act of 1946, as amended (5 U.S.C. 55a)'' and struck out proviso that any advisory panel appointed to review or make recommendations with respect to the approval of applications or projects for funding was to have broad geographic and culturally diverse representation; and in provisions following par. (8) substituted ''Chairperson'' for ''Chairman'' wherever appearing and inserted provisions relating to the selection of a panel of experts to review financial assistance applications and the considerations to be made in the review of such applications.

Subsec. (b). Pub. L. 99–194, §110(2), substituted ''Chairperson'' for ''Chairman'' wherever appearing.

Subsecs. (d) to (f). Pub. L. 99–194, §110(3), added subsecs. (d) to (f). Former subsec. (d), relating to studies and reports to the President and the Congress on endowment uses of donations, bequests, and devises, was struck out.

1980—Subsec. (a)(4). Pub. L. 96–496, §107(a), inserted ''and culturally diverse''.

Subsecs. (b), (c). Pub. L. 96–496, §107(b), (c), substituted ''April'' for ''January''.

Subsec. (d). Pub. L. 96–496, §107(d), added subsec. (d).

1973—Subsec. (a)(2). Pub. L. 93–133, §2(a)(9), added exception that a Chairman may receive a gift without a recommendation from the Council to provide support for any application or project which can be approved without Council recommendation under the provisions of sections 955(f) and 957(f) of this title, and may receive a gift of $15,000 or less without Council recommendation when the Council fails to recommend within a reasonable period of time.

Subsec. (a)(4). Pub. L. 93–133, §2(a)(10), inserted proviso that any advisory panel appointed to review or make recommendations with respect to the approval of applications or projects for funding shall have broad geographic representation.

1970—Subsec. (a)(2). Pub. L. 91–346, §5(a)(3), struck out reference to the functions transferred by section 955(a) of this title.

Subsec. (a)(3) to (5). Pub. L. 91–346, §11(1)–(3), inserted ''to'' at beginning of cls. (3) to (5).

Subsec. (a)(6) to (8). Pub. L. 91–346, §§10, 11(4), (5), redesignated cls. (6) and (7), and all references thereto, as cls. (7) and (8), added new cl. (6), and inserted ''to'' at beginning of cls. (7) and (8).

1968—Subsec. (a). Pub. L. 90–348 combined provisions of cls. (2) and (3) into cl. (2), and, in cl. (2) as thus combined, extended the area for the exercise of discretion of the Chairman of an Endowment, after receiving the recommendation of the National Council of that Endowment, in the disposition of gifts to include both gifts made with condition and gifts made without condition, redesignated cls. (4) to (8) as (3) to (7), and in provisions following cl. (7), struck out references to cls. (2) and (3) wherever appearing.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–512 effective Oct. 1, 1990, see section 318 [title IV, §403(a)] of Pub. L. 101–512, set out as a note under section 951 of this title.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–133 effective on and after July 1, 1973, see section 2(b) of Pub. L. 93–133, set out as a note under section 951 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by section 5(a)(3) of Pub. L. 91–346 effective after June 30, 1970, see section 5(d)(3)(A) of Pub. L. 91–346, set out as a note under section 955 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 954, 955, 956, 960 of this title.

§ 960. Authorization of appropriations

(a) Contracts, grants-in-aid, and loans to groups, individuals, public agencies, and private nonprofit organizations; availability of appropriations; guidelines

(1)(A)(i) For the purpose of carrying out section 954(c) of this title, there are authorized to be appropriated to the National Endowment for the Arts $125,800,000 for fiscal year 1991 and such sums as may be necessary for fiscal years 1992 and 1993.

(ii) For fiscal years—

(I) 1991 and 1992 not less than 25 percent of the amount appropriated for the respective fiscal year; and

(II) 1993 not less than 27.5 percent of the amount appropriated for such fiscal year;

shall be for carrying out section 954(g) of this title.

(iii) For fiscal years—

(I) 1991 and 1992 not less than 5 percent of the amount appropriated for the respective fiscal year; and

(II) 1993 not less than 7.5 percent of the amount appropriated for such fiscal year;

shall be for carrying out programs under section 954(p)(2) of this title (relating to programs to expand public access to the arts in rural and innercity areas). Not less than 50 percent of the funds required by this clause to be used for carrying out such programs shall be used for carrying out such programs in rural areas.

(B) For the purpose of carrying out section 956(c) of this title, there are authorized to be appropriated to the National Endowment for the Humanities $119,900,000 for fiscal year 1991 and such sums as may be necessary for fiscal years 1992 and 1993. Of the sums so appropriated for any fiscal year, not less than 20 per centum shall be for carrying out section 956(f) of this title.

(2)(A) There are authorized to be appropriated for each fiscal year ending before October 1, 1993, to the National Endowment for the Arts an amount equal to the sum of—

(i) the total amounts received by such Endowment under section 959(a)(2) of this title, including the value of property donated, bequeathed, or devised to such Endowment; and

(ii) the total amounts received by the grantees of such Endowment from non-Federal sources, including the value of property donated, bequeathed, or devised to such grantees, for use in carrying out projects and other activities under paragraph (1) through paragraph (10) of section 954(c) of this title;

except that the amounts so appropriated to the National Endowment for the Arts shall not ex-

ceed $13,000,000 for fiscal year 1991 and such sums as may be necessary for fiscal years 1992 and 1993.

(B) There are authorized to be appropriated for each fiscal year ending before October 1, 1993, to the National Endowment for the Humanities an amount equal to the sum of—

(i) the total amounts received by such Endowment under section 959(a)(2) of this title, including the value of property donated, bequeathed, or devised to such Endowment; and

(ii) the total amounts received by the grantees and subgrantees of such Endowment from non-Federal sources, including the value of property donated, bequeathed, or devised to such grantees and subgrantees, for use in carrying out activities under paragraph (1) through paragraph (10) of section 956(c) of this title;

except that the amounts so appropriated to the National Endowment for the Humanities shall not exceed $12,000,000 for fiscal year 1991 and such sums as may be necessary for fiscal years 1992 and 1993.

(3)(A) There are authorized to be appropriated for each fiscal year ending before October 1, 1993, to the National Endowment for the Arts an amount equal to the sum of—

(i) the total amounts received by such Endowment, including the value of property donated, bequeathed, or devised to such Endowment, for the purposes set forth in section 954(p)(1) of this title pursuant to the authority of section 959(a)(2) of this title; and

(ii) the total amounts received by the grantees of such Endowment from non-Federal sources, including the value of property donated, bequeathed, or devised to such grantees, for use in carrying out activities under subparagraph (A) through subparagraph (F) of section 954(p)(1) of this title;

except that the amounts so appropriated to such Endowment shall not exceed $15,000,000 for fiscal year 1991 and such sums as may be necessary for fiscal years 1992 and 1993.

(B) There are authorized to be appropriated for each fiscal year ending before October 1, 1993, to the National Endowment for the Humanities an amount equal to the sum of—

(i) the total amounts received by such Endowment, including the value of property donated, bequeathed, or devised to such Endowment, for the purposes set forth in section 956(h)(1) of this title pursuant to the authority of section 959(a)(2) of this title; and

(ii) the total amounts received by the grantees of such Endowment from non-Federal sources, including the value of property donated, bequeathed, or devised to such grantees, for use in carrying out activities under subparagraph (A) through subparagraph (F) of section 956(h)(1) of this title;

except that the amounts so appropriated to such Endowment shall not exceed $15,150,000 for fiscal year 1991 and such sums as may be necessary for fiscal years 1992 and 1993.

(C) Sums appropriated pursuant to subparagraph (A) and subparagraph (B) for any fiscal year shall remain available for obligation and expenditure until expended.

(4) The Chairperson of the National Endowment for the Arts and the Chairperson of the National Endowment for the Humanities, as the case may be, shall issue guidelines to implement the provisions of paragraph (2) and paragraph (3). Such guidelines shall be consistent with the requirements of section 954(e), section 954(*l*)(2),[1] section 956(f), and section 956(h)(2) of this title, as the case may be, regarding total Federal support of activities, programs, projects, or productions carried out under authority of this subchapter.

(b) Availability of appropriated unexpended funds; notice of availability of funds by advance appropriation

(1) Sums appropriated pursuant to subsection (a) of this section for any fiscal year shall remain available for obligation and expenditure until expended.

(2) In order to afford adequate notice to interested persons of available assistance under this subchapter, appropriations authorized under subsection (a) of this section are authorized to be included in the measure making appropriations for the fiscal year preceding the fiscal year for which such appropriations become available for obligation.

(c) Administrative appropriations

(1) There are authorized to be appropriated to the National Endowment for the Arts $21,200,000''[2] for fiscal year 1991 and such sums as may be necessary for fiscal years 1992 and 1993, to administer the provisions of this subchapter, or any other program for which the Chairperson of the National Endowment for the Arts is responsible, including not to exceed $50,000 for each such fiscal year for official reception and representation expenses. The total amount which may be obligated or expended for such expenses for fiscal year 1995 through the use of appropriated funds or any other source of funds shall not exceed $100,000.

(2) There are authorized to be appropriated to the National Endowment for the Humanities $17,950,000 for fiscal year 1991 and such sums as may be necessary for fiscal years 1992 and 1993, to administer the provisions of this subchapter, or any other program for which the Chairperson of the National Endowment for the Humanities is responsible, including not to exceed $50,000 for each such fiscal year for official reception and representation expenses. The total amount which may be obligated or expended for such expenses for fiscal year 1995 through the use of appropriated funds or any other source of funds shall not exceed $100,000.

(d) Total amount of appropriations

(1) The total amount of appropriations to carry out the activities of the National Endowment for the Arts shall not exceed—

(A) $167,060,000 for fiscal year 1986,

(B) $170,206,400 for fiscal year 1987, and

(C) $177,014,656 for fiscal year 1988.

(2) The total amount of appropriations to carry out the activities for the National Endowment for the Humanities shall not exceed—

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[1] See References in Text note below.

[2] So in original. The closing quotation marks probably should not appear.

(A) $139,878,000 for fiscal year 1986,
(B) $145,057,120 for fiscal year 1987, and
(C) $150,859,405 for fiscal year 1988.

(e) Prohibition of grants to production workshops using admission proceeds for unauthorized purposes

No grant shall be made to a workshop (other than a workshop conducted by a school, college, or university) for a production for which a direct or indirect admission charge is asked if the proceeds, after deducting reasonable costs, are used for purposes other than assisting the grantee to develop high standards of artistic excellence or encourage greater appreciation of the arts and humanities by our citizens.

(f) Availability of appropriations for arts education

(1) Subject to subparagraph (2), in any fiscal year in which the aggregate amount appropriated to the National Endowment for the Arts exceeds $175,000,000, 50 percent of such excess shall be available to carry out section 954a of this title.

(2) In each fiscal year, the amount made available to carry out section 954a of this title shall not exceed $40,000,000, in the aggregate.

(3) Funds made available to carry out section 954a of this title shall remain available until expended.

(Pub. L. 89–209, § 11, Sept. 29, 1965, 79 Stat. 853; Pub. L. 90–348, § 6, June 18, 1968, 82 Stat. 187; Pub. L. 91–346, §§ 5(a)(4), 12, July 20, 1970, 84 Stat. 444, 446; Pub. L. 93–133, § 2(a)(11), Oct. 19, 1973, 87 Stat. 465; Pub. L. 94–462, title I, § 106(a), title III, § 302, title IV, § 401(b), Oct. 8, 1976, 90 Stat. 1974, 1980, 1981; Pub. L. 94–555, title II, § 219(b), Oct. 19, 1976, 90 Stat. 2629; Pub. L. 96–496, title I, § 108, Dec. 4, 1980, 94 Stat. 2589; renumbered title I, § 11, and amended Pub. L. 98–306, §§ 2, 7, May 31, 1984, 98 Stat. 223, 224; renumbered § 11 and amended Pub. L. 99–194, title I, §§ 101(1), 111, Dec. 20, 1985, 99 Stat. 1332, 1342; Pub. L. 99–362, § 1, July 9, 1986, 100 Stat. 769; Pub. L. 101–512, title III, § 318 [title I, §§ 103(i)(2), 110], Nov. 5, 1990, 104 Stat. 1960, 1966, 1972; Pub. L. 103–382, title III, § 371, Oct. 20, 1994, 108 Stat. 3977.)

REFERENCES IN TEXT

Section 954(*l*)(2) of this title, referred to in subsec. (a)(4), was redesignated section 954(p)(3) by Pub. L. 101–512, title III, § 318 [title I, §§ 103(g)(1), (h)(1), 104(2)], Nov. 5, 1990, 104 Stat. 1960, 1964, 1965, 1966.

PRIOR PROVISIONS

This subchapter, Pub. L. 89–209, Sept. 29, 1965, 79 Stat. 845, consisted originally of additional sections 12, 13, and 14, which were classified to sections 961, 962, and 963 of this title prior to repeal. For further details, see Prior Provisions notes set out under sections 961 to 963 of this title.

AMENDMENTS

1994—Subsec. (c)(1), (2). Pub. L. 103–382 substituted ''fiscal year 1995'' for ''any fiscal year'' and ''shall not exceed $100,000'' for ''shall not exceed $50,000''.

1990—Subsec. (a)(1)(A). Pub. L. 101–512, § 318 [title I, § 110(a)], designated existing provisions as cl. (i), substituted ''$125,800,000 for fiscal year 1991 and such sums as may be necessary for fiscal years 1992 and 1993'' for ''$121,678,000 for fiscal year 1986, $123,425,120 for fiscal year 1987, $128,362,125 for fiscal year 1988, and such sums as may be necessary for each of the fiscal years 1989 and 1990'', struck out at end ''Of the sums so appropriated for any fiscal year, not less than 20 per centum shall be for carrying out section 954(g) of this title.'', and added cls. (ii) and (iii).

Subsec. (a)(1)(B). Pub. L. 101–512, § 318 [title I, § 110(b)], substituted ''$119,900,000 for fiscal year 1991 and such sums as may be necessary for fiscal years 1992 and 1993'' for ''$95,207,000 for fiscal year 1986, $99,015,280 for fiscal year 1987, $102,975,891 for fiscal year 1988, and such sums as may be necessary for each of the fiscal years 1989 and 1990;''.

Subsec. (a)(1)(C). Pub. L. 101–512, § 318 [title I, § 110(c)], struck out subpar. (C) which related to appropriations for the National Endowment for the Arts for the fiscal year ending September 30, 1977.

Subsec. (a)(2)(A). Pub. L. 101–512, § 318 [title I, § 110(d)(1)], substituted ''1993'' for ''1990'' in introductory provisions and ''paragraph (10)'' for ''paragraph (8)'' in cl. (ii), and in closing provisions substituted ''$13,000,000 for fiscal year 1991 and such sums as may be necessary for fiscal years 1992 and 1993'' for ''$8,820,000 for fiscal year 1986, $9,172,800 for fiscal year 1987, $9,539,712 for fiscal year 1988, and such sums as may be necessary for each of the fiscal years 1989 and 1990''.

Subsec. (a)(2)(B). Pub. L. 101–512, § 318 [title I, § 110(d)(2)], substituted ''1993'' for ''1990'' in introductory provisions and ''paragraph (10)'' for ''paragraph (9)'' in cl. (ii), and in closing provisions substituted ''$12,000,000 for fiscal year 1991 and such sums as may be necessary for fiscal years 1992 and 1993'' for ''$10,780,000 for fiscal year 1986, $11,211,200 for fiscal year 1987, $11,659,648 for fiscal year 1988, and such sums as may be necessary for each of the fiscal years 1989 and 1990''.

Subsec. (a)(3)(A). Pub. L. 101–512, § 318 [title I, § 110(d)(3)], in introductory provisions, substituted ''1993'' for ''1990'' and in closing provisions, substituted ''$15,000,000 for fiscal year 1991 and such sums as may be necessary for fiscal years 1992 and 1993'' for ''$20,580,000 for fiscal year 1986, $21,403,200 for fiscal year 1987, $22,259,328 for fiscal year 1988, and such sums as may be necessary for each of the fiscal years 1989 and 1990''.

Subsec. (a)(3)(A)(i), (ii). Pub. L. 101–512, § 318 [title I, § 103(i)(2)(A)(i)], substituted ''954(p)(1)'' for ''954(*l*)(1)''.

Subsec. (a)(3)(B). Pub. L. 101–512, § 318 [title I, § 110(d)(4)], in introductory provisions, substituted ''1993'' for ''1990'' and in closing provisions, substituted ''$15,150,000 for fiscal year 1991 and such sums as may be necessary for fiscal years 1992 and 1993'' for ''$19,600,000 for fiscal year 1986, $20,384,000 for fiscal year 1987, $21,199,360 for fiscal year 1988, and such sums as may be necessary for each of the fiscal years 1989 and 1990''.

Subsec. (a)(3)(C). Pub. L. 101–512, § 318 [title I, § 110(e)], redesignated subpar. (D) as (C) and struck out former subpar. (C) which read as follows: ''If either Chairperson determines at the end of the ninth month of any fiscal year that funds which would otherwise be available under this paragraph to an Endowment cannot be used, the Chairperson shall transfer such funds to the other Endowment for the purposes described in section 954(p)(1) or section 956(h)(1) of this title, as may be necessary.''

Pub. L. 101–512, § 318 [title I, § 103(i)(2)(A)(ii)], substituted ''954(p)(1)'' for ''954(*l*)(1)''.

Subsec. (a)(3)(D). Pub. L. 101–512, § 318 [title I, § 110(e)(2)], redesignated subpar. (D) as (C).

Subsec. (a)(4). Pub. L. 101–512, § 318 [title I, § 103(i)(2)(B)], which directed the substitution of ''954(p)(1)'' for ''954(*l*)(1)'', could not be executed because ''954(*l*)(1)'' does not appear in text.

Subsec. (c)(1). Pub. L. 101–512, § 110(f)[(1)], substituted ''$21,200,000'' for fiscal year 1991 and such sums as may be necessary for fiscal years 1992 and 1993'' for ''$15,982,000 for fiscal year 1986, $16,205,280 for fiscal year 1987, $16,853,491 for fiscal year 1988, and such sums as may be necessary for each of the fiscal years 1989 and 1990'' and ''$50,000'' for ''$35,000'' wherever appearing.

Subsec. (c)(2). Pub. L. 101–512, § 110(f)(2), substituted ''$17,950,000 for fiscal year 1991 and such sums as may be necessary for fiscal years 1992 and 1993'' for ''$14,291,000

for fiscal year 1986, $14,446,640 for fiscal year 1987, $15,024,506 for fiscal year 1988, and such sums as may be necessary for each of the fiscal years 1989 and 1990'' and ''$50,000'' for ''$35,000'' wherever appearing.

Subsec. (f). Pub. L. 101–512, §110(g), added subsec. (f).

1986—Subsec. (a)(2)(A)(ii). Pub. L. 99–362, §1(1), substituted ''paragraph (8)'' for ''paragraph (5)''.

Subsec. (a)(2)(B)(ii). Pub. L. 99–362, §1(2), substituted ''paragraph (9)'' for ''paragraph (7)''.

1985—Subsec. (a)(1)(A). Pub. L. 99–194, §111(a)(1), substituted ''$121,678,000 for fiscal year 1986, $123,425,120 for fiscal year 1987, $128,362,125 for fiscal year 1988, and such sums as may be necessary for each of the fiscal years 1989 and 1990'' for ''$115,500,000 for fiscal year 1981, $127,000,000 for fiscal year 1982, $140,000,000 for fiscal year 1983, $128,500,000 for fiscal year 1984, and such sums as may be necessary for fiscal year 1985''.

Subsec. (a)(1)(B). Pub. L. 99–194, §111(a)(2), substituted ''$95,207,000 for fiscal year 1986, $99,015,280 for fiscal year 1987, $102,975,891 for fiscal year 1988, and such sums as may be necessary for each of the fiscal years 1989 and 1990;'' for ''$114,500,000 for fiscal year 1981, $126,000,000 for fiscal year 1982, $138,500,000 for fiscal year 1983, $127,000,000 for fiscal year 1984, and such sums as may be necessary for fiscal year 1985''.

Subsec. (a)(2)(A). Pub. L. 99–194, §111(b)(1)(A), substituted ''October 1, 1990'' for ''October 1, 1985'' and ''$8,820,000 for fiscal year 1986, $9,172,800 for fiscal year 1987, $9,539,712 for fiscal year 1988, and such sums as may be necessary for each of the fiscal years 1989 and 1990'' for ''$18,500,000 for fiscal year 1981, $18,500,000 for fiscal year 1982, $18,500,000 for fiscal year 1983, $10,000,000 for fiscal year 1984, and such sums as may be necessary for fiscal year 1985''.

Subsec. (a)(2)(B). Pub. L. 99–194, §111(b)(1)(B), substituted ''October 1, 1990'' for ''October 1, 1985'' in provisions preceding cl. (i), substituted ''grantees and subgrantees'' for ''grantees'' in two places in cl. (ii), and in provisions following cl. (ii) substituted ''$10,780,000 for fiscal year 1986, $11,211,200 for fiscal year 1987, $11,659,648 for fiscal year 1988, and such sums as may be necessary for each of the fiscal years 1989 and 1990'' for ''$12,500,000 for fiscal year 1981, $14,000,000 for fiscal year 1982, $15,000,000 for fiscal year 1983, $11,500,000 for fiscal year 1984, and such sums as may be necessary for fiscal year 1985''.

Subsec. (a)(3)(A). Pub. L. 99–194, §111(b)(2)(A), substituted ''October 1, 1990'' for ''October 1, 1985'' and ''$20,580,000 for fiscal year 1986, $21,403,200 for fiscal year 1987, $22,259,328 for fiscal year 1988, and such sums as may be necessary for each of the fiscal years 1989 and 1990'' for ''$27,000,000 for fiscal year 1981, $30,000,000 for fiscal year 1982, $32,500,000 for fiscal year 1983, $28,000,000 for fiscal year 1984, and such sums as may be necessary for fiscal year 1985''.

Subsec. (a)(3)(B). Pub. L. 99–194, §111(b)(2)(B), substituted ''October 1, 1990'' for ''October 1, 1985'' and ''$19,600,000 for fiscal year 1986, $20,384,000 for fiscal year 1987, $21,199,360 for fiscal year 1988, and such sums as may be necessary for each of the fiscal years 1989 and 1990'' for ''$30,000,000 for fiscal year 1981, $33,000,000 for fiscal year 1982, $36,000,000 for fiscal year 1983, $20,000,000 for fiscal year 1984, and such sums as may be necessary for fiscal year 1985''.

Subsec. (a)(3)(C). Pub. L. 99–194, §111(b)(2)(C), substituted ''either Chairperson'' for ''either Chairman'' and ''the Chairperson'' for ''he''.

Subsec. (a)(4). Pub. L. 99–194, §111(b)(3), substituted ''Chairperson'' for ''Chairman'' wherever appearing.

Subsec. (c)(1). Pub. L. 99–194, §111(c)(1), (3), substituted ''$15,982,000 for fiscal year 1986, $16,205,280 for fiscal year 1987, $16,853,491 for fiscal year 1988, and such sums as may be necessary for each of the fiscal years 1989 and 1990'' for ''$14,000,000 for fiscal year 1981, $15,000,000 for fiscal year 1982, $16,000,000 for fiscal year 1983, $17,000,000 for fiscal year 1984, and $18,000,000 for fiscal year 1985'' and ''Chairperson'' for ''Chairman''.

Subsec. (c)(2). Pub. L. 99–194, §111(c)(2), (3), substituted ''$14,291,000 for fiscal year 1986, $14,446,640 for fiscal year 1987, $15,024,506 for fiscal year 1988, and such sums as may be necessary for each of the fiscal years 1989 and 1990'' for ''$13,000,000 for fiscal year 1981, $14,500,000 for fiscal year 1982, $15,500,000 for fiscal year 1983, $16,500,000 for fiscal year 1984, and $17,500,000 for fiscal year 1985'' and ''Chairperson'' for ''Chairman''.

Subsecs. (d), (e). Pub. L. 99–194, §111(d), added subsec. (d), redesignated former subsec. (d) as (e), and struck out ''under this subchapter'' after ''No grant shall be made''.

1984—Subsec. (a)(1)(A). Pub. L. 98–306, §7(a)(1)(A), substituted ''$128,500,000 for fiscal year 1984, and such sums as may be necessary'' for ''$154,000,000 for fiscal year 1984, and $170,000,000''.

Subsec. (a)(1)(B). Pub. L. 98–306, §7(a)(1)(B), substituted ''$127,000,000 for fiscal year 1984, and such sums as may be necessary'' for ''$152,000,000 for fiscal year 1984, and $167,500,000''.

Subsec. (a)(2)(A). Pub. L. 98–306, §7(a)(2)(A), substituted ''$10,000,000 for fiscal year 1984, and such sums as may be necessary'' for ''$20,000,000 for fiscal year 1984, and $22,500,000''.

Subsec. (a)(2)(B). Pub. L. 98–306, §7(a)(2)(B), substituted ''$11,500,000 for fiscal year 1984, and such sums as may be necessary'' for ''$16,500,000 for fiscal year 1984, and $18,500,000''.

Subsec. (a)(3)(A). Pub. L. 98–306, §7(a)(3)(A), substituted ''$28,000,000 for fiscal year 1984, and such sums as may be necessary'' for ''$36,000,000 for fiscal year 1984, and $40,000,000''.

Subsec. (a)(3)(B). Pub. L. 98–306, §7(a)(3)(B), substituted ''$20,000,000 for fiscal year 1984, and such sums as may be necessary'' for ''$40,000,000 for fiscal year 1984, and $44,000,000''.

Subsec. (d). Pub. L. 98–306, §7(b), inserted ''under this subchapter''.

1980—Subsec. (a)(1)(A). Pub. L. 96–496, §108(a), substituted ''to the National Endowment for the Arts $115,500,000 for fiscal year 1981, $127,000,000 for fiscal year 1982, $140,000,000 for fiscal year 1983, $154,000,000 for fiscal year 1984, and $170,000,000 for fiscal year 1985'' for ''$93,500,000 for fiscal year 1977, $105,000,000 for fiscal year 1978, and such sums as may be necessary for fiscal years 1979 and 1980''.

Subsec. (a)(1)(B). Pub. L. 96–496, §108(b), substituted ''$114,500,000 for fiscal year 1981, $126,000,000 for fiscal year 1982, $138,500,000 for fiscal year 1983, $152,000,000 for fiscal year 1984, and $167,500,000 for fiscal year 1985'' for ''$93,500,000 for fiscal year 1977, $105,000,000 for fiscal year 1978, and such sums as may be necessary for fiscal years 1979 and 1980''.

Subsec. (a)(2). Pub. L. 96–496, §108(c), substituted provisions authorizing appropriations for each fiscal year ending before Oct. 1, 1985, for the National Endowments for the Arts and for the Humanities for provisions authorizing appropriations for such endowments for each fiscal year ending prior to Oct. 1, 1980.

Subsec. (a)(3)(A). Pub. L. 96–496, §108(d), substituted provisions authorizing appropriations for each fiscal year ending before Oct. 1, 1985, for the National Endowment for the Arts for provisions authorizing appropriations for such endowment for fiscal years ending before Oct. 1, 1980.

Subsec. (a)(3)(B). Pub. L. 96–496, §108(e), substituted provisions authorizing appropriations for each fiscal year ending before Oct. 1, 1985, for the National Endowment for the Humanities for provisions authorizing appropriations for such endowment for fiscal years ending before Oct. 1, 1980.

Subsec. (a)(4). Pub. L. 96–496, §108(f), substituted provisions authorizing the Chairmen of the National Endowments for the Arts and for the Humanities to issue guidelines for the implementation of the provisions of pars. (2) and (3) of this subsection for provisions authorizing and allocating appropriations for the National Endowment for the Arts for the purpose of carrying out subsec. (m) of section 954 of this title.

Subsec. (c). Pub. L. 96–496, §108(g), substituted provisions authorizing specific appropriations for administrative expenses of the National Endowments for the Arts and for the Humanities for fiscal years 1981 to 1985

for provisions authorizing appropriations for administrative expenses of such endowments of such sums as were necessary.

1976—Subsec. (a)(1)(A). Pub. L. 94–462, § 106(a)(1)(A), substituted provisions authorizing appropriations of $93,500,000 for fiscal year 1977, $105,000,000 for fiscal year 1978, and such sums as are necessary for fiscal years 1979 and 1980 to carry out section 954(c) of this title and such sums so appropriated for any fiscal year, not less than 20 per centum to carry out section 954(g) of this title for provisions authorizing appropriations of $54,000,000, $90,000,000, and $113,500,000 for the fiscal years ending June 30, 1974, June 30, 1975, and June 30, 1976, respectively, to the National Endowment for the Arts to carry out section 954(c) of this title and to carry out section 954(g) of this title $11,000,000 for the fiscal year ending June 30, 1974 and requiring that not less than 20 per centum of funds appropriated for section 954(c) of this title may be used only for purpose of section 954(g) of this title for fiscal years ending June 30, 1975 and June 30, 1976.

Subsec. (a)(1)(B). Pub. L. 94–462, § 106(a)(1)(B), substituted provisions authorizing appropriations of $93,500,000 for fiscal year 1977, $105,000,000 for fiscal year 1978, and such sums as may be necessary for fiscal years 1979 and 1980, not less than 20 per centum of such appropriated funds shall be to carry out section 956(f) of this title for provisions authorizing appropriations of $65,000,000 for the fiscal year ending June 30, 1974, $90,000,000 for the fiscal year ending June 30, 1975, and $113,500,000 for the fiscal year ending June 30, 1976.

Subsec. (a)(1)(C). Pub. L. 94–555 added subpar. (C).

Subsec. (a)(2). Pub. L. 94–462, § 106(a)(2), substituted ''October 1, 1980'' for ''July 1, 1976'' and provisions authorizing appropriations not to exceed $20,000,000 for fiscal year 1977, $25,000,000 for fiscal year 1978, and such sums as may be necessary for fiscal years 1979 and 1980 for provisions authorizing appropriations not to exceed $15,000,000 for fiscal year ending June 30, 1974, $20,000,000 for fiscal year ending June 30, 1975, and $25,000,000 for fiscal year ending June 30, 1976.

Subsec. (a)(3), (4). Pub. L. 94–462, §§ 302, 401(b), added pars. (3) and (4).

Subsec. (c). Pub. L. 94–462, § 106(a)(3), inserted reference to any program for which the Chairman of the National Endowment for the Arts or the Chairman of the National Endowment for the Humanities is responsible.

1973—Subsec. (a)(1). Pub. L. 93–133 incorporated into subpar. (A) provisions relating to the authorization of appropriation for carrying out section 954(c) of this title, substituted authorization of appropriation for fiscal years ending June 30, 1974, 1975, 1976 for such authorization for fiscal years 1969 through 1973, and inserted provisions for authorization of appropriation for carrying out section 954(g) of this title, and, in subpar. (B), incorporated provisions of former subsec. (a) relating to authorization of appropriation for carrying out section 956(c) of this title, and substituted authorization of appropriation for fiscal years ending June 30, 1974, 1975, and 1976, for such authorization for 1969 through 1973.

Subsec. (a)(2). Pub. L. 93–133 incorporated provisions of former subsec. (b) relating to matching grants and substituted new limitations for fiscal years ending June 30, 1974, 1975, and 1976 for such limitations for 1969 through 1973.

Subsec. (b)(1). Pub. L. 93–133 incorporated provisions formerly contained in subsecs. (a) and (b) relating to the availability of unexpended appropriated funds.

Subsec. (b)(2). Pub. L. 93–133 added par. (2).

1970—Subsec. (a). Pub. L. 91–346, §§ 5(a)(4), 12(a), struck out reference to the functions transferred by section 955(a) of this title, added appropriations to the National Endowment for the Arts of $12,875,000, $21,000,000, and $28,625,000 for the fiscal years ending June 30, 1971, 1972, and 1973, respectively, for the purpose of carrying out section 954(c) of this title, and $4,125,000, $5,500,000, and $6,875,000 for the fiscal years ending June 30, 1971, 1972, and 1973, respectively, for the purposes of section 954(h) of this title, and further appropriated to the National Endowment for the Humanities $17,000,000, $26,500,000, $35,500,000 for the fiscal years ending June 30, 1971, 1972, and 1973, respectively, for the purpose of carrying out section 956(c) of this title.

Subsec. (b). Pub. L. 91–346, § 12(b), placed limitation on appropriation to each Endowment based on an amount equal to the total of amounts received by each Endowment under section 959(a)(2) of this title by placing ceilings of $6,000,000, $7,000,000, and $9,000,000 on the amounts appropriated for the fiscal years ending June 30, 1971, 1972, and 1973, respectively.

1968—Subsec. (a). Pub. L. 90–348, § 6(a), substituted provisions which authorized for the enumerated purposes appropriations totaling $8,000,000 for the fiscal year ending June 30, 1969, and $9,000,000 for the fiscal year ending June 30, 1970 to both the National Endowment for the Arts and the National Endowment for the Humanities, and which authorized the Congress to appropriate funds for subsequent fiscal years for provisions which authorized for grants to groups and individuals for projects and productions, for grants for activities authorized by the Chairman of the National Endowment for the Humanities, and for the functions of the National Council on the Arts in the National Endowment for the Arts appropriations of $10,000,000 for the fiscal year ending June 30, 1966, and each of the two succeeding fiscal years, and that the funds appropriated be equally divided between the Endowments of the Foundation.

Subsec. (b). Pub. L. 90–348, § 6(b), substituted provisions authorizing appropriations not to exceed $13,500,000 for the fiscal years ending June 30, 1969, and June 30, 1970, and authorizing the Congress to appropriate funds for subsequent fiscal years for provisions authorizing appropriations for the National Endowment for the Arts not to exceed $2,250,000 for any fiscal year, and authorizing appropriations for the National Endowment for the Humanities not to exceed $5,000,000 for any fiscal year.

Subsecs. (c) to (e). Pub. L. 90–348, § 6(c), (d), struck out subsec. (c) which authorized appropriations for the National Endowment for the Arts for each fiscal year, beginning with the fiscal year beginning on July 1, 1966, of $2,750,000, and redesignated subsecs. (d) and (e) as (c) and (d), respectively.

Effective Date of 1990 Amendment

Amendment by Pub. L. 101–512 effective Oct. 1, 1990, see section 318 [title IV, § 403] of Pub. L. 101–512, set out as a note under section 951 of this title.

Effective Date of 1976 Amendments

Amendment by Pub. L. 94–555 effective Oct. 1, 1976, see section 303 of Pub. L. 94–555, set out as a note under section 702 of Title 45, Railroads.

Section 106(b) of Pub. L. 94–462 provided that: ''The amendments made by subsection (a) [amending this section] shall be effective with respect to fiscal year 1977 and succeeding fiscal years.''

Effective Date of 1973 Amendment

Amendment by Pub. L. 93–133 effective on and after July 1, 1973, see section 2(b) of Pub. L. 93–133, set out as a note under section 951 of this title.

Effective Date of 1970 Amendment

Amendment by section 5(a)(4) of Pub. L. 91–346 effective after June 30, 1970, see section 5(d)(3)(A) of Pub. L. 91–346, set out as a note under section 955 of this title.

Section Referred to in Other Sections

This section is referred to in sections 955, 956, 957 of this title.

SUBCHAPTER II—MUSEUM SERVICES

§§ 961 to 969. Omitted

CODIFICATION

The Museum Services Act (Pub. L. 94–462, title II, Oct. 8, 1976, 90 Stat. 1975, as amended), which was classified to this subchapter (§§ 961 to 963 and 964 to 969), was amended generally by Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 702], Sept. 30, 1996, 110 Stat. 3009–233, 3009–293, and transferred to chapter 72 (§ 9101 et seq.) of this title.

Section 961, Pub. L. 94–462, title II, § 202, Oct. 8, 1976, 90 Stat. 1975, related to declaration of purpose of this subchapter.

A prior section 961, Pub. L. 89–209, § 12, Sept. 29, 1965, 79 Stat. 854; Pub. L. 90–575, title V, § 501, Oct. 16, 1968, 82 Stat. 1061, related to State educational agencies' acquisition of equipment, remodeling of laboratories, and making loans to strengthen instruction in the humanities and the arts, providing in: subsec. (a) appropriations authorization; subsec. (b) reservation, allotment and reallotment of funds as provided in section 442(a) and (c) of this title; subsec. (c) State plan, submission, requirements, terms and conditions; subsec. (d) approval of State plan by Commissioner, application of section 584(b) and (c) of this title; subsec. (e) payments to States as provided in section 444 of this title; and subsec. (f) administration of loans to schools as provided in section 445 of this title, prior to repeal by Pub. L. 91–230, title VIII, § 807(b), Apr. 13, 1970, 84 Stat. 192.

Section 962, Pub. L. 94–462, title II, § 203, Oct. 8, 1976, 90 Stat. 1975; Pub. L. 96–496, title II, § 201(a), Dec. 4, 1980, 94 Stat. 2591; Pub. L. 98–306, § 8, May 31, 1984, 98 Stat. 225, related to establishment of Institute of Museum Services, within National Foundation on Arts and Humanities, consisting of National Museum Services Board and Director of Institute. See sections 9102 and 9103 of this title.

A prior section 962, Pub. L. 89–209, § 13, Sept. 29, 1965, 79 Stat. 855, provided for appropriation to Commissioner of Education of funds for grants and contracts for operation of institutes to strengthen teaching of humanities and the arts, prior to repeal by Pub. L. 93–133, § 2(a)(12), Oct. 19, 1973, 87 Stat. 465.

Section 963, Pub. L. 94–462, title II, § 204, Oct. 8, 1976, 90 Stat. 1975; Pub. L. 96–496, title II, § 201(b), Dec. 4, 1980, 94 Stat. 2592; Pub. L. 98–306, § 9, May 31, 1984, 98 Stat. 225; Pub. L. 99–194, title II, § 201, Dec. 20, 1985, 99 Stat. 1344; Pub. L. 101–512, title III, § 318 [title II, § 201], Nov. 5, 1990, 104 Stat. 1960, 1974, related to membership, meetings, and functions of National Museum Service Board, and appointment and compensation of Board members. See section 9175 of this title.

A prior section 963, Pub. L. 89–209, § 14, Sept. 29, 1965, 79 Stat. 855, requested President to make appointments within ninety days after Sept. 29, 1965, prior to repeal by Pub. L. 93–133, § 2(a)(12), Oct. 19, 1973, 87 Stat. 465.

Section 963a, Pub. L. 98–146, title II, Nov. 4, 1983, 97 Stat. 949, which directed that persons serving on Museum Services Board continue until their successors are qualified for office, was omitted as superseded by former section 963(b) of this title as amended by Pub. L. 98–306. Similar provisions were contained in Pub. L. 97–394, title II, Dec. 30, 1982, 96 Stat. 1994.

Section 964, Pub. L. 94–462, title II, § 205, Oct. 8, 1976, 90 Stat. 1976; Pub. L. 96–496, title II, § 201(c), Dec. 4, 1980, 94 Stat. 2592; Pub. L. 98–306, § 10, May 31, 1984, 98 Stat. 225; Pub. L. 99–194, title II, § 202, Dec. 20, 1985, 99 Stat. 1344; Pub. L. 101–512, title III, § 318 [title II, § 202(a)(1), (b)], Nov. 5, 1990, 104 Stat. 1960, 1974, 1975, related to appointment, compensation, and functions of Director of Institute. See section 9103 of this title.

Section 965, Pub. L. 94–462, title II, § 206, Oct. 8, 1976, 90 Stat. 1977; Pub. L. 96–496, title II, § 201(d), Dec. 4, 1980, 94 Stat. 2592; Pub. L. 101–512, title III, § 318 [title II, § 203], Nov. 5, 1990, 104 Stat. 1960, 1975, authorized Director, subject to policy direction of Board, to make grants to museums to increase and improve services through specified activities. See section 9173 of this title.

Section 966, Pub. L. 94–462, title II, § 207, Oct. 8, 1976, 90 Stat. 1977, related to authority of Institute to accept contributions. See section 9106 of this title.

Section 967, Pub. L. 94–462, title II, § 209, Oct. 8, 1976, 90 Stat. 1978; Pub. L. 96–496, title I, § 201(e), Dec. 4, 1980, 94 Stat. 2593; Pub. L. 98–306, § 11, May 31, 1984, 98 Stat. 225; Pub. L. 99–194, title II, § 203, Dec. 20, 1985, 99 Stat. 1344; Pub. L. 101–512, title III, § 318 [title II, §§ 204, 205(b)], Nov. 5, 1990, 104 Stat. 1960, 1975, 1976, authorized appropriations for purpose of making grants under section 965(a) of this title and for administering provisions of this subchapter. See section 9176 of this title.

Section 968, Pub. L. 94–462, title II, § 210, Oct. 8, 1976, 90 Stat. 1978, defined ''Board'', ''Director'', ''Institute'', and ''museum'' for purposes of this subchapter. See sections 9101 and 9172 of this title.

Section 969, Pub. L. 94–462, title II, § 211, as added Pub. L. 101–512, title III, § 318 [title II, § 205 [(a)]], Nov. 5, 1990, 104 Stat. 1960, 1975, related to assessment of needs of small, emerging, minority, and rural museums.

SHORT TITLE

Section 201 of title II of Pub. L. 94–462, which provided that title II of Pub. L. 94–462, which enacted this subchapter and amended section 958 of this title, could be cited as the ''Museum Services Act'', was omitted in the general amendment of title II by Pub. L. 104–208. See chapter 72 (§ 9101 et seq.) of this title.

CHAPTER 26A—INDEMNITY FOR EXHIBITIONS OF ARTS AND ARTIFACTS

Sec.

971. Agreements to indemnify against loss or damage.
- (a) Authorization of Federal Council on the Arts and Humanities.
- (b) Council as ''agency''.

972. Items eligible for indemnity agreements.
- (a) Works of art; printed or published materials; other artifacts or objects; photographs, motion pictures, or tapes.
- (b) Extension of coverage; ''on exhibition'' defined.

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977. Annual report to Congress.

§ 971. Agreements to indemnify against loss or damage

(a) Authorization of Federal Council on the Arts and Humanities

The Federal Council on the Arts and Humanities (hereinafter in this chapter referred to as the ''Council''), established under section 958 of this title, is authorized to make agreements to indemnify against loss or damage such items as may be eligible for such indemnity agreements under section 972 of this title—

(1) in accordance with the provisions of this chapter; and

(2) on such terms and conditions as the Council shall prescribe, by regulation, in order

to achieve the purposes of this chapter and, consistent with such purposes, to protect the financial interest of the United States.

(b) Council as "agency"

(1) For purposes of this chapter, the Council shall be an ''agency'' within the meaning of the appropriate definitions of such term in title 5.

(2) For purposes of this chapter, the Secretary of the Smithsonian Institution, the Director of the National Gallery of Art, the member designated by the Chairman of the Senate Commission of Art and Antiquities and the member designated by the Speaker of the House of Representatives shall not serve as members of the Council.

(Pub. L. 94–158, § 2, Dec. 20, 1975, 89 Stat. 844; Pub. L. 99–194, title III, § 301, Dec. 20, 1985, 99 Stat. 1345.)

AMENDMENTS

1985—Subsec. (b). Pub. L. 99–194 designated existing provisions as par. (1) and added par. (2).

EFFECTIVE DATE

Section 9 of Pub. L. 94–158 provided that: ''This Act [see Short Title note below] shall become effective 30 days after the date of the enactment of this Act [Dec. 20, 1975].''

SHORT TITLE

Section 1 of Pub. L. 94–158 provided that: ''This Act [enacting this chapter and provisions set out as a note under this section] may be cited as the 'Arts and Artifacts Indemnity Act'.''

§ 972. Items eligible for indemnity agreements

(a) Works of art; printed or published materials; other artifacts or objects; photographs, motion pictures, or tapes

The Council may make an indemnity agreement under this chapter with respect to—

(1) works of art, including tapestries, paintings, sculpture, folk art, graphics, and craft arts;

(2) manuscripts, rare documents, books, and other printed or published materials;

(3) other artifacts or objects; and

(4) photographs, motion pictures, or audio and video tape;

which are (A) of educational, cultural, historical, or scientific value, and (B) the exhibition of which is certified by the Director of the United States Information Agency or his designee as being in the national interest.

(b) Extension of coverage; "on exhibition" defined

(1) An indemnity agreement made under this chapter shall cover eligible items while on exhibition in the United States or elsewhere preferably when part of an exchange of exhibitions.

(2) For purposes of this subsection, the term ''on exhibition'' includes that period of time beginning on the date the eligible items leave the premises of the lender or place designated by the lender and ending on the date such items are returned to the premises of the lender or place designated by the lender.

(Pub. L. 94–158, § 3, Dec. 20, 1975, 89 Stat. 844; 1977 Reorg. Plan No. 2, § 7(a)(10), 42 F.R. 62461, 91 Stat. 1637; Pub. L. 97–241, title III, § 303(b), Aug. 24, 1982, 96 Stat. 291; Pub. L. 99–194, title III, § 302(a), Dec. 20, 1985, 99 Stat. 1345.)

AMENDMENTS

1985—Subsec. (b)(1). Pub. L. 99–194, which directed the substitution of ''or elsewhere preferably when part of an exchange of exhibitions'' for '', or elsewhere when part of an exchange of exhibitions, but in no case shall both parts of such an exhibition be so covered'' was executed by making the substitution for '', or elsewhere when part of an exchange of exhibitions, but in no case shall both parts of such an exchange be so covered'', to reflect the probable intent of Congress.

EFFECTIVE DATE OF 1985 AMENDMENT

Section 302(b) of Pub. L. 99–194 provided that: ''The amendment made by paragraph (1) [amending this section] shall apply with respect to any exhibition which is certified under section 3(a) of the Arts and Artifacts Indemnity Act [subsec. (a) of this section] after the date of enactment of this Act [Dec. 20, 1985].''

TRANSFER OF FUNCTIONS

''Director of the United States Information Agency'' substituted for ''Director of the International Communication Agency'' in subsec. (a) pursuant to section 303(b) of Pub. L. 97–241, title III, Aug. 24, 1982, 96 Stat. 291, set out as a note under section 1461 of Title 22, Foreign Relations and Intercourse. Previously, ''Director of the International Communication Agency'' substituted for ''Secretary of State'' in subsec. (a) pursuant to Reorg. Plan No. 2 of 1977, § 7(a)(10), 42 F.R. 62461, 91 Stat. 1637, set out in the Appendix to Title 5, Government Organization and Employees, effective on or before July 1, 1978, at such time as specified by President, which transferred functions vested in Secretary of State in subsec. (a) of this section to Director of International Communication Agency.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 971, 973 of this title.

§ 973. Application for indemnity agreements

(a) Parties

Any person, nonprofit agency, institution, or government desiring to make an indemnity agreement for eligible items under this chapter shall make application therefor in accordance with such procedures, in such form, and in such manner as the Council shall, by regulation, prescribe.

(b) Contents

An application under subsection (a) of this section shall—

(1) describe each item to be covered by the agreement (including an estimated value of such item);

(2) show evidence that the items are eligible under section 972(a) of this title; and

(3) set forth policies, procedures, techniques, and methods with respect to preparation for, and conduct of, exhibition of the items, and any transportation related to such items.

(c) Approval

Upon receipt of an application under this section, the Council shall, if such application conforms with the requirements of this chapter, approve the application and make an indemnity agreement with the applicant. Upon such approval, the agreement shall constitute a contract between the Council and the applicant

pledging the full faith and credit of the United States to pay any amount for which the Council becomes liable under such agreement. The Council, for such purpose, is hereby authorized to pledge the full faith and credit of the United States.

(Pub. L. 94–158, § 4, Dec. 20, 1975, 89 Stat. 845.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 974 of this title.

§ 974. Indemnity limits

(a) Approval of estimated values

Upon receipt of an application meeting the requirements of subsections (a) and (b) of section 973 of this title, the Council shall review the estimated value of the items for which coverage by an indemnity agreement is sought. If the Council agrees with such estimated value, for the purposes of this chapter, the Council shall, after approval of the application as provided in subsection (c) of section 973 of this title, make an indemnity agreement.

(b) Maximum limits of coverage

The aggregate of loss or damage covered by indemnity agreements made under this chapter shall not exceed $3,000,000,000 at any one time.

(c) Limit for single exhibition

No indemnity agreement for a single exhibition shall cover loss or damage in excess of $300,000,000.

(d) Deductible limit

If the estimated value of the items covered by an indemnity agreement for a single exhibition is—

(1) $2,000,000 or less, then coverage under this chapter shall extend only to loss or damage in excess of the first $15,000 of loss or damage to items covered;

(2) more than $2,000,000 but less than $10,000,000 then coverage under this chapter shall extend only to loss or damage in excess of the first $25,000 of loss or damage to items covered;

(3) not less than $10,000,000 but less than $125,000,000, then coverage under this chapter shall extend to loss or damage in excess of the first $50,000 of loss or damage to items covered;

(4) not less than $125,000,000 but less than $200,000,[1] then coverage under this chapter shall extend to loss or damage in excess of the first $100,000 of loss or damage to items covered; or

(5) $200,000,000 or more, then coverage under the chapter shall extend only to loss or damage in excess of the first $200,000, of loss or damage to items covered.

(Pub. L. 94–158, § 5, Dec. 20, 1975, 89 Stat. 845; Pub. L. 96–496, title III, §§ 301, 302, Dec. 4, 1980, 94 Stat. 2593; Pub. L. 99–194, title III, § 303, Dec. 20, 1985, 99 Stat. 1345; Pub. L. 100–202, § 101(g) [title II, § 201], Dec. 22, 1987, 101 Stat. 1329–213, 1329–249; Pub. L. 101–512, title III, § 318 [title III, § 301], Nov. 5, 1990, 104 Stat. 1960, 1976.)

[1] So in original. Probably should be ''$200,000,000,''.

AMENDMENTS

1990—Subsec. (b). Pub. L. 101–512, § 318 [title III, § 301(a)], substituted ''$3,000,000,000'' for ''$1,200,000,000''.

Subsec. (c). Pub. L. 101–512, § 318 [title III, § 301(b)(1)], substituted ''$300,000,000'' for ''$125,000,000''.

Subsec. (d)(3). Pub. L. 101–512, § 318 [title III, § 301(b)(2)(B)], amended par. (3) generally. Prior to amendment, par. (3) read as follows: ''$10,000,000 or more, then coverage under this chapter shall extend only to loss or damage in excess of the first $50,000 of loss or damage to items covered.''

Subsec. (d)(4), (5). Pub. L. 101–512, § 318 [title III, § 301(b)(2)(A), (C)], added pars. (4) and (5).

1987—Subsec. (b). Pub. L. 100–202 substituted ''$1,200,000,000'' for ''$650,000,000''.

Subsec. (c). Pub. L. 100–202 substituted ''$125,000,000'' for ''$75,000,000''.

1985—Subsec. (b). Pub. L. 99–194, § 303(a), substituted ''$650,000,000'' for ''$400,000,000''.

Subsec. (c). Pub. L. 99–194, § 303(b), substituted ''$75,000,000'' for ''$50,000,000''.

1980—Subsec. (b). Pub. L. 96–496, § 301, substituted ''$400,000,000'' for ''$250,000,000''.

Subsec. (d). Pub. L. 96–496, § 302, substituted provisions relating to deductible amounts under indemnity agreements for provisions limiting coverage under this chapter to loss or damage in excess of the first $15,000 resulting from a single exhibition.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–512 effective Oct. 1, 1990, see section 318 [title IV, § 403(b)] of Pub. L. 101–512, set out as a note under section 951 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 975 of this title.

§ 975. Claims for losses

(a) Regulations for prompt adjustment

The Council shall prescribe regulations providing for prompt adjustment of valid claims for losses which are covered by an agreement made pursuant to section 974 of this title, including provision for arbitration of issues relating to the dollar value of damages involving less than total loss or destruction of such covered objects.

(b) Certification

In the case of a claim of loss with respect to an item which is covered by an agreement made pursuant to section 974 of this title, the Council shall certify the validity of the claim and the amount of the loss to the Speaker of the House of Representatives and the President pro tempore of the Senate.

(Pub. L. 94–158, § 6, Dec. 20, 1975, 89 Stat. 845.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 976 of this title.

§ 976. Authorization of appropriations

There are hereby authorized to be appropriated such sums as may be necessary (1) to enable the Council to carry out its functions under this chapter, and (2) to pay claims certified pursuant to section 975(b) of this title.

(Pub. L. 94–158, § 7, Dec. 20, 1975, 89 Stat. 846.)

§ 977. Annual report to Congress

The Council shall report annually to the Congress (1) all claims actually paid pursuant to this chapter during the preceding fiscal year, (2)

pending claims against the Council under this chapter as of the close of that fiscal year, and (3) the aggregate face value of contracts entered into by the Council which are outstanding at the close of that fiscal year.

(Pub. L. 94–158, §8, Dec. 20, 1975, 89 Stat. 846.)

CHAPTER 27—NATIONAL VOCATIONAL STUDENT LOAN INSURANCE

§§ 981 to 996. Repealed. Pub. L. 90–575, title I, § 116(c)(1), Oct. 16, 1968, 82 Stat. 1024

Section 981, Pub. L. 89–287, §2, Oct. 22, 1965, 79 Stat. 1037; Pub. L. 90–460, §2(d)(3), Aug. 3, 1968, 82 Stat. 634, set forth Congressional declaration of purpose for the chapter and authorized appropriations to carry out such purpose.

Section 981 note, Pub. L. 89–287, §1, Oct. 22, 1965, 79 Stat. 1037, provided that Pub. L. 89–287, which enacted this chapter, be cited as the National Vocational Loan Insurance Act of 1965.

Section 982, Pub. L. 89–287, §3, Oct. 22, 1965, 79 Stat. 1037, authorized Commissioner to make advances to State and nonprofit private loan insurance programs.

Section 983, Pub. L. 89–287, §4, Oct. 22, 1965, 79 Stat. 1038, prohibited Commissioner from issuing certificates of insurance to lenders in States having adequate non-Federal loan insurance programs.

Section 984, Pub. L. 89–287, §5, Oct. 22, 1965, 79 Stat. 1038; Pub. L. 90–460, §1(b)(1), Aug. 3, 1968, 82 Stat. 634, set forth scope and duration of loan insurance program of this chapter.

Section 985, Pub. L. 89–287, §6, Oct. 22, 1965, 79 Stat. 1039, limited annual and aggregate amounts available to individuals as loans and covered by insurance under this chapter.

Section 986, Pub. L. 89–287, §7, Oct. 22, 1965, 79 Stat. 1039, provided for insurance coverage for loans made by eligible lenders, regardless of source of such loaned funds.

Section 987, Pub. L. 89–287, §8, Oct. 22, 1965, 79 Stat. 1039; Pub. L. 90–460, §2(c)(1), Aug. 3, 1968, 82 Stat. 634, set forth prerequisites of student eligibility and terms and conditions of note executed by student.

Section 988, Pub. L. 89–287, §9, Oct. 22, 1965, 79 Stat. 1041; Pub. L. 90–460, §§1(b)(2), 2(c)(2), (d), Aug. 3, 1968, 82 Stat. 634, provided for reduction of student interest costs by Federal payments.

Section 989, Pub. L. 89–287, §10, Oct. 22, 1965, 79 Stat. 1043, Pub. L. 90–460, §1(b)(3), Aug. 3, 1968, 82 Stat. 634, authorized Commissioner to make direct loans to students residing in areas where loans insurable under this chapter are unavailable.

Section 990, Pub. L. 89–287, §11, Oct. 22, 1965, 79 Stat. 1043, provided for certificates of insurance to be issued to eligible lenders.

Section 991, Pub. L. 89–287, §12, Oct. 22, 1965, 79 Stat. 1045, set forth procedure for collection in case of default, death, or disability of student borrower.

Section 992, Pub. L. 89–287, §13, Oct. 22, 1965, 79 Stat. 1046, established Vocational Student Loan Insurance Fund.

Section 993, Pub. L. 89–287, §14, Oct. 22, 1965, 79 Stat. 1047, enumerated powers and duties of Commissioner with respect to carrying out purposes of this chapter.

Section 994, Pub. L. 89–287, §15, Oct. 22, 1965, 79 Stat. 1048, established Advisory Council on Insured Loans to Vocational Students in the Office of Education.

Section 995, Pub. L. 89–287, §16, Oct. 22, 1965, 79 Stat. 1048, authorized Federal credit unions to make insured loans to student members.

Section 996, Pub. L. 89–287, §17, Oct. 22, 1965, 79 Stat. 1048, defined ''eligible institution'', ''eligible lender'', ''line of credit'', ''State'', ''Secretary'', and ''Commissioner''.

EFFECTIVE DATE OF REPEAL

Repeal applicable to loans made on or after the 60th day after Oct. 16, 1968, see section 116(e) of Pub. L. 90–575.

TRANSFER OF ASSETS AND LIABILITIES OF THE VOCATIONAL STUDENT LOAN INSURANCE FUND

Section 116(c)(2) of Pub. L. 90–575 provided that: ''All assets and liabilities of the vocational student loan insurance fund established by section 13 of the National Vocational Student Loan Insurance Act of 1965 [section 992 of this title], matured or contingent, shall be transferred to, and become assets and liabilities of, the student loan insurance fund established by section 431 of the Higher Education Act of 1965 [section 1081 of this title]. Payments in connection with defaults of loans made on or after the sixtieth day after the date of enactment of this Act [Oct. 16, 1968] and insured by the Commissioner (under the authority of subsection (e)(3) or (e)(4) of this section [set out as a note under section 1083 of this title]) under the National Vocational Student Loan Insurance Act of 1965 [sections 981 to 996 of this title] shall be paid out of the fund established by such section 431.''

CHAPTER 28—HIGHER EDUCATION RESOURCES AND STUDENT ASSISTANCE

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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 1203a, 1206a, 1234i, 2397e, 3441, 6143 of this title; title 11 sections 362, 541; title 25 sections 13, 13d–2, 309b, 640c–2, 1809; title 26 sections 144, 150; title 42 sections 292a, 12651d, 14117.

SUBCHAPTER I—PARTNERSHIPS FOR EDUCATIONAL EXCELLENCE

CODIFICATION

Title I of the Higher Education Act of 1965, comprising this subchapter, was originally enacted by Pub. L. 89–329, title I, Nov. 8, 1965, 79 Stat. 1219, and amended by Pub. L. 90–575, Oct. 16, 1968, 82 Stat. 1014; Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 121; Pub. L. 92–318, June 23, 1972, 86 Stat. 235; Pub. L. 93–29, May 3, 1973, 87 Stat. 30; Pub. L. 93–380, Aug. 21, 1974, 88 Stat. 484; Pub. L. 93–644, Jan. 4, 1975, 88 Stat. 2291; Pub. L. 94–135, Nov. 28, 1975, 89 Stat. 713; Pub. L. 94–482, Oct. 12, 1976, 90 Stat. 2081; Pub. L. 95–43, June 15, 1977, 91 Stat. 213; Pub. L. 96–49, Aug. 13, 1979, 93 Stat. 351; Pub. L. 96–96, Oct. 31, 1979, 93 Stat. 729; Pub. L. 96–374, Oct. 3, 1980, 94 Stat. 1367; Pub. L. 97–300, Oct. 13, 1982, 96 Stat. 1322; Pub. L. 98–524, Oct. 19, 1984, 98 Stat. 2435; Pub. L. 99–386, Aug. 22, 1986, 100 Stat. 821; Pub. L. 99–498, Oct. 17, 1986, 100 Stat. 1268; Pub. L. 100–418, Aug. 23, 1988, 102 Stat. 1107; Pub. L. 101–305, May 30, 1990, 104 Stat. 253; Pub. L. 101–610, Nov. 16, 1990, 104 Stat. 3127; Pub. L. 102–54, June 13, 1991, 105 Stat. 267. Such title is shown herein, however, as having been added by Pub. L. 102–325, title I, §101, July 23, 1992, 106 Stat. 459, without reference to such intervening amendments because of the extensive revision of the title's provisions by Pub. L. 102–325.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 1143 of this title; title 42 sections 3013, 4763.

PART A—SCHOOL, COLLEGE, AND UNIVERSITY PARTNERSHIPS

§ 1001. Purpose

It is the purpose of this part to encourage partnerships between institutions of higher education or State higher education agencies and secondary schools serving low-income and disadvantaged students, to support programs that—

(1) improve the retention and graduation rates at such secondary schools;

(2) improve the academic skills of public and private nonprofit secondary school students;

(3) increase such students' opportunities to continue a program of education after secondary school; and

(4) improve such students' prospects for employment after secondary school.

(Pub. L. 89–329, title I, §101, as added Pub. L. 102–325, title I, §101, July 23, 1992, 106 Stat. 459.)

PRIOR PROVISIONS

A prior section 1001, Pub. L. 89–329, title I, §101, as added Pub. L. 99–498, title I, §101, Oct. 17, 1986, 100 Stat. 1278, related to congressional findings, prior to the general revision of this subchapter by Pub. L. 102–325.

Another prior section 1001, Pub. L. 89–329, title I, §101, as added Pub. L. 96–374, title I, §101(a), Oct. 3, 1980, 94 Stat. 1373, stated Congressional findings with respect to continuing postsecondary education program and planning, prior to the general revision of this subchapter by Pub. L. 99–498.

Another prior section 1001, Pub. L. 89–329, title I, §101, Nov. 8, 1965, 79 Stat. 1219; Pub. L. 90–575, title II, §201, Oct. 16, 1968, 82 Stat. 1035; Pub. L. 92–318, title I, §101(a), June 23, 1972, 86 Stat. 236; Pub. L. 94–482, title I, §101(a), Oct. 12, 1976, 90 Stat. 2083; Pub. L. 96–49, §2, Aug. 13, 1979, 93 Stat. 351, authorized appropriations for the community service, continuing education, and lifelong learning program grant programs through fiscal year 1980, prior to the general revision of this subchapter by Pub. L. 96–374.

EFFECTIVE DATE OF 1992 AMENDMENT

Section 2 of Pub. L. 102–325 provided that: ''Except as otherwise provided in this Act (20 U.S.C. 1001 et seq.) [see Tables for classification], the amendments made by this Act shall take effect on October 1, 1992.''

EFFECTIVE DATE OF 1987 AMENDMENT

Pub. L. 100–50, § 27, June 3, 1987, 101 Stat. 363, provided that: ''The amendments made by this Act [see Short Title of 1987 Amendment note below] shall take effect as if enacted as part of the Higher Education Amendments of 1986 [Pub. L. 99–498, see Short Title of 1986 Amendments note below].''

EFFECTIVE DATE OF 1986 AMENDMENT

Section 2 of Pub. L. 99–498 provided that: ''Except as otherwise provided in this Act, the amendments made by this Act [see Tables for classification] shall take effect on the date of enactment of this Act [Oct. 17, 1986].''

EFFECTIVE DATE OF 1980 AMENDMENT

Section 1393 of Pub. L. 96–374 provided that:

''(a) Except as provided in subsection (b), this Act and the amendments made by this Act [see Tables for classification] shall take effect on October 1, 1980.

''(b)(1) The amendment made by section 301 of this Act to title III of the Act [enacting subchapter III of this chapter] shall take effect October 1, 1981.

''(2) The amendment made by section 404(c)(4) of this Act to section 415C(b)(4) of the Act [amending section 1070c–2 of this title] shall be effective October 1, 1979.

''(3) The amendment made by section 405 to subpart 4 of part A of title IV of the Act [amending subpart 4 of part A of subchapter IV of this chapter generally] shall take effect October 1, 1981.

''(4) The amendments made by part B of title IV of this Act [enacting sections 1077a, 1078–2, 1083a, and 1087–1a of this title and amending sections 1074, 1075, 1077, 1078, 1078–1, 1080, 1082, 1085, 1087–1, and 1087–2 of this title] shall take effect, except as otherwise provided therein, on January 1, 1981, and to the extent such amendments make changes in such part B which affect student loans, such changes shall apply to outstanding loans as well as to loans made after the amendments take effect, except that the amendments made by section 415(b) [amending sections 1077(a)(2)(B) and 1078(b)(1)(E) of this title] shall apply with respect to any loan to cover the cost of instruction for any period of instruction beginning on or after January 1, 1981, to any student borrower who has no outstanding balance of principal or interest on any loan made, insured, or guaranteed under part B of title IV of the Higher Education Act of 1965 [part B of subchapter IV of this chapter] on the date on which the borrower enters into the note or other written evidence of the loan.

''(5) The amendments made by part D of title IV of this Act [enacting sections 1087cc–1, 1087hh, and 1087ii of this title and amending sections 1087aa to 1087gg of this title] shall apply to loans made under part E of the Act [part D of subchapter IV of this chapter] on or after October 1, 1980.

''(6) The amendment made by section 701 of this Act adding section 731 of the Act [section 1132d of this title] shall apply to loans made under section 731 on or after October 1, 1980.''

EFFECTIVE DATE OF 1976 AMENDMENT

Section 532 of Pub. L. 94–482 provided that: ''The provisions of this Act [see Tables for classification] and the amendments made by this Act shall take effect 30 days after the date of the enactment of this Act [Oct. 12, 1976] except—

''(1) as specifically otherwise provided; and

''(2) that each amendment made by this Act (not subject to clause (1) of this section) providing for authorization of appropriations shall take effect July 1, 1976.''

SHORT TITLE OF 1997 AMENDMENT

Pub. L. 105–78, title VI, § 609(a), Nov. 13, 1997, 111 Stat. 1522, provided in part that: ''This section [amending sections 1078–3, 1087h, 1087*oo* to 1087qq, and 1087vv of this title and enacting provisions set out as notes under sections 1078–3 and 1087h of this title] may be cited as the 'Emergency Student Loan Consolidation Act of 1997'.''

SHORT TITLE OF 1996 AMENDMENT

Pub. L. 104–208, div. A, title I, § 101(e) [title VI, § 601], Sept. 30, 1996, 110 Stat. 3009–233, 3009–275, provided that: ''This title [enacting sections 1087–3, 1087–4, and 1132f–10 of this title, amending sections 1078–3, 1085, and 1087–2 of this title, repealing sections 1087–2, 1087–3, and 1132f to 1132f–9 of this title, and enacting provisions set out as notes under sections 1078–3 and 1087–2 of this title] may be cited as the 'Student Loan Marketing Association Reorganization Act of 1996'.''

SHORT TITLE OF 1994 AMENDMENT

Pub. L. 103–382, title III, § 360B(a), Oct. 20, 1994, 108 Stat. 3969, provided that: ''This section [amending section 1092 of this title and enacting provisions set out as a note under section 1092 of this title] may be cited as the 'Equity in Athletics Disclosure Act'.''

SHORT TITLE OF 1993 AMENDMENTS

Pub. L. 103–208, § 1(a), Dec. 20, 1993, 107 Stat. 2457, provided that: ''This Act [see Tables for classification] may be cited as the 'Higher Education Technical Amendments of 1993'.''

Pub. L. 103–66, title IV, § 4011(a), Aug. 10, 1993, 107 Stat. 341, provided that: ''This subtitle [subtitle A (§§ 4011–4047) of title IV of Pub. L. 103–66, amending sections 1072, 1078, 1078–3, 1078–8, 1085, 1087–2, and 1087a to 1087h of this title, repealing section 1078–1 of this title, omitting sections 1087i and 1087j of this title, and enacting provisions set out as notes under sections 1078, 1078–3, and 1078–8 of this title] may be cited as the 'Student Loan Reform Act of 1993'.''

SHORT TITLE OF 1992 AMENDMENT

Section 1(a) of Pub. L. 102–325 provided that: ''This Act [see Tables for classification] may be cited as the 'Higher Education Amendments of 1992'.''

SHORT TITLE OF 1991 AMENDMENT

Pub. L. 102–26, § 1(a), Apr. 9, 1991, 105 Stat. 123, provided that: ''This Act [enacting section 1211b of this title, amending sections 1078, 1078–1, 1085, 1087ss, 1088, 1091, 1091a, 1092, 1094, and 1141 of this title, enacting provisions set out as notes under sections 1070, 1078–1, 1088, and 1091a of this title, amending provisions set out as a note under section 1092 of this title, and repealing provisions set out as a note under section 1088 of this title] may be cited as the 'Higher Education Technical Amendments of 1991'.''

SHORT TITLE OF 1990 AMENDMENTS

Pub. L. 101–542, § 1, Nov. 8, 1990, 104 Stat. 2381, provided that: ''This Act [amending sections 1085, 1092, 1094, and 1232g of this title and enacting provisions set out as notes under this section and section 1092 of this title] may be cited as the 'Student Right-To-Know and Campus Security Act'.''

Pub. L. 101–542, title I, § 101, Nov. 8, 1990, 104 Stat. 2381, provided that: ''This title [amending section 1092 of this title and enacting provisions set out as notes under section 1092 of this title] may be cited as the 'Student Right-To-Know Act'.''

Pub. L. 101–542, title II, § 201, Nov. 8, 1990, 104 Stat. 2384, provided that: ''This title [amending sections 1092, 1094, and 1232g of this title and enacting provisions set out as notes under section 1092 of this title] may be cited as the 'Crime Awareness and Campus Security Act of 1990'.''

Pub. L. 101–508, title III, § 3001, Nov. 5, 1990, 104 Stat. 1388–25, provided that: ''This subtitle [subtitle A (§§ 3001–3008) of title III of Pub. L. 101–508, amending sections 1078, 1078–1, 1078–7, 1085, 1088, and 1091 of this title and sections 362, 541, and 1328 of Title 11, Bankruptcy, enacting provisions set out as notes under sections

1078–7, 1085, and 1088 of this title and sections 362 and 1328 of Title 11, and amending provisions set out as a note under section 1078–1 of this title] may be cited as the 'Student Loan Default Prevention Initiative Act of 1990'.''

SHORT TITLE OF 1989 AMENDMENT

Pub. L. 101–239, title II, §2001, Dec. 19, 1989, 103 Stat. 2111, provided that: ''This subtitle [subtitle A (§§2001–2009) of title II of Pub. L. 101–239, enacting section 1078–7 of this title, amending sections 1077, 1078, 1078–1, 1078–6, 1082, 1085, 1087dd, 1087tt, 1088, 1092b, and 1094 of this title, and enacting provisions set out as notes under sections 1077, 1078, 1078–1, and 1078–6 of this title] may be cited as the 'Student Loan Reconciliation Amendments of 1989'.''

SHORT TITLE OF 1987 AMENDMENT

Pub. L. 100–50, §1(a), June 3, 1987, 101 Stat. 335, provided that: ''This Act [enacting sections 1059a, 1087tt, 1087uu, 1087uu–1, and 1145d–1 of this title, amending sections 1057, 1058, 1062, 1063a to 1063c, 1065, 1066, 1067, 1069a, 1070a to 1070a–4, 1070a–6, 1070b–3, 1070c–4, 1070d–1b, 1070d–2, 1070e–1, 1070f, 1075, 1077, 1077a, 1078 to 1078–3, 1078–5, 1078–6, 1080a, 1081 to 1083, 1085, 1087–1, 1087–2, 1087d, 1087bb, 1087cc, 1087cc–1, 1087dd, 1087ee, 1087*oo* to 1087ss, 1087vv, 1088, 1089 to 1091, 1092 to 1092b, 1095, 1096, 1098, 1109 to 1109d, 1111, 1111b, 1111f, 1111g, 1122, 1132a, 1132a–1, 1132d, 1132d–2, 1132g–3, 1132i–1, 1134h to 1134j, 1141, 1145e, 1221e, and 1221e–1 of this title, section 4604 of Title 22, Foreign Relations and Intercourse, and sections 2752, 2753, and 2756 of Title 42, The Public Health and Welfare, enacting provisions set out as notes under section 2752 of Title 42, and amending provisions set out as notes under sections 1011, 1071, 1087dd, 1087kk, 1091, 1121, 1145d, 1221–1, and 1221e–1 of this title and section 2753 of Title 42] may be cited as the 'Higher Education Technical Amendments Act of 1987'.''

SHORT TITLE OF 1986 AMENDMENTS

Section 1 of Pub. L. 99–498 provided that: ''This Act [see Tables for classification] may be cited as the 'Higher Education Amendments of 1986'.''

Pub. L. 99–320, §1, May 23, 1986, 100 Stat. 491, provided: ''That this Act [amending sections 1078 and 1080a of this title and a provision set out as a note under section 1072 of this title] may be cited as the 'Student Financial Assistance Technical Corrections Act of 1986'.''

Pub. L. 99–272, title XVI, §16001(a), Apr. 7, 1986, 100 Stat. 339, provided that: ''This title [enacting sections 1078–3, 1080a, and 1091a of this title, amending sections 1072, 1074, 1075, 1077, 1078, 1080, 1082, 1083a, 1085, 1087–1, 1087–2, 1087cc, 1087cc–1, 1087dd, 1087gg, 1089, 1091, and 1094 of this title, enacting provisions set out as notes under sections 1072, 1078, and 1078–3 of this title, and amending provisions set out as a note under section 1078 of this title] may be cited as the 'Student Financial Assistance Amendments of 1985'.''

SHORT TITLE OF 1983 AMENDMENTS

Pub. L. 98–95, §1, Sept. 26, 1983, 97 Stat. 708, provided: ''That this Act [enacting section 1065a of this title, amending section 1069c of this title, enacting provisions set out as a note under section 1132a–1 of this title, and amending provisions set out as notes under sections 123 and 1069c of this title] may be cited as the 'Challenge Grant Amendments of 1983'.''

Pub. L. 98–79, §1, Aug. 15, 1983, 97 Stat. 476, provided: ''That this Act [amending sections 1071, 1077, 1077a, 1078, 1078–2, 1083a, 1087–1, 1087–2, 1087cc–1, and 1098 of this title, repealing section 1087–1a of this title, enacting provisions set out as notes under sections 1077, 1077a, 1078, and 1087–1 of this title, and amending provisions set out as notes under sections 1070a, 1078, and 1089 of this title] may be cited as the 'Student Loan Consolidation and Technical Amendments Act of 1983'.''

SHORT TITLE OF 1982 AMENDMENT

Pub. L. 97–301, §1, Oct. 13, 1982, 96 Stat. 1400, which provided: ''That this Act [amending sections 1070a, 1083a, 1087–2, and 1087cc–1 of this title and enacting provisions set out as notes under sections 1070a, 1070b–3, 1078, 1087bb, 1089, and 1221e–1 of this title and section 2752 of Title 42, The Public Health and Welfare] may be cited as the 'Student Financial Assistance Technical Amendments Act of 1982'.'', was repealed by Pub. L. 99–498, title IV, §408(b), Oct. 17, 1986, 100 Stat. 1495, eff. with respect to any academic year beginning on or after July 1, 1988.

SHORT TITLE OF 1981 AMENDMENT

Pub. L. 97–35, title V, subtitle B, §531, Aug. 13, 1981, 95 Stat. 450, provided that: ''This subtitle [amending sections 1075, 1077, 1077a, 1078, 1078–1, 1078–2, 1087–1, 1087–2, 1087dd, 1089, 1096, and 1232 of this title, repealing section 1087–3a of this title, and enacting provisions set out as notes under section 1078 of this title] may be cited as the 'Postsecondary Student Assistance Amendments of 1981'.''

SHORT TITLE OF 1980 AMENDMENT

Section 1 of Pub. L. 96–374 provided: ''That this Act [enacting sections 239a, 1001 to 1005, 1011 to 1015, 1016 to 1019, 1021, 1022, 1029, 1031 to 1034, 1041, 1042, 1047 to 1047j, 1051, 1057 to 1069c, 1070d–1a to 1070d–2, 1077a, 1078–2, 1083a, 1087–1a, 1087cc–1, 1087hh, 1087ii, 1088 to 1098, 1119b to 1119b–5, 1119c to 1119c–2, 1121 to 1127, 1130 to 1132, 1132a to 1132a–1, 1132b to 1132c, 1132d to 1132d–4, 1132e, 1132e–1, 1134d to 1134p, 1135 to 1135a–3, 1136 to 1136d, 1143, 1144a, 1145, 1146, 1221e–1b, 1221e–4, and 3063 to 3065 of this title, section 640c–2 of Title 25, Indians, and sections 2753 and 2756b of Title 42, The Public Health and Welfare, amending sections 1070 to 1070c–3, 1070d, 1070d–1, 1070e to 1077, 1078, 1078–1, 1079, 1080 to 1083, 1085 to 1087–1, 1087–2, 1087aa to 1087cc, 1087dd to 1087gg, 1101 to 1104, 1119 to 1119a–1, 1133 to 1134c, 1135c–1, 1141, 1142, 1221e, 1226a, 1226c, and 1232 of this title, section 326a of Title 7, Agriculture, section 640c–1 of Title 25, sections 714 and 792 of Title 29, Labor, and sections 2751, 2752, and 2756 of Title 42, repealing sections 511 to 513, 1070c–4, 1070d–3, 1087–4, 1134q to 1134s, 1142a, 1142b, 1145, 1145a, 1145c, 1172 to 1174, 1176, 1177, and 1221d of this title and section 2754 of Title 42, enacting provisions set out as notes under sections 236, 1001, 1119b, and 1221–1 of this title and section 301 of Title 7, and amending provisions set out as notes under section 236 of this title and section 301 of Title 7] may be cited as the 'Education Amendments of 1980'.''

SHORT TITLE OF 1979 AMENDMENT

Section 1 of Pub. L. 96–49 provided: ''That this Act [enacting section 1087gg of this title, amending this section and sections 513, 1021, 1042, 1051, 1070a, 1070b, 1070c, 1070d, 1070d–2, 1070e–1, 1078, 1087–1, 1087aa, 1088, 1101, 1119, 1121, 1132a, 1132b, 1132c, 1132c–4, 1134, 1134e, 1134i, 1134n, 1134r–1, 1135, 1135a, 1136b, 1142b, 1221d, and 1221e of this title, enacting provisions set out as notes under sections 1070a, 1087–1, 1087gg, and 1088 of this title, and amending provisions set out as a note under section 1070a of this title] may be cited as the 'Higher Education Technical Amendments of 1979'.''

SHORT TITLE OF 1978 AMENDMENTS

Section 1 of Pub. L. 95–566 provided: ''That this Act [enacting section 1087–3a of this title, amending sections 1070a, 1070c–2, 1070d–1, 1075, 1077, 1078, 1088 and 1088f of this title, and enacting provisions set out as a note under this section] may be cited as the 'Middle Income Student Assistance Act'.''

Section 1 of Pub. L. 95–336 provided: ''That this Act [amending section 1070e–1 of this title, sections 1001, 1002, and 1007 of Title 21, Food and Drugs, and former section 246 of Title 38, Veterans' Benefits, and enacting provisions set out as a note under section 1070e–1 of this title] may be cited as the 'Alcohol and Drug Abuse Education Amendments of 1978'.''

SHORT TITLE OF 1976 AMENDMENTS

Section 1 of Pub. L. 94–482 provided: ''That this Act [see Tables for classification] may be cited as the 'Education Amendments of 1976'.''

Pub. L. 94–328, §1, June 30, 1976, 90 Stat. 727, provided: ''That this joint resolution [amending sections 1070a, 1074, 1078 and 1078a of this title and enacting provisions set out as notes under section 1226a of this title and section 2756 of Title 42, The Public Health and Welfare] may be cited as the 'Emergency Technical Provisions Act of 1976'.''

SHORT TITLE OF 1972 AMENDMENT

Section 1 of Pub. L. 92–318 provided: ''That this Act [enacting chapter 36 (§1601 et seq.), chapter 37 (§1651 et seq.), chapter 38 (§1681 et seq.), and sections 241aa to 241ff, 887c, 887d, 900 to 900a–5, 1005a, 1021, 1031, 1042, 1070 to 1070e, 1070e–1, 1087–1, 1087–2, 1087aa to 1087ff, 1088d to 1088g, 1119a, 1132a to 1132e–1, 1134 to 1134s, 1135, 1135a, 1135b to 1135c, 1135c–1, 1142a, 1142b, 1144a, 1145a, 1211a, 1221a to 1221h, 1227 of this title, and section 326a of Title 7, Agriculture, and 2756a of Title 42, The Public Health and Welfare, amending this section and sections 240, 241c, 241e, 331a, 332, 421, 441, 511, 513, 822, 823, 842, 843, 863, 880b–3a, 1003, 1011, 1021, 1022 to 1024, 1027, 1031, 1033, 1041, 1051 to 1056, 1061, 1068, 1070, 1074, 1075, 1077, 1078, 1078a, 1080, 1083, 1084, 1087, 1087a, 1087c, 1088, 1088c, 1091, 1091a to 1091c, 1101, 1102, 1108 to 1111, 1115, 1116, 1118, 1119, 1119a, 1119b–2, 1121, 1129, 1133, 1133a, 1134j, 1136, 1136a, 1136b, 1141, 1176, 1231, 1231a, 1232a, 1232c, 1242, 1244, 1248, 1302, 1321 to 1323, 1341, 1352, 1371, 1391, and 1412 of this title, and sections 329, 331, 343, 349, 361, and 1626 of Title 7, sections 24, 84, 1464, and 1757 of Title 12, Banks and Banking, sections 203 and 213 of Title 29, Labor, and sections 2751, 2752, and 2754 of Title 42, repealing sections 1, 2, 426, 711 to 721, 731, 732, 746, 1021, 1031, 1032, 1060, 1118, 1119a, 1119b–2, and 1119c–4 of this title, and enacting provisions set out as notes under this section and sections 241a, 241e, 241aa, 331a, 425, 821, 887d, 1005a, 1009, 1070, 1070e, 1074, 1075, 1087–2, 1087aa, 1091a, 1132a, 1132c–3, 1135c, 1231, and 1232 of this title, sections 301 and 326a of Title 7, and section 3501 of Title 42] may be cited as the 'Education Amendments of 1972'.''

SHORT TITLE OF 1968 AMENDMENT

Section 1 of Pub. L. 90–575 provided: ''That this Act [enacting sections 451 to 455, 746, 1056, 1060, 1087, 1087a to 1087c, 1088 to 1088c, 1089, 1119a–1, 1129a, 1133 to 1133b, 1134 to 1134*l*, 1135, 1135a, 1135b, 1135c, 1136 to 1136b, 1145, 1146 to 1150 of this title, amending this section and sections 403, 421 to 425, 425 note, 426, 441 to 445, 462 to 464, 481 to 484, 511, 513, 562, 581, 584, 588, 591, 711, 713 to 718, 731, 732, 743, 751, 758, 961, 1005, 1006, 1021 to 1024, 1031, 1033, 1041, 1051, 1061, 1062, 1065 to 1068, 1071 to 1075, 1077, 1078, 1080, 1083 to 1086, 1091c, 1101, 1104, 1108 to 1111, 1113, 1114, 1115, 1118, 1119a, 1119b–2, 1121, 1124, 1125, 1141, 1142, 1143, 1144 and 1176 of this title, section 1464 of Title 12, Banks and Banking, and sections 2741, 2751 to 2756, and 2809 of Title 42, The Public Health and Welfare, repealing sections 733, 981 to 996 of this title, and section 2757 of Title 42, and enacting provisions set out as notes under this section and sections 423 to 425, 445, 462 to 464, 588, 713, 716 to 718, 743, 751, 981, 1006, 1022, 1024, 1051, 1056, 1060, 1067, 1071, 1077, 1078, 1083, 1088b, and 1109 of this title, and sections 2751, 2753, 2754, and 2809 of Title 42] may be cited as the 'Higher Education Amendments of 1968'.''

SHORT TITLE OF 1966 AMENDMENT

Pub. L. 89–752, §1, Nov. 3, 1966, 80 Stat. 1240, provided: ''That this Act [enacting section 1086 of this title, amending sections 403, 421, 425, 441, 443, 711–715, 731, 743, 744, 751, 1022, 1051, 1072, 1121, and 1124 of this title, and enacting provisions set out as notes under sections 403, 443, 1022, 1071, and 1124 of this title] may be cited as the 'Higher Education Amendments of 1966'.''

SHORT TITLE

Section 1 of Pub. L. 89–329 provided: ''That this Act [enacting this chapter and section 2757 of Title 42, The Public Health and Welfare, and amending sections 403, 424, 425, 441, 443, 591, 711, 713 to 717, 731, and 751 of this title, and sections 2751 to 2756, and 2761 of Title 42] may be cited as the 'Higher Education Act of 1965'.''

Title V of Pub. L. 89–329, which enacted subchapter V of this chapter, is known as the ''Education Professions Development Act'', see Short Title note set out under section 1119 of this title.

STYLISTIC CONSISTENCY

Pub. L. 103–208, §2(m), Dec. 20, 1993, 107 Stat. 2486, provided that: ''The Act [Pub. L. 89–329, see Short Title note above] is amended so that the section designation and section heading of each section of the Act shall be in the form and typeface of the section designation and heading of this section [107 Stat. 2457].''

TERMS DEFINED FOR PURPOSES OF TITLES XIII, XIV, AND XV OF PUB. L. 102–325

Section 1(c) of Pub. L. 102–325 provided that: ''Unless otherwise provided therein, terms used in titles XIII, XIV, and XV [enacting sections 1145h and 4426 of this title, sections 3301 to 3371 of Title 25, Indians, and sections 2401 to 2405 of Title 29, Labor, amending sections 1221e–1, 1232g, 3412, 4412, 4414, 4416, 4417, 4418, 4421, 4422, 4423, 4424, 4425, 5381, and 5411 of this title, section 5315 of Title 5, Government Organization and Employees, sections 4604 and 4609 of Title 22, Foreign Relations and Intercourse, sections 640c–1, 1810, 1836, and 1852 of Title 25, and sections 295g–8 and 12576 of Title 42, The Public Health and Welfare, enacting provisions set out as notes under sections 1070, 1070a–11, 1070a–21, 1071, 1080, 1088, 1101, 1132a, 1134, 1221–1, 1221e, 1232g, 1452, and 9003 of this title, amending provisions set out as a note under section 1091a of this title, and repealing provisions set out as a note under section 362 of Title 11, Bankruptcy] shall have the same meaning given to such terms in section 1201 of the Higher Education Act of 1965 [section 1141 of this title].''

GENERAL PROVISIONS OF 1972 AMENDMENT

Section 2 of Pub. L. 92–318 provided that:

''(a) As used in this Act [See Short Title of 1972 Amendment note above]—

''(1) the term 'Secretary' means the Secretary of Health, Education, and Welfare [now Secretary of Education]; and

''(2) the term 'Commissioner' means the Commissioner of Education [now Secretary of Education];

unless the context requires another meaning.

''(b) Unless otherwise specified, the redesignation of a section, subsection, or other designation by any amendment in this Act shall include the redesignation of any reference to such section, subsection, or other designation in any Act or regulation, however styled.

''(c)(1) Unless otherwise specified, each provision of this Act and each amendment made by this Act shall be effective after June 30, 1972, and with respect to appropriations for the fiscal year ending June 30, 1973, and succeeding fiscal years.

''(2) Unless otherwise specified, in any case where an amendment made by this Act is to become effective after a date set herein, it shall be effective with the beginning of the day which immediately follows the date after which such amendment is effective.

''(3) In any case where the effective date for an amendment made by this Act is expressly stated to be effective after June 30, 1971, such amendment shall be deemed to have been enacted on July 1, 1971.''

RULEMAKING REQUIREMENTS; PUBLICATION IN FEDERAL REGISTER

Section 505 of Pub. L. 90–575 provided for publication of rules and regulations in Federal Register, prior to repeal by Pub. L. 91–230, title IV, §401(e)(2), Apr. 13, 1970, 84 Stat. 173.

PRESIDENTIAL RECOMMENDATIONS BY DECEMBER 31, 1969, WITH RESPECT TO POST-SECONDARY EDUCATION FOR ALL

Section 508 of Pub. L. 90–575 authorized the President, on or before Dec. 31, 1969, to submit to the Congress proposals relative to the feasibility of making available

a post-secondary education to all young Americans who qualify and seek it.

§ 1002. Agreement

(a) Agreement

To be eligible for a grant under this part, an institution of higher education, a State higher education agency, or a consortium consisting of any of the preceding entities thereof shall enter into a written partnership agreement with a local educational agency. Such partnership may include businesses, labor organizations, professional associations, community-based organizations, public television stations or other telecommunications entities, or other public or private agencies or organizations. Each entity participating in the partnership shall sign the agreement.

(b) Contents of agreement

The agreement shall include—

(1) a listing of all participants in the partnership, including a designation of the official representatives of each entity participating in the partnership;

(2) a description of the responsibilities of each participant in the partnership; and

(3) a listing of the resources to be contributed by each participant in the partnership.

(Pub. L. 89–329, title I, §102, as added Pub. L. 102–325, title I, §101, July 23, 1992, 106 Stat. 459.)

PRIOR PROVISIONS

A prior section 1002, Pub. L. 89–329, title I, §102, as added Pub. L. 99–498, title I, §101, Oct. 17, 1986, 100 Stat. 1278, defined terms ''continuing education'', ''adult learner'', ''eligible institution'', and ''qualified entity'', prior to the general revision of this subchapter by Pub. L. 102–325.

Another prior section 1002, Pub. L. 89–329, title I, §102, as added Pub. L. 96–374, title I, §101(a), Oct. 3, 1980, 94 Stat. 1374, provided for establishment of Commission on National Development in Postsecondary Education, prior to the general revision of this subchapter by Pub. L. 99–498.

Another prior section 1002, Pub. L. 89–329, title I, §102, Nov. 8, 1965, 79 Stat. 1219; Pub. L. 94–482, title I, §101(b)(1), (g)(2), Oct. 12, 1976, 90 Stat. 2083, 2086, defined the terms ''community service program'', ''continuing education program'', and ''resource materials sharing programs'', prior to the general revision of this subchapter by Pub. L. 96–374.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1004 this title.

§ 1003. Grants

(a) Division between school-year and summer programs

From the funds appropriated to carry out this part pursuant to section 1006 of this title, the Secretary shall reserve 65 percent of such funds to carry out programs operating during the regular school year and 35 percent of such funds to carry out programs operating during the summer.

(b) Amount and use of grants

(1) Amount

The Secretary shall make grants under this part in amounts which are not less than $250,000 and not more than $1,000,000.

(2) Permitted uses of funds

Grants under this part may be used by the partnership for programs that—

(A) use college students to tutor secondary school students and improve their basic academic skills or to involve secondary school students in community service-learning projects;

(B) are designed to improve the basic academic skills of secondary school students;

(C) are designed to increase the understanding of specific subjects of secondary school students;

(D) are designed to improve the opportunity to continue a program of education after graduation for secondary school students; and

(E) are designed to increase the prospects for employment after graduation of secondary school students.

(c) Preferences

In making grants under this part, the Secretary shall give a preference to—

(1) programs which will serve predominantly low-income communities;

(2) partnerships which will run programs during the regular school year and summer;

(3) programs which will serve educationally disadvantaged students; students with disabilities; potential dropouts; pregnant adolescents and teenage parents; children of migratory agricultural workers or of migratory fishermen; or students whose native language is other than English; and

(4) programs designed to encourage women and minorities who are underrepresented in the fields of science and mathematics to pursue these fields.

(d) Duration

Each grant awarded under this part may be awarded for a period not to exceed 5 years.

(e) Equitable geographic distribution

The Secretary shall award grants under this part in a manner that achieves an equitable geographic distribution of such grants.

(Pub. L. 89–329, title I, §103, as added Pub. L. 102–325, title I, §101, July 23, 1992, 106 Stat. 459; amended Pub. L. 103–208, §2(a)(1), Dec. 20, 1993, 107 Stat. 2457.)

PRIOR PROVISIONS

A prior section 1003, Pub. L. 89–329, title I, §103, as added Pub. L. 99–498, title I, §101, Oct. 17, 1986, 100 Stat. 1279, related to limitation on contract authority, prior to the general revision of this subchapter by Pub. L. 102–325.

Another prior section 1003, Pub. L. 89–329, title I, §103, as added Pub. L. 96–374, title I, §101(a), Oct. 3, 1980, 94 Stat. 1375, related to duties of the Commission on National Development in Postsecondary Education, prior to the general revision of this subchapter by Pub. L. 99–498.

Another prior section 1003, Pub. L. 89–329, title I, §103, Nov. 8, 1965, 79 Stat. 1219; Pub. L. 92–318, title I, §102(a)(2), June 23, 1972, 86 Stat. 237; Pub. L. 94–482, title I, §101(b)(2), (g)(2), Oct. 12, 1976, 90 Stat. 2084, 2086; Pub. L. 95–43, §1(a)(1), June 15, 1977, 91 Stat. 213; Pub. L. 96–96, §1, Oct. 31, 1979, 93 Stat. 729, provided for the allotment of funds to States, prior to the general revision of this subchapter by Pub. L. 96–374.

AMENDMENTS

1993—Subsec. (b)(2). Pub. L. 103–208 realigned margins of subpars. (A) to (E).

EFFECTIVE DATE OF 1993 AMENDMENT

Section 5 of Pub. L. 103–208 provided that:

''(a) IN GENERAL.—Except as otherwise provided therein or in subsection (b) of this section, the amendments made by section 2 of this Act [see Tables for classification] shall be effective as if such amendments were included in the Higher Education Amendments of 1992 (Public Law 102–325), except that section 492 of the Act [section 1098a of this title] shall not apply to the amendments made by this Act [see Tables for classification].

''(b) EXCEPTIONS.—

''(1) EFFECTIVE ON OCTOBER 1, 1993.—The amendments made by the following subsections of section 2 of this Act shall be effective on and after October 1, 1993: (b)(29), (j)(28), (j)(36), and (j)(40) [amending sections 1070d–34, 1134e, 1134j, and 1134q of this title].

''(2) EFFECTIVE ON DATE OF ENACTMENT.—The amendments made by the following subsections of section 2 of this Act shall be effective on and after the date of enactment of this Act [Dec. 20, 1993]: (b)(2), (b)(7), (b)(28), (c)(3), (c)(5), (c)(13)(B), (c)(13)(C), (c)(18), (c)(30), (c)(62) [amending sections 1070a, 1070a–11, 1070d–33, 1075, 1077a, 1078, 1078–1, and 1085 of this title].

''(3) EFFECTIVE 30 DAYS AFTER ENACTMENT.—The amendments made by the following subsections of section 2 of this Act shall be effective on and after 30 days after the date of enactment of this Act [Dec. 20, 1993]: (c)(19), (c)(20), (c)(21), (c)(59) [amending sections 1078 and 1085 of this title].

''(4) EFFECTIVE 60 DAYS AFTER ENACTMENT.—The amendments made by the following subsections of section 2 of this Act shall be effective on and after 60 days after the date of enactment of this Act [Dec. 20, 1993]: (c)(31) and (c)(53) [amending sections 1078–1 and 1083 of this title].

''(5) EFFECTIVE ON APRIL 1, 1994.—The amendments made by section 2(c)(43)(B) of this Act [amending section 1078–8 of this title] shall be effective on and after April 1, 1994.

''(6) EFFECTIVE ON JULY 1, 1994.—The amendments made by the following subsection[s] of section 2 of this Act shall be effective on and after July 1, 1994: (b)(25), (c)(2), (c)(13)(A), (c)(29) [amending sections 1070b–2, 1075, 1078, and 1078–1 of this title].

''(7) COHORT DEFAULT DATA EXAMINATIONS.—The amendment made by section 2(c)(60)(A) [amending section 1085 of this title] shall be effective on and after October 1, 1994.

''(8) COHORT DEFAULT RATE DETERMINATIONS.—The amendments made to subsection[s] (a)(3) and (m)(1)(B) of section 435 of this [the] Act [section 1085(a)(3) and (m)(1)(B) of this title] shall apply with respect to the determination (and appeals from determinations) of cohort default rates for fiscal year 1989 and any succeeding fiscal year.''

§ 1004. Grant application

(a) Application required

A partnership desiring to receive a grant under this part shall submit an application to the Secretary, in such form and providing such information as the Secretary, by regulation, shall require.

(b) Contents of application

The application shall include—

(1) the partnership agreement described in section 1002 of this title;

(2) a listing of the public and private nonprofit secondary school or schools to be involved in the program;

(3) a description of the activities and services for which assistance is sought;

(4) a description of the programs to be developed and operated by the partnership; and

(5) assurances to the Secretary that—

(A) the partnership will establish a governing body including one representative of each participant in the partnership;

(B) Federal funds will provide no more than 70 percent of the cost of the project in the first year, 60 percent of such costs in the second year, and 50 percent of such costs in the third year and any subsequent year;

(C) a local educational agency or institution of higher education receiving funds under this part shall not reduce its combined fiscal effort per student or its aggregate expenditure on education;

(D) a local educational agency or institution of higher education participating in this partnership shall utilize any Federal funds it shall receive from a grant under this part to supplement, and, to the extent practicable, increase the resources that would, in the absence of such Federal funds, be made available from non-Federal sources for the education of students described in this part; and

(E) in no case shall funds under such a grant be used to supplant non-Federal funds already available.

(c) Special rule

The non-Federal share of grants awarded under this part may be in cash or in kind fairly evaluated, including services, supplies or equipment.

(d) Waiver

The Secretary may waive the matching requirement described in paragraph (5)(B) for any eligible partnership that demonstrates to the satisfaction of the Secretary a unique hardship that prevents compliance with such matching requirement.

(Pub. L. 89–329, title I, § 104, as added Pub. L. 102–325, title I, § 101, July 23, 1992, 106 Stat. 460; amended Pub. L. 103–208, § 2(a)(2), Dec. 20, 1993, 107 Stat. 2457.)

PRIOR PROVISIONS

A prior section 1004, Pub. L. 89–329, title I, § 104, as added Pub. L. 96–374, title I, § 101(a), Oct. 3, 1980, 94 Stat. 1376, related to administrative provisions and powers of Commission on National Development in Postsecondary Education, prior to the general revision of this subchapter by Pub. L. 99–498.

Another prior section 1004, Pub. L. 89–329, title I, § 104, Nov. 8, 1965, 79 Stat. 1220; Pub. L. 94–482, title I, § 101(b)(3), Oct. 12, 1976, 90 Stat. 2084; Pub. L. 95–43, § 1(a)(2), June 15, 1977, 91 Stat. 213, described the allowable uses of States' allotments of funds, prior to the general revision of this subchapter by Pub. L. 96–374.

AMENDMENTS

1993—Subsec. (b)(5)(C). Pub. L. 103–208 substituted ''part'' for ''subpart''.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1003 of this title.

§ 1005. Peer review

The Secretary shall designate a peer review panel to review applications submitted under this part and make recommendations for funding to the Secretary. In selecting the peer review panel, the Secretary shall consult with officials of the other Federal agencies and with non-Federal organizations to ensure that the panel membership shall be geographically balanced and be composed of representatives from public and private institutions of elementary, secondary, and higher education, labor, business, and State and local governments, who have expertise in community service or in education.

(Pub. L. 89–329, title I, §105, as added Pub. L. 102–325, title I, §101, July 23, 1992, 106 Stat. 461.)

PRIOR PROVISIONS

A prior section 1005, Pub. L. 89–329, title I, §105, as added Pub. L. 96–374, title I, §101(a), Oct. 3, 1980, 94 Stat. 1377, authorized appropriations, prior to the general revision of this subchapter by Pub. L. 99–498.

Another prior section 1005, Pub. L. 89–329, title I, §105, Nov. 8, 1965, 79 Stat. 1220; Pub. L. 90–575, title II, §202, Oct. 16, 1968, 82 Stat. 1036; Pub. L. 94–482, title I, §101(b)(4)–(10), (g)(2), Oct. 12, 1976, 90 Stat. 2084–2086; Pub. L. 95–43, §1(a)(3), (b)(1), (2), June 15, 1977, 91 Stat. 213, 218, set out the requisite features of State plans, prior to the general revision of this subchapter by Pub. L. 96–374.

A prior section 1005a, Pub. L. 89–329, title I, §106, as added Pub. L. 92–318, title I, §102(a)(1), June 23, 1972, 86 Stat. 237; amended Pub. L. 94–482, title I, §101(g)(2), Oct. 12, 1976, 90 Stat. 2086, provided for special programs and projects relating to national and regional problems, prior to the general revision of this subchapter by Pub. L. 96–374.

§ 1006. Authorization of appropriations

There are authorized to be appropriated $20,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out this part.

(Pub. L. 89–329, title I, §106, as added Pub. L. 102–325, title I, §101, July 23, 1992, 106 Stat. 461.)

PRIOR PROVISIONS

Prior sections 1006 to 1010 were omitted in the general revision of this subchapter by Pub. L. 96–374.

Section 1006, Pub. L. 89–329, title I, §107, formerly §106, Nov. 8, 1965, 79 Stat. 1221; Pub. L. 90–575, title II, §203(a), Oct. 16, 1968, 82 Stat. 1036, renumbered Pub. L. 92–318, title I, §102(a)(1), June 23, 1972, 86 Stat. 236, and amended Pub. L. 94–482, title I, §101(c), (g)(2), Oct. 12, 1976, 90 Stat. 2085, 2086, related to payment and method of payment of funds.

Section 1007, Pub. L. 89–329, title I, §108, formerly §107, Nov. 8, 1965, 79 Stat. 1222, renumbered Pub. L. 92–318, title I, §102(a)(1), June 23, 1972, 86 Stat. 236, and amended Pub. L. 94–482, title I, §101(g)(2), Oct. 12, 1976, 90 Stat. 2086, related to disapproval of State plans, notice and hearing, findings of Commissioner of Education, and notification to State of noneligibility.

Section 1008, Pub. L. 89–329, title I, §109, formerly §108, Nov. 8, 1965, 79 Stat. 1222, renumbered Pub. L. 92–318, title I, §102(a)(1), June 23, 1972, 86 Stat. 236, and amended Pub. L. 94–482, title I, §101(d), Oct. 12, 1976, 90 Stat. 2085, provided for judicial review of actions of Commissioner of Education and scope of that review.

Section 1008a, Pub. L. 89–329, title I, §110, as added Pub. L. 93–29, title VIII, §803, May 3, 1973, 87 Stat. 59, and amended Pub. L. 94–135, title II, §201, Nov. 28, 1975, 89 Stat. 726; Pub. L. 94–482, title I, §101(g)(2), Oct. 12, 1976, 90 Stat. 2086, provided for programs and projects relating to problems of the elderly.

Section 1008b, Pub. L. 89–329, title I, §111, as added Pub. L. 94–482, title I, §101(e), Oct. 12, 1976, 90 Stat. 2085, related to technical assistance and administration.

Section 1009, Pub. L. 89–329, title I, §112, formerly §109, Nov. 8, 1965, 79 Stat. 1223; Pub. L. 91–230, title IV, §401(h)(4), Apr. 13, 1970, 84 Stat. 174, renumbered §110, Pub. L. 92–318, title I, §102(a)(1), June 23, 1972, 86 Stat. 236, renumbered §111, Pub. L. 93–29, title VIII, §803, May 3, 1973, 87 Stat. 59; Pub. L. 93–380, title VIII, §831, Aug. 21, 1974, 88 Stat. 603; Pub. L. 93–644, §9(a), Jan. 4, 1975, 88 Stat. 2310, renumbered §112 and amended Pub. L. 94–482, title I, §101(e), (f)(1), (g)(2), Oct. 12, 1976, 90 Stat. 2085, 2086; 1977 Reorg. Plan No. 2, §7(a)(13), 42 F.R. 62461, 91 Stat. 1637, provided for creation of a National Advisory Council on Extension and Continuing Education.

Section 1010, Pub. L. 89–329, title I, §113, formerly §110, Nov. 8, 1965, 79 Stat. 1224, renumbered §111, Pub. L. 92–318, title I, §102(a)(1), June 23, 1972, 86 Stat. 236, renumbered §112, Pub. L. 93–29, title VIII, §803, May 3, 1973, 87 Stat. 59, renumbered §113 and amended Pub. L. 94–482, title I, §101(e), (f)(2), Oct. 12, 1976, 90 Stat. 2085, 2086, directed that nothing in the section be held to modify any authority under the Smith-Lever Act, section 341 et seq. of Title 7, Agriculture.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1003 of this title.

PART B—ARTICULATION AGREEMENTS

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in title 42 section 1862i.

§ 1011. Findings and purpose

(a) Findings

The Congress finds that—

(1) because more than one-half of all first-time first-year students attending postsecondary institutions attend community or junior colleges, and because almost one-half of minority students enrolled in higher education attend 2-year institutions, community and junior colleges represent a substantial and an important educational resource;

(2) declining participation rates for low-income students and minorities at institutions of higher education is of growing concern to the higher education community and Congress; and

(3) there is growing awareness of the need to assist low-income, minority and other nontraditional students in bridging the gap between 2-year to 4-year institutions, enabling such students to reach their individual potential, as well as contribute to the larger society.

(b) Purpose

The purpose of this part is to improve the educational opportunities of this Nation's postsecondary students by creating comprehensive articulation agreements and planning between partnerships of 2-year and 4-year institutions of higher education.

(Pub. L. 89–329, title I, §121, as added Pub. L. 102–325, title I, §101, July 23, 1992, 106 Stat. 461.)

PRIOR PROVISIONS

A prior section 1011, Pub. L. 89–329, title I, §111, as added Pub. L. 99–498, title I, §101, Oct. 17, 1986, 100 Stat. 1279, related to institutional development, prior to the general revision of this subchapter by Pub. L. 102–325.

Another prior section 1011, Pub. L. 89–329, title I, §111, as added Pub. L. 96–374, title I, §101(a), Oct. 3, 1980, 94

Stat. 1377, stated Congressional findings with respect to education outreach programs, prior to the general revision of this subchapter by Pub. L. 99–498.

Another prior section 1011, Pub. L. 89–329, title I, § 114, formerly § 111, Nov. 8, 1965, 79 Stat. 1224, renumbered § 112 and amended Pub. L. 92–318, title I, §§ 102(a)(1), 131(d)(2)(A), June 23, 1972, 86 Stat. 236, 260, renumbered § 113, Pub. L. 93–29, title VIII, § 803, May 3, 1973, 87 Stat. 59, renumbered § 114, Pub. L. 94–482, title I, § 101(e), Oct. 12, 1976, 90 Stat. 2085, prohibited the giving of grants for programs relating to sectarian instruction or worship, prior to the general revision of this subchapter by Pub. L. 96–374.

A prior section 121 of Pub. L. 89–329, title I, as added Pub. L. 99–498, title I, § 101, Oct. 17, 1986, 100 Stat. 1285, related to adult learning research and was classified to section 1016 of this title, prior to the general revision of this subchapter by Pub. L. 102–325.

§ 1011a. Authorization of grants

(a) Assistance for articulation partnerships

From amounts appropriated for this part, the Secretary shall make grants to States to enable States to make awards, either on a competitive basis or on the basis of a formula determined by the State, to articulation partnerships between—

(1) a qualified 2-year institution; and

(2) a qualified 4-year institution.

(b) Qualified institutions

For purposes of this part—

(1) a qualified 2-year institution is an institution of higher education (as determined under section 1088(a) of this title) that is an eligible institution under section 1085(a) of this title and that—

(A) is a nonprofit institution that offers a 2-year associate degree or a 2-year certificate program; or

(B) is a proprietary institution that offers a 2-year associate degree program; and

(2) a qualified 4-year institution is an institution of higher education (as determined under section 1088(a) of this title) that is an eligible institution under section 1085(a) of this title and that offers a baccalaureate degree program.

(c) Allocation and State grants

(1) Formula allocation

In any fiscal year for which the amount made available under section 1011h of this title to carry out the provisions of this part equals or exceeds $50,000,000, the Secretary shall allot an amount that bears the same ratio to the amount appropriated under section 1011h of this title for such fiscal year as the total amount received under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42 by students attending institutions of higher education in that State for such fiscal year bears to the total amount received under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42 by all students for such fiscal year, based on the most recent year for which such data are available.

(2) Competitive grants

In any fiscal year for which the amount made available under section 1011h of this title to carry out the provisions of this part do not equal or exceed $50,000,000, the Secretary is authorized, in accordance with the provisions of this part, to make grants to States to carry out articulation agreements under sections 1011c and 1011d of this title.

(Pub. L. 89–329, title I, § 122, as added Pub. L. 102–325, title I, § 101, July 23, 1992, 106 Stat. 462.)

PRIOR PROVISIONS

A prior section 122 of Pub. L. 89–329, title I, as added Pub. L. 99–498, title I, § 101, Oct. 17, 1986, 100 Stat. 1286, limited funds authorized to be appropriated and was classified to section 1016a of this title, prior to the general revision of this subchapter by Pub. L. 102–325.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1011c of this title.

§ 1011b. State application

Each State that desires to receive a grant under this part shall submit an application to the Secretary in such form and containing or accompanied by such information as the Secretary may require. Such application shall—

(1) after consultation with the State agencies responsible for supervision of community colleges, technical institutes, or other 2-year postsecondary institutions, designate a sole State agency as the State agency responsible for the administration and supervision of activities carried out with assistance under this part;

(2) describe how funds will be allocated in a manner consistent with section 1011c of this title;

(3) contain assurances that the State will comply with the requirements of this part;

(4) provide for an annual submission of data concerning the use of funds and students served with assistance under this part; and

(5) provide that the State will keep such records and provide such information to the Secretary as may be required for purposes of financial audits and program evaluation.

(Pub. L. 89–329, title I, § 123, as added Pub. L. 102–325, title I, § 101, July 23, 1992, 106 Stat. 462.)

§ 1011c. Local applications

Any articulation partnership comprised of qualified institutions that desires to receive a grant from a State under this part shall submit an application to the State in such form and containing or accompanied by such information as the State may require and shall—

(1) include in the articulation agreement—

(A) assurances that academic credit earned at the qualified institution described in section 1011a(b)(1) of this title will be transferable to the qualified institution or institutions as described in section 1011a(b)(2) of this title;

(B) development of articulation agreement programs and services appropriate to the needs of the partnership participants;

(C) activities that facilitate the development of programs and services appropriate to the needs of the students attending courses covered by the articulation agreement;

(D) inservice training for faculty designed to implement effective articulation agreements;

(E) counseling services; and

(F) information concerning programs contained in the articulation agreement;

(2) include assurances that the articulation partnership has the qualified personnel required—

(A) to develop, administer, and implement the program required by this part; and

(B) to provide special training necessary to prepare staff for the program; and

(3) include a plan of operation for the program which includes a description of—

(A) the program goals;

(B) the uses of funds as required by paragraph (2);

(C) the activities and services which will be provided under the program (including training and preparation of staff); and

(D) the subject areas to be included in the articulation agreement.

(Pub. L. 89–329, title I, §124, as added Pub. L. 102–325, title I, §101, July 23, 1992, 106 Stat. 463.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1011a, 1011b, 1011d of this title.

§ 1011d. Articulation agreement

(a) Length of grant

Each recipient of a grant from a State shall use the amounts provided under the grant to develop and operate articulation agreements for 6 years.

(b) Use of funds

Funds provided to an articulation partnership under this part may be used—

(1) to perform any activity or program required by section 1011c of this title;

(2) as part of the program's planning activities, to acquire technical assistance from Federal, State, or local entities that have successfully designed, established, and operated articulation programs;

(3) to provide workshops with students and teachers, counseling for students to continue their education to a bachelors degree, orientation visits at institutions participating in the partnerships;

(4) to develop agreements with local educational agencies for vocational course equivalency approval procedures for purposes of satisfying entrance requirements to qualified institutions; and

(5) to provide outreach to potential students.

(Pub. L. 89–329, title I, §125, as added Pub. L. 102–325, title I, §101, July 23, 1992, 106 Stat. 463.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1011a of this title.

§ 1011e. State administration

A State may reserve not more than 3 percent of the amounts available under this part for any fiscal year for State administrative costs including monitoring and technical assistance.

(Pub. L. 89–329, title I, §126, as added Pub. L. 102–325, title I, §101, July 23, 1992, 106 Stat. 464.)

§ 1011f. Priority

The State shall give priority to grant applications for programs which—

(1) encourage teacher education;

(2) have, as one of the partners participating in an articulation agreement, an entity participating in an articulation agreement described in section 2394b(b)(1) of this title;

(3) contribute their own institutional resources;

(4) are not subject to a default reduction agreement under section 1078–6 of this title;

(5) encourage technology education; or

(6) encourage articulation in subject areas of national importance as determined by the Secretary.

(Pub. L. 89–329, title I, §127, as added Pub. L. 102–325, title I, §101, July 23, 1992, 106 Stat. 464.)

§ 1011g. Reports

(a) State reports

Each State shall submit to the Secretary an annual report on the operation of the program under this part in such State during the preceding year. Such report shall include such information as the Secretary may require by regulation.

(b) Evaluation and dissemination

(1) Evaluation

The Secretary shall, on the basis of the reports submitted under subsection (a) of this section, evaluate all or a sample of the programs conducted under this part for the purposes of—

(A) determining the success or failure of such programs in increasing access and entry of students from 2-year institutions to 4-year institutions; and

(B) identifying the most successful programs under this part and the causes for such success.

(2) Dissemination

The Secretary shall, not later than January 31, 1996, submit a report to the Congress on the results of the evaluation described in paragraph (1). The Secretary shall disseminate the findings made pursuant to subparagraph (B) through appropriate agencies and organizations.

(3) Reservation

The Secretary may reserve up to 3 percent of the amount appropriated under section 1011h of this title to carry out this subsection.

(Pub. L. 89–329, title I, §128, as added Pub. L. 102–325, title I, §101, July 23, 1992, 106 Stat. 464.)

§ 1011h. Authorization of appropriations

There are authorized to be appropriated to carry out this part, $25,000,000 for fiscal year 1993, and such sums as may be necessary for each of the 4 succeeding fiscal years.

(Pub. L. 89–329, title I, §129, as added Pub. L. 102–325, title I, §101, July 23, 1992, 106 Stat. 465.)

PRIOR PROVISIONS

A prior section 1012, Pub. L. 89–329, title I, §112, as added Pub. L. 99–498, title I, §101, Oct. 17, 1986, 100 Stat. 1282, related to establishment of off-campus program grants, prior to the general revision of this subchapter by Pub. L. 102–325.

Another prior section 1012, Pub. L. 89–329, title I, §112, as added Pub. L. 96–374, title I, §101(a), Oct. 3, 1980, 94 Stat. 1377, provided for State allotments including percentage breakdown and cases of States not conducting comprehensive statewide planning, prior to the general revision of this subchapter by Pub. L. 99–498.

A prior section 1013, Pub. L. 89–329, title I, §113, as added Pub. L. 99–498, title I, §101, Oct. 17, 1986, 100 Stat. 1284, related to adult and continuing education staff development, prior to the general revision of this subchapter by Pub. L. 102–325.

Another prior section 1013, Pub. L. 89–329, title I, §113, as added Pub. L. 96–374, title I, §101(a), Oct. 3, 1980, 94 Stat. 1378; amended Pub. L. 97–300, title I, §183, Oct. 13, 1982, 96 Stat. 1357; Pub. L. 98–524, §4(c)(1), Oct. 19, 1984, 98 Stat. 2488, related to comprehensive statewide planning with respect to education outreach programs, prior to the general revision of this subchapter by Pub. L. 99–498.

A prior section 1014, Pub. L. 89–329, title I, §114, as added Pub. L. 99–498, title I, §101, Oct. 17, 1986, 100 Stat. 1285, related to administration of programs by Secretary, prior to the general revision of this subchapter by Pub. L. 102–325.

Another prior section 1014, Pub. L. 89–329, title I, §114, as added Pub. L. 96–374, title I, §101(a), Oct. 3, 1980, 94 Stat. 1379; amended Pub. L. 97–300, title I, §183, Oct. 13, 1982, 96 Stat. 1357; Pub. L. 98–524, §4(c)(2), Oct. 19, 1984, 98 Stat. 2488, related to information services, prior to the general revision of this subchapter by Pub. L. 99–498.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1011a, 1011g of this title.

PART C—ACCESS AND EQUITY TO EDUCATION FOR ALL AMERICANS THROUGH TELECOMMUNICATIONS

§ 1015. Program established; authorization of appropriations; eligibility

(a) General authority

The Secretary is authorized to make grants to eligible partnerships to enable such partnerships to pay the Federal share of the cost of the activities described in the application submitted pursuant to section 1015a of this title.

(b) Authorization of appropriations

(1) In general

There are authorized to be appropriated to carry out this part $10,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(2) Availability

Funds appropriated pursuant to the authority of paragraph (1) shall remain available until expended.

(c) Eligible partnership

For the purpose of this part the term ''eligible partnership'' means a partnership which—

(1) shall consist of—

(A) a public broadcasting entity or a consortium thereof; and

(B) an institution of higher education or a consortium thereof; and

(2) may also include a State, a unit of local government, or a public or private nonprofit organization.

(d) Federal share

The Federal share shall be 50 percent.

(Pub. L. 89–329, title I, §131, as added Pub. L. 102–325, title I, §101, July 23, 1992, 106 Stat. 465.)

PRIOR PROVISIONS

A prior section 1015, Pub. L. 89–329, title I, §115, as added Pub. L. 99–498, title I, §101, Oct. 17, 1986, 100 Stat. 1285, authorized appropriations for former part A of this subchapter, prior to the general revision of this subchapter by Pub. L. 102–325.

Another prior section 1015, Pub. L. 89–329, title I, §115, as added Pub. L. 96–374, title I, §101(a), Oct. 3, 1980, 94 Stat. 1380, related to continuing education, prior to the general revision of this subchapter by Pub. L. 99–498.

Another prior section 1015, Pub. L. 89–329, title I, §131, as added Pub. L. 94–482, title I, §101(g)(3), Oct. 12, 1976, 90 Stat. 2086, set out the Congressional findings with regard to the lifelong learning program, prior to the general revision of this subchapter by Pub. L. 96–374.

A prior section 131 of Pub. L. 89–329, title I, as added Pub. L. 99–498, title I, §101, Oct. 17, 1986, 100 Stat. 1286, related to National Advisory Council on Continuing Education and was classified to section 1017 of this title, prior to the general revision of this subchapter by Pub. L. 102–325.

§ 1015a. Application

(a) In general

Each eligible partnership desiring to receive a grant under this part shall submit an application to the Secretary at such time, in such manner and containing or accompanied by such information as the Secretary may reasonably require.

(b) Contents

Each application submitted pursuant to paragraph (1) shall—

(1) describe the education telecommunications activities or services to be assisted;

(2) describe the administrative and management structure supporting such activities or services;

(3) provide assurances that the financial interests of the United States in the telecommunications equipment, software and other facilities shall be protected for the useful life of such equipment, software or facilities;

(4) describe the manner in which nontraditional postsecondary education students will benefit from the activities and services supported;

(5) describe the manner in which special services, including captioned films, television, descriptive video and education media for individuals with disabilities, shall be supported; and

(6) provide assurances that the eligible partnership will provide the non-Federal share of assistance under this part.

(c) Approval of applications

(1) In general

The Secretary shall, in approving applications under this part, give priority to applications which describe programs that—

(A) include support for services to make captioned films, descriptive video and educational media available to individuals with disabilities who otherwise lack access to such educational materials;

(B) will provide, directly or indirectly, activities or services to a significant number of postsecondary institutions;

(C) improve access to accredited telecommunications coursework for individuals with disabilities otherwise denied such access;

(D) will be available in a multistate area;

(E) include evidence of significant support for the program from the business community; or

(F) provide matching funds, in an amount which exceeds the required non-Federal share.

(2) Equitable geographic distribution of assistance

In approving applications under this part the Secretary shall ensure the equitable geographic distribution of grants awarded under this part.

(Pub. L. 89–329, title I, §132, as added Pub. L. 102–325, title I, §101, July 23, 1992, 106 Stat. 465.)

PRIOR PROVISIONS

A prior section 1015a, Pub. L. 89–329, title I, §132, as added Pub. L. 94–482, title I, §101(g)(3), Oct. 12, 1976, 90 Stat. 2087, set out scope of lifelong learning program, prior to the general revision of this subchapter by Pub. L. 96–374.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1015 of this title.

§ 1015b. Authorized activities

Grants awarded under this part shall be used for one or more of the following activities:

(1) The acquisition of site equipment to provide the technical ability to receive diverse education services at schools, campuses, and work site locations.

(2) Satellite, fiber optic and other distribution systems, and for local broadcast or other local distribution capability.

(3) Pre-service or in-service education and training for kindergarten through 12th grade teachers through interactive television conferencing.

(4) Preparation of telecommunications programs and software that support national, regional or statewide efforts to provide teaching and learning materials not otherwise available for local use.

(5) A loan service of captioned films, descriptive video and educational media in order to make such materials available, in accordance with regulations issued by the Secretary, in the United States for nonprofit purposes to individuals with disabilities, parents of individuals with disabilities, and other individuals directly involved in activities for the advancement of individuals with disabilities, including addressing problems of illiteracy among individuals with disabilities.

(Pub. L. 89–329, title I, §133, as added Pub. L. 102–325, title I, §101, July 23, 1992, 106 Stat. 466.)

PRIOR PROVISIONS

A prior section 1015b, Pub. L. 89–329, title I, §133, as added Pub. L. 94–482, title I, §101(g)(3), Oct. 12, 1976, 90 Stat. 2087; amended Pub. L. 95–43, §1(a)(4), June 15, 1977, 91 Stat. 213, related to implementation of lifelong learning program by Assistant Secretary, prior to the general revision of this subchapter by Pub. L. 96–374.

§ 1015c. "Public broadcasting entity" defined

For the purpose of this part, the term ''public broadcasting entity'' has the same meaning given to such term by section 397(11) of title 47.

(Pub. L. 89–329, title I, §134, as added Pub. L. 102–325, title I, §101, July 23, 1992, 106 Stat. 466.)

PRIOR PROVISIONS

A prior section 1015c, Pub. L. 89–329, title I, §134, as added Pub. L. 94–482, title I, §101(g)(3), Oct. 12, 1976, 90 Stat. 2089, related to annual reports by Assistant Secretary and content of these reports, prior to the general revision of this subchapter by Pub. L. 96–374.

§ 1015d. Report

(a) In general

Each recipient of a grant under this part shall submit a report to the Secretary not later than 30 days after the conclusion of the grant period.

(b) Contents

Each report described in subsection (a) of this section shall include—

(1) a description of activities and services assisted under this part;

(2) a description of the population served by the program; and

(3) an assessment of the ability of private sector entities participating in the eligible partnership to continue the support of the activities and services in the absence of Federal funding.

(c) Dissemination

The Secretary shall select reports received under this subsection that are appropriate for dissemination to the education community and shall make such reports available through the National Diffusion Network.

(Pub. L. 89–329, title I, §135, as added Pub. L. 102–325, title I, §101, July 23, 1992, 106 Stat. 466.)

PRIOR PROVISIONS

A prior section 1016, Pub. L. 89–329, title I, §121, as added Pub. L. 99–498, title I, §101, Oct. 17, 1986, 100 Stat. 1285, related to adult learning research, prior to the general revision of this subchapter by Pub. L. 102–325.

Another prior section 1016, Pub. L. 89–329, title I, §116, as added Pub. L. 96–374, title I, §101(a), Oct. 3, 1980, 94 Stat. 1381, provided for Federal discretionary grants, prior to the general revision of this subchapter by Pub. L. 99–498.

A prior section 1016a, Pub. L. 89–329, title I, §122, as added Pub. L. 99–498, title I, §101, Oct. 17, 1986, 100 Stat. 1286, limited funds authorized to be appropriated, prior to the general revision of this subchapter by Pub. L. 102–325.

A prior section 1017, Pub. L. 89–329, title I, §131, as added Pub. L. 99–498, title I, §101, Oct. 17, 1986, 100 Stat. 1286; Pub. L. 102–54, §13(g)(1)(A), June 13, 1991, 105 Stat. 275, related to National Advisory Council on Continuing Education, prior to the general revision of this subchapter by Pub. L. 102–325.

Another prior section 1017, Pub. L. 89–329, title I, §117, as added Pub. L. 96–374, title I, §101(a), Oct. 3, 1980, 94 Stat. 1382; amended Pub. L. 99–386, title I, §103(a), Aug. 22, 1986, 100 Stat. 821, related to establishment and administration of the National Advisory Council on Continuing Education, prior to the general revision of this subchapter by Pub. L. 99–498.

A prior section 1018, Pub. L. 89–329, title I, § 141, as added Pub. L. 100–418, title VI, § 6201, Aug. 23, 1988, 102 Stat. 1514, set out purpose of former part D of this subchapter as being the development of student literacy corps programs, prior to the general revision of this subchapter by Pub. L. 102–325.

Another prior section 1018, Pub. L. 89–329, title I, § 118, as added Pub. L. 96–374, title I, § 101(a), Oct. 3, 1980, 94 Stat. 1382, defined terms used in former part D of this subchapter, prior to the general revision of this subchapter by Pub. L. 99–498.

Prior sections 1018a to 1018f were omitted in the general revision of this subchapter by Pub. L. 102–325.

Section 1018a, Pub. L. 89–329, title I, § 142, as added Pub. L. 100–418, title VI, § 6201, Aug. 23, 1988, 102 Stat. 1515, related to grants for literacy corps programs.

Section 1018b, Pub. L. 89–329, title I, § 143, as added Pub. L. 100–418, title VI, § 6201, Aug. 23, 1988, 102 Stat. 1515, related to use of funds.

Section 1018c, Pub. L. 89–329, title I, § 144, as added Pub. L. 100–418, title VI, § 6201, Aug. 23, 1988, 102 Stat. 1515; Pub. L. 101–610, title II, § 221(a), (b), Nov. 16, 1990, 104 Stat. 3180, related to applications.

Section 1018d, Pub. L. 89–329, title I, § 145, as added Pub. L. 100–418, title VI, § 6201, Aug. 23, 1988, 102 Stat. 1516, related to technical assistance and coordination contracts.

Section 1018e, Pub. L. 89–329, title I, § 146, as added Pub. L. 100–418, title VI, § 6201, Aug. 23, 1988, 102 Stat. 1516; Pub. L. 101–305, § 5, May 30, 1990, 104 Stat. 258; Pub. L. 101–610, title II, § 221(c), Nov. 16, 1990, 104 Stat. 3180, related to authorization of appropriations.

Section 1018f, Pub. L. 89–329, title I, § 147, as added Pub. L. 100–418, title VI, § 6201, Aug. 23, 1988, 102 Stat. 1516, defined ''public community agency'', ''institution of higher education'' and ''Secretary''.

A prior section 1019, Pub. L. 89–329, title I, § 119, as added Pub. L. 96–374, title I, § 101(a), Oct. 3, 1980, 94 Stat. 1383, authorized appropriations for education outreach programs, prior to the general revision of this subchapter by Pub. L. 99–498.

SUBCHAPTER II—ACADEMIC LIBRARIES AND INFORMATION SERVICES

CODIFICATION

Title II of the Higher Education Act of 1965, comprising this subchapter, was originally enacted by Pub. L. 89–329, title II, Nov. 8, 1965, 79 Stat. 1224, and amended by Pub. L. 89–752, Nov. 3, 1966, 80 Stat. 1240; Pub. L. 90–575, Oct. 16, 1968, 82 Stat. 1014; Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 121; Pub. L. 92–318, June 23, 1972, 86 Stat. 235; Pub. L. 94–482, Oct. 12, 1976, 90 Stat. 2081; Pub. L. 96–49; Aug. 13, 1979, 93 Stat. 351. Title II was extensively revised by Pub. L. 96–374, title II, § 201, Oct. 3, 1980, 94 Stat. 1383, and was set out in this subchapter as having been added by Pub. L. 96–374, and amended, prior to repeal by Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 708(b)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–312.

§§ 1021 to 1023. Repealed. Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 708(b)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–312

Section 1021, Pub. L. 89–329, title II, § 201, as added Pub. L. 96–374, title II, § 201, Oct. 3, 1980, 94 Stat. 1383; amended Pub. L. 99–498, title II, § 201(b), (c), Oct. 17, 1986, 100 Stat. 1287; Pub. L. 100–418, title VI, § 6241, Aug. 23, 1988, 102 Stat. 1520; Pub. L. 102–325, title II, § 201, July 23, 1992, 106 Stat. 467, related to congressional statement of purpose and authorization of appropriations.

A prior section 1021, Pub. L. 89–329, title II, § 201, as added Pub. L. 92–318, title I, § 111(b)(1), June 23, 1972, 86 Stat. 238; amended Pub. L. 94–482, title I, § 106, Oct. 12, 1976, 90 Stat. 2089; Pub. L. 96–49, § 3(a), Aug. 13, 1979, 93 Stat. 351, provided for college library programs, prior to the general amendment of this subchapter by Pub. L. 96–374.

Another prior section 1021, Pub. L. 89–329, title II, § 201, Nov. 8, 1965, 79 Stat. 1224; Pub. L. 90–575, title II, § 211, Oct. 16, 1968, 82 Stat. 1036; Pub. L. 92–318, title I, § 111(a)(1), June 23, 1972, 86 Stat. 238, authorized appropriations of $50,000,000 for each fiscal year ending June 30, 1966, 1967, and 1968, and $25,000,000; $75,000,000; $90,000,000; and $18,000,000 for fiscal years ending June 30, 1969, 1970, 1971, and 1972, for library resources grants, prior to repeal by Pub. L. 92–318, title I, § 111(b)(1), June 23, 1972, 86 Stat. 238.

Section 1022, Pub. L. 89–329, title II, § 202, as added Pub. L. 96–374, title II, § 201, Oct. 3, 1980, 94 Stat. 1384; amended Pub. L. 102–325, title II, § 201, July 23, 1992, 106 Stat. 468, required each institution of higher education receiving grants under this subchapter to annually notify designated State agency of its activities under this subchapter.

A prior section 1022, Pub. L. 89–329, title II, § 202, Nov. 8, 1965, 79 Stat. 1224; Pub. L. 89–752, § 9, Nov. 3, 1966, 80 Stat. 1243; Pub. L. 90–575, title II, § 214(a), Oct. 16, 1968, 82 Stat. 1037; Pub. L. 92–318, title I, §§ 111(b)(2)(A), 112(a), (b)(1), June 23, 1972, 86 Stat. 238, 240, related to the basic grants for the college library resources program, prior to the general amendment of this subchapter by Pub. L. 96–374.

Section 1023, Pub. L. 89–329, title II, § 203, as added Pub. L. 102–325, title II, § 201, July 23, 1992, 106 Stat. 468, required Secretary to ensure that programs under this subchapter were administered by appropriate library experts.

A prior section 1023, Pub. L. 89–329, title II, § 203, Nov. 8, 1965, 79 Stat. 1225; Pub. L. 90–575, title II, § 212(a), Oct. 16, 1968, 82 Stat. 1036; Pub. L. 92–318, title I, §§ 111(b)(2)(B), 112(b)(2), 113(a), June 23, 1972, 86 Stat. 239, 240, which provided for supplemental grants in the college library resources program, was omitted in the general amendment of this subchapter by Pub. L. 96–374.

Prior sections 1024 to 1028 were omitted in the general amendment of this subchapter by Pub. L. 96–374.

Section 1024, Pub. L. 89–329, title II, § 204, Nov. 8, 1965, 79 Stat. 1226; Pub. L. 90–575, title II, § 212(b), (c), 213(a), Oct. 16, 1968, 82 Stat. 1036; Pub. L. 92–318, title I, § 111(b)(2)(C), June 23, 1972, 86 Stat. 239, provided for special purpose grants in the college library resources program.

Section 1025, Pub. L. 89–329, title II, § 205, Nov. 8, 1965, 79 Stat. 1226; Pub. L. 91–230, title IV, § 401(h)(4), Apr. 13, 1970, 84 Stat. 174, created the Advisory Council on College Library Resources.

Section 1026, Pub. L. 89–329, title II, § 206, Nov. 8, 1965, 79 Stat. 1226, related to the accreditation of educational institutions.

Section 1027, Pub. L. 89–329, title II, § 207, Nov. 8, 1965, 79 Stat. 1227; Pub. L. 92–318, title I, § 131(d)(2)(B), June 23, 1972, 86 Stat. 260, prohibited grants for library resources to be used for sectarian instruction or religious worship.

Section 1028, Pub. L. 89–329, title II, § 208, Nov. 8, 1965, 79 Stat. 1227, required that institutions inform State agencies of their activities under the college library resources program.

PART A—COLLEGE LIBRARY TECHNOLOGY AND COOPERATION GRANTS

§ 1029. Repealed. Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 708(b)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–312

Section, Pub. L. 89–329, title II, § 211, as added Pub. L. 96–374, title II, § 201, Oct. 3, 1980, 94 Stat. 1384; amended Pub. L. 99–498, title II, § 202, Oct. 17, 1986, 100 Stat. 1287; Pub. L. 102–325, title II, § 201, July 23, 1992, 106 Stat. 468, related to college library technology and cooperation grants.

§ 1030. Omitted

CODIFICATION

Section, Pub. L. 89–329, title II, § 213, as added Pub. L. 99–498, title II, § 203, Oct. 17, 1986, 100 Stat. 1289, which

defined ''full-time equivalent students'', was omitted in the general amendment of this subchapter by Pub. L. 102–325, title II, § 201, July 23, 1992, 106 Stat. 467.

PART B—LIBRARY EDUCATION, RESEARCH, AND DEVELOPMENT

§§ 1031 to 1034. Repealed. Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 708(b)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–312

Section 1031, Pub. L. 89–329, title II, § 221, as added Pub. L. 96–374, title II, § 201, Oct. 3, 1980, 94 Stat. 1385; amended Pub. L. 99–498, title II, § 204(b)(1), Oct. 17, 1986, 100 Stat. 1289; Pub. L. 102–325, title II, § 201, July 23, 1992, 106 Stat. 469, authorized grants in accordance with sections 1032 and 1033 of this title.

A prior section 1031, Pub. L. 89–329, title II, § 221, as added Pub. L. 92–318, title I, § 111(b)(3)(A), June 23, 1972, 86 Stat. 239, contained the grant authority for training and research programs, prior to the general amendment of this subchapter by Pub. L. 96–374.

Another prior section 1031, Pub. L. 89–329, title II, § 221, Nov. 8, 1965, 79 Stat. 1227; Pub. L. 90–575, title II, § 215, Oct. 16, 1968, 82 Stat. 1037; Pub. L. 92–318, title I, § 111(a)(2), June 23, 1972, 86 Stat. 238, authorized appropriations of $15,000,000 for each fiscal year ending June 30, 1966, 1967, and 1968, and $11,800,000; $28,000,000; $38,000,000; and $12,000,000 for fiscal years ending June 30, 1969, 1970, 1971, and 1972, prior to repeal by Pub. L. 92–318, title I, § 111(b)(3)(A), June 23, 1972, 86 Stat. 239.

Section 1032, Pub. L. 89–329, title II, § 222, as added Pub. L. 96–374, title II, § 201, Oct. 3, 1980, 94 Stat. 1385; amended Pub. L. 102–325, title II, § 201, July 23, 1992, 106 Stat. 469, related to library education and human resource development.

A prior section 1032, Pub. L. 89–329, title II, § 222, Nov. 8, 1965, 79 Stat. 1227, defined the term ''librarianship'', prior to repeal by Pub. L. 92–318, title I, § 111(b)(3)(A), June 23, 1972, 86 Stat. 239.

Section 1033, Pub. L. 89–329, title II, § 223, as added Pub. L. 96–374, title II, § 201, Oct. 3, 1980, 94 Stat. 1385; amended Pub. L. 99–498, title II, § 205, Oct. 17, 1986, 100 Stat. 1289; Pub. L. 102–325, title II, § 201, July 23, 1992, 106 Stat. 470, authorized Secretary to make grants and enter into contracts for research and development projects.

A prior section 1033, Pub. L. 89–329, title II, § 222, formerly § 223, Nov. 8, 1965, 79 Stat. 1227, Pub. L. 90–575, title II, § 216, Oct. 16, 1968, 82 Stat. 1037, renumbered and amended Pub. L. 92–318, title I, § 111(b)(3)(B)–(D), June 23, 1972, 86 Stat. 239, 240, related to grants for training in librarianship, prior to the general amendment of this subchapter by Pub. L. 96–374.

Section 1034, Pub. L. 89–329, title II, § 224, as added Pub. L. 102–325, title II, § 201, July 23, 1992, 106 Stat. 470, required Secretary to consult with appropriate library and information science professional bodies in determining critical needs and priorities under former sections 1032 and 1033 of this title.

A prior section 1034, Pub. L. 89–329, title II, § 224, as added Pub. L. 96–374, title II, § 201, Oct. 3, 1980, 94 Stat. 1385, authorized special purpose grants, prior to repeal by Pub. L. 99–498, title II, § 204(a), Oct. 17, 1986, 100 Stat. 1289.

Another prior section 1034, Pub. L. 89–329, title II, § 223, formerly § 224, Nov. 8, 1965, 79 Stat. 1228, Pub. L. 91–230, title IV, § 401(h)(4), Apr. 13, 1970, 84 Stat. 174, and renumbered Pub. L. 92–318, title I, § 111(b)(3)(D), June 23, 1972, 86 Stat. 240, related to grants for research and demonstration projects, prior to the general amendment of this subchapter by Pub. L. 96–374.

PART C—IMPROVING ACCESS TO RESEARCH LIBRARY RESOURCES

§§ 1041, 1042. Repealed. Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 708(b)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–312

Section 1041, Pub. L. 89–329, title II, § 231, as added Pub. L. 96–374, title II, § 201, Oct. 3, 1980, 94 Stat. 1386; amended Pub. L. 99–498, title II, §§ 204(b)(2), 206, Oct. 17, 1986, 100 Stat. 1289; Pub. L. 102–325, title II, § 201, July 23, 1992, 106 Stat. 470, authorized grants to institutions with major research libraries.

A prior section 1041, Pub. L. 89–329, title II, § 231, as added Pub. L. 94–482, title I, § 107, Oct. 12, 1976, 90 Stat. 2090, set out the Congressional statement of findings and purpose for the research library resources strengthening program, prior to the general amendment of this subchapter by Pub. L. 96–374.

Another prior section 1041, Pub. L. 89–329, title II, § 231, Nov. 8, 1965, 79 Stat. 1228; Pub. L. 90–575, title II, §§ 217, 218, Oct. 16, 1968, 82 Stat. 1037; Pub. L. 92–318, title I, § 114(a), June 23, 1972, 86 Stat. 240, authorized appropriations for assistance to Library of Congress for acquisition of Library material, prior to the general amendment of this part by Pub. L. 94–482, title I, § 107, Oct. 12, 1976, 90 Stat. 2090.

Section 1042, Pub. L. 89–329, title II, § 232, as added Pub. L. 96–374, title II, § 201, Oct. 3, 1980, 94 Stat. 1386; amended Pub. L. 102–325, title II, § 201, July 23, 1992, 106 Stat. 471, required Secretary to endeavor to achieve broad and equitable geographical distribution of grants.

A prior section 1042, Pub. L. 89–329, title II, § 232, as added Pub. L. 94–482, title I, § 107, Oct. 12, 1976, 90 Stat. 2090; amended Pub. L. 96–49, § 3(b), Aug. 13, 1979, 93 Stat. 351, which authorized appropriations through fiscal year 1980, was omitted in the general amendment of this subchapter by Pub. L. 96–374.

Another prior section 1042, Pub. L. 89–329, title II, § 232, as added Pub. L. 92–318, title I, § 115(a), June 23, 1972, 86 Stat. 241, which required an evaluation and report to Congressional committees by the Librarian of the Congress, was omitted in the general amendment of this part by Pub. L. 94–482, title I, § 107, Oct. 12, 1976, 90 Stat. 2090.

Prior sections 1043 to 1046 were omitted in the general amendment of this subchapter by Pub. L. 96–374, title II, § 201, Oct. 3, 1980, 94 Stat. 1383.

Section 1043, Pub. L. 89–329, title II, § 233, as added Pub. L. 94–482, title I, § 107, Oct. 12, 1976, 90 Stat. 2090, related to eligibility for assistance under research library resources strengthening program.

Section 1044, Pub. L. 89–329, title II, § 234, as added Pub. L. 94–482, title I, § 107, Oct. 12, 1976, 90 Stat. 2090, related to regional balance in allocation of funds.

Section 1045, Pub. L. 89–329, title II, § 235, as added Pub. L. 94–482, title I, § 107, Oct. 12, 1976, 90 Stat. 2091, set out limitations on grants as regards sectarian or religious use.

Section 1046, Pub. L. 89–329, title II, § 236, as added Pub. L. 94–482, title I, § 107, Oct. 12, 1976, 90 Stat. 2091, required consultations by grantees with State agencies.

PART D—STRENGTHENING LIBRARY AND INFORMATION SCIENCE PROGRAMS AND LIBRARIES IN HISTORICALLY BLACK COLLEGES AND UNIVERSITIES AND OTHER MINORITY-SERVING INSTITUTIONS

§ 1047. Repealed. Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 708(b)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–312

Section, Pub. L. 89–329, title II, § 241, as added Pub. L. 99–498, title II, § 207, Oct. 17, 1986, 100 Stat. 1289; amended Pub. L. 102–325, title II, § 201, July 23, 1992, 106 Stat. 471; Pub. L. 103–208, § 2(a)(3), Dec. 20, 1993, 107 Stat. 2457, authorized Secretary to make grants to and enter into contracts with eligible institutions, library organizations or agencies to assist in strengthening library and information science programs and libraries in historically black colleges and universities and other minority-serving institutions.

Prior sections 1047 to 1047j were omitted in the general amendment of this part by Pub. L. 99–498, title II, § 207, Oct. 17, 1986, 100 Stat. 1289.

Section 1047, Pub. L. 89–329, title II, § 241, as added Pub. L. 96–374, title II, § 201, Oct. 3, 1980, 94 Stat. 1386, stated congressional declaration of purpose.

Section 1047a, Pub. L. 89–329, title II, § 242, as added Pub. L. 96–374, title II, § 201, Oct. 3, 1980, 94 Stat. 1387, established National Periodical System Corporation.

Section 1047b, Pub. L. 89–329, title II, § 243, as added Pub. L. 96–374, title II, § 201, Oct. 3, 1980, 94 Stat. 1387, related to functions of National Periodical System Corporation.

Section 1047c, Pub. L. 89–329, title II, § 244, as added Pub. L. 96–374, title II, § 201, Oct. 3, 1980, 94 Stat. 1387, related to board of directors of National Periodical System Corporation.

Section 1047d, Pub. L. 89–329, title II, § 245, as added Pub. L. 96–374, title II, § 201, Oct. 3, 1980, 94 Stat. 1388, related to director and staff of National Periodical System Corporation.

Section 1047e, Pub. L. 89–329, title II, § 246, as added Pub. L. 96–374, title II, § 201, Oct. 3, 1980, 94 Stat. 1388, related to nonprofit nature of National Periodical System Corporation.

Section 1047f, Pub. L. 89–329, title II, § 247, as added Pub. L. 96–374, title II, § 201, Oct. 3, 1980, 94 Stat. 1388, related to authority of National Periodical System Corporation.

Section 1047g, Pub. L. 89–329, title II, § 248, as added Pub. L. 96–374, title II, § 201, Oct. 3, 1980, 94 Stat. 1389, related to congressional approval of design for national periodical system.

Section 1047h, Pub. L. 89–329, title II, § 249, as added Pub. L. 96–374, title II, § 201, Oct. 3, 1980, 94 Stat. 1389, related to affect of this part on copyright law.

Section 1047i, Pub. L. 89–329, title II, § 250, as added Pub. L. 96–374, title II, § 201, Oct. 3, 1980, 94 Stat. 1389, defined terms used in this part.

Section 1047j, Pub. L. 89–329, title II, § 251, as added Pub. L. 96–374, title II, § 201, Oct. 3, 1980, 94 Stat. 1390, authorized appropriations to carry out this part.

SUBCHAPTER III—INSTITUTIONAL AID

CODIFICATION

Title III of the Higher Education Act of 1965, comprising this subchapter, was originally enacted by Pub. L. 89–329, title III, Nov. 8, 1965, 79 Stat. 1229, and amended by Pub. L. 89–752, Nov. 3, 1966, 80 Stat. 1240; Pub. L. 90–575, Oct. 16, 1968, 82 Stat. 1014; Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 121; Pub. L. 92–318, June 23, 1972, 86 Stat. 235; Pub. L. 93–380, Aug. 21, 1974, 88 Stat. 484; Pub. L. 94–482, Oct. 12, 1976, 90 Stat. 2081; Pub. L. 96–49, Aug. 13, 1979, 93 Stat. 351; Pub. L. 96–374, Oct. 3, 1980, 94 Stat. 1367; Pub. L. 97–35, Aug. 13, 1981, 95 Stat. 357; Pub. L. 98–95, Sept. 26, 1983, 97 Stat. 708; Pub. L. 98–312, June 12, 1984, 98 Stat. 233. Such title is shown herein, however, as having been added by Pub. L. 99–498, title III, § 301(a), Oct. 17, 1986, 100 Stat. 1290, without reference to such intervening amendments because of the extensive revision of title III by Pub. L. 99–498.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1132i–2, 1134r, 7476 of this title.

§ 1051. Findings and purpose

(a) Findings

The Congress finds that—

(1) there are a significant number of institutions of higher education serving high percentages of minority students and students from low-income backgrounds, that face problems that threaten their ability to survive;

(2) the problems relate to the management and fiscal operations of certain institutions of higher education, as well as to an inability to engage in long-range planning and development activities, including endowment building;

(3) the subchapter III program prior to 1985 did not always meet the specific development needs of historically Black colleges and universities and other institutions with large concentrations of minority, low-income students;

(4) the solution of the problems of these institutions would enable them to become viable, fiscally stable and independent, thriving institutions of higher education;

(5) providing assistance to eligible institutions will enhance the role of such institutions in providing access and quality education to low-income and minority students;

(6) these institutions play an important role in the American system of higher education, and there is a strong national interest in assisting them in solving their problems and in stabilizing their management and fiscal operations, and in becoming financially independent; and

(7) there is a particular national interest in aiding those institutions of higher education that have historically served students who have been denied access to postsecondary education because of race or national origin and whose participation in the American system of higher education is in the Nation's interest so that equality of access and quality of postsecondary education opportunities may be enhanced for all students.

(b) Purpose

It is the purpose of this subchapter to assist such institutions in equalizing educational opportunity through a program of Federal assistance.

(Pub. L. 89–329, title III, § 301, as added Pub. L. 99–498, title III, § 301(a), Oct. 17, 1986, 100 Stat. 1290; amended Pub. L. 102–325, title III, § 301, July 23, 1992, 106 Stat. 472; Pub. L. 103–208, § 2(a)(4), Dec. 20, 1993, 107 Stat. 2457.)

PRIOR PROVISIONS

A prior section 1051, Pub. L. 89–329, title III, § 301, as added Pub. L. 96–374, title III, § 301, Oct. 3, 1980, 94 Stat. 1390, stated Congressional findings and purposes for program of providing Federal assistance to institutions of higher education, prior to the general revision of this subchapter by Pub. L. 99–498.

Another prior section 1051, Pub. L. 89–329, title III, § 301, Nov. 8, 1965, 79 Stat. 1229; Pub. L. 89–752, § 10, Nov. 3, 1966, 80 Stat. 1243; Pub. L. 90–575, title II, §§ 221, 222, Oct. 16, 1968, 82 Stat. 1038; Pub. L. 92–318, title I, § 121(a), June 23, 1972, 86 Stat. 241; Pub. L. 94–482, title I, § 111, Oct. 12, 1976, 90 Stat. 2091; Pub. L. 96–49, § 4, Aug. 13, 1979, 93 Stat. 351, related to a program of special assistance to strengthen the academic quality of developing institutions, prior to the general revision of this subchapter by Pub. L. 96–374.

Prior sections 1052 to 1056 were omitted in the general revision of this subchapter by Pub. L. 96–374.

Section 1052, Pub. L. 89–329, title III, § 302, Nov. 8, 1965, 79 Stat. 1229; Pub. L. 92–318, title I, § 121(a), June 23, 1972, 86 Stat. 241; Pub. L. 93–380, title VIII, § 832, Aug. 21, 1974, 88 Stat. 603; Pub. L. 94–482, title I, § 112, Oct. 12, 1976, 90 Stat. 2091, related to eligibility for special assistance.

Section 1053, Pub. L. 89–329, title III, § 303, Nov. 8, 1965, 79 Stat. 1230; Pub. L. 91–230, title IV, § 401(h)(4), Apr. 13, 1970, 84 Stat. 174; Pub. L. 92–318, title I, § 121(a), title III, § 301(a)(1), June 23, 1972, 86 Stat. 242, 326, provided for the establishment of an Advisory Council on Developing Institutions.

Section 1054, Pub. L. 89–329, title III, § 304, Nov. 8, 1965, 79 Stat. 1230; Pub. L. 92–318, title I, § 121(a), June 23,

1972, 86 Stat. 243, authorized the Commissioner of Education to make grants and awards.

Section 1055, Pub. L. 89–329, title III, § 305, Nov. 8, 1965, 79 Stat. 1231; Pub. L. 92–318, title I, § 121(a), June 23, 1972, 86 Stat. 244, related to assistance to developing institutions under other programs.

Section 1056, Pub. L. 89–329, title III, § 306, as added Pub L. 90–575, title II, § 223(a), Oct. 16, 1968, 82 Stat. 1038; amended Pub. L. 92–318, title I, § 121(a), June 23, 1972, 86 Stat. 245, prohibited the use of funds for religious activities.

AMENDMENTS

1993—Subsec. (a)(2). Pub. L. 103–208 struck out the comma after ''planning''.

1992—Subsec. (a)(1). Pub. L. 102–325, § 301(1), amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''many institutions of higher education in this era of declining enrollments and scarce resources face problems which threaten their ability to survive;''.

Subsec. (a)(2). Pub. L. 102–325, § 301(2), struck out ''recruitment activities,'' after ''long-range planning,''.

Subsec. (a)(5). Pub. L. 102–325, § 301(3), amended par. (5) generally. Prior to amendment, par. (5) read as follows: ''providing a minimum level of assistance to all categories of eligible institutions will assure the continued participation of the institutions in the program established in this subchapter and enhance their role in providing access and quality education to low-income and minority students;''.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1003 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

EFFECTIVE DATE

Section 301(b) of Pub. L. 99–498 provided that: ''The amendment made by subsection (a) [enacting this subchapter] shall take effect July 1, 1987.''

PART A—STRENGTHENING INSTITUTIONS

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 1059a, 1065, 1067, 1068, 1069, 1069b, 1069f of this title.

§ 1057. Program purpose

(a) General authorization

The Secretary shall carry out a program, in accordance with this part, to improve the academic quality, institutional management, and fiscal stability of eligible institutions, in order to increase their self-sufficiency and strengthen their capacity to make a substantial contribution to the higher education resources of the Nation.

(b) Grants awarded; special consideration

(1) From the sums available for this part under section 1069f(a)(1) of this title, the Secretary may award grants to any eligible institution with an application approved under section 1066 of this title in order to assist such an institution to plan, develop, or implement activities that promise to strengthen the institution.

(2) Special consideration shall be given to any eligible institution—

(A) which has endowment funds (other than any endowment fund built under section 1065 of this title as in effect on September 30, 1986, and under part B of this subchapter) the market value of which, per full-time equivalent student, is less than the average current market value of the endowment funds, per full-time equivalent student (other than any endowment fund built under section 1065 of this title as in effect on September 30, 1986, and under part B of this subchapter) at similar institutions; or

(B) which has expenditures per full-time equivalent student for library materials which is less than the average of the expenditures for library materials per full-time equivalent student by other similarly situated institutions.

(3) Special consideration shall be given to applications which propose, pursuant to the institution's plan, to engage in—

(A) faculty development;

(B) funds and administrative management;

(C) development and improvement of academic programs;

(D) acquisition of equipment for use in strengthening funds management and academic programs;

(E) joint use of facilities such as libraries and laboratories; and

(F) student services.

(Pub. L. 89–329, title III, § 311, as added Pub. L. 99–498, title III, § 301(a), Oct. 17, 1986, 100 Stat. 1291; amended Pub. L. 100–50, § 2(a)(1), June 3, 1987, 101 Stat. 335.)

PRIOR PROVISIONS

A prior section 1057, Pub. L. 89–329, title III, § 311, as added Pub. L. 96–374, title III, § 301, Oct. 3, 1980, 94 Stat. 1391, enumerated purposes and established grant authority for program to strengthen eligible institutions, prior to the general revision of this subchapter by Pub. L. 99–498.

AMENDMENTS

1987—Subsec. (b)(1). Pub. L. 100–50 substituted ''section 1069f(a)(1) of this title'' for ''section 1069d(a)(1) of this title''.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1059a, 1066, 1068, 1969 of this title.

§ 1058. Definitions; eligibility

(a) Educational and general expenditures

For the purpose of this part, the term ''educational and general expenditures'' means the total amount expended by an institution of higher education for instruction, research, public service, academic support (including library expenditures), student services, institutional support, scholarships and fellowships, operation and maintenance expenditures for the physical plant, and any mandatory transfers which the institution is required to pay by law.

(b) Eligible institution

For the purpose of this part, the term ''eligible institution'' means—

(1) an institution of higher education—

(A) which has an enrollment of needy students as required by subsection (c) of this section;

(B) except as provided in section 1067(b) of this title, the average educational and general expenditures of which are low, per full-time equivalent undergraduate student, in comparison with the average educational and general expenditures per full-time equivalent undergraduate student of institutions that offer similar instruction;

(C) which is—

(i) legally authorized to provide, and provides within the State, an educational program for which such institution awards a bachelor's degree;

(ii) a junior or community college; or

(iii) the College of the Marshall Islands, the College of Micronesia/Federated States of Micronesia, and Palau Community College;

(D) which is accredited by a nationally recognized accrediting agency or association determined by the Secretary to be reliable authority as to the quality of training offered or which is, according to such an agency or association, making reasonable progress toward accreditation;

(E) which meets such other requirements as the Secretary may prescribe; and

(F) located in a State; and

(2) any branch of any institution of higher education described under paragraph (1) which by itself satisfies the requirements contained in subparagraphs (A) and (B) of such paragraph.

For purposes of the determination of whether an institution is an eligible institution under this paragraph, the factor described under paragraph (1)(A) shall be given twice the weight of the factor described under paragraph (1)(B).

(c) Enrollment of needy students

For the purpose of this part, the term ''enrollment of needy students'' means an enrollment at an institution of higher education or a junior or community college which includes—

(1) at least 50 percent of the degree students so enrolled who are receiving need-based assistance under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42 in the second fiscal year preceding the fiscal year for which the determination is being made (other than loans for which an interest subsidy is paid pursuant to section 1078 of this title), or

(2) a substantial percentage of students receiving Pell Grants in the second fiscal year preceding the fiscal year for which determination is being made, in comparison with the percentage of students receiving Pell Grants at all such institutions in the second fiscal year preceding the fiscal year for which the determination is made, unless the requirement of this subdivision is waived under section 1067(a) of this title.

(d) Full-time equivalent students

For the purpose of this part, the term ''full-time equivalent students'' means the sum of the number of students enrolled full time at an institution, plus the full-time equivalent of the number of students enrolled part time (determined on the basis of the quotient of the sum of the credit hours of all part-time students divided by 12) at such institution.

(e) Junior or community college

For the purpose of this part, the term ''junior or community college'' means an institution of higher education—

(1) that admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located and who have the ability to benefit from the training offered by the institution;

(2) that does not provide an educational program for which it awards a bachelor's degree (or an equivalent degree); and

(3) that—

(A) provides an educational program of not less than 2 years that is acceptable for full credit toward such a degree, or

(B) offers a 2-year program in engineering, mathematics, or the physical or biological sciences, designed to prepare a student to work as a technician or at the semi-professional level in engineering, scientific, or other technological fields requiring the understanding and application of basic engineering, scientific, or mathematical principles of knowledge.

(f) Historically black college or university

For the purposes of this section, no historically black college or university which is eligible for and receives funds under part B of this subchapter is eligible for or may receive funds under this part.

(Pub. L. 89–329, title III, § 312, as added Pub. L. 99–498, title III, § 301(a), Oct. 17, 1986, 100 Stat. 1292; amended Pub. L. 100–50, § 2(a)(2)–(6), June 3, 1987, 101 Stat. 335; Pub. L. 100–369, § 10(a), July 18, 1988, 102 Stat. 837; Pub. L. 102–325, title III, § 302(a), (b), July 23, 1992, 106 Stat. 472; Pub. L. 103–208, § 2(a)(5), Dec. 20, 1993, 107 Stat. 2457; Pub. L. 103–382, title III, § 353, Oct. 20, 1994, 108 Stat. 3966.)

PRIOR PROVISIONS

A prior section 1058, Pub. L. 89–329, title III, § 312, as added Pub. L. 96–374, title III, § 301, Oct. 3, 1980, 94 Stat. 1391, defined terms used in this subchapter, prior to the general revision of this subchapter by Pub. L. 99–498.

AMENDMENTS

1994—Subsec. (b)(1)(C). Pub. L. 103–382, § 353(1), amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: ''(C)(i) which is legally authorized to provide, and provides within the State, an educational program for which it awards a bachelor's degree, or (ii) which is a junior or community college;''.

Subsec. (b)(1)(F). Pub. L. 103–382, § 353(2), (3), added subpar. (F).

1993—Subsec. (c)(2). Pub. L. 103–208 inserted ''the'' after ''such institutions in''.

1992—Subsec. (b)(1), (2). Pub. L. 102–325, § 302(a)(1), (2), inserted ''and'' at end of subpar. (D), struck out subpar. (E), redesignated subpar. (F) as (E) and inserted ''and'' at end, and substituted period for semicolon at end of par. (2). Prior to amendment, subpar. (E) of par. (1) read as follows: ''except as provided in section 1067(b) of this

title which has, during the 5 academic years preceding the academic year for which it seeks assistance under this part—

''(i) met the requirement of either subparagraph (C)(i) or (C)(ii), or of both such subparagraphs (simultaneously or consecutively); and

''(ii) met the requirement of subparagraph (D); and''.

Subsec. (b)(3) to (5). Pub. L. 102–325, §302(a)(3), struck out pars. (3) to (5) which read as follows:

''(3) any institution of higher education which has an enrollment of which at least 20 percent are Mexican American, Puerto Rican, Cuban, or other Hispanic students, or combination thereof, and which also satisfies the requirements of subparagraphs (A), (B), (C), and (D) of paragraph (1);

''(4) any institution of higher education which has an enrollment of at least 60 percent American Indian, or in the case of Alaska natives, an enrollment of at least 5 percent, and which also satisfies the requirements of subparagraphs (A), (B), (C), and (D) of paragraph (1); and

''(5) any institution of higher education which has an enrollment of which at least 5 percent are Native Hawaiian, Asian American, American Samoan, Micronesian, Guamian (Chamorro), and Northern Marianian, or any combination thereof, and which also satisfies the requirements of subparagraphs (A), (B), (C), and (D) of paragraph (1).''

Subsec. (c)(2). Pub. L. 102–325, §302(b), substituted ''second fiscal year preceding the fiscal year for which the determination is made, unless the requirement'' for ''second preceding fiscal year, unless the requirement''.

1988—Subsec. (f). Pub. L. 100–369 added subsec. (f).

1987—Subsec. (b)(1)(C), (D). Pub. L. 100–50, §2(a)(2)(A), inserted ''which'' before ''is'' wherever appearing.

Subsec. (b)(1)(E). Pub. L. 100–50, §2(a)(2)(B), inserted ''which'' before ''has''.

Subsec. (b)(1)(F). Pub. L. 100–50, §2(a)(2)(C), inserted ''which'' before ''meets''.

Subsec. (b)(3), (5). Pub. L. 100–50, §2(a)(3), (4), substituted ''subparagraphs (A), (B), (C), and (D)'' for ''subparagraphs (A) and (B)''.

Subsec. (c)(1). Pub. L. 100–50, §2(a)(5), inserted ''in the second fiscal year preceding the fiscal year for which the determination is being made'' after ''chapter 34 of title 42''.

Subsec. (c)(2). Pub. L. 100–50, §2(a)(6), substituted ''fiscal year preceding the fiscal year for which determination is being made'' for ''preceding fiscal year'' and ''second preceding fiscal year'' for ''such fiscal year''.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1003 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1059c, 1063a, 1065, 1066, 1067 of this title; title 10 section 2194; title 25 sections 1616h, 1809.

§ 1059. Duration of grant

(a) Award period

The Secretary may award a grant to an eligible institution under this part for 5 years.

(b) Limitations

In awarding grants under this part the Secretary shall give priority to applicants who are not already receiving a grant under this part, except that for the purpose of this subsection a grant under section 1069(a)(1) of this title shall not be considered a grant under this part.

(c) Planning grants

Notwithstanding subsection (a) of this section, the Secretary may award a grant to an eligible institution under this part for a period of one year for the purpose of preparation of plans and applications for a grant under this part.

(Pub. L. 89–329, title III, §313, as added Pub. L. 99–498, title III, §301(a), Oct. 17, 1986, 100 Stat. 1294; amended Pub. L. 102–325, title III, §302(c), July 23, 1992, 106 Stat. 472; Pub. L. 103–208, §2(a)(6), Dec. 20, 1993, 107 Stat. 2457.)

PRIOR PROVISIONS

A prior section 1059, Pub. L. 89–329, title III, §313, as added Pub. L. 96–374, title III, §301, Oct. 3, 1980, 94 Stat. 1392, provided for duration of grants under this part, prior to the general revision of this subchapter by Pub. L. 99–498.

AMENDMENTS

1993—Subsec. (b). Pub. L. 103–208 inserted before period at end '', except that for the purpose of this subsection a grant under section 1069(a)(1) of this title shall not be considered a grant under this part''.

1992—Subsecs. (a), (b). Pub. L. 102–325 amended subsecs. (a) and (b) generally, substituting present provisions for provisions which related: in subsec. (a), to the awarding of grants for not to exceed 3, 4, or 5 years; and in subsec. (b), to waiting periods for awarding of subsequent grants.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1003 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1069 of this title.

§ 1059a. Application review process

(a) Review panel

(1) All applications submitted under part A of this subchapter by institutions of higher education shall be read by a panel of readers composed of individuals selected by the Secretary which shall include outside readers who are not employees of the Federal Government. The Secretary shall ensure that no individual assigned under this section to review any application has any conflict of interest with regard to that application which might impair the impartiality with which that individual conducts the review under this section.

(2) The Secretary shall take care to include as readers representatives of historically and predominantly Black colleges, Hispanic institutions, Native American colleges and universities, and institutions with substantial num-

bers of students who are Hispanic, Native American, Asian American, and Native American Pacific Islander (including Native Hawaiians).

(3) All readers selected by the Secretary shall receive thorough instruction from the Secretary regarding the evaluation process for applications submitted under part A of this subchapter, including—

(A) explanations and examples of the types of activities referred to in section 1057(b) of this title that must receive special consideration for grants awarded under part A of this subchapter;

(B) an enumeration of the factors to be used to determine the quality of applications submitted under part A of this subchapter; and

(C) an enumeration of the factors to be used to determine whether a grant should be awarded for a project under part A of this subchapter, the amount of any such grant, and the duration of any such grant.

(b) Recommendations of panel

In awarding grants under part A of this subchapter, the Secretary shall take into consideration the recommendations of the panel established under subsection (a) of this section.

(c) Notification

Not later than June 30 of each year, the Secretary shall notify each institution of higher education making an application under part A of this subchapter of—

(1) the scores given the applicant by the panel pursuant to this section;

(2) the recommendations of the panel with respect to such application; and

(3) the reasons for the decision of the Secretary in awarding or refusing to award a grant under part A of this subchapter and any modifications, if any, in the recommendations of the panel made by the Secretary.

(Pub. L. 89–329, title III, § 314, as added Pub. L. 100–50, § 2(b), June 3, 1987, 101 Stat. 336.)

EFFECTIVE DATE

Section effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as an Effective Date of 1987 Amendment note under section 1001 of this title.

§ 1059b. Goals for financial management and academic program

(a) Goals

Any application for a grant under this part shall describe measurable goals for the institution's financial management and academic programs, and include a plan of how the applicant intends to achieve those goals.

(b) Continuation requirements

Any continuation application shall demonstrate the progress made toward achievement of the goals described pursuant to subsection (a) of this section.

(Pub. L. 89–329, title III, § 315, as added Pub. L. 102–325, title III, § 302(d)(1), July 23, 1992, 106 Stat. 472.)

EFFECTIVE DATE

Section effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as an Effective Date of 1992 Amendment note under section 1001 of this title.

§ 1059c. Hispanic-serving institutions

(a) Program authorized

The Secretary shall provide grants and related assistance to Hispanic-serving institutions to enable such institutions to improve and expand their capacity to serve Hispanic and other low-income students.

(b) Definitions

For the purpose of this section—

(1) the term ''Hispanic-serving institution'' means an institution of higher education which—

(A) is an eligible institution under section 1058(b) of this title;

(B) at the time of application, has an enrollment of undergraduate full-time equivalent students that is at least 25 percent Hispanic students;

(C) provides assurances that—

(i) not less than 50 percent of its Hispanic students are low-income individuals who are first generation college students; and

(ii) another 25 percent of its Hispanic students are either low-income individuals or first generation college students;

(2) the term ''first generation college student'' means—

(A) an individual both of whose parents did not complete a baccalaureate degree; or

(B) in the case of any individual who regularly resided with and received support from only one parent, an individual whose only such parent did not complete a baccalaureate degree; and

(3) the term ''low-income individual'' means an individual from a family whose taxable income for the preceding year did not exceed 150 percent of an amount equal to the poverty level determined by using criteria of poverty established by the Bureau of the Census.

(c) Authorized activities

(1) Types of activities authorized

Grants awarded under this section shall be used by Hispanic-serving institutions of higher education to assist such institutions to plan, develop, undertake, and carry out programs.

(2) Examples of authorized activities

Such programs may include—

(A) purchase, rental, or lease of scientific or laboratory equipment for educational purposes, including instructional and research purposes;

(B) renovation and improvement in classroom, library, laboratory, and other instructional facilities;

(C) support of faculty exchanges, and faculty development and faculty fellowships to assist in attaining advanced degrees in their field of instruction;

(D) curriculum development and academic instruction;

(E) purchase of library books, periodicals, microfilm, and other educational materials;

(F) funds and administrative management, and acquisition of equipment for use in strengthening funds management;

(G) joint use of facilities such as laboratories and libraries; and

(H) academic tutoring and counseling programs and student support services.

(d) Application process

(1) Institutional eligibility

Each Hispanic-serving institution desiring to receive assistance under this chapter shall submit to the Secretary such enrollment data as may be necessary to demonstrate that it is a Hispanic-serving institution as defined in paragraph (1) of subsection (b) of this section, along with such other information and data as the Secretary may by regulation require.

(2) Applications

Any institution which is determined by the Secretary to be a Hispanic-serving institution (on the basis of the information and data submitted under paragraph (1)) may submit an application for assistance under this section to the Secretary. Such application shall include—

(A) a 5-year plan for improving the assistance provided by the Hispanic-serving institution to Hispanic and other low-income students; and

(B) such other information and assurance as the Secretary may require.

(3) Priority

The Secretary shall give priority to applications that contain satisfactory evidence that such institution has entered into or will enter into a collaborative arrangement with at least one local educational agency to provide such agency with assistance (from funds other than funds provided under this part) in reducing Hispanic dropout rates, improving Hispanic rates of academic achievement, and increasing the rates at which Hispanic high school graduates enroll in higher education.

(e) Special rule

For the purposes of this section, no Hispanic-serving college or university which is eligible for and receives funds under this section may concurrently receive other funds under this part or part B of this subchapter.

(Pub. L. 89–329, title III, §316, as added Pub. L. 102–325, title III, §302(d)(1), July 23, 1992, 106 Stat. 473; amended Pub. L. 103–208, §2(a)(7), Dec. 20, 1993, 107 Stat. 2457.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (d)(1), was in the original ''this Act'', meaning Pub. L. 89–329, as amended, known as the Higher Education Act of 1965. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

AMENDMENTS

1993—Subsec. (c). Pub. L. 103–208 substituted ''(2) EXAMPLES OF AUTHORIZED ACTIVITIES.—Such programs may include—'' for ''Such programs may include—''.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1003 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as an Effective Date of 1992 Amendment note under section 1001 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1069f of this title; title 7 sections 2206a, 3103; title 10 section 2323.

PART B—STRENGTHENING HISTORICALLY BLACK COLLEGES AND UNIVERSITIES

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 1057, 1058, 1059c, 1063c, 1065, 1068, 1069, 1069b, 1069f, 1085, 1131 of this title.

§ 1060. Findings and purposes

The Congress finds that—

(1) the historically Black colleges and universities have contributed significantly to the effort to attain equal opportunity through postsecondary education for Black, low-income, and educationally disadvantaged Americans;

(2) States and the Federal Government have discriminated in the allocation of land and financial resources to support Black public institutions under the Morrill Act of 1862 [7 U.S.C. 301 et seq.] and its progeny, and against public and private Black colleges and universities in the award of Federal grants and contracts, and the distribution of Federal resources under this chapter and other Federal programs which benefit institutions of higher education;

(3) the current state of Black colleges and universities is partly attributable to the discriminatory action of the States and the Federal Government and this discriminatory action requires the remedy of enhancement of Black postsecondary institutions to ensure their continuation and participation in fulfilling the Federal mission of equality of educational opportunity; and

(4) financial assistance to establish or strengthen the physical plants, financial management, academic resources, and endowments of the historically Black colleges and universities are appropriate methods to enhance these institutions and facilitate a decrease in reliance on governmental financial support and to encourage reliance on endowments and private sources.

(Pub. L. 89–329, title III, §321, as added Pub. L. 99–498, title III, §301(a), Oct. 17, 1986, 100 Stat. 1294.)

REFERENCES IN TEXT

The Morrill Act of 1862, referred to in par. (2), is act July 2, 1862, ch. 130, 12 Stat. 503, as amended, also known as the First Morrill Act, which is classified generally to subchapter I (§301 et seq.) of chapter 13 of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 301 of Title 7 and Tables.

This chapter, referred to in par. (2), was in the original ''this Act'', meaning Pub. L. 89–329, as amended, known as the Higher Education Act of 1965. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

PRIOR PROVISIONS

A prior section 1060, Pub. L. 89–329, title III, §321, as added Pub. L. 96–374, title III, §301, Oct. 3, 1980, 94 Stat.

1393, set out purpose and grant authority for program of aiding institutions with special needs, prior to the general revision of this subchapter by Pub. L. 99–498.

Another prior section 1060, Pub. L. 90–575, title V, § 504, Oct. 16, 1968, 82 Stat. 1062, related to eligibility for student assistance because of conviction of crimes involving force, disruption, or seizure of property of educational institution; refusal to obey regulations or orders and disruption of administration of institution; other misconduct, disciplinary proceedings, and freedom of expression; and description of programs covered by such disqualification, prior to repeal by Pub. L. 92–318, title I, § 139B(b), June 23, 1972, 86 Stat. 282.

EXECUTIVE ORDER NO. 12320

Ex. Ord. No. 12320, Sept. 15, 1981, 46 F.R. 46107, which provided for the development of a Federal program to achieve a significant increase in the participation by historically Black colleges and universities in Federally sponsored programs, was revoked by Ex. Ord. No. 12677, Apr. 28, 1989, 54 F.R. 18869, formerly set out below.

EXECUTIVE ORDER NO. 12677

Ex. Ord. No. 12677, Apr. 28, 1989, 54 F.R. 18869, which provided for the development of a Federal program to achieve a significant increase in the participation by historically Black colleges and universities in Federally sponsored programs, was revoked by Ex. Ord. No. 12876, § 13, Nov. 1, 1993, 58 F.R. 58735, set out below.

EX. ORD. NO. 12876. HISTORICALLY BLACK COLLEGES AND UNIVERSITIES

Ex. Ord. No. 12876, Nov. 1, 1993, 58 F.R. 58735, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, in order to advance the development of human potential, to strengthen the capacity of historically Black colleges and universities to provide quality education, and to increase opportunities to participate in and benefit from Federal programs, it is hereby ordered as follows:

SECTION 1. There shall be established in the Department of Education the President's Board of Advisors on Historically Black Colleges and Universities (''Board of Advisors'' or ''Board''), a Presidential advisory committee. The Board of Advisors shall issue an annual report to the President on participation by historically Black colleges and universities in federally sponsored programs. The Board of Advisors will also provide advice to the Secretary of Education (''Secretary'') and in the annual report to the President on how to increase the private sector role in strengthening historically Black colleges and universities, with particular emphasis on enhancing institutional infrastructure and facilitating planning, development, and the use of new technologies to ensure the goal of long-term viability and enhancement of these institutions. Notwithstanding the provisions of any other Executive order, the responsibilities of the President under the Federal Advisory Committee Act, as amended (5 U.S.C. App.), which is applicable to the Board of Advisors, shall be performed by the Secretary, in accordance with the guidelines and procedures established by the Administrator of General Services.

SEC. 2. The members of the Board of Advisors shall be appointed by the President. The Board shall include representatives of historically Black colleges and universities, other institutions of higher education, business and financial institutions, private foundations, and secondary education.

SEC. 3. The White House Initiative on Historically Black Colleges and Universities, housed in the Department of Education, shall: (1) provide the staff, resources, and assistance for the Board of Advisors; (2) assist the Secretary in the role of liaison between the executive branch and historically Black colleges and universities; and (3) serve the Secretary in carrying out his responsibilities under this order.

SEC. 4. To carry out the purposes of this order, each executive department and each agency designated by the Secretary shall, consistent with applicable law, enter into appropriate grants, contracts, or cooperative agreements with historically Black colleges and universities. The head of each agency subject to this order shall establish an annual goal for the amount of funds to be awarded in grants, contracts, or cooperative agreements to historically Black colleges and universities. Consistent with the funds available to the agency, the goal shall be an amount above the actual amount of such awards from the previous fiscal year and shall represent a substantial effort to increase the amounts available to historically Black colleges and universities for grants, contracts, or cooperative agreements. In order to facilitate the attainment of the goals established by this section, the head of each agency subject to this order shall provide technical assistance and information to historically Black colleges and universities regarding the program activities of the agency and the preparation of applications or proposals for grants, contracts, or cooperative agreements.

SEC. 5. Each executive department and designated agency shall appoint a senior official, who is a full-time officer of the Federal Government and who is responsible for management or program administration, to report directly to the department or agency head or designated agency representative on department or agency activity under this order and to serve as liaison to the Board and White House Initiative. To the extent permitted by law and regulation, each executive department and designated agency shall provide appropriate information requested by the Board and the White House Initiative staff pursuant to this order.

SEC. 6. Each executive department and designated agency shall develop an annual plan for, and shall document, the agency's effort to increase the ability of historically Black colleges and universities to participate in federally sponsored programs. These plans shall describe the measurable objectives for proposed agency actions to fulfill this order and shall be submitted at such time and in such form as the Secretary shall designate. In consultation with participating agencies, the Secretary shall review these plans and develop, with the advice of the Board of Advisors, an integrated Annual Federal Plan for Assistance to Historically Black Colleges and Universities for consideration by the President. The Secretary shall ensure that each president of a historically Black college or university is given the opportunity to comment on the proposed Annual Federal Plan prior to consideration by the President. Each participating agency shall submit to the Secretary and the Director of the Office of Management and Budget, an Annual Performance Report that shall measure each agency's performance against the objectives set forth in its annual plan. The Director of the Office of Management and Budget shall be responsible for overseeing compliance with the Annual Federal Plan.

SEC. 7. Each year the Board of Advisors shall report to the President on the progress achieved in enhancing the role and capabilities of historically Black colleges and universities, including findings and recommendations on the Annual Performance Reports, described in Section 6, submitted by the participating agencies. The Secretary shall disseminate the annual report to appropriate members of the executive branch and make every effort to ensure that findings of the Board of Advisors are taken into account in the policies and actions of every executive agency.

SEC. 8. The Department of Education, along with other Federal departments or agencies, shall work to encourage the private sector to assist historically Black colleges and universities through increased use of such devices and activities as: (1) private sector matching funds to support increased endowments; (2) private sector task forces for institutions in need of assistance; and (3) private sector expertise to facilitate the development of more effective ways to manage finances, improve information management, strengthen facilities, and improve course offerings. These steps will be taken with the goals of enhancing the career

prospects of graduates of historically Black colleges and universities and increasing the number of such graduates with degrees in science and technology.

SEC. 9. In all its recommendations, the Board of Advisors shall emphasize ways to support the long-term development plans of each historically Black college and university. The Board of Advisors shall recommend alternative sources of faculty talent, particularly in the fields of science and technology, including faculty exchanges and referrals from other institutions of higher education, private sector retirees, Federal employees and retirees, and emeritus faculty members at other institutions of higher education.

SEC. 10. The Board of Advisors, through the White House Initiative, shall provide advice on how historically Black colleges and universities can achieve greater financial security. To the maximum extent possible, the Board of Advisors shall consider how such institutions can enlist the resources and experience of the private sector to achieve such security.

SEC. 11. The Director of the Office of Personnel Management, in consultation with the Secretary and the Secretary of Labor, shall develop a program to improve recruitment and participation of graduates and undergraduate students of historically Black colleges and universities in part-time, summer and permanent positions in the Federal Government.

SEC. 12. Administration: (a) Members of the Board of Advisors shall serve without compensation, but shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law for persons serving intermittently in the Government service, (5 U.S.C. 5701–5707).

(b) The Board of Advisors and the White House Initiative shall obtain funding for their activities from the Department of Education.

(c) The Department of Education shall provide such administrative services for the Board as may be required.

SEC. 13. Executive Order No. 12677 of April 28, 1989, is hereby revoked.

WILLIAM J. CLINTON.

EXTENSION OF TERM OF PRESIDENT'S BOARD OF ADVISORS ON HISTORICALLY BLACK COLLEGES AND UNIVERSITIES

Term of President's Board of Advisors on Historically Black Colleges and Universities extended until Sept. 30, 1997, by Ex. Ord. No. 12974, Sept. 29, 1995, 60 F.R. 51875, formerly set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5, Government Organization and Employees.

Term of President's Board of Advisors on Historically Black Colleges and Universities extended until Sept. 30, 1999, by Ex. Ord. No. 13062, Sept. 29, 1997, 62 F.R. 51755, set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5.

DETERMINATIONS REGARDING PRESIDENT'S BOARD OF ADVISORS

Memorandum of the President of the United States, Aug. 17, 1990, 55 F.R. 46491, provided:

Memorandum for the Secretary of Education

By virtue of the authority vested in me as President by the Constitution and the laws of the United States of America, including section 208 of title 18 of the United States Code and section 301 of title 3 of the United States Code, I hereby delegate to the Secretary of Education my authority to make determinations under subsection (b) of section 208 of title 18, United States Code, for the members of the President's Board of Advisors on Historically Black Colleges and Universities, established pursuant to Executive Order 12677 of April 28, 1989 [formerly set out above].

This memorandum shall be published in the Federal Register.

GEORGE BUSH.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1061 of this title.

§ 1061. Definitions

For the purpose of this part:

(1) The term ''graduate'' means an individual who has attended an institution for at least three semesters and fulfilled academic requirements for undergraduate studies in not more than 5 consecutive school years.

(2) The term ''part B institution'' means any historically Black college or university that was established prior to 1964, whose principal mission was, and is, the education of Black Americans, and that is accredited by a nationally recognized accrediting agency or association determined by the Secretary to be a reliable authority as to the quality of training offered or is, according to such an agency or association, making reasonable progress toward accreditation.,[1] except that any branch campus of a southern institution of higher education that prior to September 30, 1986, received a grant as an institution with special needs under section 1060 of this title and was formally recognized by the National Center for Education Statistics as a Historically Black College or University but was determined not to be a part B institution on or after October 17, 1986, shall, from July 18, 1988, be considered a part B institution.

(3) The term ''Pell Grant recipient'' means a recipient of financial aid under subpart 1 of part A of subchapter IV of this chapter.

(4) The term ''professional and academic areas in which Blacks are underrepresented'' shall be determined by the Secretary and the Commissioner of the Bureau of Labor Statistics, on the basis of the most recent available satisfactory data, as professional and academic areas in which the percentage of Black Americans who have been educated, trained, and employed is less than the percentage of Blacks in the general population.

(5) The term ''school year'' means the period of 12 months beginning July 1 of any calendar year and ending June 30 of the following calendar year.

(Pub. L. 89–329, title III, § 322, as added Pub. L. 99–498, title III, § 301(a), Oct. 17, 1986, 100 Stat. 1294; amended Pub. L. 100–369, § 10(c), July 18, 1988, 102 Stat. 838.)

PRIOR PROVISIONS

A prior section 1061, Pub. L. 89–329, title III, § 322, as added Pub. L. 96–374, title III, § 301, Oct. 3, 1980, 94 Stat. 1393, defined terms used in this part, prior to the general revision of this subchapter by Pub. L. 99–498.

Another prior section 1061, Pub. L. 89–329, title IV, § 401, Nov. 8, 1965, 79 Stat. 1232; Pub. L. 90–575, title I, § 101(a), (b)(1), Oct. 16, 1968, 82 Stat. 1017; Pub. L. 91–95, § 4, Oct. 22, 1969, 83 Stat. 143; Pub. L. 92–318, title I, § 131(a)(1)(A), June 23, 1972, 86 Stat. 247, related to statement of purpose and authorization of appropriations for educational opportunity grants, prior to the general revision of part A of subchapter IV of this chapter by Pub. L. 92–318, title I, § 131(b)(1), June 23, 1972, 86 Stat. 247.

AMENDMENTS

1988—Par. (2). Pub. L. 100–369 inserted '',, except that any branch campus of a southern institution of higher education that prior to September 30, 1986, received a

[1] So in original.

grant as an institution with special needs under section 1060 of this title and was formally recognized by the National Center for Education Statistics as a Historically Black College or University but was determined not to be a part B institution on or after October 17, 1986, shall, from July 18, 1988, be considered a part B institution'' after ''accreditation''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1085, 1131a, 1131c, 1132c–1 of this title; title 25 section 1809; title 42 sections 1862d, 3035q.

§ 1062. Grants to institutions

(a) General authorization; uses of funds

From amounts available under section 1069f(a)(2) of this title in any fiscal year the Secretary shall make grants (under section 1063 of this title) to institutions which have applications approved by the Secretary (under section 1063a of this title) for any of the following uses:

(1) Purchase, rental, or lease of scientific or laboratory equipment for educational purposes, including instructional and research purposes.

(2) Construction, maintenance, renovation, and improvement in classroom, library, laboratory, and other instructional facilities, including purchase or rental of telecommunications technology equipment or services.

(3) Support of faculty exchanges, and faculty development and faculty fellowships to assist in attaining advanced degrees in their field of instruction.

(4) Academic instruction in disciplines in which Black Americans are underrepresented.

(5) Purchase of library books, periodicals, microfilm, and other educational materials, including telecommunications program materials.

(6) Tutoring, counseling, and student service programs designed to improve academic success.

(7) Funds and administrative management, and acquisition of equipment for use in strengthening funds management.

(8) Joint use of facilities, such as laboratories and libraries.

(9) Establishing or improving a development office to strengthen or improve contributions from alumni and the private sector.

(10) Establishing or enhancing a program of teacher education designed to qualify students to teach in a public elementary or secondary school in the State that shall include, as part of such program, preparation for teacher certification.

(11) Establishing community outreach programs which will encourage elementary and secondary students to develop the academic skills and the interest to pursue postsecondary education.

(12) Other activities proposed in the application submitted pursuant to section 1063a of this title that—

(A) contribute to carrying out the purposes of this part; and

(B) are approved by the Secretary as part of the review and acceptance of such application.

(b) Limitations

(1) No grant may be made under this chapter for any educational program, activity, or service related to sectarian instruction or religious worship, or provided by a school or department of divinity. For the purpose of this subsection, the term ''school or department of divinity'' means an institution whose program is specifically for the education of students to prepare them to become ministers of religion or to enter upon some other religious vocation, or to prepare them to teach theological subjects.

(2) Not more than 50 percent of the allotment of any institution may be available for the purpose of constructing or maintaining a classroom, library, laboratory, or other instructional facility.

(3) The Secretary shall not award a grant under this part for telecommunications technology equipment, facilities or services, if such equipment, facilities or services are available pursuant to section 396(k) of title 47.

(Pub. L. 89–329, title III, § 323, as added Pub. L. 99–498, title III, § 301(a), Oct. 17, 1986, 100 Stat. 1295; amended Pub. L. 100–50, § 2(a)(7), June 3, 1987, 101 Stat. 335; Pub. L. 100–369, § 10(b), July 18, 1988, 102 Stat. 838; Pub. L. 102–325, title III, § 303(a), (b), July 23, 1992, 106 Stat. 474, 475; Pub. L. 103–208, § 2(a)(8), Dec. 20, 1993, 107 Stat. 2457.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (b), was in the original ''this Act'', meaning Pub. L. 89–329, as amended, known as the Higher Education Act of 1965. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

PRIOR PROVISIONS

A prior section 1062, Pub. L. 89–329, title III, § 323, as added Pub. L. 96–374, title III, § 301, Oct. 3, 1980, 94 Stat. 1395, provided for duration of grants to institutions with special needs, prior to the general revision of this subchapter by Pub. L. 99–498.

Another prior section 1062, Pub. L. 89–329, title IV, § 402, Nov. 8, 1965, 79 Stat. 1232; Pub. L. 90–575, title I, § 102, Oct. 16, 1968, 82 Stat. 1017, related to determination of amount of grant and establishment of basic criteria or schedules, prior to the general revision of part A of subchapter IV of this chapter by Pub. L. 92–318, title I, § 131(b)(1), June 23, 1972, 86 Stat. 247.

AMENDMENTS

1993—Subsec. (b)(3). Pub. L. 103–208 realigned margin.

1992—Subsec. (a)(2). Pub. L. 102–325, § 303(a)(1), inserted '', including purchase or rental of telecommunications technology equipment or services'' after ''facilities''.

Subsec. (a)(5). Pub. L. 102–325, § 303(a)(2), inserted '', including telecommunications program materials'' after ''materials''.

Subsec. (a)(9) to (12). Pub. L. 102–325, § 303(a)(3), added pars. (9) to (12).

Subsec. (b)(3). Pub. L. 102–325, § 303(b), added par. (3).

1988—Subsec. (a)(3). Pub. L. 100–369, § 10(b)(1), inserted '', and faculty development'' after ''exchanges''.

Subsec. (a)(7), (8). Pub. L. 100–369, § 10(b)(2), added pars. (7) and (8).

1987—Subsec. (a). Pub. L. 100–50 substituted ''section 1069f(a)(2) of this title'' for ''section 1069d(a)(2) of this title''.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1003 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1063a, 1063b, 1066, 1068, 1069 of this title.

§ 1063. Allotments to institutions

(a) Allotment; Pell Grant basis

From the amounts appropriated to carry out this part for any fiscal year, the Secretary shall allot to each part B institution a sum which bears the same ratio to one-half that amount as the number of Pell Grant recipients in attendance at such institution at the end of the school year preceding the beginning of that fiscal year bears to the total number of Pell Grant recipients at all part B institutions.

(b) Allotment; graduates basis

From the amounts appropriated to carry out this part for any fiscal year, the Secretary shall allot to each part B institution a sum which bears the same ratio to one-fourth that amount as the number of graduates for such school year at such institution bears to the total number of graduates for such school year at all part B institutions.

(c) Allotment; graduate and professional student basis

From the amounts appropriated to carry out this part for any fiscal year, the Secretary shall allot to each part B institution a sum which bears the same ratio to one-fourth of that amount as the percentage of graduates per institution, who are admitted to and in attendance at, within 5 years of graduation with a baccalaureate degree, a graduate or professional school in a degree program in disciplines in which Blacks are underrepresented, bears to the percentage of such graduates per institution for all part B institutions.

(d) Minimum allotment

(1) Notwithstanding subsections (a), (b), and (c) of this section, the amount allotted to each part B institution under this section shall not be less than $500,000.

(2) If the amount appropriated pursuant to section 1069f(a)(2)(A) of this title for any fiscal year is not sufficient to pay the minimum allotment required by paragraph (1) of this subsection to all part B institutions, the amount of such minimum allotments shall be ratably reduced. If additional sums become available for such fiscal year, such reduced allocation shall be increased on the same basis as they were reduced (until the amount allotted equals the minimum allotment required by paragraph (1)).

(e) Reallotment

The amount of any part B institution's allotment under subsection (a), (b), (c), or (d) of this section for any fiscal year which the Secretary determines will not be required for such institution for the period such allotment is available shall be available for reallotment from time to time on such date during such period as the Secretary may determine to other part B institutions in proportion to the original allotment to such other institutions under this section for such fiscal year.

(f) Special merger rule

(1) The Secretary shall permit any eligible institution for a grant under part B in any fiscal year prior to the fiscal year 1986 to apply for a grant under this part if the eligible institution has merged with another institution of higher education which is not so eligible or has merged with an eligible institution.

(2) The Secretary may establish such regulations as may be necessary to carry out the requirement of paragraph (1) of this subsection.

(g) Special rule for certain District of Columbia eligible institutions

In any fiscal year that the Secretary determines that Howard University or the University of the District of Columbia will receive an allotment under subsections (b) and (c) of this section which is not in excess of amounts received by Howard University under section 123 of this title, relating to annual authorization of appropriations for Howard University, or by the University of the District of Columbia under the District of Columbia Home Rule Act (87 Stat. 774) for such fiscal year, then Howard University and the University of the District of Columbia, as the case may be, shall be ineligible to receive an allotment under this section.

(Pub. L. 89–329, title III, §324, as added Pub. L. 99–498, title III, §301(a), Oct. 17, 1986, 100 Stat. 1296; amended Pub. L. 99–509, title VII, §7007, Oct. 21, 1986, 100 Stat. 1950; Pub. L. 102–325, title III, §303(c), (d), July 23, 1992, 106 Stat. 475; Pub. L. 105–33, title XI, §11717(b), Aug. 5, 1997, 111 Stat. 786.)

REFERENCES IN TEXT

The District of Columbia Home Rule Act, referred to in subsec. (g), is Pub. L. 93–198, Dec. 24, 1973, 87 Stat. 774, as amended, which is classified principally to the District of Columbia Code. See chapter 2 (§1–201 et seq.) of Title 1, Administration, of the District of Columbia Code. For classification of this Act to the Code, see Tables.

PRIOR PROVISIONS

A prior section 1063, Pub. L. 89–329, title III, §324, as added Pub. L. 96–374, title III, §301, Oct. 3, 1980, 94 Stat. 1395, related to Federal share of grants to institutions with special needs, prior to the general revision of this subchapter by Pub. L. 99–498.

Another prior section 1063, Pub. L. 89–329, title IV, §403, Nov. 8, 1965, 79 Stat. 1233, related to duration of grant and eligibility for payments, prior to the general revision of part A of subchapter IV of this chapter by Pub. L. 92–318, title I, §131(b)(1), June 23, 1972, 86 Stat. 247.

AMENDMENTS

1997—Subsec. (g). Pub. L. 105–33 substituted ''District of Columbia Home Rule Act'' for ''District of Columbia Self-Government and Governmental Reorganization Act''.

1992—Subsec. (c). Pub. L. 102–325, §303(c), inserted '', within 5 years of graduation with a baccalaureate degree,'' after ''in attendance at''.

Subsec. (d)(1). Pub. L. 102–325, § 303(d), substituted ''$500,000'' for ''$350,000''.

1986—Subsec. (c). Pub. L. 99–509, § 7007(4), amended subsec. generally, substituting ''percentage of graduates per institution'' for ''number of graduates'' and ''percentage of such graduates per institution'' for ''number of such graduates''.

Subsec. (d). Pub. L. 99–509, § 7007(1), (2), added subsec. (d). Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 99–509, § 7007(1), (3), redesignated former subsec. (d) as (e), and substituted ''subsection (a), (b), (c), or (d) of this section'' for ''subsection (a), (b), or (c) of this section''. Former subsec. (e) redesignated (f).

Subsecs. (f), (g). Pub. L. 99–509, § 7007(1), redesignated subsecs. (e) and (f) as (f) and (g), respectively.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105–33 effective Oct. 1, 1997, except as otherwise provided in title XI of Pub. L. 105–33, see section 11721 of Pub. L. 105–33, set out as a note under section 4246 of Title 18, Crimes and Criminal Procedure.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1062, 1063a, 1065 of this title.

§ 1063a. Applications

(a) Contents

No part B institution shall be entitled to its allotment of Federal funds for any grant under section 1063 of this title for any period unless that institution meets the requirements of subparagraphs (C), (D), and (E)[1] of section 1058(b)(1) of this title and submits an application to the Secretary at such time, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require. Each such application shall—

(1) provide that the payments under this chapter will be used for the purposes set forth in section 1062 of this title; and

(2) provide for making an annual report to the Secretary and provide for—

(A) conducting, except as provided in subparagraph (B), a financial and compliance audit of an eligible institution, with regard to any funds obtained by it under this subchapter at least once every 2 years and covering the period since the most recent audit, conducted by a qualified, independent organization or person in accordance with standards established by the Comptroller General for the audit of governmental organizations, programs, and functions, and as prescribed in regulations of the Secretary, the results of which shall be submitted to the Secretary; or

(B) with regard to an eligible institution which is audited under chapter 75 of title 31 deeming such audit to satisfy the requirements of subparagraph (A) for the period covered by such audit.

(b) Approval

The Secretary shall approve any application which meets the requirements of subsection (a) of this section and shall not disapprove any application submitted under this part, or any modification thereof, without first affording such institution reasonable notice and opportunity for a hearing.

(c) Goals for financial management and academic programs

Any application for a grant under this part shall describe measurable goals for the institution's financial management and academic programs and include a plan of how the applicant intends to achieve those goals.

(Pub. L. 89–329, title III, § 325, as added Pub. L. 99–498, title III, § 301(a), Oct. 17, 1986, 100 Stat. 1296; amended Pub. L. 100–50, § 2(a)(8), June 3, 1987, 101 Stat. 335; Pub. L. 102–325, title III, § 303(e), July 23, 1992, 106 Stat. 475.)

REFERENCES IN TEXT

Section 1058(b)(1)(E) of this title, referred to in subsec. (a), was repealed and section 1058(b)(1)(F) was redesignated section 1058(b)(1)(E) by Pub. L. 102–325, title III, § 302(a)(1)(B), (C), July 23, 1992, 106 Stat. 472.

This chapter, referred to in subsec. (a)(1), was in the original ''this Act'', meaning Pub. L. 89–329, as amended, known as the Higher Education Act of 1965. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

AMENDMENTS

1992—Subsec. (c). Pub. L. 102–325 added subsec. (c).

1987—Subsec. (a)(1). Pub. L. 100–50 substituted ''section 1062 of this title'' for ''section 1061 of this title''.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1062 of this title.

§ 1063b. Professional or graduate institutions

(a) General authorization

(1) Subject to the availability of funds appropriated to carry out this section, the Secretary shall award program grants to each of the postgraduate institutions listed in subsection (e) of this section that is determined by the Secretary to be making a substantial contribution to the legal, medical, dental, veterinary, or other graduate education opportunities for Black Americans.

(2) No grant in excess of $500,000 may be made under this section unless the postgraduate institution provides assurances that 50 percent of the cost of the purposes for which the grant is made will be paid from non-Federal sources except that the Morehouse School of Medicine shall receive at least $3,000,000.

(b) Duration

Grants shall be made for a period not to exceed 5 years.

(c) Uses of funds

A grant under this section may be used for—

[1] See References in Text note below.

(1) any of the purposes enumerated under section 1062 of this title;

(2) to establish or improve a development office to strengthen and increase contributions from alumni and the private sector; and

(3) to assist in the establishment or maintenance of an institutional endowment to facilitate financial independence pursuant to section 1065 of this title.

(d) Application

Any institution eligible for a grant under this section shall submit an application which—

(1) demonstrates how the grant funds will be used to improve graduate educational opportunities for Black and low-income students, and lead to greater financial independence; and

(2) provides, in the case of applications for grants in excess of $500,000, the assurances required by subsection (a)(2) of this section and specifies the manner in which the eligible institution is going to pay the non-Federal share of the cost of the application.

(e) Eligibility

(1) In general

Independent professional or graduate institutions and programs eligible for grants under subsection (a) of this section include—

(A) Morehouse School of Medicine;

(B) Meharry Medical School;

(C) Charles R. Drew Postgraduate Medical School;

(D) Clark-Atlanta University;

(E) Tuskegee University School of Veterinary Medicine;

(F) Xavier University School of Pharmacy;

(G) Southern University School of Law;

(H) Texas Southern University School of Law and School of Pharmacy;

(I) Florida A&M University School of Pharmaceutical Sciences;

(J) North Carolina Central University School of Law;

(K) Morgan State University qualified graduate program;

(L) Hampton University qualified graduate program;

(M) Alabama A&M qualified graduate program;

(N) North Carolina A&T State University qualified graduate program;

(O) University of Maryland Eastern Shore qualified graduate program; and

(P) Jackson State qualified graduate program.

(2) Qualified graduate program

For the purposes of this section, the term ''qualified graduate program'' means a graduate or professional program that—

(A) provides a program of instruction in the physical or natural sciences, engineering, mathematics, or other scientific discipline in which African Americans are underrepresented; and

(B) has students enrolled in such program at the time of application for a grant under this section.

(3) Special rule

Graduate institutions that were awarded grants under this section prior to October 1, 1992 shall continue to receive such grant payments, regardless of the eligibility of the graduate institutions described in subparagraphs (F) through (P), until such grant period has expired or September 30, 1993, whichever is later.

(4) One grant per institution

The Secretary shall not award more than 1 grant under this section in any fiscal year to any institution of higher education or university system.

(f) Funding rule

Of the amount appropriated to carry out this section for any fiscal year—

(1) the first $12,000,000 (or any lesser amount appropriated) shall be available only for the purposes of making grants to institutions or programs described in subparagraphs (A) through (E) of subsection (e)(1) of this section;

(2) any amount appropriated in excess of $12,000,000 shall be available—

(A) for the purposes of making grants, in equal amounts not to exceed $500,000, to institutions or programs described in subparagraphs (F) through (P) of subsection (e)(1) of this section; and

(B) secondly for the purposes of making grants to institutions or programs described in subparagraphs (A) through (P) of subsection (e)(1) of this section.

(Pub. L. 89–329, title III, §326, as added Pub. L. 99–498, title III, §301(a), Oct. 17, 1986, 100 Stat. 1297; amended Pub. L. 100–50, §2(a)(9), (10), June 3, 1987, 101 Stat. 335; Pub. L. 102–325, title III, §303(f)(1), (g), July 23, 1992, 106 Stat. 475, 476; Pub. L. 103–208, §2(a)(9), Dec. 20, 1993, 107 Stat. 2457; Pub. L. 104–141, §2, May 6, 1996, 110 Stat. 1328.)

AMENDMENTS

1996—Subsec. (b). Pub. L. 104–141 struck out at end ''No more than two 5-year grants (for a period of not more than 10 years) may be made to any one undergraduate or postgraduate institution.''

1993—Subsec. (e)(2). Pub. L. 103–208 redesignated subpar. (C) as (B) and struck out former subpar. (B) which read as follows: ''has been accredited by a nationally recognized accrediting agency or association or has been approved by a nationally recognized approving agency; and''.

1992—Subsec. (e). Pub. L. 102–325, §303(f)(1), substituted ''Eligibility'' for ''Eligible professional or graduate institutions'' in heading and amended text generally. Prior to amendment, text read as follows: ''Independent professional or graduate institutions eligible for grants under subsection (a) of this section include—

''(1) Morehouse School of Medicine;

''(2) Meharry Medical School;

''(3) Charles R. Drew Postgraduate Medical School;

''(4) Atlanta University; and

''(5) Tuskegee Institute School of Veterinary Medicine.''

Subsec. (f). Pub. L. 102–325, §303(g), added subsec. (f).

1987—Subsec. (a)(2). Pub. L. 100–50, §2(a)(9), inserted ''except that the Morehouse School of Medicine shall receive at least $3,000,000''.

Subsec. (c)(3). Pub. L. 100–50, §2(a)(10), made technical amendment to reference to section 1065 of this title to correct reference to corresponding section of original act.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L.

102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1003 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

CONGRESSIONAL FINDINGS

Section 1 of Pub. L. 104–141 provided that: ''The Congress finds the following:

''(1) The Historically Black Graduate Professional Schools identified under section 326 of the Higher Education Act [20 U.S.C. 1063b] may receive grant funds if the Secretary of Education determines that such institutions make a substantial contribution to the legal, medical, dental, veterinary, or other graduate opportunity for African Americans.

''(2) The health professions schools which participate under section 326 train 50 percent of the Nation's African American physicians, 50 percent of the Nation's African American dentists, 50 percent of the Nation's African American pharmacists, and 75 percent of the Nation's African American veterinarians.

''(3) A majority of the graduates of these schools practice in poor urban and rural areas of the country providing care to many disadvantaged Americans.

''(4) The survival of these schools will contribute to the improved health status of disadvantaged persons, and of all Americans.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1069f of this title.

§ 1063c. Reporting and audit requirements

(a) Recordkeeping

Each recipient of a grant under this part shall keep such records as the Secretary shall prescribe, including records which fully disclose—

(1) the amount and disposition by such recipient of the proceeds of such assistance;

(2) the cost of the project or undertaking in connection with which such assistance is given or used;

(3) the amount of that portion of the cost of the project or undertaking supplied by other sources; and

(4) such other records as will facilitate an effective audit.

(b) Repayment of unexpended funds

Any funds paid to an institution and not expended or used for the purposes for which the funds were paid within 10 years following the date of the initial grant awarded to an institution under part B of this subchapter shall be repaid to the Treasury of the United States.

(Pub. L. 89–329, title III, § 327, as added Pub. L. 99–498, title III, § 301(a), Oct. 17, 1986, 100 Stat. 1298; amended Pub. L. 100–50, § 2(a)(11), June 3, 1987, 101 Stat. 335.)

AMENDMENTS

1987—Subsec. (a). Pub. L. 100–50 substituted ''part'' for ''chapter'' in introductory text.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

PART C—ENDOWMENT CHALLENGE GRANTS FOR INSTITUTIONS ELIGIBLE FOR ASSISTANCE UNDER PART A OR PART B

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 1066, 1069f of this title.

§ 1064. Repealed. Pub. L. 102–325, title III, § 304(a)(2), July 23, 1992, 106 Stat. 476

Section, Pub. L. 89–329, title III, § 331, as added Pub. L. 99–498, title III, § 301(a), Oct. 17, 1986, 100 Stat. 1298, related to establishment of challenge grant program.

A prior section 1064, Pub. L. 89–329, title III, § 331, as added Pub. L. 96–374, title III, § 301, Oct. 3, 1980, 94 Stat. 1395; amended Pub. L. 97–35, title V, § 516(c)(2), Aug. 13, 1981, 95 Stat. 447, established a challenge grant program, prior to the general revision of this subchapter by Pub. L. 99–498.

Another prior section 1064, Pub. L. 89–329, title IV, § 404, Nov. 8, 1965, 79 Stat. 1233, related to time and manner of making application for grant, selection of recipients and conditions precedent to award, prior to the general revision of part A of subchapter IV of this chapter by Pub. L. 92–318, title I, § 131(b)(1), June 23, 1972, 86 Stat. 247.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as an Effective Date of 1992 Amendment note under section 1001 of this title.

§ 1065. Endowment challenge grants

(a) Purpose; definitions

(1) The purpose of this section is to establish a program to provide matching grants to eligible institutions in order to establish or increase endowment funds at such institutions, to provide additional incentives to promote fund raising activities by such institutions, and to foster increased independence and self-sufficiency at such institutions.

(2) For the purpose of this section:

(A) The term ''endowment fund'' means a fund established by State law, by an institution of higher education, or by a foundation which is exempt from taxation and is maintained for the purpose of generating income for the support of the institution, but which shall not include real estate.

(B) The term ''endowment fund corpus'' means an amount equal to the grant or grants awarded under this section plus an amount equal to such grant or grants provided by the institution.

(C) The term ''endowment fund income'' means an amount equal to the total value of the endowment fund established under this section minus the endowment fund corpus.

(D)(i) The term ''eligible institution'' means an institution that is an—

(I) eligible institution under part A of this subchapter or would be considered to be such an institution if section 1058(b)(1)(C) of this title referred to a postgraduate degree rather than a bachelor's degree;

(II) institution eligible for assistance under part B of this subchapter or would be considered to be such an institution if section 1063 of this title referred to a post-

graduate degree rather than a baccalaureate degree; or

(III) institution of higher education that makes a substantial contribution to postgraduate medical educational opportunities for minorities and the economically disadvantaged.

(ii) The Secretary may waive the requirements of subclauses (I) and (II) of clause (i) with respect to a postgraduate degree in the case of any institution otherwise eligible under clause (i) for an endowment challenge grant upon determining that the institution makes a substantial contribution to medical education opportunities for minorities and the economically disadvantaged.

(b) Grants authorized

(1) From sums available for this section under section 1069f of this title, the Secretary is authorized to award endowment challenge grants to eligible institutions to establish or increase an endowment fund at such institution. Such grants shall be made only to eligible institutions described in paragraph (4) whose applications have been approved pursuant to subsection (g) of this section.

(2)(A) Except as provided in subparagraph (B), no institution shall receive a grant under this section, unless such institution has deposited in its endowment fund established under this section an amount equal to the amount of such grant. The source of funds for this institutional match shall not include Federal funds or funds from an existing endowment fund.

(B) The Secretary may make a grant under this part to an eligible institution under the following circumstances:

(i) In any fiscal year in which the amount appropriated to carry out this part is less than $15,000,000, the institution—

(I) may apply for a grant in an amount not exceeding $500,000; and

(II) shall have deposited in its endowment fund established under this section an amount which is equal to one-half of the amount of such grant.

(ii) In any fiscal year in which the amount appropriated to carry out this part is equal to or greater than $15,000,000 but less than $25,000,000, the institution—

(I) may apply for a grant in an amount not exceeding $1,000,000; and

(II) shall have deposited in its endowment fund established under this section an amount which is equal to one-half of the amount of such grant.

(iii) In any fiscal year in which the amount appropriated to carry out this part is equal to or greater than $25,000,000, the institution may apply for a grant in an amount not to exceed $1,500,000 if such institution has deposited in its endowment fund established under this section an amount which is equal to one-half of the amount of such grant.

(C)(i) Except as provided in clause (ii), if the appropriation for this part in a fiscal year is $20,000,000 or less, an eligible institution of higher education that is awarded a grant under subsection (b)(2)(B) of this section shall not be eligible to reapply for a grant under subsection (b)(2)(B) of this section during the 10 years immediately following the period that such institution received such a grant.

(ii) If the appropriation for this part in any fiscal year is greater than $20,000,000, an eligible institution of higher education that is awarded a grant under subsection (b)(2)(B) of this section shall not be eligible to reapply for a grant under subsection (b)(2)(B) of this section during the 5 years immediately following the period that such institution received such a grant. This provision shall apply for the fiscal year in which the appropriation is greater than $20,000,000 and subsequent fiscal years, regardless of the appropriation in those fiscal years.

(3) The period of a grant under this section shall be not more than 20 years. During the grant period, an institution may not withdraw or expend any of the endowment fund corpus. After the termination of the grant period, an institution may use the endowment fund corpus plus any endowment fund income for any educational purpose.

(4)(A) An institution of higher education is eligible to receive a grant under this section if it is an eligible institution as described in subsection (a)(2)(D) of this section.

(B) No institution shall be ineligible for an endowment challenge grant under this section for a fiscal year by reason of the previous receipt of such a grant but no institution shall be eligible to receive such a grant for more than 2 fiscal years out of any period of 5 consecutive fiscal years.

(5) An endowment challenge grant awarded under this section to an eligible institution shall be in an amount which is not less than $50,000 in any fiscal year.

(6)(A) An eligible institution may designate a foundation, which was established for the purpose of raising money for the institution, as the recipient of the grant awarded under this section.

(B) The Secretary shall not award a grant to a foundation on behalf of an institution unless—

(i) the institution assures the Secretary that the foundation is legally authorized to receive the endowment fund corpus and is legally authorized to administer the fund in accordance with this section and any implementing regulation;

(ii) the foundation agrees to administer the fund in accordance with the requirements of this section and any implementing regulation; and

(iii) the institution agrees to be liable for any violation by the foundation of the provisions of this section and any implementing regulation, including any monetary liability that may arise as a result of such violation.

(c) Grant agreement; endowment fund provisions

(1) An institution awarded a grant under this section shall enter into an agreement with the Secretary containing satisfactory assurances that it will (A) immediately comply with the matching requirements of subsection (b)(2) of this section, (B) establish an endowment fund independent of any other such fund of the institution, (C) invest the endowment fund corpus,

and (D) meet the other requirements of this section.

(2)(A) An institution shall invest the endowment fund corpus and endowment fund income in low-risk securities in which a regulated insurance company may invest under the law of the State in which the institution is located such as a federally insured bank savings account or comparable interest-bearing account, certificate of deposit, money market fund, mutual fund, or obligations of the United States.

(B) The institution, in investing the endowment fund established under this section, shall exercise the judgment and care, under the circumstances then prevailing, which a person of prudence, discretion, and intelligence would exercise in the management of such person's own affairs.

(3)(A) An institution may withdraw and expend the endowment fund income to defray any expenses necessary to the operation of such college, including expenses of operations and maintenance, administration, academic and support personnel, construction and renovation, community and student services programs, and technical assistance.

(B)(i) Except as provided in clause (ii), an institution may not spend more than 50 percent of the total aggregate endowment fund income earned prior to the time of expenditure.

(ii) The Secretary may permit an institution to spend more than 50 percent of the endowment fund income notwithstanding clause (i) if the institution demonstrates such an expenditure is necessary because of (I) a financial emergency, such as a pending insolvency or temporary liquidity problem; (II) a life-threatening situation occasioned by a natural disaster or arson; or (III) any other unusual occurrence or exigent circumstance.

(d) Repayment provisions

(1) If at any time an institution withdraws part of the endowment fund corpus, the institution shall repay to the Secretary an amount equal to 50 percent of the withdrawn amount, which represents the Federal share, plus income earned thereon. The Secretary may use such repaid funds to make additional challenge grants, or to increase existing endowment grants, to other eligible institutions.

(2) If an institution expends more of the endowment fund income than is permitted under subsection (c) of this section, the institution shall repay the Secretary an amount equal to 50 percent of the amount improperly expended (representing the Federal share thereof). The Secretary may use such repaid fund to make additional challenge grants, or to increase existing challenge grants, to other eligible institutions.

(e) Audit information

An institution receiving a grant under this section shall provide to the Secretary (or a designee thereof) such information (or access thereto) as may be necessary to audit or examine expenditures made from the endowment fund corpus or income in order to determine compliance with this section.

(f) Selection criteria

In selecting eligible institutions for grants under this section for any fiscal year, the Secretary shall—

(1) give priority to an applicant that is receiving assistance under part A of this subchapter or part B of this subchapter or has received a grant under part A of this subchapter or part B of this subchapter within the 5 fiscal years preceding the fiscal year in which the applicant is applying for a grant under this section;

(2) give priority to an applicant with a greater need for such a grant, based on the current market value of the applicant's existing endowment in relation to the number of full-time equivalent students enrolled at such institution; and

(3) consider—

(A) the effort made by the applicant to build or maintain its existing endowment fund; and

(B) the degree to which an applicant proposes to match the grant with nongovernmental funds.

(g) Application

Any institution which is eligible for assistance under this section may submit to the Secretary a grant application at such time, in such form, and containing such information as the Secretary may prescribe, including a description of the long- and short-term plans for raising and using the funds under this part. Subject to the availability of appropriations to carry out this section and consistent with the requirement of subsection (f) of this section, the Secretary may approve an application for a grant if an institution, in its application, provides adequate assurances that it will comply with the requirements of this section.

(h) Termination and recovery provisions

(1) After notice and an opportunity for a hearing, the Secretary may terminate and recover a grant awarded under this section if the grantee institution—

(A) expends portions of the endowment fund corpus or expends more than the permissible amount of the endowment funds income as prescribed in subsection (c)(3) of this section;

(B) fails to invest the endowment fund in accordance with the investment standards set forth in subsection (c)(2) of this section; or

(C) fails to properly account to the Secretary concerning the investment and expenditures of the endowment funds.

(2) If the Secretary terminates a grant under paragraph (1), the grantee shall return to the Secretary an amount equal to the sum of each original grant under this section plus income earned thereon. The Secretary may use such repaid funds to make additional endowment grants, or to increase existing challenge grants, to other eligible institutions under this part.

(Pub. L. 89–329, title III, § 331, formerly § 332, as added Pub. L. 99–498, title III, § 301(a), Oct. 17, 1986, 100 Stat. 1299; amended Pub. L. 100–50, § 2(a)(12), June 3, 1987, 101 Stat. 336; renumbered § 331 and amended Pub. L. 102–325, title III, § 304(a)(3), (b), July 23, 1992, 106 Stat. 476; Pub. L. 103–208, § 2(a)(8), (10), (11), Dec. 20, 1993, 107 Stat. 2457, 2458.)

PRIOR PROVISIONS

A prior section 331 of Pub. L. 89–329, title III, as added Pub. L. 99–498, title III, § 301(a), Oct. 17, 1986, 100 Stat.

1298, related to establishment of challenge grant program, was classified to section 1064 of this title prior to repeal by Pub. L. 102–325, § 304(a)(2).

A prior section 1065, Pub. L. 89–329, title III, § 332, as added Pub. L. 96–374, title III, § 301, Oct. 3, 1980, 94 Stat. 1396, related to applications for challenge grants, prior to the general revision of this subchapter by Pub. L. 99–498.

Another prior section 1065, Pub. L. 89–329, title IV, § 405, Nov. 8, 1965, 79 Stat. 1234; Pub. L. 90–575, title I, § 101(b)(2), Oct. 16, 1968, 82 Stat. 1017, related to allotment and reallotment of funds among the States, prior to the general revision of part A of subchapter IV of this chapter by Pub. L. 92–318, title I, § 131(b)(1), June 23, 1972, 86 Stat. 247.

A prior section 1065a, Pub. L. 89–329, title III, § 333, as added Pub. L. 98–95, § 2, Sept. 26, 1983, 97 Stat. 708, established program of matching grants to increase endowments at eligible institutions of higher education, prior to the general revision of this subchapter by Pub. L. 99–498.

AMENDMENTS

1993—Subsecs. (a)(2)(D), (b)(2)(B), (C), (5). Pub. L. 103–208 realigned margins and in subsec. (b)(5) substituted ''An endowment'' for ''an endowment''.

1992—Subsec. (a)(1). Pub. L. 102–325, § 304(b)(1)(A), struck out ''of higher education'' after ''eligible institutions''.

Subsec. (a)(2)(D). Pub. L. 102–325, § 304(b)(1)(B), added subpar. (D).

Subsec. (b)(1). Pub. L. 102–325, § 304(b)(2), inserted ''endowment'' before ''challenge grants'' and struck out ''of higher education'' after ''eligible institutions''.

Subsec. (b)(2)(B), (C). Pub. L. 102–325, § 304(b)(3), amended subpars. (B) and (C) generally. Prior to amendment, subpars. (B) and (C) read as follows:

''(B) In any fiscal year in which the appropriations for this part exceeds $10,000,000, the Secretary may make a grant under this part to an eligible institution of higher education if such institution—

''(i) has deposited in its endowment fund established under this section an amount which is equal to one-half of the amount of such grant; and

''(ii) applies for a grant in an amount exceeding $1,000,000.

''(C) An eligible institution of higher education that is awarded a grant under this section shall not be eligible to reapply for a grant under this section during the 10 years immediately following the period that it received such grant.''

Subsec. (b)(4)(A). Pub. L. 102–325, § 304(b)(4), substituted ''subsection (a)(2)(D) of this section'' for ''section 1064(a)(1) of this title''.

Subsec. (b)(4)(B). Pub. L. 102–325, § 304(b)(5), substituted ''an endowment challenge grant'' for ''a challenge grant''.

Subsec. (b)(5). Pub. L. 102–325, § 304(b)(6), amended par. (5) generally. Prior to amendment, par. (5) read as follows: ''Except as provided in paragraph (2)(B), a challenge grant under this section to an eligible institution year shall—

''(A) not be less than $50,000 for any fiscal year; and

''(B) not be more than (i) $250,000 for fiscal year 1987; or (ii) $500,000 for fiscal year 1988 or any succeeding fiscal year.''

Subsec. (f)(1). Pub. L. 102–325, § 304(b)(7), amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''give priority to an applicant which is a recipient of a grant made under part A or B of this subchapter (or section 1069a of this title) during the academic year in which the applicant is applying for a grant under this section;''.

Subsec. (g). Pub. L. 102–325, § 304(b)(8), inserted '', including a description of the long- and short-term plans for raising and using the funds under this part'' before period at end of first sentence.

1987—Subsec. (f)(1). Pub. L. 100–50 inserted ''(or section 1069a of this title)''.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1003 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1057, 1063b, 1069f, 4425 of this title; title 25 section 1832.

PART D—GENERAL PROVISIONS

§ 1066. Applications for assistance

(a) Application required; approval

Any institution which is eligible for assistance under this subchapter shall submit to the Secretary an application for assistance at such time, in such form, and containing such information, as may be necessary to enable the Secretary to evaluate its need for assistance. Subject to the availability of appropriations to carry out this subchapter, the Secretary may approve an application for a grant under this subchapter if the application meets the requirements of subsection (b) of this section and shows that the applicant is eligible for assistance in accordance with the part of this subchapter under which the assistance is sought.

(b) Contents

An institution, in its application for a grant, shall—

(1) set forth, or describe how the institution (other than an institution applying under part C of this subchapter) will develop, a comprehensive development plan to strengthen the institution's academic quality and institutional management, and otherwise provide for institutional self-sufficiency and growth (including measurable objectives for the institution and the Secretary to use in monitoring the effectiveness of activities under this subchapter);

(2) set forth policies and procedures to ensure that Federal funds made available under this subchapter for any fiscal year will be used to supplement and, to the extent practical, increase the funds that would otherwise be made available for the purposes of section 1057(b) or 1062 of this title, and in no case supplant those funds;

(3) set forth policies and procedures for evaluating the effectiveness in accomplishing the purpose of the activities for which a grant is sought under this subchapter;

(4) provide for such fiscal control and fund accounting procedures as may be necessary to ensure proper disbursement of and accounting for funds made available to the applicant under this subchapter;

(5) provide (A) for making such reports, in such form and containing such information, as the Secretary may require to carry out the functions under this subchapter, including not less than one report annually setting forth the institution's progress toward achieving the objectives for which the funds were awarded, and (B) for keeping such records and affording such access thereto, as the Secretary may find necessary to assure the correctness and verification of such reports;

(6) provide that the institution will comply with the limitations set forth in section 1069c of this title;

(7) describe in a comprehensive manner any proposed project for which funds are sought under the application and include—

(A) a description of the various components of the proposed project, including the estimated time required to complete each such component;

(B) in the case of any development project which consists of several components (as described by the applicant pursuant to subparagraph (A)), a statement identifying those components which, if separately funded, would be sound investments of Federal funds and those components which would be sound investments of Federal funds only if funded under this subchapter in conjunction with other parts of the development project (as specified by the applicant);

(C) an evaluation by the applicant of the priority given any proposed project for which funds are sought in relation to any other projects for which funds are sought by the applicant under this subchapter, and a similar evaluation regarding priorities among the components of any single proposed project (as described by the applicant pursuant to subparagraph (A));

(D) a detailed budget showing the manner in which funds for any proposed project would be spent by the applicant; and

(E) a detailed description of any activity which involves the expenditure of more than $25,000, as identified in the budget referred to in subparagraph (E); and

(8) include such other information as the Secretary may prescribe.

(c) Priority criteria publication required

The Secretary shall publish in the Federal Register, pursuant to chapter 5 of title 5, all policies and procedures required to exercise the authority set forth in subsection (a) of this section. No other criteria, policies, or procedures shall apply.

(d) Eligibility data

The Secretary shall use the most recent and relevant data concerning the number and percentage of students receiving need-based assistance under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42 in making eligibility determinations under section 1058 of this title and shall advance the base-year forward following each annual grant cycle.

(Pub. L. 89–329, title III, § 351, as added Pub. L. 99–498, title III, § 301(a), Oct. 17, 1986, 100 Stat. 1302; amended Pub. L. 100–50, § 2(a)(13), June 3, 1987, 101 Stat. 336; Pub. L. 102–325, title III, § 305(a), July 23, 1992, 106 Stat. 478.)

PRIOR PROVISIONS

A prior section 1066, Pub. L. 89–329, title III, § 341, as added Pub. L. 96–374, title III, § 301, Oct. 3, 1980, 94 Stat. 1396, related to applications for assistance, prior to the general revision of this subchapter by Pub. L. 99–498.

Another prior section 1066, Pub. L. 89–329, title IV, § 406, Nov. 8, 1965, 79 Stat. 1234; Pub. L. 90–575, title I, § 101(b)(2), Oct. 16, 1968, 82 Stat. 1017, related to allocation of allotted funds to institutions, filing dates for application, criteria for making allocations, additional allocations and payments, prior to the general revision of part A of subchapter IV of this chapter by Pub. L. 92–318, title I, § 131(b)(1), June 23, 1972, 86 Stat. 247.

AMENDMENTS

1992—Subsec. (b)(7)(D) to (F). Pub. L. 102–325 redesignated subpars. (E) and (F) as (D) and (E), respectively, and struck out former subpar. (D) which read as follows: ''information explaining the manner in which the proposed project will assist the applicant to prepare for the critical financial problems that all institutions of higher education will face during the subsequent decade as a result of declining enrollment, and other problems;''.

1987—Subsec. (b)(6). Pub. L. 100–50 substituted ''section 1069c of this title'' for ''section 1069b of this title''.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1057 of this title.

§ 1067. Waiver authority and reporting requirement

(a) Waiver requirements; need-based assistance students

The Secretary may waive the requirements set forth in section 1058(b)(1)(A) of this title in the case of an institution—

(1) which is extensively subsidized by the State in which it is located and charges low or no tuition;

(2) which serves a substantial number of low-income students as a percentage of its total student population;

(3) which is contributing substantially to increasing higher education opportunities for educationally disadvantaged, underrepresented, or minority students, who are low-income individuals;

(4) which is substantially increasing higher educational opportunities for individuals in rural or other isolated areas which are unserved by postsecondary institutions;

(5) located on or near an Indian reservation or a substantial population of Indians, if the Secretary determines that the waiver will substantially increase higher education opportunities appropriate to the needs of American Indians; or

(6) wherever located, if the Secretary determines that the waiver will substantially in-

crease higher education opportunities appropriate to the needs of Black Americans, Hispanic Americans, Native Americans, Asian Americans, or Pacific Islanders, including Native Hawaiians.

(b) Waiver determinations; expenditures

(1) The Secretary may waive the requirements set forth in section 1058(b)(1)(B) of this title if the Secretary determines, based on persuasive evidence submitted by the institution, that the institution's failure to meet that criterion is due to factors which, when used in the determination of compliance with such criterion, distort such determination, and that the institution's designation as an eligible institution under part A of this subchapter is otherwise consistent with the purposes of such parts.[1]

(2) The Secretary shall submit to the Congress every other year a report concerning the institutions which, although not satisfying the criterion contained in section 1058(b)(1)(B) of this title, have been determined to be eligible institutions under part A institutions which enroll significant numbers of Black American, Hispanic, Native American, Asian American, or Native Hawaiian students under part A of this subchapter, as the case may be. Such report shall—

(A) identify the factors referred to in paragraph (1) which were considered by the Secretary as factors that distorted the determination of compliance with subparagraphs (A) and (B) of section 1058(b)(1) of this title; and

(B) contain a list of each institution determined to be an eligible institution under part A of this subchapter including a statement of the reasons for each such determination.

(3) The Secretary may waive the requirement set forth in section 1058(b)(1)(E)[2] of this title in the case of an institution located on or near an Indian reservation or a substantial population of Indians, if the Secretary determines that the waiver will substantially increase higher education opportunities appropriate to the needs of American Indians.

(Pub. L. 89–329, title III, §352, as added Pub. L. 99–498, title III, §301(a), Oct. 17, 1986, 100 Stat. 1304; amended Pub. L. 100–50, §2(a)(14), (15), June 3, 1987, 101 Stat. 336; Pub. L. 102–325, title III, §305(b), July 23, 1992, 106 Stat. 478.)

REFERENCES IN TEXT

Section 1058(b)(1)(E) of this title, referred to in subsec. (b)(3), was repealed and section 1058(b)(1)(F) was redesignated section 1058(b)(1)(E) by Pub. L. 102–325, title III, §302(a)(1)(B), (C), July 23, 1992, 106 Stat. 472.

PRIOR PROVISIONS

A prior section 1067, Pub. L. 89–329, title III, §342, as added Pub. L. 96–374, title III, §301, Oct. 3, 1980, 94 Stat. 1398, set waiver authority and reporting requirements for this part, prior to the general revision of this subchapter by Pub. L. 99–498.

Another prior section 1067, Pub. L. 89–329, title IV, §407, Nov. 8, 1965, 79 Stat. 1234; Pub. L. 90–575, title I, §§101(b)(2), 103, 104, Oct. 16, 1968, 82 Stat. 1017, 1018, related to agreements with institutions, required provisions and use of funds as additional Federal capital contribution for student loan fund, prior to the general revision of part A of subchapter IV of this chapter by Pub. L. 92–318, title I, §131(b)(1), June 23, 1972, 86 Stat. 247.

AMENDMENTS

1992—Subsec. (a). Pub. L. 102–325 substituted ''Secretary may waive'' for ''Secretary shall waive''.

1987—Subsec. (a)(2). Pub. L. 100–50, §2(a)(14), substituted ''low-income'' for ''low- and middle-income''.

Subsec. (b)(3). Pub. L. 100–50, §2(a)(15), added par. (3).

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1058 of this title.

§ 1068. Application review process

(a) Review panel

(1) All applications submitted under this subchapter by institutions of higher education shall be read by a panel of readers composed of individuals selected by the Secretary. The Secretary shall assure that no individual assigned under this section to review any application has any conflict of interest with regard to the application which might impair the impartiality with which the individual conducts the review under this section.

(2) The Secretary shall take care to assure that representatives of historically and predominantly Black colleges, Hispanic institutions, Native American colleges and universities, and institutions with substantial numbers of Hispanics, Native Americans, Asian Americans, and Native American Pacific Islanders (including Native Hawaiians) are included as readers.

(3) All readers selected by the Secretary shall receive thorough instruction from the Secretary regarding the evaluation process for applications submitted under this subchapter and consistent with the provisions of this subchapter, including—

(A) explanations and examples of the types of activities referred to in section 1057(b) of this title that should receive special consideration for grants awarded under part A of this subchapter and of the types of activities referred to in section 1062 of this title that should receive special consideration for grants awarded under part B of this subchapter;

(B) an enumeration of the factors to be used to determine the quality of applications submitted under this subchapter; and

(C) an enumeration of the factors to be used to determine whether a grant should be awarded for a project under this subchapter, the amount of any such grant, and the duration of any such grant.

(b) Recommendations of panel

In awarding grants under this subchapter, the Secretary shall take into consideration the rec-

[1] So in original. Probably should be ''part.''

[2] See References in Text note below.

ommendations of the panel made under subsection (a) of this section.

(c) Notification

Not later than June 30 of each year, the Secretary shall notify each institution of higher education making an application under this subchapter of—

(1) the scores given the applicant by the panel pursuant to this section;

(2) the recommendations of the panel with respect to such application; and

(3) the reasons for the decision of the Secretary in awarding or refusing to award a grant under this subchapter, and any modifications, if any, in the recommendations of the panel made by the Secretary.

(Pub. L. 89–329, title III, § 353, as added Pub. L. 99–498, title III, § 301(a), Oct. 17, 1986, 100 Stat. 1305.)

PRIOR PROVISIONS

A prior section 1068, Pub. L. 89–329, title III, § 343, as added Pub. L. 96–374, title III, § 301, Oct. 3, 1980, 94 Stat. 1398, related to application review process and provided for reader panels, recommendation of such panels, and notification to institutions, prior to the general revision of this subchapter by Pub. L. 99–498.

Another prior section 1068, Pub. L. 89–329, title IV, § 408, Nov. 8, 1965, 79 Stat. 1235; Pub. L. 90–575, title I, § 105(a), Oct. 16, 1968, 82 Stat. 1018; Pub. L. 91–230, title VIII, § 801, Apr. 13, 1970, 84 Stat. 190; Pub. L. 92–318, title I, § 131(a)(1)(B), June 23, 1972, 86 Stat. 247, related to programs for identifying qualified low-income students and preparing them for post secondary education, grants or contracts for planning, developing or carrying out programs, ''Talent Search'' program, ''Upward Bound'' program, ''Special Services for Disadvantaged Students'' program, nature of programs, waiver of matching requirement in the ''Upward Bound'' program and authorization of appropriations, prior to the general revision of part A of subchapter IV of this chapter by Pub. L. 92–318, title I, § 131(b)(1), June 23, 1972, 86 Stat. 247.

§ 1069. Cooperative arrangements

(a) General authority

The Secretary may make grants to encourage cooperative arrangements—

(1) with funds available to carry out part A of this subchapter, between institutions eligible for assistance under part A of this subchapter and between such institutions and institutions not receiving assistance under this subchapter; or

(2) with funds available to carry out part B of this subchapter, between institutions eligible for assistance under part B of this subchapter and institutions not receiving assistance under this subchapter;

for the activities described in section 1057(b) of this title or section 1062 of this title, as the case may be, so that the resources of the cooperating institutions might be combined and shared to achieve the purposes of such parts and avoid costly duplicative efforts and to enhance the development of part A and part B eligible institutions.

(b) Priority

The Secretary shall give priority to grants for the purposes described under subsection (a) of this section whenever the Secretary determines that the cooperative arrangement is geographically and economically sound or will benefit the applicant institution.

(c) Duration

Grants to institutions having a cooperative arrangement may be made under this section for a period as determined under section 1059 of this title or section 1062 of this title.

(Pub. L. 89–329, title III, § 354, as added Pub. L. 99–498, title III, § 301(a), Oct. 17, 1986, 100 Stat. 1305.)

PRIOR PROVISIONS

A prior section 1069, Pub. L. 89–329, title III, § 344, as added Pub. L. 96–374, title III, § 301, Oct. 3, 1980, 94 Stat. 1399, provided for a program of grants to encourage cooperative arrangements between institutions, prior to the general revision of this subchapter by Pub. L. 99–498.

Another prior section 1069, Pub. L. 89–329, title IV, § 409, Nov. 8, 1965, 79 Stat. 1236, related to definition of academic year, prior to the general revision of part A of subchapter IV of this chapter by Pub. L. 92–318, title I, § 131(b)(1), June 23, 1972, 86 Stat. 247.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1059 of this title.

§ 1069a. Repealed. Pub. L. 102–325, title III, § 305(c), July 23, 1992, 106 Stat. 478

Section, Pub. L. 89–329, title III, § 355, as added Pub. L. 99–498, title III, § 301(a), Oct. 17, 1986, 100 Stat. 1306; amended Pub. L. 100–50, § 2(a)(16), (17), June 3, 1987, 101 Stat. 336, related to special payments rules.

A prior section 1069a, Pub. L. 89–329, title III, § 345, as added Pub. L. 96–374, title III, § 301, Oct. 3, 1980, 94 Stat. 1399, related to assistance to institutions under other programs, prior to the general revision of this subchapter by Pub. L. 99–498. See section 1069b of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as an Effective Date of 1992 Amendment note under section 1001 of this title.

§ 1069b. Assistance to institutions under other programs

(a) Assistance eligibility

Each institution which the Secretary determines to be an institution eligible under part A of this subchapter or an institution eligible under part B of this subchapter may be eligible for waivers in accordance with subsection (b) of this section.

(b) Waiver applicability

(1) Subject to, and in accordance with, regulations promulgated for the purpose of this section, in the case of any application by an institution referred to in subsection (a) of this section for assistance under any programs specified in paragraph (2), the Secretary is authorized, if such application is otherwise approvable, to waive any requirement for a non-Federal share of the cost of the program or project, or, to the extent not inconsistent with other law, to give, or require to be given, priority consideration of the application in relation to applications from other institutions.

(2) The provisions of this section shall apply to any program authorized by subchapter IV, VII, or VIII of this chapter or part C of subchapter I of chapter 34 of title 42.

(c) Limitation

The Secretary shall not waive, under subsection (b) of this section, the non-Federal share requirement for any program for applications which, if approved, would require the expenditure of more than 10 percent of the appropriations for the program for any fiscal year.

(Pub. L. 89–329, title III, § 356, as added Pub. L. 99–498, title III, § 301(a), Oct. 17, 1986, 100 Stat. 1306; amended Pub. L. 102–325, title III, § 305(d), July 23, 1992, 106 Stat. 478; Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 709(d)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–314.)

PRIOR PROVISIONS

A prior section 1069b, Pub. L. 89–329, title III, § 346, as added Pub. L. 96–374, title III, § 301, Oct. 3, 1980, 94 Stat. 1400, limited activities for which funds appropriated to carry out this subchapter could be expended, prior to the general revision of this subchapter by Pub. L. 99–498. See section 1069c of this title.

AMENDMENTS

1996—Subsec. (b)(2). Pub. L. 104–208 struck out ''II,'' after ''authorized by subchapter''.

1992—Subsec. (a). Pub. L. 102–325 substituted ''may be eligible'' for ''shall be eligible''.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

§ 1069c. Limitations

The funds appropriated under section 1069f of this title may not be used—

(1) for a school or department of divinity or any religious worship or sectarian activity;

(2) for an activity that is inconsistent with a State plan for desegregation of higher education applicable to such institution;

(3) for an activity that is inconsistent with a State plan of higher education applicable to such institution; or

(4) for purposes other than the purposes set forth in the approved application under which the funds were made available to the institution.

(Pub. L. 89–329, title III, § 357, as added Pub. L. 99–498, title III, § 301(a), Oct. 17, 1986, 100 Stat. 1307.)

PRIOR PROVISIONS

A prior section 1069c, Pub. L. 89–329, title III, § 347, as added Pub. L. 96–374, title III, § 301, Oct. 3, 1980, 94 Stat. 1400, and Pub. L. 98–95, § 3, Sept. 26, 1983, 97 Stat. 711; Pub. L. 98–312, § 1, June 12, 1984, 98 Stat. 233, authorized appropriations to carry out parts A to C of this subchapter, prior to the general revision of this subchapter by Pub. L. 99–498. See section 1069f of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1066 of this title.

§ 1069d. Penalties

Whoever, being an officer, director, agent, or employee of, or connected in any capacity with, any recipient of Federal financial assistance or grant pursuant to this subchapter embezzles, willfully misapplies, steals, or obtains by fraud any of the funds which are the subject of such grant or assistance, shall be fined not more than $10,000 or imprisoned for not more than 2 years, or both.

(Pub. L. 89–329, title III, § 358, as added Pub. L. 99–498, title III, § 301(a), Oct. 17, 1986, 100 Stat. 1307.)

§ 1069e. Repealed. Pub. L. 102–325, title III, § 305(c), July 23, 1992, 106 Stat. 478

Section, Pub. L. 89–329, title III, § 359, as added Pub. L. 99–498, title III, § 301(a), Oct. 17, 1986, 100 Stat. 1307, required application for challenge grant.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as an Effective Date of 1992 Amendment note under section 1001 of this title.

§ 1069f. Authorization of appropriations

(a) Authorizations

(1) Part A

(A) There are authorized to be appropriated to carry out part A of this subchapter, $135,000,000 (other than section 1059c of this title) for fiscal year 1993, and such sums as may be necessary for each of the 4 succeeding fiscal years.

(B)(i) There are authorized to be appropriated to carry out section 1059c of this title, $45,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(ii) No funds are authorized to be appropriated pursuant to clause (i) for any fiscal year unless the amount appropriated pursuant to paragraph (1)(A) for such fiscal year equals or exceeds $80,000,000.

(2) Part B

(A) There are authorized to be appropriated to carry out part B of this subchapter (other than section 1063b of this title), $135,000,000 for fiscal year 1993, and such sums as may be necessary for each of the 4 succeeding fiscal years.

(B) There are authorized to be appropriated to carry out section 1063b of this title, $20,000,000 for fiscal year 1993, and such sums as may be necessary for each of the 4 succeeding fiscal years.

(3) Part C

There are authorized to be appropriated to carry out part C of this subchapter, $50,000,000 for fiscal year 1993, and such sums as may be necessary for each of the 4 succeeding fiscal years.

(b) Use of multiple year awards

In the event of a multiple year award to any institution under this subchapter, the Secretary shall make funds available for such award from funds appropriated for this subchapter for the fiscal year in which such funds are to be used by the recipient.

(c) Reservations

If the amount appropriated under subsection (a)(1) of this section for part A of this subchapter for any fiscal year beginning after September 30, 1986, equals or exceeds the amount

appropriated for such part for fiscal year 1986, the Secretary shall, for such fiscal year—

(1) allocate 25 percent of the excess (above the amount appropriated for part A of this subchapter for fiscal year 1986) among eligible institutions at which at least 60 percent of the students are African Americans, Hispanic Americans, Native Americans, Asian Americans, Native Hawaiians, or Pacific Islanders, or any combination thereof; and

(2) allocate 75 percent of such excess among other eligible institutions.

(d) Ratable reduction in fiscal years in which amounts appropriated are insufficient

In any fiscal year in which the sums appropriated for part A of this subchapter are insufficient to make the reservations required by subsection (c) of this section, the Secretary shall ratably reduce the amount of the reservation.

(e) Additional reservation

In any fiscal year beginning after September 30, 1992, the Secretary shall award at least 25 percent of the amount appropriated pursuant to the authority of paragraph (3) of subsection (a) of this section in each fiscal year to historically black colleges and universities that meet the requirements of part C of this subchapter, unless there are an insufficient number of quality applications or an insufficient number of applications due to the provisions in subsection (b)(2)(C) or subsection (b)(4)(B) of section 1065 of this title.

(Pub. L. 89–329, title III, § 360, as added Pub. L. 99–498, title III, § 301(a), Oct. 17, 1986, 100 Stat. 1307; amended Pub. L. 102–325, title III, § 305(e)–(g), July 23, 1992, 106 Stat. 479.)

AMENDMENTS

1992—Subsec. (a). Pub. L. 102–325, § 305(e), amended subsec. (a) generally, substituting present provisions for provisions authorizing appropriations for fiscal year 1987 and the four succeeding fiscal years.

Subsec. (c). Pub. L. 102–325, § 305(f), substituted ''1986, the Secretary shall, for such fiscal year—'' for ''1986— '' in introductory provisions, added pars. (1) and (2), and struck out former pars. (1) and (2) which read as follows:

''(1) the Secretary shall, for such fiscal year, make available for use for the purposes of part A of this subchapter to institutions that are junior or community colleges not less than $51,400,000; and

''(2) the Secretary shall, for such fiscal year—

''(A) allocate 25 percent of the excess (above the amount appropriated for part A of this subchapter for fiscal year 1986) among eligible institutions with the highest percentages of students who are Black Americans, Hispanic Americans, Native Americans, Asian Americans, Native Hawaiians, or Pacific Islanders, or any combination thereof; and

''(B) allocate 75 percent of such excess among other eligible institutions.''

Subsec. (e). Pub. L. 102–325, § 305(g), added subsec. (e).

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1057, 1062, 1063, 1065, 1069c of this title.

SUBCHAPTER IV—STUDENT ASSISTANCE

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1011a, 1058, 1066, 1069b, 1102b, 1104c, 1106d, 1111c, 1132i–2, 1145, 6031, 6103 of this title; title 8 sections 1255a, 1613; title 10 sections 1151, 1598, 2410c; title 15 section 1603; title 25 section 3353; title 31 section 3716; title 38 section 3698; title 42 sections 3796d–6, 7274e, 12604; title 48 section 1905; title 50 App. section 462.

PART A—GRANTS TO STUDENTS IN ATTENDANCE AT INSTITUTIONS OF HIGHER EDUCATION

CODIFICATION

Part A of title IV of the Higher Education Act of 1965, comprising this part, was originally enacted by Pub. L. 89–329, title IV, Nov. 8, 1965, 79 Stat. 1232, and amended by Pub. L. 92–318, June 23, 1972, 86 Stat. 235; Pub. L. 93–380, Aug. 21, 1974, 88 Stat. 484; Pub. L. 94–328, June 30, 1976, 90 Stat. 727; Pub. L. 94–482, Oct. 12, 1976, 90 Stat. 2081; Pub. L. 95–43, June 15, 1977, 91 Stat. 213; Pub. L. 95–336, Aug. 4, 1978, 92 Stat. 451; Pub. L. 95–566, Nov. 1, 1978, 92 Stat. 2402; Pub. L. 96–49, Aug. 13, 1979, 93 Stat. 351; Pub. L. 96–374, Oct. 3, 1980, 94 Stat. 1367; Pub. L. 97–300, Oct. 13, 1982, 96 Stat. 1322; Pub. L. 97–301, Oct. 13, 1982, 96 Stat. 1400; Pub. L. 98–558, Oct. 30, 1984, 98 Stat. 2878; Pub. L. 99–145, Nov. 8, 1985, 99 Stat. 583. Such part is shown herein, however, as having been added by Pub. L. 99–498, title IV, § 401(a), Oct. 17, 1986, 100 Stat. 1308, without reference to such intervening amendments because of the extensive revision of part A by Pub. L. 99–498.

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 1090 of this title; title 31 section 6703; title 42 section 12604.

§ 1070. Statement of purpose; program authorization

(a) Purpose

It is the purpose of this part, to assist in making available the benefits of postsecondary education to eligible students (defined in accordance with section 1091 of this title) in institutions of higher education by—

(1) providing basic educational opportunity grants to all eligible students;

(2) providing supplemental educational opportunity grants to those students who demonstrate financial need;

(3) providing for payments to the States to assist them in making financial aid available to such students;

(4) providing for special programs and projects designed (A) to identify and encourage qualified youths with financial or cultural need with a potential for postsecondary education, (B) to prepare students from low-income families for postsecondary education, and (C) to provide remedial (including remedial language study) and other services to students; and

(5) providing assistance to institutions of higher education.

(b) Secretary required to carry out purposes

The Secretary shall, in accordance with subparts 1 through 8 of this part, carry out programs to achieve the purposes of this part.

(Pub. L. 89–329, title IV, § 400, formerly § 401, as added Pub. L. 99–498, title IV, § 401(a), Oct. 17, 1986, 100 Stat. 1308; renumbered § 400, Pub. L.

102–325, title IV, § 402(a)(3), July 23, 1992, 106 Stat. 482.)

PRIOR PROVISIONS

A prior section 1070, Pub. L. 89–329, title IV, § 401, as added and amended Pub. L. 92–318, title I, § 131(b)(1), title X, § 1001(c)(1), (2), June 23, 1972, 86 Stat. 247, 381; Pub. L. 94–482, title I, § 125, Oct. 12, 1976, 90 Stat. 2096; Pub. L. 96–374, title IV, § 401, title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1401, 1503, stated purpose of program of grants to students in attendance at institutions of higher education, prior to the general revision of this part by Pub. L. 99–498.

COMMUNITY SCHOOL PARTNERSHIPS

Pub. L. 103–382, title V, part B, Oct. 20, 1994, 108 Stat. 4045, provided that:

''SEC. 521. SHORT TITLE.

''This part may be cited as the 'Community School Partnership Act'.

''SEC. 522. FINDINGS.

''The Congress finds that—

''(1) the local community, when properly organized and challenged, is one of the best sources of academic support, motivation toward achievement, and financial resources for aspiring postsecondary students;

''(2) local communities, working to complement or augment services currently being offered by area schools and colleges, can raise the educational expectations and increase the rate of postsecondary attendance of their youth by forming locally based organizations that provide both academic support (including guidance, counseling, mentoring, tutoring, encouragement, and recognition) and tangible, locally raised, effectively targeted, publicly recognized financial assistance;

''(3) proven methods of stimulating these community efforts can be promoted through Federal support for the establishment of area program centers to organize and challenge community efforts to develop educational incentives and support for local students; and

''(4) using Federal funds to leverage private contributions to help students from low-income families attain educational and career goals is an efficient and effective investment of scarce taxpayer-provided resources.

''SEC. 523. DEFINITIONS.

''As used in this part:

''(1) AREA PROGRAM CENTER.—The term 'area program center' means an organization that—

''(A) is part of, responsible to, and overseen by, the national organization; and

''(B) is staffed by professionals trained to create, develop, and sustain local affiliated chapters in towns, cities, and neighborhoods.

''(2) LOCAL AFFILIATED CHAPTER.—The term 'local affiliated chapter' means an organization that—

''(A) is a nonprofit organization that is described in section 501(c)(3) of the Internal Revenue Code of 1986 [26 U.S.C. 501(c)(3)], and exempt from taxation under section 501(a) of such Code (or shall meet this criteria through affiliation with the national organization described in paragraph (3));

''(B) is formed for the purpose of providing educational scholarships and academic support for residents of the local community served by such organization;

''(C) solicits broad-based community support in its academic support and fund-raising activities;

''(D) is broadly representative of the local community in the structures of its volunteer-operated organization and has a board of directors that includes leaders from local neighborhood organizations and neighborhood residents, such as school or college personnel, parents, students, community agency representatives, and representatives of the business community;

''(E) awards scholarships without regard to age, sex, marital status, race, creed, color, religion, national origin or disability; and

''(F) gives priority in awarding scholarships to students from low-income families in the local community.

''(3) NATIONAL ORGANIZATION.—The term 'national organization' means an organization that—

''(A) has the capacity to create, develop and sustain local affiliated chapters;

''(B) has the capacity to sustain newly created local affiliated chapters in towns, cities, and neighborhoods through ongoing training and support programs;

''(C) is described in section 501(c)(3) of the Internal Revenue Code of 1986 [26 U.S.C. 501(c)(3)], and exempt from taxation under section 501(a) of such Code;

''(D) is a publicly supported organization within the meaning of section 170(b)(1)(A)(vi) of such Code [26 U.S.C. 170(b)(1)(A)(vi)];

''(E) ensures that each of its local affiliated chapters meet the criteria described in subparagraphs (C) and (D); and

''(F) has a program for or experience in cooperating with secondary and postsecondary institutions in carrying out its scholarship and academic support activities.

''(4) HIGH-POVERTY AREA.—The term 'high-poverty area' means a community with a higher percentage of children in poverty than the national average of such percentage.

''(5) STUDENTS FROM LOW-INCOME FAMILIES.—The term 'students from low-income families' means students determined, pursuant to part F of title IV of the Higher Education Act of 1965 [20 U.S.C. 1087kk et seq.], to be eligible for a Federal Pell Grant under subpart 1 of part A of title IV of such Act [20 U.S.C. 1070a et seq.].

''SEC. 524. PURPOSE; ENDOWMENT GRANT AUTHORITY.

''(a) PURPOSE.—It is the purpose of this part to establish and support area program centers to enable such centers to foster the development of local affiliated chapters in high-poverty areas that promote higher education goals for students from low-income families by—

''(1) providing academic support, including guidance, counseling, mentoring, tutoring, and recognition; and

''(2) providing scholarship assistance for the pursuit of postsecondary education.

''(b) ENDOWMENT GRANT AUTHORITY.—From the funds appropriated pursuant to the authority of section 527, the Secretary shall award an endowment grant, on a competitive basis, to a national organization to enable such organization to support the establishment or ongoing work of area program centers that foster the development of local affiliated chapters in high-poverty areas to improve high school graduation rates and postsecondary attendance through the provision of academic support services and scholarship assistance for the pursuit of postsecondary education.

''SEC. 525. GRANT AGREEMENT AND REQUIREMENTS.

''(a) IN GENERAL.—The Secretary shall award the endowment grant described in section 524(b) pursuant to an agreement between the Secretary and the national organization. Such agreement shall—

''(1) require the national organization to establish an endowment fund in the amount of the grant, the corpus of which shall remain intact and the interest income from which shall be used to support the activities described in paragraphs (2) and (3);

''(2) require the national organization to use 25 percent of the interest income from the endowment fund in any fiscal year to provide scholarships for students from low-income families, which scholarships shall be matched on a dollar-for-dollar basis from funds raised by local affiliated chapters;

''(3) require the national organization to use 75 percent of the interest income from the endowment fund in any fiscal year to support the establishment or ongoing work of area program centers to enable such centers to work with local communities to establish local affiliated chapters in high-poverty areas and provide ongoing technical assistance, training workshops, and other activities to help ensure the ongoing success of the local affiliated chapters;

''(4) require the area program centers supported by the national organization to give priority to establishing local affiliated chapters that serve high-poverty areas;

''(5) require the national organization to submit, in each fiscal year in which such organization uses the interest from the endowment fund, a report to the Secretary that contains—

''(A) a description of the programs and activities supported by the interest on the endowment fund;

''(B) the audited financial statement of the national organization for the preceding fiscal year;

''(C) a plan for the programs and activities to be supported from the interest on the endowment fund during the five succeeding fiscal years;

''(D) an evaluation of the programs and activities supported by the interest on the endowment fund as the Secretary may require; and

''(E) data indicating the number of students from low-income families who received scholarships from local affiliated chapters, and the amounts of such scholarships;

''(6) contain such assurances as the Secretary may require with respect to the management and operation of the endowment fund;

''(7) require that, in order to continue using the interest from the endowment fund, the national organization will meet the continuing eligibility requirements described in section 526; and

''(8) contain an assurance that if the Secretary determines that such organization is not in substantial compliance with the provisions of this part, then the national organization shall pay to the Secretary an amount equal to the corpus of the endowment fund plus any accrued interest on such fund that is available to the national organization on the date of such determination.

''(b) RETURNED FUNDS.—All funds returned to the Secretary pursuant to subsection (a)(8) shall be available to the Secretary to carry out any scholarship or grant program assisted under title IV of the Higher Education Act of 1965 [20 U.S.C. 1070 et seq.; 42 U.S.C. 2751 et seq.].

''SEC. 526. CONTINUING ELIGIBILITY.

''The national organization shall be eligible to continue to use the interest from the endowment fund in accordance with the provisions of this part in the third and each such succeeding fiscal year in which such organization uses such interest only if the local affiliated chapters associated with all area program centers supported under this part distribute to students from low-income families 80 percent of the total amount of funds raised by all such chapters in such year.

''SEC. 527. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated $10,000,000 for fiscal year 1996 to carry out this part.''

STUDY OF FEDERAL BENEFIT COORDINATION

Section 1405 of Pub. L. 102–325 directed Secretary of Education to conduct a study to evaluate the coordination of Federal student financial assistance programs under title IV of the Higher Education Act of 1965 [20 U.S.C. 1070 et seq.; 42 U.S.C. 2751 et seq.] with other programs funded in whole or in part with Federal funds, with Secretary to prepare and submit to appropriate committees of Congress a report on the study not later than 3 years after July 23, 1992, together with such recommendations as the Secretary deemed appropriate.

OLYMPIC SCHOLARSHIPS

Section 1543 of Pub. L. 102–325 provided that:

''(a) SCHOLARSHIPS AUTHORIZED.—

''(1) IN GENERAL.—The Secretary of Education is authorized to provide financial assistance to the United States Olympic Education Center or the United States Olympic Training Center to enable such centers to provide financial assistance to athletes who are training at such centers and are pursuing postsecondary education at institutions of higher education (as such term is defined in section 481(a) of the Higher Education Act of 1965 [20 U.S.C. 1088(a)]).

''(2) AWARD DETERMINATION.—The amount of financial assistance provided to athletes described in paragraph (1) shall be determined in accordance with such athlete's financial need as determined in accordance with part F of title IV of the Higher Education Act of 1965 [20 U.S.C. 1087kk et seq.].

''(b) ELIGIBILITY.—The Secretary of Education shall ensure that financial assistance provided under this part [part E (§ 1543) of Pub. L. 102–325] is available to both full-time and part-time students who are athletes at centers described in subsection (a).

''(c) APPLICATION.—Each center desiring financial assistance under this section shall submit an application to the Secretary of Education at such time, in such manner and accompanied by such information as the Secretary may reasonably require.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $5,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out this section.''

PERSIAN GULF CONFLICT HIGHER EDUCATION ASSISTANCE

Pub. L. 102–26, §§ 4–6, Apr. 9, 1991, 105 Stat. 125–127, provided that:

''SEC. 4. OPERATION DESERT SHIELD/DESERT STORM WAIVER AUTHORITY.

''(a) PURPOSE.—It is the purpose of this section to ensure that—

''(1) the men and women serving on active duty in connection with Operation Desert Shield or Operation Desert Storm who are borrowers of Stafford Loans or Perkins Loans are not placed in a worse position financially in relation to those loans because of such service;

''(2) the administrative requirements placed on all borrowers of student loans made in accordance with title IV of the Act [20 U.S.C. 1070 et seq.; 42 U.S.C. 2751 et seq.] who are engaged in such military service are minimized to the extent possible without impairing the integrity of the student loan programs, in order to ease the burden on such borrowers, and to avoid inadvertent, technical defaults; and

''(3) the future eligibility of such an individual for Pell Grants is not reduced by the amount of such assistance awarded for a period of instruction that such individual was unable to complete, or for which the individual did not receive academic credit, because he or she was called up for such service.

''(b) WAIVER REQUIREMENT.—Notwithstanding any other provision of law, unless enacted with specific reference to this section, the Secretary of Education shall waive or modify any statutory or regulatory provision applicable to the student financial aid programs under title IV of the Act that the Secretary deems necessary to achieve the purposes stated in subsection (a), including—

''(1) the length of, and eligibility requirements for, the military deferments authorized under sections 427(a)(2)(C)(ii), 428(b)(1)(M)(ii), and 464(c)(2)(A)(ii) of the Act [20 U.S.C. 1077(a)(2)(C)(ii), 1078(b)(1)(M)(ii), 1087dd(c)(2)(A)(ii)], in order to enable the borrower of a Stafford Loan or a Perkins Loan who is or was serving on active duty in connection with Operation Desert Shield or Operation Desert Storm to obtain a military deferment, under which interest shall accrue and shall, if otherwise payable by the Secretary, be paid by the Secretary of Education, for the duration of such service;

''(2) administrative requirements placed on all borrowers of student loans made in accordance with title IV of the Act who are or were engaged in such military service;

''(3) the number of years for which individuals who are engaged in such military service may be eligible for Pell Grants under subpart 1 of part A of title IV of the Act [20 U.S.C. 1070a et seq.];

''(4) the point at which the borrower of a Stafford Loan who is or was engaged in such military service is required to resume repayment of principal and interest on such loan after the borrower completes a period of deferment under section 427(a)(2)(C)(ii) or 428(b)(1)(M)(ii) of the Act;

''(5) the point at which the borrower of a Stafford Loan who is or was engaged in such military service is required to resume repayment of principal and interest on such loan after the borrower completes a single period of deferment under section 427(a)(2)(C)(i) or 428(b)(1)(M)(i) of the Act subsequent to such service; and

''(6) the modification of the terms 'annual adjusted family income' and 'available income,' as used in the determination of need for student financial assistance under title IV of the Act for such individual (and the determination of such need for his or her spouse and dependents, if applicable), to mean the sums received in the first calendar year of the award year for which such determination is made, in order to reflect more accurately the financial condition of such individual and his or her family.

''(c) NOTICE OF WAIVER.—Notwithstanding section 431 [now 437] of the General Education Provisions Act (20 U.S.C. 1232) and section 553 of title 5, United States Code, the Secretary shall, by notice in the Federal Register, publish the waivers or modifications of statutory and regulatory provisions the Secretary deems necessary to achieve the purposes of this section. Such notice shall include the terms and conditions to be applied in lieu of such statutory and regulatory provisions. The Secretary is not required to exercise the waiver or modification authority under this section on a case-by-case basis.

''(d) DEFINITIONS.—For purposes of this Act [probably should be ''section'']—

''(1) Individuals 'serving on active duty in connection with Operation Desert Shield or Operation Desert Storm' shall include—

''(A) any Reserve of an Armed Force called to active duty under section 672(a) [now 12301(a)], 672(g) [now 12301(g)], 673 [now 12302], 673b [now 12304], 674 [now 12306], or 688 of title 10, United States Code, for service in connection with Operation Desert Shield or Operation Desert Storm, regardless of the location at which such active duty service is performed; and

''(B) for purposes of waivers of administrative requirements under subsection (b)(2) only, any other member of an Armed Force on active duty in connection with Operation Desert Shield or Operation Desert Storm, who has been assigned to a duty station at a location other than the location at which such member is normally assigned.

''(2) The term 'active duty' has the meaning given such term in section 101(22) of title 10, United States Code, except that such term does not include active duty for training or attendance at a service school.

''SEC. 5. TUITION REFUNDS OR CREDITS.

''(a) SENSE OF CONGRESS.—It is the sense of the Congress that all institutions offering postsecondary education should provide a full refund to any member or Reserve of an Armed Force on active duty service in connection with Operation Desert Shield or Operation Desert Storm for that portion of a period of instruction such individual was unable to complete, or for which such individual did not receive academic credit, because he or she was called up for such service. For purposes of this section, a full refund includes a refund of required tuition and fees, or a credit in a comparable amount against future tuition and fees.

''(b) ENCOURAGEMENT AND REPORT.—The Secretary of Education shall encourage institutions to provide such refunds or credits, and shall report to the appropriate committees of Congress on the actions taken in accordance with this subsection as well as information he receives regarding any institutions that are not providing such refunds or credits.

''SEC. 6. TERMINATION OF AUTHORITY.

''The provisions of sections 4 and 5 shall cease to be effective on September 30, 1997.''

Pub. L. 102–25, title III, part E (§§ 371–376), Apr. 6, 1991, 105 Stat. 93, provided that:

''SEC. 371. SHORT TITLE

''This part may be cited as the 'Persian Gulf Conflict Higher Education Assistance Act'.

''SEC. 372. [Superseded by section 4 of Pub. L. 102–26, set out above.]

''SEC. 373. [Superseded by section 5 of Pub. L. 102–26, set out above.]

''SEC. 374. [Amended section 294d of Title 42, The Public Health and Welfare.]

''SEC. 375. [Superseded by section 6 of Pub. L. 102–26, set out above.]

''SEC. 376. COORDINATION WITH OTHER LAW

''If the Higher Education Technical Amendments of 1991 [Pub. L. 102–26, see Short Title of 1991 Amendment note set out under section 1001 of this title] is enacted, the provisions of sections 4, 5, and 6 of that Act shall supersede sections 372, 373, and 375.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1070a of this title.

SUBPART 1—BASIC EDUCATIONAL OPPORTUNITY GRANTS

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in sections 1061, 1070, 1070a–37, 1070b–3, 1078, 1087b, 1087c, 1087e, 1087kk, 1091, 1092, 1096, 1099a–3, 1145e, 2341a, 7474 of this title; title 25 section 1809; title 26 section 6103.

§ 1070a. Basic educational opportunity grants: amount and determinations; applications

(a) Program authority and method of distribution

(1) The Secretary shall, during the period beginning July 1, 1972, and ending September 30, 1998, pay to each eligible institution such sums as may be necessary to pay to each eligible student (defined in accordance with section 1091 of this title) for each academic year during which that student is in attendance at an institution of higher education, as an undergraduate, a basic grant in the amount for which that student is eligible, as determined pursuant to subsection (b) of this section. Not less than 85 percent of such sums shall be advanced to eligible institutions prior to the start of each payment period and shall be based upon an amount requested by the institution as needed to pay eligible students, except that this sentence shall not be construed to limit the authority of the Secretary to place an institution on a reimbursement system of payment.

(2) Nothing in this section shall be interpreted to prohibit the Secretary from paying directly to students, in advance of the beginning of the academic term, an amount for which they are eligible, in cases where the eligible institution elects not to participate in the disbursement system required by paragraph (1).

(3) Basic grants made under this subpart shall be known as ''Federal Pell Grants''.

(b) Purpose and amount of grants

(1) The purpose of this subpart is to provide a basic grant that in combination with reasonable family and student contribution and supplemented by the programs authorized under subparts 3 and 4 of this part, will meet at least 75 percent of a student's cost of attendance (as defined in section 1087*ll* of this title), unless the institution determines that a greater amount of assistance would better serve the purposes of section 1070[1] of this title.

(2)(A) The amount of the basic grant for a student eligible under this part shall be—

(i) $3,700 for academic year 1993–1994,

(ii) $3,900 for academic year 1994–1995,

(iii) $4,100 for academic year 1995–1996,

(iv) $4,300 for academic year 1996–1997, and

(v) $4,500 for academic year 1997–1998,

less an amount equal to the amount determined to be the expected family contribution with respect to that student for that year.

(B) In any case where a student attends an institution of higher education on less than a full-time basis (including a student who attends an institution of higher education on less than a half-time basis) during any academic year, the amount of the basic grant to which that student is entitled shall be reduced in proportion to the degree to which that student is not so attending on a full-time basis, in accordance with a schedule of reductions established by the Secretary for the purposes of this division, computed in accordance with this subpart. Such schedule of reductions shall be established by regulation and published in the Federal Register in accordance with section 1089 of this title.

(3)(A) For any academic year for which an appropriation Act provides a maximum basic grant in an amount in excess of $2,400, the amount of a student's basic grant shall equal $2,400 plus—

(i) one-half of the amount by which such maximum basic grant exceeds $2,400; plus

(ii) the lesser of—

(I) the remaining one-half of such excess; or

(II) the sum of the student's tuition and the student's allowance determined under subparagraph (B), if applicable.

(B) For purposes of subparagraph (A)(ii)(II), a student's allowance is $750 if the student has dependent care expenses (as defined in section 1087*ll*(8) of this title) or disability related expenses (as defined in section 1087*ll*(9) of this title).

(4) No basic grant under this subpart shall exceed the difference between the expected family contribution for a student and the cost of attendance (as defined in section 1087*ll* of this title) at the institution at which that student is in attendance. If, with respect to any student, it is determined that the amount of a basic grant plus the amount of the expected family contribution for that student exceeds the cost of attendance for that year, the amount of the basic grant shall be reduced until the combination of expected family contribution and the amount of the basic grant does not exceed the cost of attendance at such institution.

(5) No basic grant shall be awarded to a student under this subpart if the amount of that grant for that student as determined under this subsection for any academic year is less than $400, except that a student who is eligible for a basic grant that is equal to or greater than $200 but less than $400 shall be awarded a basic grant of $400.

(6) The Secretary may allow, on a case-by-case basis, a student to receive 2 Pell grants during a single award year, if—

(A) the student is enrolled full-time in an associate or baccalaureate degree program of study that is 2 years or longer at an eligible institution that is computed in credit hours; and

(B) the student completes course work toward completion of an associate or baccalaureate degree that exceeds the requirements for a full academic year as defined by the institution.

(7) Notwithstanding any other provision of this subpart, the Secretary shall allow the amount of the basic grant to be exceeded for students participating in a program of study abroad approved for credit by the institution at which the student is enrolled when the reasonable costs of such program are greater than the cost of attendance at the student's home institution, except that the amount of such basic grant in any fiscal year shall not exceed the grant level specified in the appropriate Appropriation Act for this subpart for such year. If the preceding sentence applies, the financial aid administrator at the home institution may use the cost of the study abroad program, rather than the home institution's cost, to determine the cost of attendance of the student.

(8) No basic grant shall be awarded under this subpart to any individual who is incarcerated in any Federal or State penal institution.

(c) Period of eligibility for grants

(1) The period during which a student may receive basic grants shall be the period required for the completion of the first undergraduate baccalaureate course of study being pursued by that student at the institution at which the student is in attendance except that any period during which the student is enrolled in a noncredit or remedial course of study as defined in paragraph (2) shall not be counted for the purpose of this paragraph.

(2) Nothing in this section shall exclude from eligibility courses of study which are noncredit or remedial in nature (including courses in English language instruction) which are determined by the institution to be necessary to help the student be prepared for the pursuit of a first undergraduate baccalaureate degree or certificate or, in the case of courses in English language instruction, to be necessary to enable the student to utilize already existing knowledge, training, or skills. Nothing in this section shall exclude from eligibility programs of study abroad that are approved for credit by the home institution at which the student is enrolled.

(3) No student is entitled to receive Pell Grant payments concurrently from more than one in-

[1] See References in Text note below.

stitution or from the Secretary and an institution.

(d) Applications for grants

(1) The Secretary shall from time to time set dates by which students shall file applications for basic grants under this subpart.

(2) Each student desiring a basic grant for any year shall file an application therefor containing such information and assurances as the Secretary may deem necessary to enable the Secretary to carry out the functions and responsibilities of this subpart.

(e) Distribution of grants to students

Payments under this section shall be made in accordance with regulations promulgated by the Secretary for such purpose, in such manner as will best accomplish the purpose of this section. Any disbursement allowed to be made by crediting the student's account shall be limited to tuition and fees and, in the case of institutionally owned housing, room and board. The student may elect to have the institution provide other such goods and services by crediting the student's account.

(f) Calculation of eligibility

(1) Each contractor processing applications for awards under this subpart (including a central processor, if any, designated by the Secretary) shall, in a timely manner, furnish to the student financial aid administrator (at each institution of higher education which a student awarded a basic grant under this subpart is attending), as a part of its regular output document, the expected family contribution for each such student. Each such student financial aid administrator shall—

(A) examine and assess the data used to calculate the expected family contribution of the student furnished pursuant to this subsection;

(B) recalculate the expected family contribution of the student if there has been a change in circumstances of the student or in the data submitted;

(C) make the award to the student in the correct amount; and

(D) after making such award report the corrected data to such contractor and to a central processor (if any) designated by the Secretary for a confirmation of the correct computation of amount of the expected family contribution for each such student.

(2) Whenever a student receives an award under this subpart that, due to recalculation errors by the institution of higher education, is in excess of the amount which the student is entitled to receive under this subpart, such institution of higher education shall pay to the Secretary the amount of such excess unless such excess can be resolved in a subsequent disbursement to the institution.

(3) Each contractor processing applications for awards under this subpart shall for each academic year after academic year 1986–1987 prepare and submit a report to the Secretary on the correctness of the computations of amount of the expected family contribution, and on the accuracy of the questions on the application form under this subpart for the previous academic year for which the contractor is responsible. The Secretary shall transmit the report, together with the comments and recommendations of the Secretary, to the Committee on Appropriations and the Committee on Labor and Human Resources of the Senate and the Committee on Appropriations and the Committee on Education and Labor of the House of Representatives.

(g) Insufficient appropriations

If, for any fiscal year, the funds appropriated for payments under this subpart are insufficient to satisfy fully all entitlements, as calculated under subsection (b) of this section (but at the maximum grant level specified in such appropriation), the Secretary shall promptly transmit a notice of such insufficiency to each House of the Congress, and identify in such notice the additional amount that would be required to be appropriated to satisfy fully all entitlements (as so calculated at such maximum grant level).

(h) Use of excess funds

(1) If, at the end of a fiscal year, the funds available for making payments under this subpart exceed the amount necessary to make the payments required under this subpart to eligible students by 15 percent or less, then all of the excess funds shall remain available for making payments under this subpart during the next succeeding fiscal year.

(2) If, at the end of a fiscal year, the funds available for making payments under this subpart exceed the amount necessary to make the payments required under this subpart to eligible students by more than 15 percent, then all of such funds shall remain available for making such payments but payments may be made under this paragraph only with respect to entitlements for that fiscal year.

(i) Treatment of institutions and students under other laws

Any institution of higher education which enters into an agreement with the Secretary to disburse to students attending that institution the amounts those students are eligible to receive under this subpart shall not be deemed, by virtue of such agreement, a contractor maintaining a system of records to accomplish a function of the Secretary. Recipients of Pell Grants shall not be considered to be individual grantees for purposes of subtitle D of title V of Public Law 100–690 [41 U.S.C. 701 et seq.].

(Pub. L. 89–329, title IV, §401, formerly §411, as added Pub. L. 99–498, title IV, §401(a), Oct. 17, 1986, 100 Stat. 1309; amended Pub. L. 100–50, §3(a), June 3, 1987, 101 Stat. 337; renumbered §401 and amended Pub. L. 102–325, title IV, §§401(a)–(h), 402(a)(3), July 23, 1992, 106 Stat. 479–482; Pub. L. 103–208, §2(b)(1)–(5), (k)(1), Dec. 20, 1993, 107 Stat. 2458, 2485; Pub. L. 103–322, title II, §20411(a), Sept. 13, 1994, 108 Stat. 1828.)

REFERENCES IN TEXT

Section 1070 of this title, referred to in subsec. (b)(1), was in the original a reference to section 401, meaning section 401 of the Higher Education Act of 1965, Pub. L. 89–329. Sections 401 and 411 of that Act were renumbered as sections 400 and 401, respectively, by Pub. L. 102–325, title IV, §402(a)(3), July 23, 1992, 106 Stat. 482, and are classified to sections 1070 and 1070a of this title, respectively.

Subtitle D of title V of Public Law 100–690, referred to in subsec. (i), is subtitle D (§§ 5151–5160) of title V of Pub. L. 100–690, Nov. 18, 1988, 102 Stat. 4304, commonly known as the Drug-Free Workplace Act of 1988, which is classified generally to chapter 10 (§ 701 et seq.) of Title 41, Public Contracts. For complete classification of this Act to the Code, see Short Title note set out under section 701 of Title 41 and Tables.

PRIOR PROVISIONS

A prior section 1070a, Pub. L. 89–329, title IV, § 411, as added Pub. L. 92–318, title I, § 131(b)(1), June 23, 1972, 86 Stat. 248; amended Pub. L. 94–328, § 2(f), June 30, 1976, 90 Stat. 727; Pub. L. 94–482, title I, § 121(a), (b)(1), (c)–(i), Oct. 12, 1976, 90 Stat. 2091–2093; Pub. L. 95–43, § 1(a)(5), June 15, 1977, 91 Stat. 213; Pub. L. 95–566, § 2, Nov. 1, 1978, 92 Stat. 2402; Pub. L. 96–49, § 5(a)(1), (2)(A), Aug. 13, 1979, 93 Stat. 351; Pub. L. 96–374, title IV, § 402, title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1401, 1503; Pub. L. 97–301, § 8(a), Oct. 13, 1982, 96 Stat. 1402, related to basic educational opportunity grants, amount and determinations, and applications, prior to the general revision of this part by Pub. L. 99–498.

A prior section 401 of Pub. L. 89–329 was renumbered section 400 by section 402(a)(3) of Pub. L. 102–325 and is classified to section 1070 of this title.

Another prior section 401 of Pub. L. 89–329, title IV, as added and amended Pub. L. 92–318, title I, § 131(b)(1), title X, § 1001(c)(1), (2), June 23, 1972, 86 Stat. 247, 381; Pub. L. 94–482, title I, § 125, Oct. 12, 1976, 90 Stat. 2096; Pub. L. 96–374, title IV, § 401, title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1401, 1503, which stated purpose of program of grants to students in attendance at institutions of higher education, was classified to section 1070 of this title, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1994—Subsec. (b)(8). Pub. L. 103–322 amended par. (8) generally. Prior to amendment, par. (8) read as follows:

''(8)(A) No basic grant shall be awarded to an incarcerated student under this subpart that exceeds the sum of the amount of tuition and fees normally assessed by the institution of higher education for the course of study such student is pursuing plus an allowance (determined in accordance with regulations issued by the Secretary) for books and supplies associated with such course of study, except that no basic grant shall be awarded to any incarcerated student serving under sentence of death or any life sentence without eligibility for parole or release.

''(B) Basic grants under this subpart shall only be awarded to incarcerated individuals in a State if such grants are used to supplement and not supplant the level of postsecondary education assistance provided by such State to incarcerated individuals in fiscal year 1988.''

1993—Subsec. (a)(1). Pub. L. 103–208, § 2(b)(1), inserted before period at end of second sentence '', except that this sentence shall not be construed to limit the authority of the Secretary to place an institution on a reimbursement system of payment''.

Subsec. (b)(2)(B). Pub. L. 103–208, § 2(k)(1), amended directory language of Pub. L. 102–325, § 401(d)(2)(A). See 1992 Amendment note below.

Subsec. (b)(6). Pub. L. 103–208, § 2(b)(2)–(4), substituted ''single award year'' for ''single 12-month period'' in introductory provisions, ''an associate or baccalaureate'' for ''a baccalaureate'' in subpar. (A), and ''an associate or baccalaureate'' for ''a bachelor's'' in subpar. (B).

Subsec. (i). Pub. L. 103–208, § 2(b)(5), substituted ''subtitle D of title V'' for ''part D of title V''.

1992—Subsec. (a)(1). Pub. L. 102–325, § 401(a), substituted ''September 30, 1998'' for ''September 30, 1992'' and ''subsection (b) of this section'' for ''paragraph (2)''.

Subsec. (a)(3). Pub. L. 102–325, § 401(b), substituted ''Federal Pell Grants'' for ''Pell Grants''.

Subsec. (b)(1). Pub. L. 102–325, § 401(c), struck out ''(A) as determined under paragraph (2), will meet 60 percent of a student's cost of attendance (as defined in section 1070a–6 of this title); and (B)'' after ''basic grant that'' and substituted ''family and student'' for ''parental or independent student'', ''subparts 3 and 4'' for ''subparts 2 and 3'', and ''will meet at least 75 percent'' for ''will meet 75 percent''.

Subsec. (b)(2)(A)(i) to (v). Pub. L. 102–325, § 401(d)(1), added cls. (i) to (v) and struck out former cls. (i) to (v) which read as follows:

''(i) $2,300 for academic year 1987–1988,

''(ii) $2,500 for academic year 1988–1989,

''(iii) $2,700 for academic year 1989–1990,

''(iv) $2,900 for academic year 1990–1991, and

''(v) $3,100 for academic year 1991–1992,''.

Subsec. (b)(2)(B). Pub. L. 102–325, § 401(d)(2)(A), as amended by Pub. L. 103–208, § 2(k)(1), inserted ''(including a student who attends an institution of higher education on less than a half-time basis)'' in first sentence after ''full-time basis'' the first time appearing.

Pub. L. 102–325, § 401(d)(2)(B), inserted '', computed in accordance with this subpart'' before period at end of first sentence.

Subsec. (b)(3). Pub. L. 102–325, § 401(d)(3), amended par. (3) generally. Prior to amendment, par. (3) read as follows: ''The amount of a basic grant to which a student is entitled under this subpart for any academic year shall not exceed 60 percent of the cost of attendance (as defined in section 1070a–6 of this title) at the institution at which the student is in attendance for that year.''

Subsec. (b)(4). Pub. L. 102–325, § 401(d)(4), substituted ''section 1087*ll*'' for ''section 1070a–6''.

Subsec. (b)(5). Pub. L. 102–325, § 401(d)(5), substituted ''$400, except that a student who is eligible for a basic grant that is equal to or greater than $200 but less than $400 shall be awarded a basic grant of $400'' for ''$200''.

Subsec. (b)(6) to (8). Pub. L. 102–325, § 401(d)(6), added pars. (6) to (8) and struck out former pars. (6) and (7) which limited or prohibited basic grants from funds appropriated for fiscal years prior to 1992 to students attending on a less than half-time basis.

Subsec. (c)(1). Pub. L. 102–325, § 401(e)(1), substituted ''any period during which the student is enrolled in a noncredit or remedial course of study as defined in paragraph (2) shall not be counted for the purpose of this paragraph.'' for ''—

''(A) such period may not exceed the full-time equivalent of—

''(i) 5 academic years in the case of an undergraduate degree or certificate program normally requiring 4 years or less;

''(ii) 6 academic years in the case of an undergraduate degree or certificate program normally requiring more than 4 years;

''(B) any period during which the student is enrolled in a noncredit or remedial course of study as defined in paragraph (2) shall not be counted for the purpose of subparagraph (A); and

''(C) an institution of higher education at which the student is in attendance may waive subparagraph (A) for undue hardship based on—

''(i) the death of a relative of the student;

''(ii) the personal injury or illness of the student; or

''(iii) special circumstances as determined by the institution.''

Subsec. (c)(2). Pub. L. 102–325, § 401(e)(2), inserted at end ''Nothing in this section shall exclude from eligibility programs of study abroad that are approved for credit by the home institution at which the student is enrolled.''

Subsec. (f)(1). Pub. L. 102–325, § 401(f)(1), substituted '', as a part of its regular output document, the expected family contribution'' for ''an estimate of the eligibility index'' in introductory provisions and ''expected family contribution'' for ''eligibility index'' in subpars. (A), (B), and (D).

Subsec. (f)(3). Pub. L. 102–325, § 401(f)(2), substituted ''expected family contribution'' for ''eligibility index''.

Subsec. (g). Pub. L. 102–325, § 401(g), struck out ''Adjustments for'' before ''insufficient appropriations'' in

heading and amended text generally. Prior to amendment, text read as follows:

''(1) If, for any fiscal year, the funds appropriated for payments under this subpart are insufficient to satisfy fully all entitlements, as calculated under subsection (b) of this section, the amount paid with respect to each entitlement shall be—

''(A) the full amount for any student whose expected family contribution is $200 or less, or

''(B) a percentage of that entitlement, as determined in accordance with a schedule of reductions established by the Secretary for this purpose, for any student whose expected family contribution is more than $200.

''(2) Any schedule established by the Secretary for the purpose of paragraph (1)(B) of this subsection shall contain a single linear reduction formula in which the percentage reduction increases uniformly as the entitlement decreases, and shall provide that if an entitlement is reduced to less than $100, no payment shall be made.''

Subsec. (i). Pub. L. 102–325, §401(h), substituted ''Treatment of institutions and students under other laws'' for ''Noncontractor status of institutions'' in heading and inserted at end of text ''Recipients of Pell Grants shall not be considered to be individual grantees for purposes of part D of title V of Public Law 100–690.''

1987—Subsec. (g)(2). Pub. L. 100–50 substituted ''paragraph (1)(B)'' for ''paragraph (1)''.

CHANGE OF NAME

Committee on Education and Labor of House of Representatives treated as referring to Committee on Economic and Educational Opportunities of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Economic and Educational Opportunities of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Fifth Congress, Jan. 7, 1997.

EFFECTIVE DATE OF 1994 AMENDMENT

Section 20411(b) of Pub. L. 103–322 provided that: ''The amendment made by this section [amending this section] shall apply with respect to periods of enrollment beginning on or after the date of enactment of this Act [Sept. 13, 1994].''

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by section 2(b)(1), (3)–(5), (k)(1) of Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, and amendment by section 2(b)(2) of Pub. L. 103–208 effective on and after Dec. 20, 1993, see section 5(a), (b)(2) of Pub. L. 103–208, set out as a note under section 1003 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Section 410 of Pub. L. 102–325 provided that: ''The changes made in part A of title IV of the Act [20 U.S.C. 1070 et seq.] by the amendments made by this part [part A (§§401–410) of title IV of Pub. L. 102–325, see Tables for classification] shall take effect on the date of enactment of this Act [July 23, 1992], except—

''(1) as otherwise provided in such part A;

''(2) that the changes made in section 411 [this section], relating to Pell Grants, shall apply to the awarding of Pell Grants for periods of enrollment beginning on or after July 1, 1993; and

''(3) that the changes in section 413C(a)(2) [20 U.S.C. 1070b–2(a)(2)], relating to the Federal share for the supplemental educational opportunity grant program, shall apply to funds provided for such program for the award years beginning on or after July 1, 1993.''

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

EFFECTIVE DATE

Section effective Oct. 17, 1986, except as otherwise provided, see section 2 of Pub. L. 99–498, set out as a note under section 1001 of this title.

Section 401(b)(3), (4) of Pub. L. 99–498 provided that:

''(3) Section 411(c) of the Act [20 U.S.C. 1070a(c)] as amended by this section shall apply only to individuals who receive a Pell Grant for the first time for a period of enrollment beginning on or after July 1, 1987.

''(4) Section 411(f) of the Act [20 U.S.C. 1070a(f)] as amended by this section shall apply to the awarding of Pell Grants for periods of enrollment beginning on or after July 1, 1987.''

STUDY OF PELL GRANT ELIGIBILITY FOR LESS THAN HALF-TIME STUDENTS

Section 1306 of Pub. L. 99–498 directed Secretary to conduct a study and report to Congress not later than Sept. 30, 1988, on the number of less than half-time students who would be eligible for Pell grants by reason of having an expected family contribution of $0 and of $0–$200 for the appropriate academic years.

MAXIMUM PELL GRANTS

Provisions limiting the maximum Pell grant that a student may receive were contained in the following appropriation acts:

Pub. L. 105–78, title III, Nov. 13, 1997, 111 Stat. 1501.

Pub. L. 104–208, div. A, title I, §101(e) [title III], Sept. 30, 1996, 110 Stat. 3009–233, 3009–257.

Pub. L. 104–134, title I, §101(d) [title III], Apr. 26, 1996, 110 Stat. 1321–211, 1321–232; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327.

Pub. L. 104–99, title I, §119, Jan. 26, 1996, 110 Stat. 30, prior to repeal by Pub. L. 104–134, title I, §101(d) [title V, §518], Apr. 26, 1996, 110 Stat. 1321–211, 1321–248; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327.

Pub. L. 103–333, title III, Sept. 30, 1994, 108 Stat. 2564.

Pub. L. 103–112, title III, Oct. 21, 1993, 107 Stat. 1104.

Pub. L. 102–394, title III, Oct. 6, 1992, 106 Stat. 1816.

Pub. L. 102–170, title III, Nov. 26, 1991, 105 Stat. 1131.

Pub. L. 101–517, title III, Nov. 5, 1990, 104 Stat. 2212.

Pub. L. 101–166, title III, Nov. 21, 1989, 103 Stat. 1182.

Pub. L. 100–436, title III, Sept. 20, 1988, 102 Stat. 1704.

Pub. L. 100–202, §101(h) [title III], Dec. 22, 1987, 101 Stat. 1329–256, 1329–279.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1070a–24, 1090 of this title.

§§ 1070a–1 to 1070a–6. Repealed. Pub. L. 102–325, title IV, § 401(i), July 23, 1992, 106 Stat. 482

Section 1070a–1, Pub. L. 89–329, title IV, §411A, as added Pub. L. 99–498, title IV, §401(a), Oct. 17, 1986, 100 Stat. 1312; amended Pub. L. 100–50, §3(b)(1), June 3, 1987, 101 Stat. 337; Pub. L. 100–369, §7(c), July 18, 1988, 102 Stat. 837, related to family contribution schedule for Pell Grants and data elements.

Section 1070a–2, Pub. L. 89–329, title IV, §411B, as added Pub. L. 99–498, title IV, §401(a), Oct. 17, 1986, 100 Stat. 1313; amended Pub. L. 100–50, §3(b)(2), (c)–(f)(1), (4), (5), (g), June 3, 1987, 101 Stat. 337, 338; Pub. L. 102–54, §13(g)(1)(B), June 13, 1991, 105 Stat. 275, related to eligibility determination for dependent students.

Section 1070a–3, Pub. L. 89–329, title IV, §411C, as added Pub. L. 99–498, title IV, §401(a), Oct. 17, 1986, 100 Stat. 1316; amended Pub. L. 100–50, §3(b)(3), (c)(1), (f)(2), (4), (5), (g), (h)(2), June 3, 1987, 101 Stat. 337, 338; Pub. L. 100–369, §7(c), July 18, 1988, 102 Stat. 837; Pub. L. 102–54, §13(g)(1)(C), June 13, 1991, 105 Stat. 275, related to eligibility determination for independent students with dependents other than a spouse.

Section 1070a–4, Pub. L. 89–329, title IV, §411D, as added Pub. L. 99–498, title IV, §401(a), Oct. 17, 1986, 100

Stat. 1319; amended Pub. L. 100–50, §3(b)(4), (c)(1), (f)(3), (4), (g), June 3, 1987, 101 Stat. 337, 338; Pub. L. 100–369, §7(c), July 18, 1988, 102 Stat. 837; Pub. L. 102–54, §13(g)(1)(D), June 13, 1991, 105 Stat. 275, related to eligibility determination for single independent students or for married independent students without other dependents.

Section 1070a–5, Pub. L. 89–329, title IV, §411E, as added Pub. L. 99–498, title IV, §401(a), Oct. 17, 1986, 100 Stat. 1322, related to regulations and updated tables.

Section 1070a–6, Pub. L. 89–329, title IV, §411F, as added Pub. L. 99–498, title IV, §401(a), Oct. 17, 1986, 100 Stat. 1323; amended Pub. L. 100–50, §3(h)(1), (i)–(m), June 3, 1987, 101 Stat. 338, 339; Pub. L. 100–369, §7(a), (c), July 18, 1988, 102 Stat. 836, 837; Pub. L. 101–610, title I, §185(1), (2), Nov. 16, 1990, 104 Stat. 3167, related to definitions and determinations.

SUBPART 2—FEDERAL EARLY OUTREACH AND STUDENT SERVICES PROGRAMS

CODIFICATION

Pub. L. 102–325, title IV, §402(a)(2), (4), July 23, 1992, 106 Stat. 482, added subpart 2 and redesignated former subpart 2 comprising sections 1070b to 1070b–3 of this title as subpart 3.

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in section 1087*oo* of this title.

Division 1—Federal Trio Programs

DIVISION REFERRED TO IN OTHER SECTIONS

This division is referred to in sections 1070a–24, 1091, 1144a of this title.

§ 1070a–11. Program authority; authorization of appropriations

(a) Grants and contracts authorized

The Secretary shall, in accordance with the provisions of this division, carry out a program of making grants and contracts designed to identify qualified individuals from disadvantaged backgrounds, to prepare them for a program of postsecondary education, to provide support services for such students who are pursuing programs of postsecondary education, to motivate and prepare students for doctoral programs, and to train individuals serving or preparing for service in programs and projects so designed.

(b) Recipients, duration, and size

(1) Recipients

For the purposes described in subsection (a) of this section, the Secretary is authorized, without regard to section 5 of title 41, to make grants to, and contracts with, institutions of higher education, public and private agencies and organizations, combinations of such institutions, agencies and organizations, and in exceptional circumstances, secondary schools, for planning, developing, or carrying out one or more of the services assisted under this division.

(2) Duration

Grants or contracts made under this division shall be awarded for a period of 4 years, except that—

(A) the Secretary shall award such grants or contracts for 5 years to applicants whose peer review scores were in the highest 10 percent of scores of all applicants receiving grants or contracts in each program competition for the same award year; and

(B) grants made under section 1070a–17 of this title shall be awarded for a period of 2 years.

(3) Minimum grant level

In any year in which the appropriations authorized under this division exceed the prior year appropriation as adjusted for inflation, the Secretary shall use 80 percent of the amount appropriated above the current services level to bring each award up to the minimum grant level or the amount requested by the institution or agency, whichever is less. The minimum grant level (A) for programs authorized under section 1070a–14 or 1070a–17 of this title, shall not be less than $170,000 for fiscal year 1993; (B) for programs authorized under section 1070a–12 or 1070a–16 of this title shall not be less than $180,000 for fiscal year 1994; and (C) for programs authorized under section 1070a–13 or 1070a–15 of this title shall not be less than $190,000 for fiscal year 1995.

(c) Procedures for awarding grants and contracts

(1) Prior experience

In making grants and contracts under this division, the Secretary shall consider the prior experience of service delivery under the particular program for which funds are sought by each applicant. For fiscal years after 1985, the level of consideration given to prior experience shall not vary from the level of consideration given this factor for fiscal year 1985, except that in the case of the programs authorized in sections 1070a–15 and 1070a–17 of this title, the level of consideration given to prior experience shall be the same as the level of consideration given this factor in the other programs authorized in this division.

(2) Order of awards; program fraud

(A) Except with respect to grants made under section 1070a–17 of this title, and as provided in subparagraph (B), the Secretary shall award grants and contracts under this division in the order of the scores received by the application for such grant or contract in the peer review process required under section 1145d–1 of this title and adjusted for prior experience in accordance with paragraph (1).

(B) The Secretary is not required to provide assistance to a program otherwise eligible for assistance under this division, if the Secretary has determined that such program has involved the fraudulent use of funds under this division.

(3) Peer review process

(A) The Secretary shall assure that, to the extent practicable, members of groups underrepresented in higher education, including African Americans, Hispanics, Native Americans, Alaska Natives, Asian Americans, Native American Pacific Islanders (including Native Hawaiians), are represented as readers of applications submitted under this division. The Secretary shall also assure that persons from urban and rural backgrounds are represented as readers.

(B) The Secretary shall ensure that each application submitted under this division is read by at least 3 readers who are not employees of the Federal Government (other than as readers of applications).

(4) Application status

The Secretary shall inform each entity operating programs under this division regarding the status of their application for continued funding at least 8 months prior to the expiration of the grant or contract. The Secretary, in the case of an entity that is continuing to operate a successful program under this division, shall ensure that the start-up date for a new grant or contract for such program immediately follows the termination of preceding grant or contract so that no interruption of funding occurs for such successful reapplicants. The Secretary shall inform each entity requesting assistance under this subpart for a new program regarding the status of their application at least 8 months prior to the proposed startup date of such program.

(5) Number of applications for grants and contracts

The Secretary shall not limit the number of applications submitted by an entity under any program authorized under this division if the additional applications describe programs serving different populations or campuses.

(6) Coordination with other programs for disadvantaged students

The Secretary shall encourage coordination of programs assisted under this division with other programs for disadvantaged students operated by the sponsoring institution or agency, regardless of the funding source of such programs. The Secretary shall not limit an entity's eligibility to receive funds under this division because such entity sponsors a program similar to the program to be assisted under this division, regardless of the funding source of such program. The Secretary shall not require a separate Director to administer a program funded under this division if the imposition of such requirement will hinder coordination among programs funded under this division or between programs funded under this subpart and similar programs funded through other sources.

(d) Outreach

(1) In general

The Secretary shall conduct outreach activities to ensure that entities eligible for assistance under this division submit applications proposing programs that serve geographic areas and eligible populations which have been underserved by the programs assisted under this division.

(2) Notice

In carrying out the provisions of paragraph (1), the Secretary shall notify the entities described in subsection (b) of this section of the availability of assistance under this subsection not less than 120 days prior to the deadline for submission of applications under this division and shall consult national, State, and regional organizations about candidates for notification.

(3) Technical assistance

The Secretary shall provide technical training to applicants for projects and programs authorized under this division. The Secretary shall give priority to serving programs and projects that serve geographic areas and eligible populations which have been underserved by the programs assisted under this division. Technical training activities shall include the provision of information on authorizing legislation, goals and objectives of the program, required activities, eligibility requirements, the application process and application deadlines, and assistance in the development of program proposals and the completion of program applications. Such training shall be furnished at conferences, seminars, and workshops to be conducted at not less than 10 sites throughout the United States to ensure that all areas of the United States with large concentrations of eligible participants are served.

(4) Special rule

The Secretary may contract with eligible entities to conduct the outreach activities described in this subsection.

(e) Documentation of status as a low-income individual

(1) Except in the case of an independent student, as defined in section 1087vv(d) of this title, documentation of an individual's status pursuant to subsection (g)(2) of this section shall be made by providing the Secretary with—

(A) a signed statement from the individual's parent or legal guardian;

(B) verification from another governmental source;

(C) a signed financial aid application; or

(D) a signed United States or Puerto Rico income tax return.

(2) In the case of an independent student, as defined in section 1087vv(d) of this title, documentation of an individual's status pursuant to subsection (g)(2) of this section shall be made by providing the Secretary with—

(A) a signed statement from the individual;

(B) verification from another governmental source;

(C) a signed financial aid application; or

(D) a signed United States or Puerto Rico income tax return.

(f) Authorization of appropriations

For the purpose of making grants and contracts under this division, there are authorized to be appropriated $650,000,000 for fiscal year 1993, and such sums as may be necessary for each of the 4 succeeding fiscal years. Of the amount appropriated under this division, the Secretary may use no more than ½ of 1 percent of such amount to obtain additional qualified readers and additional staff to review applications, to increase the level of oversight monitoring, to support impact studies, program assessments and reviews, and to provide technical assistance to potential applicants and current grantees. In expending these funds, the Secretary shall give priority to the additional ad-

ministrative requirements provided in the Higher Education Amendments of 1992, to outreach activities, and to obtaining additional readers. The Secretary shall report to Congress by October 1, 1994, on the use of these funds.

(g) Definitions

For the purpose of this division:

(1) First generation college student

The term ''first generation college student'' means—

(A) an individual both of whose parents did not complete a baccalaureate degree; or

(B) in the case of any individual who regularly resided with and received support from only one parent, an individual whose only such parent did not complete a baccalaureate degree.

(2) Low-income individual

The term ''low-income individual'' means an individual from a family whose taxable income for the preceding year did not exceed 150 percent of an amount equal to the poverty level determined by using criteria of poverty established by the Bureau of the Census.

(3) Veteran eligibility

No veteran shall be deemed ineligible to participate in any program under this division by reason of such individual's age who—

(A) served on active duty for a period of more than 180 days, any part of which occurred after January 31, 1955, and was discharged or released therefrom under conditions other than dishonorable; or

(B) served on active duty after January 31, 1955, and was discharged or released therefrom because of a service connected disability.

(Pub. L. 89–329, title IV, § 402A, as added Pub. L. 102–325, title IV, § 402(a)(4), July 23, 1992, 106 Stat. 482; amended Pub. L. 103–208, § 2(b)(6)–(9), Dec. 20, 1993, 107 Stat. 2458.)

REFERENCES IN TEXT

The Higher Education Amendments of 1992, referred to in subsec. (f), is Pub. L. 102–325, July 23, 1992, 106 Stat. 448. For complete classification of this Act to the Code, see Short Title of 1992 Amendment note set out under section 1001 of this title and Tables.

REFERENCES TO SUBPART 2, 3, OR 4 OF THIS PART DEEMED TO REFER TO SUBPART 3, 4, OR 2 OF THIS PART

Section 402(b) of Pub. L. 102–325 provided that: ''Reference in any provision of law (other than the Act [20 U.S.C. 1001 et seq.]) to subpart 2, 3, or 4 of part A of title IV of the Act shall, after the date of enactment of this Act [July 23, 1992], be deemed to refer to subpart 3 [20 U.S.C. 1070b et seq.], 4 [20 U.S.C. 1070c et seq.], or 2 [20 U.S.C. 1070a–11 et seq.] of such part, respectively.''

AMENDMENTS

1993—Subsec. (b)(2). Pub. L. 103–208, § 2(b)(6), added par. (2) and struck out former par. (2) which read as follows: ''Grants or contracts made under this division shall be awarded for a period of 4 years, except that the Secretary shall award such grants or contracts for 5 years to applicants whose peer review scores were in the highest 10 percent of scores of all applicants receiving grants or contracts in each program competition for the same award year.''

Subsec. (c)(1). Pub. L. 103–208, § 2(b)(7), inserted before period at end of second sentence '', except that in the case of the programs authorized in sections 1070a–15 and 1070a–17 of this title, the level of consideration given to prior experience shall be the same as the level of consideration given this factor in the other programs authorized in this division''.

Subsec. (c)(2)(A). Pub. L. 103–208, § 2(b)(8), inserted ''with respect to grants made under section 1070a–17 of this title, and'' after ''Except''.

Subsec. (e). Pub. L. 103–208, § 2(b)(9), amended subsec. (e) generally. Prior to amendment, subsec. (e) read as follows: ''Documentation of an individual's status pursuant to subsection (g)(2) of this section shall be made—

''(1) in the case of an individual who is eighteen years of age or younger or a dependent student by providing the Secretary with a signed statement from the parent or legal guardian, verification from another governmental source, a signed financial aid application, or a signed United States or Puerto Rican income tax return; and

''(2) in the case of an individual who is age 18 or older or who is an independent student, by providing the Secretary with a signed statement from the individual, verification from another governmental source, a signed financial aid form, or a signed United States or Puerto Rican income tax return.''

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by section 2(b)(6), (8), (9) of Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, and amendment by section 2(b)(7) of Pub. L. 103–208 effective on and after Dec. 20, 1993, see section 5(a), (b)(2) of Pub. L. 103–208 set out as a note under section 1003 of this title.

ADVANCED PLACEMENT FEE PAYMENT PROGRAM

Section 1545 of Pub. L. 102–325 provided that:

''(a) PROGRAM ESTABLISHED.—The Secretary of Education is authorized to make grants to States to enable the States to reimburse individuals to cover part or all of the cost of advance placement test fees, to low-income individuals who—

''(1) are enrolled in an advanced placement class; and

''(2) plan to take an advanced placement test.

''(b) INFORMATION DISSEMINATION.—The State educational agency shall disseminate information on the availability of test fee payments under this section to eligible individuals through secondary school teachers and guidance counselors.

''(c) REQUIREMENTS FOR APPROVAL OF APPLICATIONS.—In approving applications for grants the Secretary of Education shall—

''(1) require that each such application contain a description of the advance placement test fees the State will pay on behalf of individual students;

''(2) require an assurance that any funds received under this section shall only be used to pay advanced placement test fees; and

''(3) contain such information as the Secretary may require to demonstrate that the State will ensure that the student is eligible for payments under this section, including the documentation required by chapter 1 of subpart 2 of part A of title IV of the Higher Education Act of 1965 [20 U.S.C. 1070a–11 et seq.].

''(d) SUPPLEMENTATION OF FUNDING.—Funds provided under this section shall be used to supplement and not supplant other Federal, State, and local or private funds available to assist low-income individuals in paying for advanced placement testing.

''(e) REGULATIONS.—The Secretary of Education shall prescribe such regulations as are necessary to carry out this section.

''(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $3,600,000 for fiscal year

1993 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out the provisions of this section.

''(g) DEFINITION.—As used in this section:

''(1) ADVANCED PLACEMENT TEST.—The term 'advanced placement test' includes only an advanced placement test approved by the Secretary of Education for the purposes of this section.

''(2) LOW-INCOME INDIVIDUAL.—The term 'low-income individual' has the meaning given the term in section 402A(g)(2) of the Higher Education Act of 1965 [20 U.S.C. 1070a–11(g)(2)].''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1070a–15, 1113 of this title.

§ 1070a–12. Talent search

(a) Program authority

The Secretary shall carry out a program to be known as talent search which shall be designed—

(1) to identify qualified youths with potential for education at the postsecondary level and to encourage such youths to complete secondary school and to undertake a program of postsecondary education;

(2) to publicize the availability of student financial assistance available to persons who pursue a program of postsecondary education; and

(3) to encourage persons who have not completed programs of education at the secondary or postsecondary level, but who have the ability to complete such programs, to reenter such programs.

(b) Permissible services

Any talent search project assisted under this division may provide services such as—

(1) academic advice and assistance in secondary school and college course selection;

(2) assistance in completing college admission and financial aid applications;

(3) assistance in preparing for college entrance examinations;

(4) guidance on secondary school reentry or entry to general educational development (GED) programs or other alternative education programs for secondary school dropouts;

(5) personal and career counseling;

(6) tutorial services;

(7) exposure to college campuses as well as cultural events, academic programs and other sites or activities not usually available to disadvantaged youth;

(8) workshops and counseling for parents of students served;

(9) mentoring programs involving elementary or secondary school teachers, faculty members at institutions of higher education, students, or any combination of such persons; and

(10) programs and activities as described in paragraphs (1) through (9) which are specially designed for students of limited English proficiency.

(c) Requirements for approval of applications

In approving applications for talent search projects under this division for any fiscal year the Secretary shall—

(1) require an assurance that not less than two-thirds of the individuals participating in the project proposed to be carried out under any application be low-income individuals who are first generation college students;

(2) require that such participants be persons who either have completed 5 years of elementary education or are at least 11 years of age but not more than 27 years of age, unless the imposition of any such limitation with respect to any person would defeat the purposes of this section or the purposes of section 1070a–16 of this title;

(3) require an assurance that individuals participating in the project proposed in the application do not have access to services from another project funded under this section or under section 1070a–16 of this title; and

(4) require an assurance that the project will be located in a setting accessible to the persons proposed to be served by the project.

(Pub. L. 89–329, title IV, § 402B, as added Pub. L. 102–325, title IV, § 402(a)(4), July 23, 1992, 106 Stat. 486.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1070a–11, 1070a–16, 1070a–34 of this title.

§ 1070a–13. Upward bound

(a) Program authority

The Secretary shall carry out a program to be known as upward bound which shall be designed to generate skills and motivation necessary for success in education beyond secondary school.

(b) Permissible services

Any upward bound project assisted under this division may provide services such as—

(1) instruction in reading, writing, study skills, mathematics, and other subjects necessary for success beyond secondary school;

(2) personal counseling;

(3) academic advice and assistance in secondary school course selection;

(4) tutorial services;

(5) exposure to cultural events, academic programs, and other activities not usually available to disadvantaged youth;

(6) activities designed to acquaint youths participating in the project with the range of career options available to them;

(7) instruction designed to prepare youths participating in the project for careers in which persons from disadvantaged backgrounds are particularly underrepresented;

(8) on-campus residential programs;

(9) mentoring programs involving elementary or secondary school teachers, faculty members at institutions of higher education, students, or any combination of such persons; and

(10) programs and activities as described in paragraphs (1) through (9) which are specially designed for students of limited English proficiency.

(c) Required services

Any upward bound project assisted under this division which has received funding for two or more years shall include, as part of the core cur-

riculum in the next and succeeding years, instruction in mathematics through precalculus, laboratory science, foreign language, composition, and literature.

(d) Requirements for approval of applications

In approving applications for upward bound projects under this division for any fiscal year, the Secretary shall—

(1) require an assurance that not less than two-thirds of the youths participating in the project proposed to be carried out under any application be low-income individuals who are first generation college students;

(2) require an assurance that the remaining youths participating in the project proposed to be carried out under any application be either low-income individuals or first generation college students;

(3) require that there be a determination by the institution, with respect to each participant in such project that the participant has a need for academic support in order to pursue successfully a program of education beyond secondary school; and

(4) require that such participants be persons who have completed 8 years of elementary education and are at least 13 years of age but not more than 19 years of age, unless the imposition of any such limitation would defeat the purposes of this section.

(e) Maximum stipends

Youths participating in a project proposed to be carried out under any application may be paid stipends not in excess of $60 per month during June, July, and August, and not in excess of $40 per month during the remaining period of the year.

(Pub. L. 89–329, title IV, § 402C, as added Pub. L. 102–325, title IV, § 402(a)(4), July 23, 1992, 106 Stat. 487; amended Pub. L. 103–208, § 2(b)(10), Dec. 20, 1993, 107 Stat. 2459.)

AMENDMENTS

1993—Subsec. (c). Pub. L. 103–208 substituted ''foreign'' for ''and foreign''.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1003 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1070a–11, 1070a–34 of this title.

§ 1070a–14. Student support services

(a) Program authority

The Secretary shall carry out a program to be known as student support services which shall be designed—

(1) to increase college retention and graduation rates for eligible students;

(2) to increase the transfer rates of eligible students from 2-year to 4-year institutions; and

(3) to foster an institutional climate supportive of the success of low-income and first generation college students and individuals with disabilities.

(b) Permissible services

A student support services project assisted under this division may provide services such as—

(1) instruction in reading, writing, study skills, mathematics, and other subjects necessary for success beyond secondary school;

(2) personal counseling;

(3) academic advice and assistance in course selection;

(4) tutorial services and counseling and peer counseling;

(5) exposure to cultural events and academic programs not usually available to disadvantaged students;

(6) activities designed to acquaint students participating in the project with the range of career options available to them;

(7) activities designed to assist students participating in the project in securing admission and financial assistance for enrollment in graduate and professional programs;

(8) activities designed to assist students currently enrolled in 2-year institutions in securing admission and financial assistance for enrollment in a four-year program of postsecondary education;

(9) mentoring programs involving faculty or upper class students, or a combination thereof; and

(10) programs and activities as described in paragraphs (1) through (9) which are specially designed for students of limited English proficiency.

(c) Requirements for approval of applications

In approving applications for student support services projects under this division for any fiscal year, the Secretary shall—

(1) require an assurance that not less than two-thirds of the persons participating in the project proposed to be carried out under any application—

(A) be individuals with disabilities; or

(B) be low-income individuals who are first generation college students;

(2) require an assurance that the remaining students participating in the project proposed to be carried out under any application be low-income individuals, first generation college students, or individuals with disabilities;

(3) require an assurance that not less than one-third of the individuals with disabilities participating in the project be low-income individuals;

(4) require that there be a determination by the institution, with respect to each participant in such project, that the participant has a need for academic support in order to pursue successfully a program of education beyond secondary school;

(5) require that such participants be enrolled or accepted for enrollment at the institution which is the recipient of the grant or contract; and

(6) require an assurance from the institution which is the recipient of the grant or contract that each student enrolled in the project will be offered sufficient financial assistance to meet that student's full financial need.

(Pub. L. 89–329, title IV, § 402D, as added Pub. L. 102–325, title IV, § 402(a)(4), July 23, 1992, 106 Stat.

488; amended Pub. L. 103–208, § 2(b)(11), Dec. 20, 1993, 107 Stat. 2459.)

AMENDMENTS

1993—Subsec. (c)(2). Pub. L. 103–208 struck out ''either'' after ''application''.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1003 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1070a–11, 1070a–23 of this title.

§ 1070a–15. Postbaccalaureate achievement program authority

(a) Program authority

The Secretary shall carry out a program to be known as the ''Ronald E. McNair Postbaccalaureate Achievement Program'' that shall be designed to provide disadvantaged college students with effective preparation for doctoral study.

(b) Services

A postbaccalaureate achievement project assisted under this section may provide services such as—

(1) opportunities for research or other scholarly activities at the institution or at graduate centers designed to provide students with effective preparation for doctoral study;

(2) summer internships;

(3) seminars and other educational activities designed to prepare students for doctoral study;

(4) tutoring;

(5) academic counseling;

(6) activities designed to assist students participating in the project in securing admission to and financial assistance for enrollment in graduate programs;

(7) mentoring programs involving faculty members at institutions of higher education, students, or any combination of such persons; and

(8) exposure to cultural events and academic programs not usually available to disadvantaged students.

(c) Requirements

In approving applications for postbaccalaureate achievement projects assisted under this section for any fiscal year, the Secretary shall require—

(1) an assurance that not less than two-thirds of the individuals participating in the project proposed to be carried out under any application be low-income individuals who are first generation college students;

(2) an assurance that the remaining persons participating in the project proposed to be carried out be from a group that is underrepresented in graduate education;

(3) an assurance that participants be enrolled in a degree program at an eligible institution having an agreement with the Secretary in accordance with the provisions of section 1094 of this title; and

(4) an assurance that participants in summer research internships have completed their sophomore year in postsecondary education.

(d) Award considerations

In addition to such other selection criteria as may be prescribed by regulations, the Secretary shall consider in making awards to institutions under this section—

(1) the quality of research and other scholarly activities in which students will be involved;

(2) the level of faculty involvement in the project and the description of the research in which students will be involved; and

(3) the institution's plan for identifying and recruiting participants including students enrolled in projects authorized under this section.

(e) Maximum stipends

Students participating in research under a postbaccalaureate achievement project may receive an award that—

(1) shall include a stipend not to exceed $2,400 per annum; and

(2) may include, in addition, the costs of summer tuition, summer room and board, and transportation to summer programs.

(f) Funding

From amounts appropriated pursuant to the authority of section 1070a–11(f) of this title, the Secretary shall, to the extent practicable, allocate funds for projects authorized by this section in an amount which is not less than $11,000,000 for each of the fiscal years 1993 through 1997.

(Pub. L. 89–329, title IV, § 402E, as added Pub. L. 102–325, title IV, § 402(a)(4), July 23, 1992, 106 Stat. 489.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1070a–11 of this title.

§ 1070a–16. Educational opportunity centers

(a) Program authority; services provided

The Secretary shall carry out a program to be known as educational opportunity centers which shall be designed—

(1) to provide information with respect to financial and academic assistance available for individuals desiring to pursue a program of postsecondary education; and

(2) to provide assistance to such persons in applying for admission to institutions at which a program of postsecondary education is offered, including preparing necessary applications for use by admissions and financial aid officers.

(b) Permissible services

An educational opportunity center assisted under this section may provide services such as—

(1) public information campaigns designed to inform the community regarding opportunities for postsecondary education and training;

(2) academic advice and assistance in course selection;

(3) assistance in completing college admission and financial aid applications;

(4) assistance in preparing for college entrance examinations;

(5) guidance on secondary school reentry or entry to a general educational development (GED) program or other alternative education programs for secondary school dropouts;

(6) personal counseling;

(7) tutorial services;

(8) career workshops and counseling;

(9) mentoring programs involving elementary or secondary school teachers, faculty members at institutions of higher education, students, or any combination of such persons; and

(10) programs and activities as described in paragraphs (1) through (9) which are specially designed for students of limited English proficiency.

(c) Requirements for approval of applications

In approving applications for educational opportunity centers under this section for any fiscal year the Secretary shall—

(1) require an assurance that not less than two-thirds of the persons participating in the project proposed to be carried out under any application be low-income individuals who are first generation college students;

(2) require that such participants be persons who are at least nineteen years of age, unless the imposition of such limitation with respect to any person would defeat the purposes of this section or the purposes of section 1070a–12 of this title; and

(3) require an assurance that individuals participating in the project proposed in the application do not have access to services from another project funded under this section or under section 1070a–12 of this title.

(Pub. L. 89–329, title IV, § 402F, as added Pub. L. 102–325, title IV, § 402(a)(4), July 23, 1992, 106 Stat. 490.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1070a–11, 1070a–12, 1070a–34 of this title.

§ 1070a–17. Staff development activities

(a) Secretary's authority

For the purpose of improving the operation of the programs and projects authorized by this division, the Secretary is authorized to make grants to institutions of higher education and other public and private nonprofit institutions and organizations to provide training for staff and leadership personnel employed in, or preparing for employment in, such programs and projects.

(b) Contents of training programs

Such training shall include conferences, internships, seminars, workshops, and the publication of manuals designed to improve the operation of such programs and projects and shall be carried out in the various regions of the Nation in order to ensure that the training opportunities are appropriate to meet the needs in the local areas being served by such programs and projects. Such training shall be offered annually for new directors of projects funded under this division as well as annually on the following topics and other topics chosen by the Secretary:

(1) Legislative and regulatory requirements for the operation of programs funded under this division.

(2) Assisting students in receiving adequate financial aid from programs assisted under this subchapter and part C of subchapter I of chapter 34 of title 42 and other programs.

(3) The design and operation of model programs for projects funded under this division.

(c) Consultation

Grants for the purposes of this section shall be made only after consultation with regional and State professional associations of persons having special knowledge with respect to the needs and problems of such programs and projects.

(Pub. L. 89–329, title IV, § 402G, as added Pub. L. 102–325, title IV, § 402(a)(4), July 23, 1992, 106 Stat. 491.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1070a–11 of this title.

§ 1070a–18. Evaluation for project improvement

(a) In general

For the purpose of improving the operation of the programs and projects assisted under this division, the Secretary is authorized to make grants to and enter into contracts with institutions of higher education and other public and private institutions and organizations to evaluate the effectiveness of the various programs assisted under this subpart in meeting the purposes described in this division.

(b) Content

The evaluations described in subsection (a) of this section shall identify institutional, community and program practices particularly effective in increasing the access of low-income individuals and first-generation college students to postsecondary education, the preparation of such individuals and students for postsecondary education, and such individuals' and students' success in postsecondary education.

(c) Results

In order to improve program effectiveness, the results of the ongoing evaluations described in subsection (a) of this section shall be disseminated by the Secretary to similar programs assisted under this division as well as other individuals concerned with the postsecondary access and retention of low-income individuals and first-generation college students.

(Pub. L. 89–329, title IV, § 402H, as added Pub. L. 102–325, title IV, § 402(a)(4), July 23, 1992, 106 Stat. 491.)

Division 2—National Early Intervention Scholarship and Partnership Program

DIVISION REFERRED TO IN OTHER SECTIONS

This division is referred to in sections 1070a–34, 1099a of this title.

§ 1070a–21. Early intervention program authorized

The Secretary is authorized, in accordance with the requirements of this division, to establish a program that—

(1) encourages States to provide or maintain a guarantee to eligible low-income students who obtain a high school diploma (or its equivalent), of the financial assistance necessary to permit them to attend an institution of higher education; and

(2) provides incentives to States, in cooperation with local educational agencies, institutions of higher education, community organizations and business, to provide—

(A) additional counseling, mentoring, academic support, outreach, and supportive services to elementary, middle, and secondary school students who are at risk of dropping out of school; and

(B) information to students and their parents about the advantages of obtaining a postsecondary education and their college financing options.

(Pub. L. 89–329, title IV, § 404A, as added Pub. L. 102–325, title IV, § 402(a)(4), July 23, 1992, 106 Stat. 492; amended Pub. L. 103–208, § 2(b)(12), Dec. 20, 1993, 107 Stat. 2459.)

AMENDMENTS

1993—Par. (1). Pub. L. 103–208 substituted ''high school'' for ''high-school''.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1003 of this title.

EVALUATION OF TUITION GUARANTY PROGRAMS

Section 1407 of Pub. L. 102–325 provided that:

''(a) PURPOSE.—The purposes of this section are—

''(1) to require the Secretary of Education to determine the effectiveness of programs for disadvantaged elementary and secondary school students that offer guarantees for postsecondary education; and

''(2) to identify ways to encourage the business community to participate in such programs.

''(b) CONDUCT OF STUDY.—

''(1) IN GENERAL.—The Secretary of Education shall evaluate the effectiveness of programs for disadvantaged children that, in exchange for the child's commitment to achieving a satisfactory elementary and secondary education, promise the child the financial resources needed to pursue a postsecondary education.

''(2) CONTENT.—The Secretary of Education shall study a sample of the types of programs available, and (A) determine the success or failure of such programs in increasing the access and entry of disadvantaged students into postsecondary education, (B) identify the most successful programs and the causes for success, and (C) determine the responsibilities of sponsors of the programs.

''(3) PROGRAMS STUDIED.—The programs studied shall include a guarantee of postsecondary education for students currently in elementary or secondary grade levels. The programs may include supportive services, mentoring, study skills, and counseling to students participating in the program.

''(c) DISSEMINATION.—The Secretary of Education shall disseminate the findings through appropriate agencies and organizations including associations of businesses.

''(d) SUBMISSION OF REPORT.—The Secretary of Education shall submit an interim report regarding the study by June 30, 1996, and a final report regarding the study by January 1, 1997, to the Committee on Education and Labor [now Committee on Education and the Workforce] of the House of Representatives and the Committee on Labor and Human Resources of the Senate.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1070a–25 of this title.

§ 1070a–22. State eligibility and State plan

(a) Plan required for eligibility

(1) In order for a State to qualify for a grant under this division, the State shall submit to the Secretary a plan for carrying out the program under this division. Such plan shall provide for the conduct, under the State program, of both a scholarship component in accordance with section 1070a–24 of this title and an early intervention component in accordance with section 1070a–23 of this title.

(2) Each State plan submitted pursuant to paragraph (1) shall be in such form, contain or be accompanied by such information or assurances, and be submitted at such time as the Secretary may require by regulation and shall—

(A) describe the activities for which assistance under this section is sought; and

(B) provide such additional assurances as the Secretary determines necessary to ensure compliance with the requirements of this section.

(b) Matching requirement

The Secretary shall not approve a plan submitted under subsection (a) of this section unless such plan—

(1) provides that the State will provide, from State, local, or private funds, not less than one-half the cost of the program;

(2) specifies the methods by which such share of the costs will be paid; and

(3) includes provisions designed to assure that funds provided under this division shall supplement and not supplant funds expended for existing State and local programs.

(c) Methods for complying with matching requirement

A State may count toward the contribution required by subsection (b)(1) of this section—

(1) the amount of the grants paid to students from State, local, or private funds under this division;

(2) the amount of tuition, fees, room or board waived or reduced for recipients of grants under this division; and

(3) the amount expended on documented, targeted, long-term mentoring and counseling provided by volunteers or paid staff of nonschool organizations, including businesses, religious organizations, community groups, postsecondary educational institutions, nonprofit and philanthropic organizations, and other organizations.

(d) Payment requirements

Upon submission by a State of such documents as the Secretary may, by regulation, require for

demonstrating the total amount expended by the State in accordance with this division for a fiscal year, the Secretary shall, from such State's allotment under section 1070a–25 of this title for such fiscal year, pay to such State an amount equal to not more than one-half of the total amount so expended.

(Pub. L. 89–329, title IV, § 404B, as added Pub. L. 102–325, title IV, § 402(a)(4), July 23, 1992, 106 Stat. 492; amended Pub. L. 103–208, § 2(b)(13), (14), Dec. 20, 1993, 107 Stat. 2459.)

AMENDMENTS

1993—Subsec. (a)(1). Pub. L. 103–208, § 2(b)(13), made technical amendments to references to sections 1070a–23 and 1070a–24 of this title to correct references to corresponding sections of original act.

Subsec. (a)(2). Pub. L. 103–208, § 2(b)(14), inserted ''shall'' after ''paragraph (1)'' in introductory provisions.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1003 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1070a–23, 1070a–24, 1070a–25 of this title.

§ 1070a–23. Early intervention

(a) In general

In order to receive payments under section 1070a–22(d) of this title, a State shall demonstrate to the satisfaction of the Secretary that the State will provide comprehensive mentoring, counseling, outreach, and supportive services to students participating in programs under this division who are enrolled in preschool through grade 12. Such counseling shall include financial aid counseling that provides information on the opportunities for financial assistance under this subchapter and part C of subchapter I of chapter 34 of title 42. The State shall demonstrate, pursuant to regulations of the Secretary, the methods by which the State will target services on priority students.

(b) Uses of funds

(1) In general

The Secretary shall, by regulation, establish criteria for determining whether comprehensive mentoring, counseling, outreach, and supportive services programs may be used to meet the requirements of subsection (a) of this section.

(2) Allowable providers

The activities required by subsection (a) of this section may be provided by service providers such as community-based organizations, schools, institutions of higher education, public and private agencies, nonprofit and philanthropic organizations, businesses, institutions and agencies sponsoring programs authorized under subpart 4 of this part, and other organizations the Secretary deems appropriate.

(3) Permissible activities

Examples of acceptable activities to meet the requirements of subsection (a) of this section include the following:

(A) Providing eligible students in preschool through grade 12 with a continuing system of mentoring and advising that—

(i) is coordinated with the Federal and State community service initiatives; and

(ii) may include such support services as after school and summer tutoring, assistance in obtaining summer jobs, career mentoring and academic counseling.

(B) Requiring each student to enter into an agreement under which the student agrees to achieve certain academic milestones, such as completing a prescribed set of courses and maintaining satisfactory academic progress as described in section 1091(c) of this title, in exchange for receiving tuition assistance for a period of time to be established by each State.

(C) Activities designed to ensure high school completion and college enrollment of at-risk children, including identification of at-risk children, after school and summer tutoring, assistance in obtaining summer jobs, academic counseling, volunteer and parent involvement and former or current scholarship recipients as mentor or peer counselors, skills assessment, personal counseling, family counseling and home visits, and staff development, and programs and activities as described in this subparagraph which are specially designed for students of limited English proficiency.

(D) Prefreshman summer programs that—

(i) are at institutions of higher education that also have programs of academic year supportive services for disadvantaged students through projects authorized under section 1070a–14 of this title or through comparable projects funded by the State or other sources;

(ii) assure the participation of students who qualify as disadvantaged under the provisions of section 1070a–14 of this title or who are eligible for comparable programs funded by the State;

(iii)(I) provide summer instruction in remedial, developmental or supportive courses; (II) provide such summer services as counseling, tutoring, or orientation; and (III) provide grant aid to students to cover prefreshman summer costs for books, supplies, living costs and personal expenses; and

(iv) assure that participating students will receive financial aid during each academic year they are enrolled at the participating institution after the prefreshman summer.

(E) Requiring eligible students to meet other standards or requirements as the State determines necessary to meet the purposes of this section.

(c) Priority students

In administering the early intervention component, the State shall treat as priority students any student in preschool through grade 12 who is eligible—

(1) to be counted under section 2711(c)[1] of this title;

[1] See References in Text note below.

(2) for free or reduced price meals pursuant to the National School Lunch Act [42 U.S.C. 1751 et seq.]; or

(3) for assistance pursuant to part A of title IV of the Social Security Act [42 U.S.C. 601 et seq.].

(Pub. L. 89–329, title IV, § 404C, as added Pub. L. 102–325, title IV, § 402(a)(4), July 23, 1992, 106 Stat. 493; amended Pub. L. 103–208, § 2(b)(15)–(17), Dec. 20, 1993, 107 Stat. 2459; Pub. L. 104–193, title I, § 110(h)(1), Aug. 22, 1996, 110 Stat. 2172.)

REFERENCES IN TEXT

Section 2711(c) of this title, referred to in subsec. (c)(1), was in the original ''section 1005(c) of the Elementary and Secondary Education Act of 1965'', Pub. L. 89–10, and was omitted in the general amendment of that Act by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519.

The National School Lunch Act, referred to in subsec. (c)(2), is act June 4, 1946, ch. 281, 60 Stat. 230, as amended, which is classified generally to chapter 13 (§ 1751 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1751 of Title 42 and Tables.

The Social Security Act, referred to in subsec. (c)(3), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Part A of title IV of the Act is classified generally to part A (§ 601 et seq.) of subchapter IV of chapter 7 of Title 42. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

AMENDMENTS

1996—Subsec. (c)(3). Pub. L. 104–193 struck out ''(Aid to Families with Dependent Children)'' after ''title IV of the Social Security Act''.

1993—Subsec. (b)(3)(A). Pub. L. 103–208, § 2(b)(15), substituted ''grade 12'' for ''grades 12''.

Subsec. (b)(3)(D)(i), (ii). Pub. L. 103–208, § 2(b)(16), (17), made technical amendments to references to section 1070a–14 of this title to correct references to corresponding section of original act.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–193 effective July 1, 1997, with transition rules relating to State options to accelerate such date, rules relating to claims, actions, and proceedings commenced before such date, rules relating to closing out of accounts for terminated or substantially modified programs and continuance in office of Assistant Secretary for Family Support, and provisions relating to termination of entitlement under AFDC program, see section 116 of Pub. L. 104–193, as amended, set out as an Effective Date note under section 601 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1003 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1070a–22, 1070a–24 of this title.

§ 1070a–24. Scholarship component

(a) In general

In order to receive payments under section 1070a–22(d) of this title, a State shall establish or maintain a financial assistance program that awards grants to students in accordance with the requirements of this section. The Secretary shall encourage the State to ensure that the tuition assistance provided pursuant to this section is available to an eligible student for use at any eligible institution.

(b) Grant amounts

The maximum amount of the grant that an eligible student in any participating State shall be eligible to receive under this section shall be established by the State. The minimum amount of the grant for each fiscal year shall not be less than the lesser of—

(1) 75 percent of the average cost of attendance for an in-State student, in a 4-year program of instruction, at public institutions of higher education in such State, as determined in accordance with regulations prescribed by the Secretary; or

(2) the maximum grant funded under section 1070a of this title for such fiscal year.

(c) Relation to other assistance

Tuition assistance provided under this division shall not be considered for the purpose of awarding Federal grant assistance under this subchapter and part C of subchapter I of chapter 34 of title 42, except that in no case shall the total amount of student financial assistance awarded to a student under this subchapter and part C of subchapter I of chapter 34 of title 42 exceed such student's total cost of attendance.

(d) Eligible students

A student eligible for assistance under this division is a student who—

(1) is less than 22 years old at time of first grant award;

(2) receives a high school diploma or a certificate of high school equivalence on or after January 1, 1993;

(3) is enrolled or accepted for enrollment in a program of undergraduate instruction at an institution of higher education that is located within the State's boundaries; except that, as a State option, a State may offer grant program portability for recipients who attend institutions of higher education outside such State; and

(4) who participated in the State early intervention component required under section 1070a–23 of this title.

(e) Priority; waiver

(1) The Secretary shall ensure that each State place a priority on awarding scholarships to students who will receive a Pell Grant for the academic year for which the award is being made under this division.

(2) A State may consider students who have successfully participated in programs funded under division 1 of this subpart to have met the requirements of subsection (d)(4) of this section.

(Pub. L. 89–329, title IV, § 404D, as added Pub. L. 102–325, title IV, § 402(a)(4), July 23, 1992, 106 Stat. 495; amended Pub. L. 103–208, § 2(b)(18), (19), Dec. 20, 1993, 107 Stat. 2459.)

AMENDMENTS

1993—Subsec. (d)(3). Pub. L. 103–208, § 2(b)(18), substituted ''program of undergraduate instruction'' for ''program of instruction''.

Subsec. (d)(4). Pub. L. 103–208, § 2(b)(19), struck out ''the'' before ''participated''.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1003 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1070a–22 of this title.

§ 1070a–25. Distribution of funds

(a) Competitive awards

If the amount appropriated to carry out this division for a fiscal year is less than $50,000,000, then the Secretary shall award grants under this division on a competitive basis to States to carry out a program described in section 1070a–21 of this title.

(b) Allotment based on allocations under section 2711

If the amount appropriated to carry out this division for a fiscal year is $50,000,000 or more, then the Secretary shall allot to each State an amount which bears the same ratio to such sums as—

(1) the amount allocated under section 2711[1] of this title to the local education agencies in the State,

bears to—

(2) the total amount allocated under such section to all such agencies in all States.

(c) Limit on use

No State may use less than 25 percent or more than 50 percent of its allotment for the early intervention component of the State program, except that the Secretary may waive the 50 percent limitation if the State demonstrates that the State has another means of providing the student's financial assistance that is described in the State plan.

(d) Reallotment

The amount of any State's allotment under subsection (b) of this section for any fiscal year which the Secretary determines will not be required for such fiscal year for the program of that State shall be available for reallotment from time to time, on such dates during such year as the Secretary may fix, to other States in proportion to the original allotments to such States for such year, but with such proportionate amount for any of such States being reduced to the extent it exceeds the sum the Secretary estimates such State needs and will be able to use for such year for carrying out such programs. The total of such reductions shall be similarly reallotted among the States whose proportionate amounts were not so reduced. A State shall match, in accordance with section 1070a–22(b) of this title any reallocated funds it receives under this subsection.

(e) Allotment subject to continuing compliance

The Secretary shall make payments for programs only to States which continue to meet the requirements of the State plan pursuant to section 1070a–22 of this title.

[1] See References in Text note below.

(Pub. L. 89–329, title IV, § 404E, as added Pub. L. 102–325, title IV, § 402(a)(4), July 23, 1992, 106 Stat. 495; amended Pub. L. 103–208, § 2(b)(20), Dec. 20, 1993, 107 Stat. 2459.)

REFERENCES IN TEXT

Section 2711 of this title, referred to in subsec. (b)(1), was in the original ''section 1005 of the Elementary and Secondary Education Act of 1965'', Pub. L. 89–10, and was omitted in the general amendment of that Act by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519.

AMENDMENTS

1993—Subsec. (c). Pub. L. 103–208 substituted ''financial'' for ''tuition''.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1003 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1070a–22 of this title.

§ 1070a–26. Evaluation and report

(a) Evaluation

Each State receiving an allotment under this division shall biennially evaluate the early intervention program assisted under this division in accordance with the standards described in subsection (b) of this section and shall submit to the Secretary a copy of such evaluation. The evaluation component shall permit service providers to track eligible student progress during the period such students are participating in the program assisted under this section and must be consistent with the standards developed by the Secretary pursuant to subsection (b) of this section.

(b) Evaluation standards

The Secretary shall prescribe standards for the evaluation described in subsection (a) of this section. Such standards shall—

(1) provide for input from States and service providers; and

(2) ensure that data protocols and procedures are consistent and uniform.

(c) Report

The Secretary shall biennially report to the Congress on the activities assisted under this division and the evaluations conducted pursuant to subsection (a) of this section.

(Pub. L. 89–329, title IV, § 404F, as added Pub. L. 102–325, title IV, § 402(a)(4), July 23, 1992, 106 Stat. 496; amended Pub. L. 103–208, § 2(b)(21), (22), Dec. 20, 1993, 107 Stat. 2459.)

AMENDMENTS

1993—Subsec. (a). Pub. L. 103–208, § 2(b)(21), substituted ''under this division shall biennially'' for ''under this section shall biannually''.

Subsec. (c). Pub. L. 103–208, § 2(b)(22), substituted ''biennially'' for ''biannually''.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of

Pub. L. 103–208, set out as a note under section 1003 of this title.

§ 1070a–27. Appropriations

There is authorized to be appropriated to make grants under this division $200,000,000 for fiscal year 1993 and such sums as may be necessary for each of the four succeeding fiscal years.

(Pub. L. 89–329, title IV, § 404G, as added Pub. L. 102–325, title IV, § 402(a)(4), July 23, 1992, 106 Stat. 496; amended Pub. L. 103–208, § 2(b)(23), Dec. 20, 1993, 107 Stat. 2459; Pub. L. 103–382, title III, § 354, Oct. 20, 1994, 108 Stat. 3967.)

AMENDMENTS

1994—Pub. L. 103–382 struck out at end ''For any fiscal year for which funds are authorized to be appropriated to carry out subpart 4 of part A of this subchapter, no amount may be expended to carry out the provisions of this division unless the amount appropriated for such fiscal year to carry out such subpart 4 exceed $60,000,000.''

1993—Pub. L. 103–208 substituted ''to be appropriated'' for ''an appropriation'' and amended second sentence generally. Prior to amendment, second sentence read as follows: ''No amount may be expended to carry out the provisions of this division unless the amount appropriated for such fiscal year to carry out subpart 4 of part A of this subchapter exceeds $60,000,000.''

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1003 of this title.

Division 3—Presidential Access Scholarships

§ 1070a–31. Scholarships authorized

The Secretary is authorized in accordance with this division to award Presidential Access Scholarships to students who—

(1) are eligible to receive a Pell Grant for the year in which the scholarship is awarded;

(2) have participated in a preparatory program for postsecondary education; and

(3) demonstrate academic achievement.

(Pub. L. 89–329, title IV, § 406A, as added Pub. L. 102–325, title IV, § 402(a)(4), July 23, 1992, 106 Stat. 497.)

§ 1070a–32. Scholarship program requirements

(a) Amount of award

(1) In general

Except as provided in paragraph (2), the amount of a scholarship awarded under this division for any academic year shall be equal to 25 percent of the Pell Grant that the recipient is awarded for that year or $400, whichever is greater.

(2) Adjustment for insufficient appropriations

If, after the Secretary determines the total number of eligible applicants for an academic year in accordance with section 1070a–33 of this title, funds available in a fiscal year are insufficient to fully fund all awards for that academic year under this division, the amount paid to each student shall be reduced proportionately.

(b) Period of award

Scholarships under this division shall be awarded for a period of not more than four academic years, or in the case of a student who is enrolled in an undergraduate course of study that requires attendance for the full-time equivalent of five academic years, five academic years.

(c) Use at any institution permitted

An eligible student awarded a scholarship under this division may use such scholarship stipend to attend any institution of higher education.

(d) Assistance not to exceed cost of attendance

A scholarship awarded under this division to any student, in combination with the Pell Grant and other student financial assistance available to such student, may not exceed the student's cost of attendance (as defined in section 1087*ll* of this title).

(e) Presidential Access Scholars

Students awarded scholarships under this division shall be known as ''Presidential Access Scholars''.

(Pub. L. 89–329, title IV, § 406B, as added Pub. L. 102–325, title IV, § 402(a)(4), July 23, 1992, 106 Stat. 497.)

§ 1070a–33. Eligibility of scholars

(a) Requirements for students in first year of postsecondary education

In order for a student who will be attending the student's first year of postsecondary education to be eligible to receive a scholarship under this division for that academic year, the student shall—

(1) be enrolled or accepted for enrollment in a degree or certificate program of at least 2 years in length;

(2) have demonstrated academic achievement and preparation for postsecondary education by taking college preparatory level coursework in the following areas while in secondary school or the equivalent:

(A) 4 years of English;

(B) 3 years of science;

(C) 3 years of mathematics;

(D) either—

(i) 3 years of history; or

(ii) 2 years of history and 1 year of social studies; and

(E) either—

(i) 2 years of a foreign language; or

(ii) 1 year of computer science and 1 year of a foreign language.

(3) earn a grade point average of 2.5 or higher, on a scale of 4.0, in the final 2 years of high school; and

(4) either—

(A) have participated, for a minimum period of 36 months, in an early intervention program that meets the requirements of section 1070a–34 of this title; or

(B) rank, or have ranked, in the top 10 percent, by grade point average, of the student's secondary school graduating class.

(b) Requirements for all students

(1) Each eligible student desiring a scholarship under this division shall submit an application

to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

(2) In order for a student who will be attending a year of postsecondary education, other than the student's first year, to continue to be eligible to receive a scholarship under this division for that academic year the eligible student shall maintain eligibility to receive a Pell Grant, including fulfilling the requirements for satisfactory academic progress as described in section 1091(c) of this title.

(Pub. L. 89–329, title IV, § 406C, as added Pub. L. 102–325, title IV, § 402(a)(4), July 23, 1992, 106 Stat. 497.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1070a–32, 1070a–34, 1070a–35, 1070a–36 of this title.

§ 1070a–34. Eligible early intervention programs

(a) Participation in trio programs and national early intervention scholarship and partnership programs

Participation in a program authorized under section 1070a–12, 1070a–13, or 1070a–16 of this title, or division 2 of subpart 2 of this part for a 36-month period shall meet the requirement of section 1070a–33(a)(4)(A) of this title.

(b) Other eligible early intervention program

Participation in another early intervention program, regardless of sponsorship, for a 36-month period, shall meet the requirements of section 1070a–33(a)(4)(A) of this title if the program—

(1) meets the requirements established by the Secretary; and

(2) is certified by the Governor as an honors scholars program.

(Pub. L. 89–329, title IV, § 406D, as added Pub. L. 102–325, title IV, § 402(a)(4), July 23, 1992, 106 Stat. 498.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1070a–33 of this title.

§ 1070a–35. Student eligibility

(a) Student eligibility

For the purpose of this division, the term ''eligible student'' means an individual who—

(1) is a graduate of a public or private secondary school or has the equivalent certificate of graduation as recognized by the State in which the eligible student resides;

(2) not later than 3 years after such individual graduates or obtains an equivalent certificate, has been admitted for enrollment or is enrolled at an institution of higher education; and

(3) is eligible to receive a Pell Grant for the year in which the scholarship is awarded.

(b) Limitation

For the purpose of this division, the term ''eligible student'' does not include an individual who has been awarded a baccalaureate degree.

(c) Waivers

(1) Early intervention program participation

The Secretary may waive the requirement described in section 1070a–33(a)(4) of this title for any student who was unable to participate in an early intervention program assisted under this part because such program was not available in the area in which such student resides or the student was unable to participate in an early intervention program where the student resides.

(2) Limited-English proficient students

The Secretary may waive the requirement described in section 1070a–33(a)(2)(E) of this title for any limited-English proficient student who is fluent in a language other than English and is participating in a program to teach such student the English language or for any English speaking student fluent in a second language.

(Pub. L. 89–329, title IV, § 406E, as added Pub. L. 102–325, title IV, § 402(a)(4), July 23, 1992, 106 Stat. 498.)

§ 1070a–36. Early intervention scholarship agreement

(a) In general

In order for a student to receive a scholarship under this division, the State educational agency serving the State in which such child resides shall have entered into an agreement with the Secretary.

(b) Contents

Each agreement described in subsection (a) of this section shall include provisions designed to ensure that—

(1) all secondary school students in the State have equal and easy access to the coursework described in section 1070a–33(a)(2) of this title;

(2) the State educational agency has procedures in place to verify to the Secretary that students receiving scholarships under this division have taken such coursework and that such coursework has been of a college preparatory level, including a requirement that all secondary schools in the State issue a certificate to each eligible student certifying that such student has completed the necessary coursework to qualify for a scholarship under this division;

(3) the State educational agency has procedures in place to notify institutions of higher education of the availability of scholarships under this division, so that such institutions may award additional scholarships in concert with the scholarships received under this division; and

(4) the State educational agency has procedures in place to inform junior high school students and their families about the value of postsecondary education, the availability of student aid to meet college expenses, and the availability of scholarships under this division for students who take demanding courses, with particular emphasis on activities designed to ensure that students from low- and moderate-income families have access to such information.

(c) Special rule

The Secretary may allow a State to receive assistance under this division for students whose secondary schools do not offer the necessary

coursework if such students take the required courses at another local secondary school or community college.

(Pub. L. 89–329, title IV, § 406F, as added Pub. L. 102–325, title IV, § 402(a)(4), July 23, 1992, 106 Stat. 499.)

§ 1070a–37. Authorization of appropriations

There are authorized to be appropriated $200,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out the provisions of this division. No amount may be expended to carry out the provisions of this division in any fiscal year unless the amount appropriated for such fiscal year to carry out subpart 1 of part A of this subchapter exceeds the amount appropriated to carry out such subpart in the preceding fiscal year.

(Pub. L. 89–329, title IV, § 406G, as added Pub. L. 102–325, title IV, § 402(a)(4), July 23, 1992, 106 Stat. 499.)

Division 4—Model Program Community Partnership and Counseling Grants

§ 1070a–41. Model program grants

(a) Program authority

From the amounts appropriated under section 1070a–43 of this title, the Secretary shall award grants to develop model programs—

(1) to counsel students, at an early age, about college opportunities, precollege requirements, the college admissions procedure, financial aid opportunities, and student support services that are specially designed or customized for use in specific geographic, social, and cultural environments; or

(2) which stimulate community partnerships with schools by providing tutoring, mentoring, work experiences, and other services which support making postsecondary education a realistic goal for all students.

(b) Priorities in selection

The Secretary shall give priority to those model programs which are directed at areas which have a high proportion of minority, limited English proficiency, economically disadvantaged, disabled, nontraditional, or at-risk students and those model programs which serve these students from rural or urban environments.

(c) Proposal requirements

(1) Tailoring

To receive a grant under subsection (a)(1) of this section, the proposal submitted to the Secretary shall demonstrate that the counseling on college opportunities, precollege requirements, the college admissions procedure, and financial aid opportunities (including early intervention counseling), is tailored to a specific geographic, social or cultural environment.

(2) Community partnerships

To receive a grant under subsection (a)(2) of this section, the proposal submitted to the Secretary shall demonstrate the active involvement of a local educational agency and at least one of the following:

(A) Local businesses.

(B) Labor organizations.

(C) Community groups.

(3) Goals and outcomes

To receive a grant under this section, each proposal shall contain a statement of specific, measurable goals and methods for obtaining statistics on the number of participants who continue on to postsecondary education.

(Pub. L. 89–329, title IV, § 408A, as added Pub. L. 102–325, title IV, § 402(a)(4), July 23, 1992, 106 Stat. 500.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1070a–42 of this title.

§ 1070a–42. Diffusion activities

(a) Collection of information

The Secretary shall collect information concerning—

(1) programs supported under section 1070a–41 of this title and programs of demonstrated effectiveness which counsel students about college opportunities, precollege requirements, the college admissions procedure, and financial aid opportunities;

(2) early intervention programs of demonstrated effectiveness which set students on the path toward staying in school and pursuing a postsecondary education;

(3) model programs which counsel students in specific environments, such as urban, rural, and suburban; and

(4) model programs which develop school/community partnerships to provide mentoring, tutoring, work experiences and other services which support making postsecondary education a realistic goal for all students.

(b) Dissemination

The Secretary shall ensure that the information collected under subsection (a) of this section is disseminated.

(Pub. L. 89–329, title IV, § 408B, as added Pub. L. 102–325, title IV, § 402(a)(4), July 23, 1992, 106 Stat. 500.)

§ 1070a–43. Authorization of appropriations

There are authorized to be appropriated $35,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out this division.

(Pub. L. 89–329, title IV, § 408C, as added Pub. L. 102–325, title IV, § 402(a)(4), July 23, 1992, 106 Stat. 501.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1070a–41 of this title.

Division 5—Public Information

§ 1070a–51. Database and information line

From the funds available under section 1070a–53 of this title, the Secretary shall award a contract to establish and maintain—

(1) a computerized database of all public and private student financial assistance programs, to be accessible to schools and libraries through either modems or toll-free telephone lines; and

(2) a toll-free information line, including access by telecommunications devices for the deaf (''TDD's''), to provide individualized financial assistance information to parents, students, and other individuals, including individuals with disabilities, and to refer students with disabilities and their families to the postsecondary clearinghouse that is authorized under section 1433(c)[1] of this title.

(Pub. L. 89–329, title IV, § 409A, as added Pub. L. 102–325, title IV, § 402(a)(4), July 23, 1992, 106 Stat. 501; amended Pub. L. 103–208, § 2(b)(24), Dec. 20, 1993, 107 Stat. 2459.)

REFERENCES IN TEXT

Section 1433(c) of this title, referred to in par. (2), was in the original a reference to section 633(c) of the Individuals with Disabilities Education Act, Pub. L. 91–230, title VI. Section 633 of Pub. L. 91–230 was omitted in the general amendment of subchapters III and IV of chapter 33 of this title by Pub. L. 105–17, title I, § 101, June 4, 1997, 111 Stat. 37. Pub. L. 105–17 enacted a new section 633 of Pub. L. 91–230, which is classified to section 1433 of this title, and which no longer contains a subsec. (c) and no longer relates to clearinghouses.

AMENDMENTS

1993—Par. (1). Pub. L. 103–208 substituted ''private student financial'' for ''private financial''.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1003 of this title.

§ 1070a–52. Early awareness information program

(a) Program authority

The Secretary is authorized to enter into contracts with appropriate public agencies, nonprofit private organizations, and institutions of higher education to conduct an information program designed—

(1) to broaden the early awareness of postsecondary educational opportunities by secondary school students and their parents; and

(2) to encourage economically disadvantaged, minority, or at-risk individuals to seek higher education, and to seek higher education and financial assistance counseling at public schools and libraries.

(b) Contents of messages

Announcements and messages supported under this section—

(1) may be specially designed for students of limited English proficiency,

(2) shall publicize—

(A) the availability of Federal student assistance under this chapter;

(B) the importance of postsecondary education in long-term career planning; and

(C) the need and necessity to complete a secondary education program successfully in order to meet the requirements for college.

[1] See References in Text note below.

(c) Informing Congress

The Secretary shall keep the appropriate committees of the Congress informed with respect to the efforts made pursuant to this section and shall recommend any additional legislative authority that will serve the purposes of this section.

(Pub. L. 89–329, title IV, § 409B, as added Pub. L. 102–325, title IV, § 402(a)(4), July 23, 1992, 106 Stat. 501.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (b)(2)(A), was in the original ''this Act'', meaning Pub. L. 89–329, as amended, known as the Higher Education Act of 1965. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1070a–51 of this title.

§ 1070a–53. Authorization of appropriations

There are authorized to be appropriated $20,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out this division.

(Pub. L. 89–329, title IV, § 409C, as added Pub. L. 102–325, title IV, § 402(a)(4), July 23, 1992, 106 Stat. 502.)

Division 6—National Student Savings Demonstration Program

§ 1070a–61. National student savings demonstration program

(a) Statement of purpose

It is the purpose of this section to—

(1) create a demonstration program to test the feasibility of establishing a national student savings program to encourage families to save for their children's college education and thereby reduce the loan indebtedness of college students; and

(2) help determine the most effective means of achieving the activities described in paragraph (1).

(b) Demonstration program authorized

(1) In general

The Secretary is authorized to award a demonstration grant to not more than 5 States to enable each such State to conduct a student savings program in accordance with this section.

(2) Amount of grant

The amount of each grant awarded pursuant to paragraph (1) shall be computed on the basis of—

(A) a Federal match in an amount equal to the initial State deposit into each account established pursuant to subsection (c)(2)(B) of this section, except that such Federal match shall not exceed $50 per child; multiplied by

(B) the number of children participating in the program assisted under this part.

(3) Priority

In awarding grants under this section the Secretary shall give priority to States propos-

ing programs that establish accounts for a child prior to the age of compulsory school attendance in the State in which such child resides.

(4) Special consideration

In awarding grants under this section the Secretary shall give special consideration to States—

(A) that permit employers to use pretax income in making contributions to a child's account; and

(B) that provide assurances that interest earned in accounts shall be exempt from State taxes.

(c) Application

(1) In general

Each State desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

(2) Contents

Each application submitted pursuant to paragraph (1) shall—

(A) describe the student savings program to be established and the number of children to be served;

(B) contain assurances that an account shall be established for each child participating in the program assisted under this section and set forth the initial amount to be deposited into each such account by the State;

(C) contain assurances that deposits into such account shall be invested in a responsible manner that provides a reasonable rate of return;

(D) contain assurances that funds in the account shall only be used to pay the cost of attendance (as such term is defined in section 1087*ll* of this title) at any eligible institution (as such term is defined in section 1088 of this title);

(E) describe the amount of the Federal contribution requested for starting each child's account, which shall not exceed $50 per child participating in the program;

(F) describe the age at which children in the State may establish such accounts;

(G) indicate whether the program will be open to all children, regardless of family income, or only to disadvantaged children;

(H) describe how additional deposits into each account from the State or other resources will be earned by a child for performance of community service, academic performance, or other activities or achievements;

(I) contain assurances that contributions in an account shall be refundable to the contributor without interest if the child is unable to attend college;

(J) contain assurances that the State shall encourage individuals and organizations to make contributions to a child's account;

(K) contain assurances that the State shall provide incentives to employers to make contributions to a child's account and participate in the program assisted under this section; and

(L) contain assurances that if a child leaves the State in which such child has an account, then such child shall retain the right to make contributions to the account, except that the State shall not be required to make any additional deposits other than interest.

(d) Authorization of appropriations

There are authorized to be appropriated $10,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out this section.

(Pub. L. 89–329, title IV, § 410A, as added Pub. L. 102–325, title IV, § 402(a)(4), July 23, 1992, 106 Stat. 502.)

Division 7—Preeligibility Form

§ 1070a–71. Information on eligibility for assistance

To help ensure access to postsecondary education by providing early notice to students of their potential eligibility for financial aid, the Secretary, as part of the contracts developed pursuant to section 1090 of this title, may—

(1) develop and process a common preeligibility Federal financial aid form,

(2) distribute and process such form on a year-round basis free of charge to students and parents, and

(3) issue, on the basis of information reported by the student on such form, a preeligibility expected family contribution figure and estimate of the amount of Federal (and, if feasible, non-Federal) funds for which the student might qualify in later completing and submitting the application form called for under section 1090 of this title.

The Secretary shall widely disseminate the preeligibility form through post offices and other appropriate Federal installations, schools, institutions of higher education, libraries, and community-based agencies, including projects assisted under this subpart and subpart 5 of this part.

(Pub. L. 89–329, title IV, § 410B, as added Pub. L. 102–325, title IV, § 402(a)(4), July 23, 1992, 106 Stat. 503.)

Division 8—Technical Assistance for Teachers and Counselors

§ 1070a–81. Technical assistance grants

(a) Program authority

From the amounts appropriated under subsection (f) of this section, the Secretary shall award grants to local educational agencies to use for the purpose of obtaining specialized training for guidance counselors, teachers, and principals to counsel students about college opportunities, precollege requirements, the college admissions procedure, and financial aid opportunities.

(b) Selection of grant recipients

(1) Priority

In making grants under this section, the Secretary shall give priority to those local

educational agencies serving school districts (A) from which the proportion of students who continue on to higher education is significantly below the national average, and (B) in which the proportion of students who are educationally disadvantaged is significantly above the national average.

(2) Selection procedures

The Secretary shall develop a formal procedure for the submission of proposals and publish in the Federal Register an announcement with respect to that procedure and the availability of funds.

(c) Local plan

To receive a grant under this section, a local educational agency shall submit to the Secretary a plan that—

(1) specifies the methods to be used for outreach, implementation, and follow-up with those students most in need and at-risk for dropping out or failing to pursue postsecondary education;

(2) demonstrates the methods by which the agency will target funds to those schools within the district that have the lowest rate of students who continue on to higher education;

(3) utilizes early intervention programs for counseling minority, economically disadvantaged, disabled, and at-risk students about postsecondary education;

(4) includes a strategy for keeping the guidance counselors, teachers (including elementary, secondary, vocational, and special education teachers), and principals who have been trained up-to-date on financial aid information;

(5) contains a statement of specific goals and methods for obtaining statistics on the number of participants who continue on to postsecondary education; and

(6) contains a description of the costs of the training and other activities to be undertaken.

(d) Duration of grants

Grants under this section shall be available for 2 years.

(e) Evaluation

(1) Conduct of evaluations

The Secretary shall reserve not more than 2 percent of any amount appropriated under subsection (f) of this section for the purpose of carrying out an independent evaluation of the effectiveness of the training programs assisted under this section in—

(A) increasing the number of personnel in a school who regularly counsel students regarding college opportunities, precollege requirements, the college admission procedure, and financial aid opportunities; and

(B) increasing the number of students who continue on to postsecondary education from a school which has had personnel trained using monies from this section.

(2) Report

The Secretary shall submit to the appropriate committees of the Congress a report which contains the findings of the evaluation required by paragraph (1).

(f) Technical assistance grants

There are authorized to be appropriated $40,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out this section.

(Pub. L. 89–329, title IV, § 410C, as added Pub. L. 102–325, title IV, § 402(a)(4), July 23, 1992, 106 Stat. 504.)

SUBPART 3—FEDERAL SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANTS

CODIFICATION

Pub. L. 102–325, title IV, §§ 402(a)(2), 403(a), July 23, 1992, 106 Stat. 482, 505, redesignated subpart 2 as 3 and inserted ''Federal'' before ''Supplemental'' in heading and redesignated former subpart 3 as 4.

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in sections 1070, 1070a, 1078, 1087c, 1089, 1091, 1092, 1096, 1099a–1, 1099a–3 of this title.

§ 1070b. Purpose; appropriations authorized

(a) Purpose of subpart

It is the purpose of this subpart to provide, through institutions of higher education, supplemental grants to assist in making available the benefits of postsecondary education to qualified students who demonstrate financial need in accordance with the provisions of part E of this subchapter.

(b) Authorization of appropriations

(1) For the purpose of enabling the Secretary to make payments to institutions of higher education which have made agreements with the Secretary in accordance with section 1070b–2(a) of this title, for use by such institutions for payments to undergraduate students of supplemental grants awarded to them under this subpart, there are authorized to be appropriated $675,000,000 for fiscal year 1993 and such sums as may be necessary for the 4 succeeding fiscal years.

(2) Sums appropriated pursuant to this subsection for any fiscal year shall be available for payments to institutions until the end of the second fiscal year succeeding the fiscal year for which such sums were appropriated.

(Pub. L. 89–329, title IV, § 413A, as added Pub. L. 99–498, title IV, § 401(a), Oct. 17, 1986, 100 Stat. 1328; amended Pub. L. 102–325, title IV, § 403(b), July 23, 1992, 106 Stat. 505.)

PRIOR PROVISIONS

A prior section 1070b, Pub. L. 89–329, title IV, § 413A, as added Pub. L. 92–318, title I, § 131(b)(1), June 23, 1972, 86 Stat. 251; amended Pub. L. 94–482, title I, § 122(a), Oct. 12, 1976, 90 Stat. 2094; Pub. L. 96–49, § 5(a)(3), Aug. 13, 1979, 93 Stat. 352; Pub. L. 96–374, title IV, § 403(a), (b), title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1404, 1405, 1503, related to program of supplemental educational opportunity grants purpose, authorization of appropriations, and initial year payment provisions, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1992—Subsec. (b). Pub. L. 102–325 amended subsec. (b) generally, substituting present provisions for provisions authorizing appropriation of $490,000,000 for fiscal year 1987 and such sums as necessary for 4 succeeding fiscal years.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1070b–3 of this title.

§ 1070b–1. Amount and duration of grants

(a) Amount of grant

(1) Except as provided in paragraph (3), from the funds received by it for such purpose under this subpart, an institution which awards a supplemental grant to a student for an academic year under this subpart shall, for each year, pay to that student an amount not to exceed the lesser of (A) the amount determined by the institution, in accordance with the provisions of part E of this subchapter, to be needed by that student to enable the student to pursue a course of study at the institution or in a program of study abroad that is approved for credit by the institution at which the student is enrolled, or (B) $4,000.

(2) If the amount determined under paragraph (1) with respect to a student for any academic year is less than $100, no payment shall be made to that student for that year. For a student enrolled for less than a full academic year, the minimum payment required shall be reduced proportionately.

(3) For students participating in study abroad programs, the institution shall consider all reasonable costs associated with such study abroad when determining student eligibility. The amount of grant to be awarded in such cases may exceed the maximum amount of $4,000 by as much as $400 if reasonable study abroad costs exceed the cost of attendance at the home institution.

(b) Period for receipt of grants; continuing eligibility

(1) The period during which a student may receive supplemental grants shall be the period required for the completion of the first undergraduate baccalaureate course of study being pursued by that student.

(2) A supplemental grant awarded under this subpart shall entitle the student (to whom it is awarded) to payments pursuant to such grant only if the student meets the requirements of section 1091 of this title, except as provided in section 1070b–2(c) of this title.

(c) Distribution of grant during academic year

Nothing in this section shall be construed to prohibit an institution from making payments of varying amounts from a supplemental grant to a student during an academic year to cover costs for a period which are not applicable to other periods of such academic year.

(Pub. L. 89–329, title IV, § 413B, as added Pub. L. 99–498, title IV, § 401(a), Oct. 17, 1986, 100 Stat. 1328; amended Pub. L. 102–325, title IV, § 403(c), July 23, 1992, 106 Stat. 505.)

PRIOR PROVISIONS

A prior section 1070b–1, Pub. L. 89–329, title IV, § 413B, as added Pub. L. 92–318, title I, § 131(b)(1), June 23, 1972, 86 Stat. 252; amended Pub. L. 96–374, title IV, § 403(c), Oct. 3, 1980, 94 Stat. 1405, related to amount and duration of supplemental educational opportunity grants, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1992—Subsec. (a)(1). Pub. L. 102–325, § 403(c)(1), substituted ''Except as provided in paragraph (3), from'' for ''From'' in introductory provisions and inserted ''or in a program of study abroad that is approved for credit by the institution at which the student is enrolled'' after ''course of study at the institution'' in subpar. (A).

Subsec. (a)(3). Pub. L. 102–325, § 403(c)(2), added par. (3).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1070b–2 of this title.

§ 1070b–2. Agreements with institutions; selection of recipients

(a) Institutional eligibility

Assistance may be made available under this subpart only to an institution which—

(1) has, in accordance with section 1094 of this title, an agreement with the Secretary applicable to this subpart;

(2) agrees that the Federal share of awards under this subpart will not exceed 75 percent of such awards, except that the Federal share may be exceeded if the Secretary determines, pursuant to regulations establishing objective criteria for such determinations, that a larger Federal share is required to further the purpose of this subpart; and

(3) agrees that the non-Federal share of awards made under this subpart shall be made from the institution's own resources, including—

(A) institutional grants and scholarships;

(B) tuition or fee waivers;

(C) State scholarships; and

(D) foundation or other charitable organization funds.

(b) Eligibility for selection

Awards may be made under this subpart only to a student who—

(1) is an eligible student under section 1091 of this title; and

(2) makes application at a time and in a manner consistent with the requirements of the Secretary and that institution.

(c) Selection of individuals and determination of amount of awards

(1) From among individuals who are eligible for supplemental grants for each fiscal year, the institution shall, in accordance with the agreement under section 1094 of this title, and within the amount allocated to the institution for that purpose for that year under section 1070b–3 of this title, select individuals who are to be awarded such grants and determine, in accordance with section 1070b–1 of this title, the amounts to be paid to them.

(2)(A) In carrying out paragraph (1) of this subsection, each institution of higher education shall, in the agreement made under section 1094 of this title, assure that the selection procedures—

(i) will be designed to award supplemental grants under this subpart, first, to students with exceptional need, and

(ii) will give a priority for supplemental grants under this subpart to students who re-

ceive Pell Grants and meet the requirements of section 1091 of this title.

(B) For the purpose of subparagraph (A), the term ''students with exceptional need'' means students with the lowest expected family contributions at the institution.

(d) Use of funds for less-than-full-time students

If the institution's allocation under this subpart is directly or indirectly based in part on the financial need demonstrated by students who are independent students or attending the institution less than full time and if the total financial need of all such students attending the institution exceeds 5 percent of the total financial need of all students attending such institution, then at least 5 percent of such allotment shall be made available to such students.

(e) Use and transfer of funds for administrative expenses

An agreement entered into pursuant to this section shall provide that funds granted to an institution of higher education may be used only to make payments to students participating in a grant program authorized under this subpart, except that an institution may use a portion of the sums allocated to it under this subpart to meet administrative expenses in accordance with section 1096 of this title.

(Pub. L. 89–329, title IV, § 413C, as added Pub. L. 99–498, title IV, § 401(a), Oct. 17, 1986, 100 Stat. 1329; amended Pub. L. 102–325, title IV, § 403(d)–(f), July 23, 1992, 106 Stat. 506; Pub. L. 103–208, § 2(b)(25), Dec. 20, 1993, 107 Stat. 2459.)

PRIOR PROVISIONS

A prior section 1070b–2, Pub. L. 89–329, title IV, § 413C, as added Pub. L. 92–318, title I, § 131(b)(1), June 23, 1972, 86 Stat. 253; amended Pub. L. 94–482, title I, § 122(b), Oct. 12, 1976, 90 Stat. 2094; Pub. L. 96–374, title IV, § 403(d), Oct. 3, 1980, 94 Stat. 1405, related to selection of recipients of supplemental educational opportunity grants and agreements with institutions, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1993—Subsec. (d). Pub. L. 103–208 substituted ''and'' for '', a reasonable proportion of the institution's allocation shall be made available to such students, except that'' and ''5 percent of the total financial need'' for ''5 percent of the need''.

1992—Subsec. (a)(2). Pub. L. 102–325, § 403(d), amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''agrees that the Federal share of awards under this subpart will not exceed—

''(A) 95 percent of such awards in fiscal year 1989,

''(B) 90 percent of such awards in fiscal year 1990, and

''(C) 85 percent of such awards in fiscal year 1991,

except that the Federal share may be exceeded if the Secretary determines, pursuant to regulations establishing objective criteria for such determinations, that a larger Federal share is required to further the purpose of this subpart; and''.

Subsec. (d). Pub. L. 102–325, § 403(e), inserted ''who are independent students or'' after ''demonstrated by students'' and inserted before period at end '', except that if the total financial need of all such students attending the institution exceeds 5 percent of the need of all students attending such institution, then at least 5 percent of such allotment shall be made available to such students''.

Subsec. (e). Pub. L. 102–325, § 403(f), struck out before period at end '', and may transfer such funds in accordance with the provisions of section 1095 of this title''.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective on and after July 1, 1994, see section 5(b)(6) of Pub. L. 103–208, set out as a note under section 1003 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective July 23, 1992, except that changes in subsec. (a)(2) of this section, relating to Federal share for supplemental educational opportunity grant program, applicable to funds provided for such program for award years beginning on or after July 1, 1993, see section 410 of Pub. L. 102–325, set out as a note under section 1070a of this title.

EFFECTIVE DATE

Section effective Oct. 17, 1986, except as otherwise provided, see section 2 of Pub. L. 99–498, set out as a note under section 1001 of this title.

Section 401(b)(5) of Pub. L. 99–498 provided that: ''Section 413C(c)(2) of the Act [20 U.S.C. 1070b–2(c)(2)] as amended by this section shall apply to the awarding of grants under subpart 2 of part A of title IV of the Act [this subpart] for periods of enrollment beginning on or after July 1, 1987.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1070b, 1070b–1 of this title.

§ 1070b–3. Allocation of funds

(a) Allocation based on previous allocation

(1) From the amount appropriated pursuant to section 1070b(b) of this title for each fiscal year, the Secretary shall first allocate to each eligible institution an amount equal to 100 percent of the amount such institution received and used under this subpart for fiscal year 1985.

(2)(A) From the amount so appropriated, the Secretary shall next allocate to each eligible institution that began participation in the program under this subpart after fiscal year 1985 but is not a first or second time participant, an amount equal to the greater of—

(i) $5,000; or

(ii) 90 percent of the amount received and used under this subpart for the first year it participated in the program.

(B) From the amount so appropriated, the Secretary shall next allocate to each eligible institution that began participation in the program under this subpart after fiscal year 1985 and is a first or second time participant, an amount equal to the greatest of—

(i) $5,000;

(ii) an amount equal to (I) 90 percent of the amount received and used under this subpart in the second preceding fiscal year by eligible institutions offering comparable programs of instruction, divided by (II) the number of students enrolled at such comparable institutions in such fiscal year, multiplied by (III) the number of students enrolled at the applicant institution in such fiscal year; or

(iii) 90 percent of the institution's allocation under this part for the preceding fiscal year.

(C) Notwithstanding subparagraphs (A) and (B) of this paragraph, the Secretary shall allocate to each eligible institution which—

(i) was a first-time participant in the program in fiscal year 1986 or any subsequent fiscal year, and

(ii) received a larger amount under this subsection in the second year of participation,

an amount equal to 90 percent of the amount it received under this subsection in its second year of participation.

(3)(A) If the amount appropriated for any fiscal year is less than the amount required to be allocated to all institutions under paragraph (1) of this subsection, then the amount of the allocation to each such institution shall be ratably reduced.

(B) If the amount appropriated for any fiscal year is more than the amount required to be allocated to all institutions under paragraph (1) but less than the amount required to be allocated to all institutions under paragraph (2), then—

(i) the Secretary shall allot the amount required to be allocated to all institutions under paragraph (1), and

(ii) the amount of the allocation to each institution under paragraph (2) shall be ratably reduced.

(C) If additional amounts are appropriated for any such fiscal year, such reduced amounts shall be increased on the same basis as they were reduced (until the amount allocated equals the amount required to be allocated under paragraphs (1) and (2) of this subsection).

(4)(A) Notwithstanding any other provision of this section, the Secretary may allocate an amount equal to not more than 10 percent of the amount by which the amount appropriated in any fiscal year to carry out this part exceeds $700,000,000 among eligible institutions described in subparagraph (B).

(B) In order to receive an allocation pursuant to subparagraph (A) an institution shall be an eligible institution from which 50 percent or more of the Pell Grant recipients attending such eligible institution graduate from or transfer to a 4-year institution of higher education.

(b) Allocation of excess based on pro rata share

From one-quarter of the remainder of the amount appropriated pursuant to section 1070b(b) of this title for any fiscal year (after making the allocations required by subsection (a) of this section), the Secretary shall allocate to each eligible institution an amount which bears the same ratio to such one-quarter as the amount the eligible institution receives for such fiscal year under subsection (a) of this section bears to the amount all such institutions receive under such subsection (a) of this section.

(c) Allocation of excess based on fair share

(1) From three-quarters of the remainder of the amount appropriated pursuant to section 1070b(b) of this title for each year (after making the allocations required by subsection (a) of this section), the Secretary shall allocate to each eligible institution which has an excess eligible amount an amount which bears the same ratio to such remainder as such excess eligible amount bears to the sum of the excess eligible amounts of all such eligible institutions (having such excess eligible amounts).

(2) For any eligible institution, the excess eligible amount is the amount, if any, by which—

(A)(i) the amount of that institution's need (as determined under subsection (d) of this section), divided by (ii) the sum of the need of all institutions (as so determined), multiplied by (iii) the amount appropriated pursuant to section 1070b(b) of this title of the fiscal year; exceeds

(B) the amount required to be allocated to that institution under subsection (a) of this section.

(d) Determination of institution's need

(1) The amount of an institution's need is equal to—

(A) the sum of the need of the institution's eligible undergraduate students; minus

(B) the sum of grant aid received by students under subparts 1 and 3[1] of this part.

(2) To determine the need of an institution's eligible undergraduate students, the Secretary shall—

(A) establish various income categories for dependent and independent undergraduate students;

(B) establish an expected family contribution for each income category of dependent and independent undergraduate students, determined on the basis of the average expected family contribution (computed in accordance with part E of this subchapter) of a representative sample within each income category for the second preceding fiscal year;

(C) compute 75 percent of the average cost of attendance for all undergraduate students;

(D) multiply the number of eligible dependent students in each income category by 75 percent of the average cost of attendance for all undergraduate students determined under subparagraph (C), minus the expected family contribution determined under subparagraph (B) for that income category, except that the amount computed by such subtraction shall not be less than zero;

(E) add the amounts determined under subparagraph (D) for each income category of dependent students;

(F) multiply the number of eligible independent students in each income category by 75 percent of the average cost of attendance for all undergraduate students determined under subparagraph (C), minus the expected family contribution determined under subparagraph (B) for that income category, except that the amount computed by such subtraction shall not be less than zero;

(G) add the amounts determined under subparagraph (F) for each income category of independent students; and

(H) add the amounts determined under subparagraphs (E) and (G).

(3)(A) For purposes of paragraph (2), the term ''average cost of attendance'' means the average of the attendance costs for undergraduate students, which shall include (i) tuition and fees determined in accordance with subparagraph (B), (ii) standard living expenses determined in accordance with subparagraph (C), and (iii) books and supplies determined in accordance with subparagraph (D).

(B) The average undergraduate tuition and fees described in subparagraph (A)(i) shall be

[1] See References in Text note below.

computed on the basis of information reported by the institution to the Secretary, which shall include (i) total revenue received by the institution from undergraduate tuition and fees for the second year preceding the year for which it is applying for an allocation, and (ii) the institution's enrollment for such second preceding year.

(C) The standard living expense described in subparagraph (A)(ii) is equal to 150 percent of the difference between the income protection allowance for a family of five with one in college and the income protection allowance for a family of six with one in college for a single independent student.

(D) The allowance for books and supplies described in subparagraph (A)(iii) is equal to $450.

(e) Reallocation of excess allocations

(1) If an institution returns to the Secretary any portion of the sums allocated to such institution under this section for any fiscal year the Secretary shall, in accordance with regulations, reallocate such excess to other institutions.

(2) If under paragraph (1) of this subsection an institution returns more than 10 percent of its allocation, the institution's allocation for the next fiscal year shall be reduced by the amount returned. The Secretary may waive this paragraph for a specific institution if the Secretary finds that enforcing this paragraph would be contrary to the interest of the program.

(f) Filing deadlines

The Secretary shall, from time to time, set dates before which institutions must file applications for allocations under this part.

(Pub. L. 89–329, title IV, § 413D, as added Pub. L. 99–498, title IV, § 401(a), Oct. 17, 1986, 100 Stat. 1330; amended Pub. L. 100–50, § 4, June 3, 1987, 101 Stat. 340; Pub. L. 102–325, title IV, § 403(g), (h), July 23, 1992, 106 Stat. 506; Pub. L. 103–208, § 2(b)(26), Dec. 20, 1993, 107 Stat. 2459.)

REFERENCES IN TEXT

Subpart 3 of this part, referred to in subsec. (d)(1)(B), was redesignated subpart 4 by Pub. L. 102–325, title IV, § 402(a)(2), July 23, 1992, 106 Stat. 482, and former subpart 2 [this subpart] was redesignated as subpart 3.

PRIOR PROVISIONS

A prior section 1070b–3, Pub. L. 89–329, title IV, § 413D, as added Pub. L. 92–318, title I, § 131(b)(1), June 23, 1972, 86 Stat. 254; amended Pub. L. 96–374, title IV, § 403(e), (f), title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1405, 1406, 1503, related to apportionment and allocation of funds for supplemental educational opportunity grants, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1993—Subsec. (d)(3)(C). Pub. L. 103–208 substituted ''150 percent of the difference between the income protection allowance for a family of five with one in college and the income protection allowance for a family of six with one in college'' for ''three-fourths in the Pell Grant family size offset''.

1992—Subsec. (a)(4). Pub. L. 102–325, § 403(g), added par. (4).

Subsec. (e). Pub. L. 102–325, § 403(h), designated existing provisions as par. (1) and added par. (2).

1987—Subsec. (d)(2)(D). Pub. L. 100–50, § 4(a)(1), added subpar. (D) and struck out former subpar. (D) which read as follows: ''multiply the number of eligible dependent students in each income category by the lesser of—

''(i) 75 percent of the average cost of attendance for all undergraduate students determined under subparagraph (C); or

''(ii) the average cost of attendance for all undergraduate students minus the expected family contribution determined under subparagraph (B) for that income category, except that the amount computed by such subtraction shall not be less than zero;''.

Subsec. (d)(2)(F). Pub. L. 100–50, § 4(a)(2), added subpar. (F) and struck out former subpar. (F) which read as follows: ''multiply the number of eligible independent students in each income category by the lesser of—

''(i) 75 percent of the average cost of attendance for all undergraduate students determined under subparagraph (C); or

''(ii) the average cost of attendance for all undergraduate students minus the expected family contribution determined under subparagraph (B) for that income category, except that the amount computed by such subtraction for any income category shall not be less than zero;''.

Subsec. (d)(3)(A). Pub. L. 100–50, § 4(b)(1), struck out ''and for graduate and professional students'' after ''undergraduate students''.

Subsec. (d)(3)(B). Pub. L. 100–50, § 4(b)(2), struck out ''and graduate and professional'' after ''average undergraduate'' and struck out ''and graduate'' after ''from undergraduate''.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1003 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

EFFECTIVE DATE

Section 401(b)(6) of Pub. L. 99–498, as added by Pub. L. 100–50, § 22(a)(2), June 3, 1987, 101 Stat. 361, provided that: ''The changes made in section 413D of the Act [this section] shall apply with respect to the allocation of funds for the academic year 1988–1989 and succeeding academic years.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1070b–2, 1089, 1095 of this title.

SUBPART 4—GRANTS TO STATES FOR STATE STUDENT INCENTIVES

CODIFICATION

Pub. L. 102–325, title IV, § 402(a)(1), (2), July 23, 1992, 106 Stat. 482, redesignated former subpart 3 as 4 and repealed former subpart 4, comprising sections 1070d to 1070d–1d, which authorized special programs for students from disadvantaged backgrounds.

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in sections 1070, 1070a, 1070a–23, 1087kk, 1087mm, 1087vv, 1090, 1091, 1094, 1099a, 1099a–3, 1104b, 1106f, 1111b of this title.

§ 1070c. Purpose; appropriations authorized

(a) Purpose of subpart

It is the purpose of this subpart to make incentive grants available to States to assist States in providing grants to—

(1) eligible students attending institutions of higher education or participating in programs

of study abroad that are approved for credit by institutions of higher education at which such students are enrolled; and

(2) eligible students for campus-based community service work-study.

(b) Authorization of appropriations; availability

(1) In general

There are authorized to be appropriated $105,000,000 for fiscal year 1993, and such sums as may be necessary for each of the 4 succeeding fiscal years.

(2) Availability

Sums appropriated pursuant to the authority of paragraph (1) for any fiscal year shall remain available for payments to States under this subpart until the end of the fiscal year succeeding the fiscal year for which such sums were appropriated.

(Pub. L. 89–329, title IV, § 415A, as added Pub. L. 99–498, title IV, § 401(a), Oct. 17, 1986, 100 Stat. 1332; amended Pub. L. 102–325, title IV, § 404(a), July 23, 1992, 106 Stat. 506.)

PRIOR PROVISIONS

A prior section 1070c, Pub. L. 89–329, title IV, § 415A, as added Pub. L. 92–318, title I § 131(b)(1), June 23, 1972, 86 Stat. 255; amended Pub. L. 94–482, title I, § 123(a), (c)(1), Oct. 12, 1976, 90 Stat. 2094; Pub. L. 95–43, § 1(b)(3), June 15, 1977, 91 Stat. 218; Pub. L. 96–49, § 5(a)(4), Aug. 13, 1979, 93 Stat. 352; Pub. L. 96–374, title IV, § 404(a), Oct. 3, 1980, 94 Stat. 1406, related to purpose and authorization of appropriations for grants to States for State student incentives, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1992—Pub. L. 102–325 amended section generally. Prior to amendment, section read as follows:

''(a) PURPOSE OF SUBPART.—It is the purpose of this subpart to make incentive grants available to the States to assist them in providing grants to eligible students attending institutions of higher education and grants to eligible students for campus-based community service work learning study.

''(b) AUTHORIZATION OF APPROPRIATIONS; AVAILABILITY.—(1) There are authorized to be appropriated $85,000,000 for fiscal year 1987, and such sums as may be necessary for the 4 succeeding fiscal years.

''(2) Sums appropriated pursuant to paragraph (1) for any fiscal year shall remain available for payments to States under this subpart until the end of the fiscal year succeeding the fiscal year for which such sums were appropriated.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1070c–1 of this title.

§ 1070c–1. Allotment among States

(a) Allotment based on number of eligible students in attendance

(1) From the sums appropriated pursuant to section 1070c(b)(1) of this title for any fiscal year, the Secretary shall allot to each State an amount which bears the same ratio to such sums as the number of students who are deemed eligible in such State for participation in the grant program authorized by this subpart bears to the total number of such students in all the States, except that no State shall receive less than the State received for fiscal year 1979.

(2) For the purpose of this subsection, the number of students who are deemed eligible in a State for participation in the grant program authorized by this subpart, and the number of such students in all the States, shall be determined for the most recent year for which satisfactory data are available.

(b) Reallotment

The amount of any State's allotment under subsection (a) of this section for any fiscal year which the Secretary determines will not be required for such fiscal year for the State student grant incentive program of that State shall be available for reallotment from time to time, on such dates during such year as the Secretary may fix, to other States in proportion to the original allotments to such States under such part for such year, but with such proportionate amount for any of such States being reduced to the extent it exceeds the sum the Secretary estimates such State needs and will be able to use for such year for carrying out the State plan. The total of such reductions shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Any amount reallotted to a State under this part during a year from funds appropriated pursuant to section 1070c(b)(1) of this title shall be deemed part of its allotment under subsection (a) of this section for such year.

(c) Allotments subject to continuing compliance

The Secretary shall make payments for continuing incentive grants only to States which continue to meet the requirements of section 1070c–2(b) of this title.

(Pub. L. 89–329, title IV, § 415B, as added Pub. L. 99–498, title IV, § 401(a), Oct. 17, 1986, 100 Stat. 1333.)

PRIOR PROVISIONS

A prior section 1070c–1, Pub. L. 89–329, title IV, § 415B, as added Pub. L. 92–318, title I, § 131(b)(1), June 23, 1972, 86 Stat. 256; amended Pub. L. 94–482, title I, § 123(c)(2), Oct. 12, 1976, 90 Stat. 2094; Pub. L. 96–374, title IV, § 404(b), title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1407, 1503, related to allotment among States of amounts for grants to States for State student incentives, prior to the general revision of this part by Pub. L. 99–498.

§ 1070c–2. Applications for State student incentive grant programs

(a) Submission and contents of applications

A State which desires to obtain a payment under this subpart for any fiscal year shall submit annually an application therefor through the State agency administering its program under this subpart as of July 1, 1985, unless the Governor of that State so designates, in writing, a different agency to administer the program. The application shall contain such information as may be required by, or pursuant to, regulation for the purpose of enabling the Secretary to make the determinations required under this subpart.

(b) Payment of Federal share of grants made by qualified program

From a State's allotment under this subpart for any fiscal year the Secretary is authorized to make payments to such State for paying up

to 50 percent of the amount of student grants pursuant to a State program which—

(1) is administered by a single State agency;

(2) provides that such grants will be in amounts not in excess of $5,000 per academic year (A) for attendance on a full-time basis at an institution of higher education, and (B) for campus-based community service work learning study jobs;

(3) provides that—

(A) not more than 20 percent of the allotment to the State for each fiscal year may be used for the purpose described in paragraph (2)(B);

(B) grants for the campus-based community work learning study jobs may be made only to students who are otherwise eligible for assistance under this subpart; and

(C) grants for such jobs be made in accordance with the provisions of section 2753(b)(1) of title 42;

(4) provides for the selection of recipients of such grants or of such State work-study jobs on the basis of substantial financial need determined annually on the basis of criteria established by the State and approved by the Secretary, except that for the purpose of collecting data to make such determination of financial need, no student or parent shall be charged a fee that is payable to an entity other than such State;

(5) provides that, effective with respect to any academic year beginning on or after October 1, 1978, all nonprofit institutions of higher education in the State are eligible to participate in the State program, except in any State in which participation of nonprofit institutions of higher education is in violation of the constitution of the State or in any State in which participation of nonprofit institutions of higher education is in violation of a statute of the State which was enacted prior to October 1, 1978;

(6) provides for the payment of the non-Federal portion of such grants or of such work-study jobs from funds supplied by such State which represent an additional expenditure for such year by such State for grants or work-study jobs for students attending institutions of higher education over the amount expended by such State for such grants or work-study jobs, if any, during the second fiscal year preceding the fiscal year in which such State initially received funds under this subpart;

(7) provides that if the State's allocation under this subpart is based in part on the financial need demonstrated by students who are independent students or attending the institution less than full time, a reasonable proportion of the State's allocation shall be made available to such students;

(8) provides for State expenditures under such program of an amount not less than the average annual aggregate expenditures for the preceding three fiscal years or the average annual expenditure per full-time equivalent student for such years;

(9) provides (A) for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the State agency under this subpart, and (B) for the making of such reports, in such form and containing such information, as may be reasonably necessary to enable the Secretary to perform his functions under this subpart; and

(10) for any academic year beginning after June 30, 1987, provides the non-Federal share of the amount of student grants or work-study jobs under this subpart through a direct appropriation of State funds for the program under this subpart.

(c) Reservation and disbursement of allotments and reallotments

Upon his approval of any application for a payment under this subpart, the Secretary shall reserve from the applicable allotment (including any applicable reallotment) available therefor, the amount of such payment, which (subject to the limits of such allotment or reallotment) shall be equal to the Federal share of the cost of the students' incentive grants or work-study jobs covered by such application. The Secretary shall pay such reserved amount, in advance or by way of reimbursement, and in such installments as the Secretary may determine. The Secretary may amend the reservation of any amount under this section, either upon approval of an amendment of the application or upon revision of the estimated cost of the student grants or work-study jobs with respect to which such reservation was made. If the Secretary approves an upward revision of such estimated cost, the Secretary may reserve the Federal share of the added cost only from the applicable allotment (or reallotment) available at the time of such approval.

(Pub. L. 89–329, title IV, § 415C, as added Pub. L. 99–498, title IV, § 401(a), Oct. 17, 1986, 100 Stat. 1333; amended Pub. L. 102–325, title IV, § 404(b)–(d), July 23, 1992, 106 Stat. 507; Pub. L. 103–208, § 2(b)(27), Dec. 20, 1993, 107 Stat. 2459.)

PRIOR PROVISIONS

A prior section 1070c–2, Pub. L. 89–329, title IV, § 415C, as added Pub. L. 92–318, title I, § 131(b)(1), June 23, 1972, 86 Stat. 256; amended Pub. L. 94–482, title I, § 123(b), Oct. 12, 1976, 90 Stat. 2094; Pub. L. 95–43, § 1(a)(6), June 15, 1977, 91 Stat. 213; Pub. L. 95–566, § 3, Nov. 1, 1978, 92 Stat. 2403; Pub. L. 96–374, title IV, § 404(c), title XIII, § 1391(a)(1), (2), Oct. 3, 1980, 94 Stat. 1407, 1503, related to payment of grants to States for State student incentives, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1993—Subsec. (b)(7). Pub. L. 103–208 substituted a semicolon for period at end.

1992—Subsec. (b)(2). Pub. L. 102–325, § 404(b), substituted ''$5,000'' for ''$2,500''.

Subsec. (b)(4). Pub. L. 102–325, § 404(c), inserted before semicolon at end '', except that for the purpose of collecting data to make such determination of financial need, no student or parent shall be charged a fee that is payable to an entity other than such State''.

Subsec. (b)(7). Pub. L. 102–325, § 404(d), amended par. (7) generally. Prior to amendment, par. (7) read as follows: ''provides that, if the institution's allocation under this subpart is based in part on the financial need demonstrated by students attending the institution less than full time, a reasonable proportion of the institution's allocation shall be made available to such students;''.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1003 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1070c–1, 1070c–3, 1099a–1 of this title.

§ 1070c–3. Administration of State programs; judicial review

(a) Disapproval of applications; suspension of eligibility

(1) The Secretary shall not finally disapprove any application for a State program submitted under section 1070c–2 of this title, or any modification thereof, without first affording the State agency submitting the program reasonable notice and opportunity for a hearing.

(2) Whenever the Secretary, after reasonable notice and opportunity for hearing to the State agency administering a State program approved under this subpart, finds—

(A) that the State program has been so changed that it no longer complies with the provisions of this subpart, or

(B) that in the administration of the program there is a failure to comply substantially with any such provisions,

the Secretary shall notify such State agency that the State will not be regarded as eligible to participate in the program under this subpart until he is satisfied that there is no longer any such failure to comply.

(b) Review of decisions

(1) If any State is dissatisfied with the Secretary's final action with respect to the approval of its State program submitted under this subpart or with his final action under subsection (a) of this section, such State may appeal to the United States court of appeals for the circuit in which such State is located. The summons and notice of appeal may be served at any place in the United States. The Commissioner shall forthwith certify and file in the court the transcript of the proceedings and the record on which he based his action.

(2) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify his previous action, and shall certify to the court the transcript and record of further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(3) The court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in title 28, section 1254.

(Pub. L. 89–329, title IV, § 415D, as added Pub. L. 99–498, title IV, § 401(a), Oct. 17, 1986, 100 Stat. 1335.)

PRIOR PROVISIONS

A prior section 1070c–3, Pub. L. 89–329, title IV, § 415D, as added Pub. L. 92–318, title I, § 131(b)(1), June 23, 1972, 86 Stat. 257; amended Pub. L. 96–374, title XIII, § 1391(a)(1), (2), Oct. 3, 1980, 94 Stat. 1503, related to administration of State programs and judicial review, prior to the general revision of this part by Pub. L. 99–498.

§ 1070c–4. "Community service" defined

For the purpose of this subpart, the term ''community service'' means services, including direct service, planning, and applied research which are identified by an institution of higher education, through formal or informal consultation with local nonprofit, governmental, and community-based organizations, and which—

(1) are designed to improve the quality of life for community residents, particularly low-income individuals, or to solve particular problems related to the needs of such residents, including but not limited to, such fields as health care, child care, education, literacy training, welfare, social services, public safety, crime prevention and control, transportation, recreation, housing and neighborhood improvement, rural development, and community improvement; and

(2) provide participating students with work-learning opportunities related to their educational or vocational programs or goals.

(Pub. L. 89–329, title IV, § 415E, as added Pub. L. 99–498, title IV, § 401(a), Oct. 17, 1986, 100 Stat. 1336; amended Pub. L. 100–50, § 5, June 3, 1987, 101 Stat. 340.)

PRIOR PROVISIONS

A prior section 1070c–4, Pub. L. 89–329, title IV, § 415E, as added Pub. L. 94–482, title I, § 123(c)(3), Oct. 12, 1976, 90 Stat. 2094; amended Pub. L. 95–43, § 1(a)(7), June 15, 1977, 91 Stat. 213, related to a program of bonus allotments, prior to repeal by Pub. L. 96–374, title IV, § 404(d), Oct. 3, 1980, 94 Stat. 1407, eff. Oct. 1, 1980.

AMENDMENTS

1987—Par. (1). Pub. L. 100–50 substituted ''literacy'' for ''literary''.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

§§ 1070d to 1070d–1d. Repealed. Pub. L. 102–325, title IV, § 402(a)(1), July 23, 1992, 106 Stat. 482

Section 1070d, Pub. L. 89–329, title IV, § 417A, as added Pub. L. 99–498, title IV, § 401(a), Oct. 17, 1986, 100 Stat. 1336, related to program authority and authorization of appropriations.

A prior section 1070d, Pub. L. 89–329, title IV, § 417A, as added Pub. L. 96–374, title IV, § 405, Oct. 3, 1980, 94 Stat. 1407, authorized a program of grants and contracts to assist students from disadvantaged backgrounds, prior to the general revision of this part by Pub. L. 99–498.

Another prior section 1070d, Pub. L. 89–329, title IV, § 417A, as added Pub. L. 92–318, title I, § 131(b)(1), June 23, 1972, 86 Stat. 258; amended Pub. L. 94–482, title I, § 124(a), Oct. 12, 1976, 90 Stat. 2094; Pub. L. 96–49, § 5(a)(5), Aug. 13, 1979, 93 Stat. 352; Pub. L. 96–374, title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1503, authorized the Secretary of Education to carry out special programs for

students from disadvantaged backgrounds and authorized appropriations for such programs, prior to the general revision of this subpart by Pub. L. 96–374.

Section 1070d–1, Pub. L. 89–329, title IV, § 417B, as added Pub. L. 99–498, title IV, § 401(a), Oct. 17, 1986, 100 Stat. 1337, authorized a talent search program.

A prior section 1070d–1, Pub. L. 89–329, title IV, § 417B, as added Pub. L. 96–374, title IV, § 405, Oct. 3, 1980, 94 Stat. 1408, authorized a talent search program, prior to the general revision of this part by Pub. L. 99–498.

Another prior section 1070d–1, Pub. L. 89–329, title IV, § 417B, as added Pub. L. 92–318, title I, § 131(b)(1), June 23, 1972, 86 Stat. 258; amended Pub. L. 93–380, title VIII, § 833(a), Aug. 21, 1974, 88 Stat. 603; Pub. L. 94–482, title I, § 124(b), (c), Oct. 12, 1976, 90 Stat. 2094, 2095; Pub. L. 95–566, § 4, Nov. 1, 1978, 92 Stat. 2403; Pub. L. 96–374, title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1503, specified the authorized activities of the Secretary of Education in carrying out special programs for students from disadvantaged backgrounds, prior to the general revision of this subpart by Pub. L. 96–374.

Section 1070d–1a, Pub. L. 89–329, title IV, § 417C, as added Pub. L. 99–498, title IV, § 401(a), Oct. 17, 1986, 100 Stat. 1338, authorized an upward bound program.

A prior section 1070d–1a, Pub. L. 89–329, title IV, § 417C, as added Pub. L. 96–374, title IV, § 405, Oct. 3, 1980, 94 Stat. 1409, authorized an upward bound program, prior to the general revision of this part by Pub. L. 99–498.

Section 1070d–1b, Pub. L. 89–329, title IV, § 417D, as added Pub. L. 99–498, title IV, § 401(a), Oct. 17, 1986, 100 Stat. 1339; amended Pub. L. 100–50, § 6, June 3, 1987, 101 Stat. 340; Pub. L. 100–418, title VI, § 6271, Aug. 23, 1988, 102 Stat. 1523, related to student support services program.

A prior section 1070d–1b, Pub. L. 89–329, title IV, § 417D, as added Pub. L. 96–374, title IV, § 405, Oct. 3, 1980, 94 Stat. 1410, authorized a special services for disadvantaged students program, prior to the general revision of this part by Pub. L. 99–498.

Section 1070d–1c, Pub. L. 89–329, title IV, § 417E, as added Pub. L. 99–498, title IV, § 401(a), Oct. 17, 1986, 100 Stat. 1340, authorized an educational opportunity centers program.

A prior section 1070d–1c, Pub. L. 89–329, title IV, § 417E, as added Pub. L. 96–374, title IV, § 405, Oct. 3, 1980, 94 Stat. 1410, authorized an educational opportunity centers program, prior to the general revision of this part by Pub. L. 99–498.

Section 1070d–1d, Pub. L. 89–329, title IV, § 417F, as added Pub. L. 99–498, title IV, § 401(a), Oct. 17, 1986, 100 Stat. 1341, related to staff development activities.

A prior section 1070d–1d, Pub. L. 89–329, title IV, § 417F, as added Pub. L. 96–374, title IV, § 405, Oct. 3, 1980, 94 Stat. 1411, authorized grants for staff training, prior to the general revision of this part by Pub. L. 99–498.

SUBPART 5—SPECIAL PROGRAMS FOR STUDENTS WHOSE FAMILIES ARE ENGAGED IN MIGRANT AND SEASONAL FARMWORK

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in sections 1070, 1070a–71, 3414 of this title.

§ 1070d–2. Maintenance and expansion of existing programs

(a) Program authority

The Secretary shall maintain and expand existing secondary and postsecondary high school equivalency program and college assistance migrant program projects located at institutions of higher education or at private nonprofit organizations working in cooperation with institutions of higher education.

(b) Services provided by high school equivalency program

The services authorized by this subpart for the high school equivalency program include—

(1) recruitment services to reach persons—

(A)(i) who are 16 years of age and over; or

(ii) who are beyond the age of compulsory school attendance in the State in which such persons reside and are not enrolled in school;

(B)(i) who themselves, or whose parents, have spent a minimum of 75 days during the past 24 months in migrant and seasonal farmwork; or

(ii) who are eligible to participate, or have participated within the preceding 2 years, in programs under part C of title I of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6391 et seq.] or section 1672 of title 29; and

(C) who lack a high school diploma or its equivalent;

(2) educational services which provide instruction designed to help students obtain a general education diploma which meets the guidelines established by the State in which the project is located for high school equivalency;

(3) supportive services which include the following:

(A) personal, vocational, and academic counseling;

(B) placement services designed to place students in a university, college, or junior college program, or in military service or career positions; and

(C) health services;

(4) information concerning, and assistance in obtaining, available student financial aid;

(5) weekly stipends for high school equivalency program participants;

(6) housing for those enrolled in residential programs;

(7) exposure to cultural events, academic programs, and other educational and cultural activities usually not available to migrant youth; and

(8) other essential supportive services, as needed to ensure the success of eligible students.

(c) Services provided by college assistance migrant program

(1) Services authorized by this subpart for the college assistance migrant program include—

(A) outreach and recruitment services to reach persons who themselves or whose parents have spent a minimum of 75 days during the past 24 months in migrant and seasonal farmwork or who have participated or are eligible to participate, in programs under part C of title I of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6391 et seq.] (or such part's predecessor authority) or section 1672 of title 29, and who meet the minimum qualifications for attendance at a college or university;

(B) supportive and instructional services which include:

(i) personal, academic, and career counseling as an ongoing part of the program;

(ii) tutoring and academic skill building instruction and assistance;

(iii) assistance with special admissions;

(iv) health services; and

(v) other services as necessary to assist students in completing program requirements;

(C) assistance in obtaining student financial aid which includes, but is not limited to:

(i) stipends;
(ii) scholarships;
(iii) student travel;
(iv) career oriented work study;
(v) books and supplies;
(vi) tuition and fees;
(vii) room and board; and
(viii) other assistance necessary to assist students in completing their first year of college;

(D) housing support for students living in institutional facilities and commuting students;

(E) exposure to cultural events, academic programs, and other activities not usually available to migrant youth; and

(F) other support services as necessary to ensure the success of eligible students.

(2) A recipient of a grant to operate a college assistance migrant program under this subpart shall provide followup services for migrant students after such students have completed their first year of college, and shall not use more than 10 percent of such grant for such followup services. Such followup services may include—

(A) monitoring and reporting the academic progress of students who participated in the project during such student's first year of college and during such student's subsequent years in college; and

(B) referring such students to on- or off-campus providers of counseling services, academic assistance, or financial aid.

(d) Management plan required

Each project application shall include a management plan which contains assurances that staff shall have a demonstrated knowledge and be sensitive to the unique characteristics and needs of the migrant and seasonal farmworker population, and provisions for:

(1) staff in-service training;
(2) training and technical assistance;
(3) staff travel;
(4) student travel;
(5) interagency coordination; and
(6) an evaluation plan.

(e) Five-year grant period; consideration of prior experience

Except under extraordinary circumstances, the Secretary shall award grants for a 5-year period. For the purpose of making grants under this subpart, the Secretary shall consider the prior experience of service delivery under the particular project for which funds are sought by each applicant. Such prior experience shall be awarded the same level of consideration given this factor for applicants for programs authorized by subpart 4[1] of this part in accordance with section 1070d(b)(2)[1] of this title.

(f) Minimum allocations

The Secretary shall not allocate an amount less than—

(1) $150,000 for each project under the high school equivalency program, and

(2) $150,000 for each project under the college assistance migrant program.

(g) Authorization of appropriations

(1) There are authorized to be appropriated for the high school equivalency program $15,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(2) There are authorized to be appropriated for the college assistance migrant program $5,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(Pub. L. 89–329, title IV, § 418A, as added Pub. L. 99–498, title IV, § 401(a), Oct. 17, 1986, 100 Stat. 1341; amended Pub. L. 100–50, § 7, June 3, 1987, 101 Stat. 340; Pub. L. 102–325, title IV, § 405, July 23, 1992, 106 Stat. 507; Pub. L. 103–382, title III, § 391(e)(1), (2), Oct. 20, 1994, 108 Stat. 4022.)

REFERENCES IN TEXT

The Elementary and Secondary Education Act of 1965, referred to in subsecs. (b)(1)(B)(ii) and (c)(1)(A), is Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, as amended generally by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519. Part C of title I of the Act is classified generally to part C (§ 6391 et seq.) of subchapter I of chapter 70 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

Subpart 4 of this part, including section 1070d(b)(2) of this title, referred to in subsec. (e), was repealed and subpart 3 was redesignated subpart 4 by Pub. L. 102–325, title IV, § 402(a)(1), (2), July 23, 1992, 106 Stat. 482.

PRIOR PROVISIONS

A prior section 1070d–2, Pub. L. 89–329, title IV, § 418A, as added Pub. L. 96–374, title IV, § 406, Oct. 3, 1980, 94 Stat. 1411, related to secondary and postsecondary high school equivalency programs and college assistance migrant programs, prior to the general revision of this part by Pub. L. 99–498.

Another prior section 1070d–2, Pub. L. 89–329, title IV, § 418A, as added Pub. L. 94–482, title I, § 125, Oct. 12, 1976, 90 Stat. 2096; amended Pub. L. 96–49, § 5(a)(6), Aug. 13, 1979, 93 Stat. 352, provided for the Educational Information Centers program, prior to repeal by Pub. L. 96–374, title I, § 101(b), Oct. 3, 1980, 94 Stat. 1383. See section 1070d–1c of this title.

A prior section 1070d–3, Pub. L. 89–329, title IV, § 418B, as added Pub. L. 94–482, title I, § 125, Oct. 12, 1976, 90 Stat. 2097, related to administration by States of Educational Information Centers program, prior to repeal by Pub. L. 96–374, title I, § 101(b), Oct. 3, 1980, 94 Stat. 1383, eff. Oct. 1, 1980.

AMENDMENTS

1994—Subsec. (b)(1)(B)(ii). Pub. L. 103–382, § 391(e)(1), substituted ''part C'' for ''subpart 1 of part D of chapter 1''.

Subsec. (c)(1)(A). Pub. L. 103–382, § 391(e)(2), substituted ''part C'' for ''subpart 1 of part D of chapter 1'' and inserted ''(or such part's predecessor authority)'' after ''1965''.

1992—Subsec. (b)(1). Pub. L. 102–325, § 405(a)(1)(A), added par. (1) and struck out former par. (1) which read as follows: ''recruitment services to reach persons who are 17 years of age and over, who themselves or whose parents have spent a minimum of 75 days during the past 24 months in migrant and seasonal farmwork, and who lack a high school diploma or its equivalent;''.

Subsec. (b)(4). Pub. L. 102–325, § 405(a)(1)(B), inserted comma after ''concerning'' and after ''obtaining''.

Subsec. (c). Pub. L. 102–325, § 405(a)(2), (b), designated existing provisions as par. (1), redesignated former par.

[1] See References in Text note below.

(1) as subpar. (A) and amended it generally, redesignated par. (2) and its subpars. (A) to (E) as subpar. (B) and cls. (i) to (v), respectively, redesignated par. (3) and its subpars. (A) to (H) as subpar. (C) and cls. (i) to (viii), respectively, redesignated pars. (4) to (6) as subpars. (D) to (F), respectively, and added par. (2). Prior to amendment, par. (1) read as follows: ''outreach and recruitment services to reach persons who themselves or whose parents have spent a minimum of 75 days during the past 24 months in migrant and seasonal farmwork, and who meet the minimum qualifications for attendance at a college or university;''.

Subsec. (e). Pub. L. 102–325, § 405(c), substituted ''Five-year'' for ''Three-year'' in heading and ''5-year'' for ''3-year'' in text.

Subsec. (g). Pub. L. 102–325, § 405(d), amended subsec. (g) generally, substituting present provisions for former provisions which authorized appropriations for fiscal years 1987 through 1991.

1987—Subsec. (g). Pub. L. 100–50 amended subsec. (g) generally. Prior to amendment, subsec. (g) read as follows: ''There is authorized to be appropriated for this part $9,000,000 for fiscal year 1987, and such sums as may be necessary for the 4 succeeding fiscal years.''

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

SUBPART 6—ROBERT C. BYRD HONORS SCHOLARSHIP PROGRAM

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in sections 1070, 1091, 1099a–3 of this title.

§ 1070d–31. Statement of purpose

It is the purpose of this subpart to establish a Robert C. Byrd Honors Scholarship Program to promote student excellence and achievement and to recognize exceptionally able students who show promise of continued excellence.

(Pub. L. 89–329, title IV, § 419A, as added Pub. L. 99–498, title IV, § 401(a), Oct. 17, 1986, 100 Stat. 1343.)

PRIOR PROVISIONS

A prior section 1070d–31, Pub. L. 89–329, title IV, § 419A, as added Pub. L. 98–558, title VIII, § 801(a), Oct. 30, 1984, 98 Stat. 2900; amended Pub. L. 99–145, title XVI, § 1627(a), Nov. 8, 1985, 99 Stat. 779, provided statement of purpose for Robert C. Byrd Honors Scholarship Program, prior to the general revision of this part by Pub. L. 99–498.

§ 1070d–32. Repealed. Pub. L. 102–325, title IV, § 406(a), July 23, 1992, 106 Stat. 508

Section, Pub. L. 89–329, title IV, § 419B, as added Pub. L. 99–498, title IV, § 401(a), Oct. 17, 1986, 100 Stat. 1343, defined terms used in this subpart.

A prior section 1070d–32, Pub. L. 89–329, title IV, § 419B, as added Pub. L. 98–558, title VIII, § 801(a), Oct. 30, 1984, 98 Stat. 2900, defined terms used in this subpart, prior to the general revision of this part by Pub. L. 99–498.

§ 1070d–33. Scholarships authorized

(a) Program authority

The Secretary is authorized, in accordance with the provisions of this subpart, to make grants to States to enable the States to award scholarships to individuals who have demonstrated outstanding academic achievement and who show promise of continued academic achievement.

(b) Period of award

Scholarships under this section shall be awarded for a period of not less than 1 or more than 4 years during the first 4 years of study at any institution of higher education eligible to participate in any programs assisted under this subchapter and part C of subchapter I of chapter 34 of title 42. The State educational agency administering the program in a State shall have discretion to determine the period of the award (within the limits specified in the preceding sentence), except that—

(1) if the amount appropriated for this subpart for any fiscal year exceeds the amount appropriated for this subpart for fiscal year 1993, the Secretary shall identify to each State educational agency the number of scholarships available to that State under section 1070d–34(b) of this title that are attributable to such excess;

(2) the State educational agency shall award not less than that number of scholarships for a period of 4 years.

(c) Use at any institution permitted

A student awarded a scholarship under this subpart may attend any institution of higher education.

(d) Byrd Scholars

Individuals awarded scholarships under this subpart shall be known as ''Byrd Scholars''.

(Pub. L. 89–329, title IV, § 419C, as added Pub. L. 99–498, title IV, § 401(a), Oct. 17, 1986, 100 Stat. 1344; amended Pub. L. 102–325, title IV, § 406(b), July 23, 1992, 106 Stat. 508; Pub. L. 103–208, § 2(b)(28), Dec. 20, 1993, 107 Stat. 2459.)

PRIOR PROVISIONS

A prior section 1070d–33, Pub. L. 89–329, title IV, § 419C, as added Pub. L. 98–558, title VIII, § 801(a), Oct. 30, 1984, 98 Stat. 2900; amended Pub. L. 99–145, title XVI, § 1627(b), Nov. 8, 1985, 99 Stat. 779, authorized the award of scholarships under Robert C. Byrd Honors Scholarship Program, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1993—Subsec. (b). Pub. L. 103–208 substituted ''for a period of not less than 1 or more than 4 years during the first 4 years of study'' for ''for a period of not more than 4 years for the first 4 years of study'' and inserted at end ''The State educational agency administering the program in a State shall have discretion to determine the period of the award (within the limits specified in the preceding sentence), except that—

''(1) if the amount appropriated for this subpart for any fiscal year exceeds the amount appropriated for this subpart for fiscal year 1993, the Secretary shall identify to each State educational agency the number of scholarships available to that State under section 1070d–34(b) of this title that are attributable to such excess;

''(2) the State educational agency shall award not less than that number of scholarships for a period of 4 years.''

1992—Subsec. (b). Pub. L. 102–325 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: ''Scholarships under this section shall be awarded for a period of one academic year for the first year of study at an institution of higher education.''

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective on and after Dec. 20, 1993, see section 5(b)(2) of Pub. L. 103–208, set out as a note under section 1003 of this title.

§ 1070d–34. Allocation among States

(a) Allocation formula

From the sums appropriated pursuant to the authority of section 1070d–41 of this title for any fiscal year, the Secretary shall allocate to each State that has an agreement under section 1070d–35 of this title an amount equal to $1,500 multiplied by the number of scholarships determined by the Secretary to be available to such State in accordance with subsection (b) of this section.

(b) Number of scholarships available

The number of scholarships to be made available in a State for any fiscal year shall bear the same ratio to the number of scholarships made available to all States as the State's population ages 5 through 17 bears to the population ages 5 through 17 in all the States, except that not less than 10 scholarships shall be made available to any State.

(c) Use of census data

For the purpose of this section, the population ages 5 through 17 in a State and in all the States shall be determined by the most recently available data, satisfactory to the Secretary, from the Bureau of the Census.

(d) Consolidation by Insular Areas prohibited

Notwithstanding section 1469a of title 48,[1] funds allocated under this part to an Insular Area described in that section shall be deemed to be direct payments to classes of individuals, and the Insular Area may not consolidate such funds with other funds received by the Insular Area from any department or agency of the United States Government.

(Pub. L. 89–329, title IV, § 419D, as added Pub. L. 99–498, title IV, § 401(a), Oct. 17, 1986, 100 Stat. 1344; amended Pub. L. 102–325, title IV, § 406(c), July 23, 1992, 106 Stat. 509; Pub. L. 103–208, § 2(b)(29), Dec. 20, 1993, 107 Stat. 2459.)

REFERENCES IN TEXT

Section 1469a of title 48, referred to in text, was in the original ''section 501 of Public Law 95–1134 (48 U.S.C. 1469a)'' and was translated as reading ''section 501 of Public Law 95–134'' to reflect the probable intent of Congress.

PRIOR PROVISIONS

A prior section 1070d–34, Pub. L. 89–329, title IV, § 419D, as added Pub. L. 98–558, title VIII, § 801(a), Oct. 30, 1984, 98 Stat. 2901, related to allocation among States of amounts for Robert C. Byrd Honors Scholarship Program, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1993—Subsec. (d). Pub. L. 103–208 added subsec. (d).

1992—Pub. L. 102–325 amended section generally. Prior to amendment, section read as follows: ''From the sums appropriated pursuant to section 1070d–41 of this title for any fiscal year, the Secretary shall allocate to each State having an agreement under section 1070d–35 of this title—

''(1) $1,500 multiplied by the number of individuals in the State eligible for scholarships pursuant to section 1070d–37(b) of this title, plus

''(2) $10,000, plus 5 percent of the amount to which a State is eligible under paragraph (1) of this section.''

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective on and after Oct. 1, 1993, see section 5(b)(1) of Pub. L. 103–208, set out as a note under section 1003 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1070d–33 of this title.

§ 1070d–35. Agreements

The Secretary shall enter into an agreement with each State desiring to participate in the scholarship program authorized by this subpart. Each such agreement shall include provisions designed to assure that—

(1) the State educational agency will administer the scholarship program authorized by this subpart in the State;

(2) the State educational agency will comply with the eligibility and selection provisions of this subpart;

(3) the State educational agency will conduct outreach activities to publicize the availability of scholarships under this subpart to all eligible students in the State, with particular emphasis on activities designed to assure that students from low-income and moderate-income families have access to the information on the opportunity for full participation in the scholarship program authorized by this subpart; and

(4) the State educational agency will pay to each individual in the State who is awarded a scholarship under this subpart $1,500.

(Pub. L. 89–329, title IV, § 419E, as added Pub. L. 99–498, title IV, § 401(a), Oct. 17, 1986, 100 Stat. 1344; amended Pub. L. 102–325, title IV, § 406(g)(2), (3), July 23, 1992, 106 Stat. 509.)

PRIOR PROVISIONS

A prior section 1070d–35, Pub. L. 89–329, title IV, § 419E, as added Pub. L. 98–558, title VIII, § 801(a), Oct. 30, 1984, 98 Stat. 2901; amended Pub. L. 99–145, title XVI, § 1627(c), Nov. 8, 1985, 99 Stat. 779, related to agreements with States for participation in the Robert C. Byrd Honors Scholarship Program, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1992—Par. (3). Pub. L. 102–325, § 406(g)(2)(A), inserted ''and'' after semicolon.

Par. (4). Pub. L. 102–325, § 406(g)(2)(B), substituted ''$1,500.'' for ''$1,500 at an awards ceremony in accordance with section 1070d–39 of this title; and''.

Par. (5). Pub. L. 102–325, § 406(g)(3), which directed that par. (5) be struck out without specifying the section to which the amendment applied, was executed by striking out par. (5) of this section to reflect the probable intent of Congress. Prior to amendment, par. (5) read as follows: ''the State educational agency will use the amount of the allocation described in paragraph (2) of section 1070d–34 of this title for administrative expenses, including the conduct of the awards ceremony required by section 1070d–39 of this title.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1070d–34 of this title.

[1] See References in Text note below.

§ 1070d–36. Eligibility of scholars

(a) High school graduation or equivalent and admission to institution required

Each student awarded a scholarship under this subpart shall be a graduate of a public or private secondary school or have the equivalent of a certificate of graduation as recognized by the State in which the student resides and must have been admitted for enrollment at an institution of higher education.

(b) Selection based on promise of academic achievement

Each student awarded a scholarship under this subpart must demonstrate outstanding academic achievement and show promise of continued academic achievement.

(Pub. L. 89–329, title IV, § 419F, as added Pub. L. 99–498, title IV, § 401(a), Oct. 17, 1986, 100 Stat. 1344.)

PRIOR PROVISIONS

A prior section 1070d–36, Pub. L. 89–329, title IV, § 419F, as added Pub. L. 98–558, title VIII, § 801(a), Oct. 30, 1984, 98 Stat. 2901, related to eligibility of students for scholarships under Robert C. Byrd Honors Scholarship Program, prior to the general revision of this part by Pub. L. 99–498.

§ 1070d–37. Selection of scholars

(a) Establishment of criteria

The State educational agency is authorized to establish the criteria for the selection of scholars under this subpart.

(b) Adoption of procedures

The State educational agency shall adopt selection procedures designed to ensure an equitable geographic distribution of awards within the State (and in the case of the Federated States of Micronesia, the Republic of the Marshall Islands, the Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, or Palau (until such time as the Compact of Free Association is ratified), not to exceed 10 individuals will be selected from such entities).

(c) Consultation requirement

In carrying out its responsibilities under subsections (a) and (b) of this section, the State educational agency shall consult with school administrators, school boards, teachers, counselors, and parents.

(d) Timing of selection

The selection process shall be completed, and the awards made, prior to the end of each secondary school academic year.

(Pub. L. 89–329, title IV, § 419G, as added Pub. L. 99–498, title IV, § 401(a), Oct. 17, 1986, 100 Stat. 1345; amended Pub. L. 102–325, title IV, § 406(d), July 23, 1992, 106 Stat. 509; Pub. L. 103–208, § 2(b)(30), Dec. 20, 1993, 107 Stat. 2460.)

REFERENCES IN TEXT

For ratification of Compact of Free Association with the Republic of Palau, referred to in subsec. (b), see Proc. No. 6726, Sept. 27, 1994, 59 F.R. 49777, set out as a note under section 1931 of Title 48, Territories and Insular Possessions.

PRIOR PROVISIONS

A prior section 1070d–37, Pub. L. 89–329, title IV, § 419G, as added Pub. L. 98–558, title VIII, § 801(a), Oct. 30, 1984, 98 Stat. 2901, related to selection of merit scholars under Robert C. Byrd Honors Scholarship Program, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1993—Subsec. (b). Pub. L. 103–208 substituted ''the Federated States of Micronesia, the Republic of the Marshall Islands,'' for ''the District of Columbia, the Commonwealth of Puerto Rico,''.

1992—Subsec. (b). Pub. L. 102–325, § 406(d)(1), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: ''The State educational agency shall adopt selection procedures which are designed to assure that 10 individuals will be selected from among residents of each congressional district in a State (and in the case of the District of Columbia and the Commonwealth of Puerto Rico not to exceed 10 individuals will be selected in such District or Commonwealth).''

Subsec. (d). Pub. L. 102–325, § 406(d)(2), added subsec. (d).

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1003 of this title.

§ 1070d–38. Stipends and scholarship conditions

(a) Amount of award

Each student awarded a scholarship under this subpart shall receive a stipend of $1,500 for the academic year of study for which the scholarship is awarded, except that in no case shall the total amount of financial aid awarded to such student exceed such student's total cost-of-attendance.

(b) Use of award

The State educational agency shall establish procedures to assure that a scholar awarded a scholarship under this subpart pursues a course of study at an institution of higher education.

(Pub. L. 89–329, title IV, § 419H, as added Pub. L. 99–498, title IV, § 401(a), Oct. 17, 1986, 100 Stat. 1345; amended Pub. L. 102–325, title IV, § 406(e), July 23, 1992, 106 Stat. 509.)

PRIOR PROVISIONS

A prior section 1070d–38, Pub. L. 89–329, title IV, § 419H, as added Pub. L. 98–558, title VIII, § 801(a), Oct. 30, 1984, 98 Stat. 2902, related to stipends and scholarship conditions for students receiving scholarships under Robert C. Byrd Honors Scholarship Program, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1992—Subsec. (a). Pub. L. 102–325 inserted before period at end '', except that in no case shall the total amount of financial aid awarded to such student exceed such student's total cost-of-attendance''.

§ 1070d–39. Repealed. Pub. L. 102–325, title IV, § 406(g)(1), July 23, 1992, 106 Stat. 509

Section, Pub. L. 89–329, title IV, § 419I, as added Pub. L. 99–498, title IV, § 401(a), Oct. 17, 1986, 100 Stat. 1345, related to awards ceremony.

A prior section 1070d–39, Pub. L. 89–329, title IV, § 419I, as added Pub. L. 98–558, title VIII, § 801(a), Oct. 30, 1984,

98 Stat. 2902, related to ceremony for awarding scholarships under Robert C. Byrd Honors Scholarship Program, prior to the general revision of this part by Pub. L. 99–498.

§ 1070d–40. Construction of needs provisions

Except as provided in section 1087kk of this title, nothing in this subpart, or any other Act, shall be construed to permit the receipt of a scholarship under this subpart to be counted for any needs test in connection with the awarding of any grant or the making of any loan under this chapter or any other provision of Federal law relating to educational assistance.

(Pub. L. 89–329, title IV, § 419J, as added Pub. L. 99–498, title IV, § 401(a), Oct. 17, 1986, 100 Stat. 1345; amended Pub. L. 102–325, title IV, § 406(f), July 23, 1992, 106 Stat. 509.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this Act'', meaning Pub. L. 89–329, as amended, known as the Higher Education Act of 1965. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

PRIOR PROVISIONS

A prior section 1070d–40, Pub. L. 89–329, title IV, § 419J, as added Pub. L. 98–558, title VIII, § 801(a), Oct. 30, 1984, 98 Stat. 2902, provided that receipt of scholarship under Robert C. Byrd Honors Scholarship Program not be counted for needs test for education grant or loan, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1992—Pub. L. 102–325 substituted ''Except as provided in section 1087kk of this title, nothing'' for ''Nothing''.

§ 1070d–41. Authorization of appropriations

There are authorized to be appropriated for this subpart $10,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(Pub. L. 89–329, title IV, § 419K, as added Pub. L. 99–498, title IV, § 401(a), Oct. 17, 1986, 100 Stat. 1346; amended Pub. L. 102–325, title IV, § 406(h), July 23, 1992, 106 Stat. 509.)

PRIOR PROVISIONS

A prior section 1070d–41, Pub. L. 89–329, title IV, § 419K, as added Pub. L. 98–558, title VIII, § 801(a), Oct. 30, 1984, 98 Stat. 2902, authorized appropriations for fiscal years 1986 to 1988 to carry out Robert C. Byrd Honors Scholarship Program, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1992—Pub. L. 102–325 amended section generally. Prior to amendment, section read as follows: ''There are authorized to be appropriated for this subpart $8,000,000 for fiscal year 1987, and such sums as may be necessary for the 4 succeeding fiscal years.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1070d–34 of this title.

SUBPART 7—ASSISTANCE TO INSTITUTIONS OF HIGHER EDUCATION

§§ 1070e, 1070e–1. Repealed. Pub. L. 102–325, title IV, §§ 407, 408, July 23, 1992, 106 Stat. 510

Section 1070e, Pub. L. 89–329, title IV, § 420, as added Pub. L. 99–498, title IV, § 401(a), Oct. 17, 1986, 100 Stat. 1346, related to payments to institutions of higher education.

A prior section 1070e, Pub. L. 89–329, title IV, § 420, formerly § 419, as added Pub. L. 92–318, title X, § 1001(a), June 23, 1972, 86 Stat. 375; amended Pub. L. 96–374, title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1503; renumbered Pub. L. 98–558, title VIII, § 801(b)(1), Oct. 30, 1984, 98 Stat. 2902, related to payments to institutions of higher education, prior to the general revision of this part by Pub. L. 99–498.

A prior section 420 of Pub. L. 89–329 was renumbered section 420A by section 801(b)(2) of Pub. L. 98–558 and was classified to former section 1070e–1 of this title.

Section 1070e–1, Pub. L. 89–329, title IV, § 420A, as added Pub. L. 99–498, title IV, § 401(a), Oct. 17, 1986, 100 Stat. 1348; amended Pub. L. 100–50, § 8, June 3, 1987, 101 Stat. 341; Pub. L. 102–54, § 13(g)(2), June 13, 1991, 105 Stat. 275; Pub. L. 102–83, § 5(c)(2), Aug. 6, 1991, 105 Stat. 406, related to veterans education outreach program.

A prior section 1070e–1, Pub. L. 89–329, title IV, § 420A, formerly § 420, as added Pub. L. 92–318, title X, § 1001(a), June 23, 1972, 86 Stat. 378; amended Pub. L. 93–380, title VIII, § 834(a), Aug. 21, 1974, 88 Stat. 604; Pub. L. 94–482, title I, § 126(a)–(c), Oct. 12, 1976, 90 Stat. 2098; Pub. L. 95–336, § 6(a), Aug. 4, 1978, 92 Stat. 453; Pub. L. 96–49, § 5(a)(7), Aug. 13, 1979, 93 Stat. 352; Pub. L. 96–374, title IV, § 407, Oct. 3, 1980, 94 Stat. 1412; Pub. L. 97–300, title I, § 183, Oct. 13, 1982, 96 Stat. 1357; renumbered § 420A, Pub. L. 98–558, title VIII, § 801(b)(2), Oct. 30, 1984, 98 Stat. 2902, related to veterans' cost-of-instruction payments to institutions of higher education, prior to the general revision of this part by Pub. L. 99–498.

SUBPART 8—SPECIAL CHILD CARE SERVICES FOR DISADVANTAGED COLLEGE STUDENTS

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in section 1070 of this title.

§ 1070f. Special child care services for disadvantaged college students

(a) Program authority

Funds appropriated pursuant to subsection (c) of this section shall be used by the Secretary to make grants to institutions of higher education to provide special child care services to disadvantaged students.

(b) Applications

Any institution wishing to receive a grant under this section shall submit an application to the Secretary. Such application shall include—

(1) a description of the program to be established;

(2) assurances by the applicant to the Secretary that—

(A) not less than two-thirds of the participants in the program are low-income individuals;

(B) the participants require the services to pursue successfully a program of education beyond high school;

(C) the participants are enrolled at the institution which is the recipient of the grant;

(D) all participants will receive sufficient assistance (under this subpart, other provisions of this subchapter and part C of subchapter I of chapter 34 of title 42, or otherwise) to meet that student's full financial need for child care services related to such enrollment; and

(E) the institution will meet such need of participants by providing child care through vouchers, contracted services, or direct provision of services; and

(3) such information (and meet such conditions) as may be required by the Secretary.

(c) Authorization of appropriations

There are authorized to be appropriated to carry out the purpose of this section, $20,000,000 for fiscal year 1993, and such sums as may be necessary for the 4 succeeding fiscal years.

(d) "Low-income individual" defined

For purposes of this subpart, the term ''low-income individual'' means an individual from a family whose taxable income for the preceding year did not exceed 150 percent of an amount equal to the poverty level determined by using the criteria of poverty established by the Bureau of the Census.

(Pub. L. 89–329, title IV, § 420B, as added Pub. L. 99–498, title IV, § 401(a), Oct. 17, 1986, 100 Stat. 1352; amended Pub. L. 100–50, § 9, June 3, 1987, 101 Stat. 341; Pub. L. 102–325, title IV, § 409, July 23, 1992, 106 Stat. 510.)

AMENDMENTS

1992—Subsec. (c). Pub. L. 102–325 substituted ''$20,000,000 for fiscal year 1993'' for ''$10,000,000 for fiscal year 1987''.

1987—Subsec. (b)(2)(B). Pub. L. 100–50, § 9(1), redesignated subpar. (C) as (B), substituted ''successfully a program'' for ''a successful program'', and struck out former subpar. (B) which read as follows: ''the remaining participants in the program are either low-income individuals;''.

Subsec. (b)(2)(C) to (F). Pub. L. 100–50, § 9(1)(C), redesignated subpars. (D) to (F) as (C) to (E), respectively. Former subpar. (C) redesignated (B).

Subsec. (d). Pub. L. 100–50, § 9(2), in heading substituted ''Definition'' for ''Definitions'' and in text struck out provision defining ''first generation college student'' as an individual both of whose parents did not complete a baccalaureate degree or, in the case of an individual who regularly resided with and received support from only one parent, an individual whose only such parent did not complete a baccalaureate degree.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

PART B—FEDERAL FAMILY EDUCATION LOAN PROGRAM

CODIFICATION

Part B of title IV of the Higher Education Act of 1965, comprising this part, was originally enacted by Pub. L. 89–329, title IV, Nov. 8, 1965, 79 Stat. 1236, and amended by Pub. L. 89–698, Oct. 29, 1966, 80 Stat. 1066; Pub. L. 89–752, Nov. 3, 1966, 80 Stat. 1240; Pub. L. 89–794, Nov. 8, 1966, 80 Stat. 1451; Pub. L. 90–460, Aug. 3, 1968, 82 Stat. 634; Pub. L. 90–575, Oct. 16, 1968, 82 Stat. 1014; Pub. L. 91–206, Mar. 10, 1970, 84 Stat. 49; Pub. L. 92–318, June 23, 1972, 86 Stat. 235; Pub. L. 93–269, Apr. 18, 1974, 88 Stat. 87; Pub. L. 93–604, Jan. 2, 1975, 88 Stat. 1959; Pub. L. 94–273, Apr. 21, 1976, 90 Stat. 375; Pub. L. 94–328, June 30, 1976, 90 Stat. 727; Pub. L. 94–482, Oct. 12, 1976, 90 Stat. 2081; S. Res. 4, Feb. 4, 1977; Pub. L. 95–43, June 15, 1977, 91 Stat. 213; Pub. L. 95–561, Nov. 1, 1978, 92 Stat. 2143; Pub. L. 95–566, Nov. 1, 1978, 92 Stat. 2402; Pub. L. 95–598, Nov. 6, 1978, 92 Stat. 2549; Pub. L. 95–630, Nov. 10, 1978, 92 Stat. 3641; S. Res. 30, Mar. 7, 1979; Pub. L. 96–49, Aug. 13, 1979, 93 Stat. 351; Pub. L. 96–88, Oct. 17, 1979, 93 Stat. 668; Pub. L. 96–374, Oct. 3, 1980, 94 Stat. 1367; Pub. L. 97–35, Aug. 13, 1981, 95 Stat. 357; Pub. L. 97–115, Dec. 29, 1981, 95 Stat. 1595; Pub. L. 97–301, Oct. 13, 1982, 96 Stat. 1400; Pub. L. 98–79, Aug. 15, 1983, 97 Stat. 476; Pub. L. 99–272, Apr. 7, 1986, 100 Stat. 82; Pub. L. 99–320, May 23, 1986, 100 Stat. 491. Such part is shown herein, however, as having been added by Pub. L. 99–498, title IV, § 402(a), Oct. 17, 1986, 100 Stat. 1353, without reference to such intervening amendments because of the extensive revision of part B by Pub. L. 99–498.

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 1087–0, 1087c, 1087d, 1087e, 1087f, 1087h, 1088, 1089, 1090, 1091, 1091a, 1092, 1092b, 1092c, 1094, 1095a, 1097, 1098, 1098a, 1099a–3, 1099c–1, 1104f, 1106d, 1106e, 1134e–4, 1145e, 1146a, 2394a of this title; title 2 section 906; title 5 section 5379; title 10 sections 2171, 16301, 16302; title 11 section 525; title 26 sections 144, 6103; title 38 section 3698; title 42 sections 292a, 4953.

§ 1071. Statement of purpose; nondiscrimination; and appropriations authorized

(a) Purpose; discrimination prohibited

(1) Purpose

The purpose of this part is to enable the Secretary—

(A) to encourage States and nonprofit private institutions and organizations to establish adequate loan insurance programs for students in eligible institutions (as defined in section 1085 of this title),

(B) to provide a Federal program of student loan insurance for students or lenders who do not have reasonable access to a State or private nonprofit program of student loan insurance covered by an agreement under section 1078(b) of this title,

(C) to pay a portion of the interest on loans to qualified students which are insured under this part, and

(D) to guarantee a portion of each loan insured under a program of a State or of a nonprofit private institution or organization which meets the requirements of section 1078(a)(1)(B) of this title.

(2) Discrimination by creditors prohibited

No agency, organization, institution, bank, credit union, corporation, or other lender who regularly extends, renews, or continues credit or provides insurance under this part shall exclude from receipt or deny the benefits of, or discriminate against any borrower or applicant in obtaining, such credit or insurance on the basis of race, national origin, religion, sex, marital status, age, or handicapped status.

(b) Authorization of appropriations

For the purpose of carrying out this part—

(1) there are authorized to be appropriated to the student loan insurance fund (established by section 1081 of this title) (A) the sum of $1,000,000, and (B) such further sums, if any, as may become necessary for the adequacy of the student loan insurance fund,

(2) there are authorized to be appropriated, for payments under section 1078 of this title with respect to interest on student loans and for payments under section 1087 of this title, such sums for the fiscal year ending June 30, 1966, and succeeding fiscal years, as may be required therefor,

(3) there is authorized to be appropriated the sum of $17,500,000 for making advances pursuant to section 1072 of this title for the reserve

funds of State and nonprofit private student loan insurance programs,

(4) there are authorized to be appropriated (A) the sum of $12,500,000 for making advances after June 30, 1968, pursuant to sections 1072(a) and (b) of this title, and (B) such sums as may be necessary for making advances pursuant to section 1072(c) of this title, for the reserve funds of State and nonprofit private student loan insurance programs, and

(5) there are authorized to be appropriated such sums as may be necessary for the purpose of paying an administrative cost allowance in accordance with section 1078(f) of this title to guaranty agencies.

Sums appropriated under paragraphs (1), (2), (4), and (5) of this subsection shall remain available until expended. No additional sums are authorized to be appropriated under paragraphs (3) or (4) of this subsection by reason of the reenactment of such paragraphs by the Higher Education Amendments of 1986.

(c) Designation

The program established under this part shall be referred to as the ''Robert T. Stafford Federal Student Loan Program''. Loans made pursuant to sections 1077 and 1078 of this title shall be known as ''Federal Stafford Loans''.

(d) Limitation on authorization to guarantee new loans under this part

Notwithstanding any other provision of this part, no new loan guarantees shall be issued after June 30, 1994, if the Secretary does not issue final regulations implementing the changes made to this part under the Higher Education Amendments of 1992 prior to that date. The authority to issue new loan guarantees shall resume upon the Secretary's issuance of such regulations. This subsection shall not provide the basis for avoiding any requirements for notice and public hearing on such regulations.

(Pub. L. 89–329, title IV, §421, as added Pub. L. 99–498, title IV, §402(a), Oct. 17, 1986, 100 Stat. 1353; amended Pub. L. 100–297, title II, §2601(a), Apr. 28, 1988, 102 Stat. 330; Pub. L. 100–369, §8, July 18, 1988, 102 Stat. 837; Pub. L. 102–325, title IV, §411(a)(2), (c), July 23, 1992, 106 Stat. 510, 511.)

REFERENCES IN TEXT

The Higher Education Amendments of 1986, referred to in subsec. (b), is Pub. L. 99–498, Oct. 17, 1986, 100 Stat. 1268. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

The Higher Education Amendments of 1992, referred to in subsec. (d), is Pub. L. 102–325, July 23, 1992, 106 Stat. 448. For complete classification of this Act to the Code, see Short Title of 1992 Amendment note under section 1001 of this title and Tables.

PRIOR PROVISIONS

A prior section 1071, Pub. L. 89–329, title IV, §421, Nov. 8, 1965, 79 Stat. 1236; Pub. L. 90–460, §§2(b)(3), 3(a), Aug. 3, 1968, 82 Stat. 635, 636; Pub. L. 90–575, title I, §§113(b)(1), 114(a), 119(b), Oct. 16, 1968, 82 Stat. 1021, 1027; Pub. L. 94–482, title I, §127(a), Oct. 12, 1976, 90 Stat. 2099; Pub. L. 95–43, §1(a)(8)–(10), June 15, 1977, 91 Stat. 213; Pub. L. 96–374, title XIII, §1391(a)(1), (2), Oct. 3, 1980, 94 Stat. 1503; Pub. L. 98–79, §6, Aug. 15, 1983, 97 Stat. 482, related to statement of purpose of, appropriations for, and implementation of programs to provide low-interest insured loans to students in institutions of higher education, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1992—Subsec. (c). Pub. L. 102–325, §411(a)(2), added subsec. (c) and struck out former subsec. (c) which read as follows: ''The program established under this part shall be referred to as the 'Robert T. Stafford Student Loan Program'. Loans made under this part shall be known as 'Stafford Loans'.''

Subsec. (d). Pub. L. 102–325, §411(c), added subsec. (d).

1988—Subsec. (c). Pub. L. 100–369 substituted ''shall be referred'' for ''may be referred'' and inserted provision identifying loans made under this part as ''Stafford Loans''.

Pub. L. 100–297 added subsec. (c).

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective July 23, 1992, with changes in the designation or names of loans or programs under this part effective with respect to applications or other documents (used in making such loans) that are printed after July 23, 1992, see section 432 of Pub. L. 102–325, set out as a note under section 1078 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

For effective date and applicability of amendment by Pub. L. 100–297, see section 6303 of Pub. L. 100–297, set out as an Effective Date note under section 1201 of this title.

EFFECTIVE DATE

Section 402(b)–(d) of Pub. L. 99–498, as amended by Pub. L. 100–50, §22(b), June 3, 1987, 101 Stat. 361, provided that:

''(b) EFFECTIVE DATES.—The changes made in part B of title IV of the Act [20 U.S.C. 1071 et seq.] by the amendment made by subsection (a) of this section shall take effect on the date of enactment of this Act [Oct. 17, 1986], except—

''(1) as otherwise provided in such part B;

''(2) the changes in sections 427(a)(2)(C) and 428(b)(1)(M) of the Act [20 U.S.C. 1077(a)(2)(C), 1078(b)(1)(M)] (other than clauses (viii), (ix), and (x) of each such section) shall apply only to loans to new borrowers that (A) are made to cover the cost of instruction for periods of enrollment beginning on or after July 1, 1987; or (B) are disbursed on or after July 1, 1987;

''(3) the changes made in sections 425(a), 428(b)(1)(A), and 428(b)(1)(B) of the Act [20 U.S.C. 1075(a), 1078(b)(1)(A), (B)] shall apply with respect only to loans disbursed on or after January 1, 1987, or made to cover the costs of instruction for periods of enrollment beginning on or after January 1, 1987;

''(4) the changes made in subsections (a), (b), and (d) of section 433 of the Act [20 U.S.C. 1083(a), (b), (d)] shall apply with respect only to loans disbursed on or after January 1, 1987, or made to cover the costs of instruction for periods of enrollment beginning on or after January 1, 1987;

''(5) the changes in section 428(b)(1)(H) [20 U.S.C. 1078(b)(1)(H)] shall apply with respect only to loans for which the borrower files an application on or after July 1, 1987;

''(6) the changes in sections 435(d)(5) and 438(d) of the Act [20 U.S.C. 1085(d)(5), 1087–1(d)] shall take effect 30 days after the date of enactment of this Act [Oct. 17, 1986]; and

''(7) the changes made in section 438(b) [20 U.S.C. 1087–1(b)] shall take effect with respect to loans disbursed on or after 30 days after the date of enactment of this Act [Oct. 17, 1986] or made to cover the costs of instruction for periods of enrollment beginning on or after 30 days after the date of enactment of this Act.

''(c) CHANGES EFFECTIVE WITHOUT REGARD TO REGULATIONS; REPUBLICATION OF REGULATIONS.—The changes

made in part B of title IV of the Act [20 U.S.C. 1071 et seq.] by the amendment made by subsection (a) of this section shall be effective in accordance with subsection (b) of this section without regard to whether such changes are reflected in the regulations prescribed by the Secretary of Education for the purpose of such part.

''(d) NEW BORROWERS.—For the purpose of this section, the term 'new borrower' means, with respect to any date, an individual who on that date has no outstanding balance of principal or interest owing on any loan made, insured, or guaranteed under part B of title IV of the Act [20 U.S.C. 1071 et seq.].''

STUDY OF ROLE OF GUARANTY AGENCIES

Section 1401 of Pub. L. 102–325 directed Secretary of Education to review role of guaranty agencies within Federal Family Education Loan Program by examining administrative and financial operations of such agencies and the relationships between guaranty agencies and State governments and report to Congress within 1 year of July 23, 1992, on the review.

GENERAL ACCOUNTING OFFICE REPORTS

Sections 1311 to 1314 of Pub. L. 99–498, as amended by Pub. L. 100–50, § 23(6), June 3, 1987, 101 Stat. 362, directed Comptroller General to conduct studies on practices of State guaranty agencies and multistate guarantors under the student loan program, on the feasibility and efficiency of permitting students to establish multiple year lines of credit with eligible lenders, on the impact of the multiple disbursement system on the ability of students and institutions of higher education to meet expenses, and on the cost, efficiency, and impact of the consolidation loan program established by Pub. L. 99–498, and directed Comptroller General to make and submit a report to Congress on each study not later than two years after Oct. 17, 1986.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1072 of this title.

§ 1072. Advances for reserve funds of State and nonprofit private loan insurance programs

(a) Purpose of and authority for advances to reserve funds

(1) Purpose; eligible recipients

From sums appropriated pursuant to paragraphs (3) and (4)(A) of section 1071(b) of this title, the Secretary is authorized to make advances to any State with which the Secretary has made an agreement pursuant to section 1078(b) of this title for the purpose of helping to establish or strengthen the reserve fund of the student loan insurance program covered by that agreement. If for any fiscal year a State does not have a student loan insurance program covered by an agreement made pursuant to section 1078(b) of this title, and the Secretary determines after consultation with the chief executive officer of that State that there is no reasonable likelihood that the State will have such a student loan insurance program for such year, the Secretary may make advances for such year for the same purpose to one or more nonprofit private institutions or organizations with which the Secretary has made an agreement pursuant to section 1078(b) of this title in order to enable students in the State to participate in a program of student loan insurance covered by such an agreement. The Secretary may make advances under this subsection both to a State program (with which he has such an agreement) and to one or more nonprofit private institutions or organizations (with which he has such an agreement) in that State if he determines that such advances are necessary in order that students in each eligible institution have access through such institution to a student loan insurance program which meets the requirements of section 1078(b)(1) of this title.

(2) Matching requirement

No advance shall be made after June 30, 1968, unless matched by an equal amount from non-Federal sources. Such equal amount may include the unencumbered non-Federal portion of a reserve fund. As used in the preceding sentence, the term ''unencumbered non-Federal portion'' means the amount (determined as of the time immediately preceding the making of the advance) of the reserve fund less the greater of—

(A) the sum of—

(i) advances made under this section prior to July 1, 1968;

(ii) an amount equal to twice the amount of advances made under this section after June 30, 1968, and before the advance for purposes of which the determination is made; and

(iii) the proceeds of earnings on advances made under this section; or

(B) any amount which is required to be maintained in such fund pursuant to State law or regulation, or by agreement with lenders, as a reserve against the insurance of outstanding loans.

Except as provided in section 1078(c)(10)(E)[1] or (F) of this title, such unencumbered non-Federal portion shall not be subject to recall, repayment, or recovery by the Secretary.

(3) Terms and conditions; repayment

Advances pursuant to this subsection shall be upon such terms and conditions (including conditions relating to the time or times of payment) consistent with the requirements of section 1078(b) of this title as the Secretary determines will best carry out the purpose of this section. Advances made by the Secretary under this subsection shall be repaid within such period as the Secretary may deem to be appropriate in each case in the light of the maturity and solvency of the reserve fund for which the advance was made.

(b) Limitations on total advances

(1) In general

The total of the advances from the sums appropriated pursuant to paragraph (4)(A) of section 1071(b) of this title to nonprofit private institutions and organizations for the benefit of students in any State and to such State may not exceed an amount which bears the same ratio to such sums as the population of such State aged 18 to 22, inclusive, bears to the population of all the States aged 18 to 22 inclusive, but such advances may otherwise be in such amounts as the Secretary determines will best achieve the purposes for which they are made. The amount available for advances

[1] See References in Text note below.

to any State shall not be less than $25,000 and any additional funds needed to meet this requirement shall be derived by proportionately reducing (but not below $25,000) the amount available for advances to each of the remaining States.

(2) Calculation of population

For the purpose of this subsection, the population aged 18 to 22, inclusive, of each State and of all the States shall be determined by the Secretary on the basis of the most recent satisfactory data available to him.

(c) Advances for insurance obligations

(1) Use for payment of insurance obligations

From sums appropriated pursuant to section 1071(b)(4)(B) of this title, the Secretary shall advance to each State which has an agreement with the Secretary under section 1078(c) of this title with respect to a student loan insurance program, an amount determined in accordance with paragraph (2) of this subsection to be used for the purpose of making payments under the State's insurance obligations under such program.

(2) Amount of advances

(A) Except as provided in subparagraph (B), the amount to be advanced to each such State shall be equal to 10 percent of the principal amount of loans made by lenders and insured by such agency on those loans on which the first payment of principal became due during the fiscal year immediately preceding the fiscal year in which the advance is made.

(B) The amount of any advance determined according to subparagraph (A) of this paragraph shall be reduced by—

(i) the amount of any advance or advances made to such State pursuant to this subsection at an earlier date; and

(ii) the amount of the unspent balance of the advances made to a State pursuant to subsection (a) of this section.

Notwithstanding subparagraph (A) and the preceding sentence of this subparagraph, but subject to subparagraph (D) of this paragraph, the amount of any advance to a State described in paragraph (5)(A) for the first year of its eligibility under such paragraph, and the amount of any advance to any State described in paragraph (5)(B) for each year of its eligibility under such paragraph, shall not be less than $50,000.

(C) For the purpose of subparagraph (B), the unspent balance of the advances made to a State pursuant to subsection (a) of this section shall be that portion of the balance of the State's reserve fund (remaining at the time of the State's first request for an advance pursuant to this subsection) which bears the same ratio to such balance as the Federal advances made and not returned by such State, pursuant to subsection (a) of this section, bears to the total of all past contributions to such reserve funds from all sources (other than interest on investment of any portion of the reserve fund) contributed since the date such State executed an agreement pursuant to section 1078(b) of this title.

(D) If the sums appropriated for any fiscal year for paying the amounts determined under subparagraphs (A) and (B) are not sufficient to pay such amounts in full, then such amounts shall be reduced—

(i) by ratably reducing that portion of the amount allocated to each State which exceeds $50,000; and

(ii) if further reduction is required, by equally reducing the $50,000 minimum allocation of each State.

If additional sums become available for paying such amounts for any fiscal year during which the preceding sentence has been applied, such reduced amounts shall be increased on the same basis as they were reduced.

(3) Use of earnings for insurance obligations

The earnings, if any, on any investments of advances received pursuant to this subsection must be used for making payments under the State's insurance obligations.

(4) Repayment of advances

Advances made by the Secretary under this subsection shall, subject to subsection (d) of this section, be repaid within such period as the Secretary may deem to be appropriate and shall be deposited in the fund established by section 1081 of this title.

(5) Limitation on number of advances

Except as provided in paragraph (7), advances pursuant to this subsection shall be made to a State—

(A) in the case of a State which is actively carrying on a program under an agreement pursuant to section 1078(b) of this title which was entered into before October 12, 1976, upon such date as such State may request, but not before October 1, 1977, and on the same day of each of the 2 succeeding calendar years after the date so requested; and

(B) in the case of a State which enters into an agreement pursuant to section 1078(b) of this title on or after October 12, 1976, or which is not actively carrying on a program under an agreement pursuant to such section on such date, upon such date as such State may request, but not before October 1, 1977, and on the same day of each of the 4 succeeding calendar years after the date so requested of the advance.

(6) Payment of advances where no State program

(A) If for any fiscal year a State does not have a student loan insurance program covered by an agreement made pursuant to section 1078(b) of this title, and the Secretary determines after consultation with the chief executive officer of that State that there is no reasonable likelihood that the State will have such a student loan insurance program for such year, the Secretary may make advances pursuant to this subsection for such year for the same purpose to one or more nonprofit private institutions or organizations with which he has made an agreement pursuant to subsection (c), as well as subsection (b), of section 1078 of this title and subparagraph (B) of this paragraph in order to enable students in that

State to participate in a program of student loan insurance covered by such agreements.

(B) The Secretary may enter into an agreement with a private nonprofit institution or organization for the purpose of this paragraph under which such institution or organization—

(i) agrees to establish within such State at least one office with sufficient staff to handle written and telephone inquiries from students, eligible lenders, and other persons in the State, to encourage maximum commercial lender participation within the State, and to conduct periodic visits to at least the major eligible lenders within the State;

(ii) agrees that its insurance will not be denied any student because of his or her choice of eligible institutions; and

(iii) certifies that it is neither an eligible institution, nor has any substantial affiliation with an eligible institution.

(7) Emergency advances

The Secretary is authorized to make advances, on terms and conditions satisfactory to the Secretary, to a guaranty agency—

(A) in accordance with section 1078(j) of this title, in order to ensure that the guaranty agency shall make loans as the lender-of-last-resort during the transition from the Federal Family Education Loan Program under this part to the Federal Direct Student Loan Program under part C of this subchapter; or

(B) if the Secretary is seeking to terminate the guaranty agency's agreement, or assuming the guaranty agency's functions, in accordance with section 1078(c)(10)(F)(v)[2] of this title, in order to assist the agency in meeting its immediate cash needs, ensure the uninterrupted payment of claims, or ensure that the guaranty agency shall make loans as described in subparagraph (A).

(d) Recovery of advances during fiscal years 1988 and 1989

(1) Amount and use of recovered funds

Notwithstanding any other provision of this section, advances made by the Secretary under this section shall be repaid in accordance with this subsection and shall be deposited in the fund established by section 1081 of this title. The Secretary shall, in accordance with the requirements of paragraph (2), recover (and so deposit) an amount equal to $75,000,000 during fiscal year 1988 and an amount equal to $35,000,000 for fiscal year 1989.

(2) Determination of guaranty agency obligations

In determining the amount of advances which shall be repaid by a guaranty agency under paragraph (1), the Secretary—

(A) shall consider the solvency and maturity of the reserve and insurance funds of the guaranty agency assisted by such advances, as determined by the Comptroller General taking into account the requirements of State law as in effect on October 17, 1986;

(B) shall not seek repayment of such advances from any State described in subsection (c)(5)(B) of this section during any year of its eligibility under such subsection; and

(C) shall not seek repayment of such advances from any State if such repayment encumbers the reserve fund requirement of State law as in effect on October 17, 1986.

(e) Correction for errors under reduction of excess cash reserves

(1) In general

The Secretary shall pay any guaranty agency the amount of reimbursement of claims under section 1078(c)(1) of this title, filed between September 1, 1988, and December 31, 1989, which were previously withheld or canceled in order to be applied to satisfy such agency's obligation to eliminate excess cash reserves held by such agency, based on the maximum cash reserve (as described in subsection (e) of this section as in effect on September 1, 1988) permitted at the end of 1986, if such maximum cash reserve was miscalculated because of erroneous financial information provided by such agency to the Secretary and if (A) such erroneous information is verified by an audited financial statement of the reserve fund, signed by a certified public accountant, and (B) such audited financial statement is provided to the Secretary prior to January 1, 1993.

(2) Amount

The amount of reimbursement for claims shall be equal to the amount of reimbursement for claims withheld or canceled in order to be applied to such agency's obligation to eliminate excess cash reserves which exceeds the amount of that which would have been withheld or canceled if the maximum excess cash reserves had been accurately calculated.

(f) Refund of cash reserve payments

The Secretary shall, within 30 days after July 23, 1992, pay the full amount of payments withheld or canceled under paragraph (3) of this subsection to any guaranty agency which—

(1) was required to eliminate excess cash reserves, based on the maximum cash reserve (as described in subsection (e) of this section as in effect on September 1, 1988) permitted at the end of 1986;

(2) appealed the Secretary's demand that such agency should eliminate such excess cash reserves and received a waiver of a portion of the amount of such excess cash reserves to be eliminated;

(3) had payments under section 1078(c)(1) of this title or section 1078(f) of this title previously withheld or canceled in order to be applied to satisfy such agency's obligation to eliminate excess cash reserves held by such agency, based on the maximum cash reserve (as described in subsection (e) of this section as in effect on September 1, 1988) permitted at the end of 1986; and

(4) according to a Department of Education review that was completed and forwarded to such guaranty agency prior to January 1, 1992, is expected to become insolvent during or before 1996 and the payments withheld or canceled under paragraph (3) of this subsection

[2] See References in Text note below.

are a factor in such agency's impending insolvency.

(g) Preservation and recovery of guaranty agency reserves

(1) Authority to recover funds

Notwithstanding any other provision of law, the reserve funds of the guaranty agencies, and any assets purchased with such reserve funds, regardless of who holds or controls the reserves or assets, shall be considered to be the property of the United States to be used in the operation of the program authorized by this part or the program authorized by part C of this subchapter. However, the Secretary may not require the return of all reserve funds of a guaranty agency to the Secretary unless the Secretary determines that such return is in the best interest of the operation of the program authorized by this part or the program authorized by part C of this subchapter, or to ensure the proper maintenance of such agency's funds or assets or the orderly termination of the guaranty agency's operations and the liquidation of its assets. The reserves shall be maintained by each guaranty agency to pay program expenses and contingent liabilities, as authorized by the Secretary, except that—

(A) the Secretary may direct a guaranty agency to return to the Secretary a portion of its reserve fund which the Secretary determines is unnecessary to pay the program expenses and contingent liabilities of the guaranty agency;

(B) the Secretary may direct the guaranty agency to require the return, to the guaranty agency or to the Secretary, of any reserve funds or assets held by, or under the control of, any other entity, which the Secretary determines are necessary to pay the program expenses and contingent liabilities of the guaranty agency, or which are required for the orderly termination of the guaranty agency's operations and the liquidation of its assets;

(C) the Secretary may direct a guaranty agency, or such agency's officers or directors, to cease any activities involving expenditure, use or transfer of the guaranty agency's reserve funds or assets which the Secretary determines is a misapplication, misuse, or improper expenditure of such funds or assets; and

(D) any such determination under subparagraph (A) or (B) shall be based on standards prescribed by regulations that are developed through negotiated rulemaking and that include procedures for administrative due process.

(2) Termination provisions in contracts

(A) To ensure that the funds and assets of the guaranty agency are preserved, any contract with respect to the administration of a guaranty agency's reserve funds, or the administration of any assets purchased or acquired with the reserve funds of the guaranty agency, that is entered into or extended by the guaranty agency, or any other party on behalf of or with the concurrence of the guaranty agency, after August 10, 1993, shall provide that the contract is terminable by the Secretary upon 30 days notice to the contracting parties if the Secretary determines that such contract includes an impermissible transfer of the reserve funds or assets, or is otherwise inconsistent with the terms or purposes of this section.

(B) The Secretary may direct a guaranty agency to suspend or cease activities under any contract entered into by or on behalf of such agency after January 1, 1993, if the Secretary determines that the misuse or improper expenditure of such guaranty agency's funds or assets or such contract provides unnecessary or improper benefits to such agency's officers or directors.

(3) Penalties

Violation of any direction issued by the Secretary under this subsection may be subject to the penalties described in section 1097 of this title.

(4) Availability of funds

Any funds that are returned or otherwise recovered by the Secretary pursuant to this subsection shall be available for expenditure for expenses pursuant to section 1087h of this title.

(h) Recall of reserves; limitations on use of reserve funds and assets

(1) In general

Notwithstanding any other provision of law, the Secretary shall, except as otherwise provided in this subsection, recall $1,000,000,000 from the reserve funds held by guaranty agencies on September 1, 2002.

(2) Deposit

Funds recalled by the Secretary under this subsection shall be deposited in the Treasury.

(3) Required share

The Secretary shall require each guaranty agency to return reserve funds under paragraph (1) based on the agency's required share of recalled reserve funds held by guaranty agencies as of September 30, 1996. For purposes of this paragraph, a guaranty agency's required share of recalled reserve funds shall be determined as follows:

(A) The Secretary shall compute each guaranty agency's reserve ratio by dividing (i) the amount held in the agency's reserve funds as of September 30, 1996 (but reflecting later accounting or auditing adjustments approved by the Secretary), by (ii) the original principal amount of all loans for which the agency has an outstanding insurance obligation as of such date, including amounts of outstanding loans transferred to the agency from another guaranty agency.

(B) If the reserve ratio of any guaranty agency as computed under subparagraph (A) exceeds 2.0 percent, the agency's required share shall include so much of the amounts held in the agency's reserve funds as exceed a reserve ratio of 2.0 percent.

(C) If any additional amount is required to be recalled under paragraph (1) (after deducting the total of the required shares calculated under subparagraph (B)), such addi-

tional amount shall be obtained by imposing on each guaranty agency an equal percentage reduction in the amount of the agency's reserve funds remaining after deduction of the amount recalled under subparagraph (B), except that such percentage reduction under this subparagraph shall not result in the agency's reserve ratio being reduced below 0.58 percent. The equal percentage reduction shall be the percentage obtained by dividing—

(i) the additional amount required to be recalled (after deducting the total of the required shares calculated under subparagraph (B)), by

(ii) the total amount of all such agencies' reserve funds remaining (after deduction of the required shares calculated under such subparagraph).

(D) If any additional amount is required to be recalled under paragraph (1) (after deducting the total of the required shares calculated under subparagraphs (B) and (C)), such additional amount shall be obtained by imposing on each guaranty agency with a reserve ratio (after deducting the required shares calculated under such subparagraphs) in excess of 0.58 percent an equal percentage reduction in the amount of the agency's reserve funds remaining (after such deduction) that exceed a reserve ratio of 0.58 percent. The equal percentage reduction shall be the percentage obtained by dividing—

(i) the additional amount to be recalled under paragraph (1) (after deducting the amount recalled under subparagraphs (B) and (C)), by

(ii) the total amount of all such agencies' reserve funds remaining (after deduction of the required shares calculated under such subparagraphs) that exceed a reserve ratio of 0.58 percent.

(4) Restricted accounts required

(A) In general

Within 90 days after the beginning of each of the fiscal years 1998 through 2002, each guaranty agency shall transfer a portion of the agency's required share determined under paragraph (3) to a restricted account established by the agency that is of a type selected by the agency with the approval of the Secretary. Funds transferred to such restricted accounts shall be invested in obligations issued or guaranteed by the United States or in other similarly low-risk securities.

(B) Requirement

A guaranty agency shall not use the funds in such a restricted account for any purpose without the express written permission of the Secretary, except that a guaranty agency may use the earnings from such restricted account for default reduction activities.

(C) Installments

In each of fiscal years 1998 through 2002, each guaranty agency shall transfer the agency's required share to such restricted account in 5 equal annual installments, except that—

(i) a guaranty agency that has a reserve ratio (as computed under subparagraph (3)(A)) equal to or less than 1.10 percent may transfer the agency's required share to such account in 4 equal installments beginning in fiscal year 1999; and

(ii) a guaranty agency may transfer such required share to such account in accordance with such other payment schedules as are approved by the Secretary.

(5) Shortage

If, on September 1, 2002, the total amount in the restricted accounts described in paragraph (4) is less than the amount the Secretary is required to recall under paragraph (1), the Secretary shall require the return of the amount of the shortage from other reserve funds held by guaranty agencies under procedures established by the Secretary. The Secretary shall first attempt to obtain the amount of such shortage from each guaranty agency that failed to transfer the agency's required share to the agency's restricted account in accordance with paragraph (4).

(6) Enforcement

(A) In general

The Secretary may take such reasonable measures, and require such information, as may be necessary to ensure that guaranty agencies comply with the requirements of this subsection.

(B) Prohibition

If the Secretary determines that a guaranty agency has failed to transfer to a restricted account any portion of the agency's required share under this subsection, the agency may not receive any other funds under this part until the Secretary determines that the agency has so transferred the agency's required share.

(C) Waiver

The Secretary may waive the requirements of subparagraph (B) for a guaranty agency described in such subparagraph if the Secretary determines that there are extenuating circumstances beyond the control of the agency that justify such waiver.

(7) Limitation

(A) Restriction on other authority

The Secretary shall not have any authority to direct a guaranty agency to return reserve funds under subsection (g)(1)(A) of this section during the period from August 5, 1997, through September 30, 2002.

(B) Use of termination collections

Any reserve funds directed by the Secretary to be returned to the Secretary under subsection (g)(1)(B) of this section during such period that do not exceed a guaranty agency's required share of recalled reserve funds under paragraph (3)—

(i) shall be used to satisfy the agency's required share of recalled reserve funds; and

(ii) shall be deposited in the restricted account established by the agency under paragraph (4), without regard to whether such funds exceed the next installment required under such paragraph.

(C) Use of sanctions collections

Any reserve funds directed by the Secretary to be returned to the Secretary under subsection (g)(1)(C) of this section during such period that do not exceed a guaranty agency's next installment under paragraph (4)—

(i) shall be used to satisfy the agency's next installment; and

(ii) shall be deposited in the restricted account established by the agency under paragraph (4).

(D) Balance available to Secretary

Any reserve funds directed by the Secretary to be returned to the Secretary under subparagraph (B) or (C) of subsection (g)(1) of this section that remain after satisfaction of the requirements of subparagraphs (B) and (C) of this paragraph shall be deposited in the Treasury.

(8) Definitions

For the purposes of this subsection:

(A) Default reduction activities

The term ''default reduction activities'' means activities to reduce student loan defaults that improve, strengthen, and expand default prevention activities, such as—

(i) establishing a program of partial loan cancellation to reward disadvantaged borrowers for good repayment histories with their lenders;

(ii) establishing a financial and debt management counseling program for high-risk borrowers that provides long-term training (beginning prior to the first disbursement of the borrower's first student loan and continuing through the completion of the borrower's program of education or training) in budgeting and other aspects of financial management, including debt management;

(iii) establishing a program of placement counseling to assist high-risk borrowers in identifying employment or additional training opportunities; and

(iv) developing public service announcements that would detail consequences of student loan default and provide information regarding a toll-free telephone number established by the guaranty agency for use by borrowers seeking assistance in avoiding default.

(B) Reserve funds

The term ''reserve funds'' when used with respect to a guaranty agency—

(i) includes any reserve funds in cash or liquid assets held by the guaranty agency, or held by, or under the control of, any other entity; and

(ii) does not include buildings, equipment, or other nonliquid assets.

(Pub. L. 89–329, title IV, § 422, as added Pub. L. 99–498, title IV, § 402(a), Oct. 17, 1986, 100 Stat. 1354; amended Pub. L. 100–203, title III, §§ 3001(a), 3002(a), Dec. 22, 1987, 101 Stat. 1330–36, 1330–38; Pub. L. 102–325, title IV, §§ 412, 416(p)(8), July 23, 1992, 106 Stat. 511, 527; Pub. L. 103–66, title IV, §§ 4041(a), (2)(A), 4042, Aug. 10, 1993, 107 Stat. 354, 357; Pub. L. 103–208, § 2(c)(1), Dec. 20, 1993, 107 Stat. 2460; Pub. L. 105–33, title VI, § 6101(a), Aug. 5, 1997, 111 Stat. 648.)

REFERENCES IN TEXT

Section 1078(c)(10) of this title, referred to in subsecs. (a)(2) and (c)(7)(B), was redesignated section 1078(c)(9) of this title by Pub. L. 103–66, title IV, § 4107(a)(2), Aug. 10, 1993, 107 Stat. 368.

CODIFICATION

Amendment by Pub. L. 103–208 (which was effective as if included in Pub. L. 102–325) was executed to this section as amended by Pub. L. 102–325 and Pub. L. 103–66, to reflect the probable intent of Congress.

PRIOR PROVISIONS

A prior section 1072, Pub. L. 89–329, title IV, § 422, Nov. 8, 1965, 79 Stat. 1236; Pub. L. 89–752, § 11, Nov. 3, 1966, 80 Stat. 1243; Pub. L. 90–575, title I, § 114(b), (c), Oct. 16, 1968, 82 Stat. 1021, 1022; Pub. L. 94–482, title I, § 127(a), Oct. 12, 1976, 90 Stat. 2100; Pub. L. 95–43, § 1(a)(11)–(13), June 15, 1977, 91 Stat. 213, 214; Pub. L. 95–561, title XIII, § 1322(a), Nov. 1, 1978, 92 Stat. 2363; Pub. L. 96–374, title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1503; Pub. L. 99–272, title XVI, § 16011, Apr. 7, 1986, 100 Stat. 339, authorized advances to establish or strengthen reserve funds of State and nonprofit private loan insurance programs, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1997—Subsec. (h). Pub. L. 105–33 added subsec. (h).

1993—Subsec. (c)(7). Pub. L. 103–66, § 4041(a)(2)(A), substituted ''to a guaranty agency—'' and subpars. (A) and (B) for ''to a guaranty agency in accordance with section 1078(c)(10)(F)(v) of this title in order to assist the agency in meeting its immediate cash needs and ensure the uninterrupted payment of default claims by lenders.''

Subsec. (c)(7)(B). Pub. L. 103–208 substituted a period for semicolon at end. See Codification note above.

Subsec. (g). Pub. L. 103–66, § 4042, added subsec. (g).

1992—Subsec. (a)(2). Pub. L. 102–325, § 412(1), inserted at end ''Except as provided in section 1078(c)(10)(E) or (F) of this title, such unencumbered non-Federal portion shall not be subject to recall, repayment, or recovery by the Secretary.''

Subsec. (c)(5), (7). Pub. L. 102–325, § 416(p)(8), substituted ''Except as provided in paragraph (7), advances'' for ''Advances'' in par. (5) and added par. (7).

Subsecs. (e), (f). Pub. L. 102–325, § 412(2), added subsecs. (e) and (f).

1987—Subsec. (e). Pub. L. 100–203, § 3002(a), struck out subsec. (e) which related to reduction of excess cash reserves.

Pub. L. 100–203, § 3001(a), added subsec. (e).

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1003 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Section 3002(a) of Pub. L. 100–203 provided that the amendment made by that section 3002(a) is effective Sept. 30, 1989.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1071, 1073, 1078, 1081 of this title.

§ 1073. Effects of adequate non-Federal programs

(a) Federal insurance barred to lenders with access to State or private insurance

Except as provided in subsection (b) of this section, the Secretary shall not issue certificates of insurance under section 1079 of this title to lenders in a State if the Secretary determines that every eligible institution has reasonable access in that State to a State or private nonprofit student loan insurance program which is covered by an agreement under section 1078(b) of this title.

(b) Exceptions

The Secretary may issue certificates of insurance under section 1079 of this title to a lender in a State—

(1) for insurance of a loan made to a student borrower who does not, by reason of the borrower's residence, have access to loan insurance under the loan insurance program of such State (or under any private nonprofit loan insurance program which has received an advance under section 1072 of this title for the benefit of students in such State);

(2) for insurance of all the loans made to student borrowers by a lender who satisfies the Secretary that, by reason of the residence of such borrowers, such lender will not have access to any single State or nonprofit private loan insurance program which will insure substantially all of the loans such lender intends to make to such student borrowers; or

(3) under such circumstances as may be approved by the guaranty agency in such State, for the insurance of a loan to a borrower for whom such lender previously was issued such a certificate if the loan covered by such certificate is not yet repaid.

(Pub. L. 89–329, title IV, § 423, as added Pub. L. 99–498, title IV, § 402(a), Oct. 17, 1986, 100 Stat. 1358.)

PRIOR PROVISIONS

A prior section 1073, Pub. L. 89–329, title IV, § 423, Nov. 8, 1965, 79 Stat. 1237; Pub. L. 90–575, title I, § 119(a), Oct. 16, 1968, 82 Stat. 1026; Pub. L. 94–482, title I, § 127(a), Oct. 12, 1976, 90 Stat. 2103; Pub. L. 95–43, § 1(a)(14), June 15, 1977, 91 Stat. 214; Pub. L. 96–374, title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1503, limited participation in Federal loan insurance programs, prior to the general revision of this part by Pub. L. 99–498.

§ 1074. Scope and duration of Federal loan insurance program

(a) Limitations on amounts of loans covered by Federal insurance

The total principal amount of new loans made and installments paid pursuant to lines of credit (as defined in section 1085 of this title) to students covered by Federal loan insurance under this part shall not exceed $2,000,000,000 for the period from July 1, 1976, to September 30, 1976, and for each of the succeeding fiscal years ending prior to October 1, 2002. Thereafter, Federal loan insurance pursuant to this part may be granted only for loans made (or for loan installments paid pursuant to lines of credit) to enable students, who have obtained prior loans insured under this part, to continue or complete their educational program; but no insurance may be granted for any loan made or installment paid after September 30, 2006.

(b) Apportionment of amounts

The Secretary may, if he or she finds it necessary to do so in order to assure an equitable distribution of the benefits of this part, assign, within the maximum amounts specified in subsection (a) of this section, Federal loan insurance quotas applicable to eligible lenders, or to States or areas, and may from time to time reassign unused portions of these quotas.

(Pub. L. 89–329, title IV, § 424, as added Pub. L. 99–498, title IV, § 402(a), Oct. 17, 1986, 100 Stat. 1358; amended Pub. L. 102–325, title IV, § 411(b)(1), July 23, 1992, 106 Stat. 510; Pub. L. 105–33, title VI, § 6104(1), Aug. 5, 1997, 111 Stat. 652.)

PRIOR PROVISIONS

A prior section 1074, Pub. L. 89–329, title IV, § 424, Nov. 8, 1965, 79 Stat. 1237; Pub. L. 90–460, § 1(a)(1), Aug. 3, 1968, 82 Stat. 634; Pub. L. 90–575, title I, § 112(a), Oct. 16, 1968, 82 Stat. 1020; Pub. L. 92–318, title I, § 132(a), June 23, 1972, 86 Stat. 261; Pub. L. 94–328, § 2(a), June 30, 1976, 90 Stat. 727; Pub. L. 94–482, title I, § 127(a), Oct. 12, 1976, 90 Stat. 2103; Pub. L. 96–374, title IV, § 411(a), title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1415, 1503; Pub. L. 99–272, title XVI, § 16018(a)(1), Apr. 7, 1986, 100 Stat. 348, related to new loans under Federal loan insurance program, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1997—Subsec. (a). Pub. L. 105–33 substituted ''October 1, 2002'' for ''October 1, 1998'' and ''September 30, 2006'' for ''September 30, 2002''.

1992—Subsec. (a). Pub. L. 102–325 substituted ''October 1, 1998'' for ''October 1, 1992'' and ''September 30, 2002'' for ''September 30, 1997''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1078–3, 1079 of this title.

§ 1075. Limitations on individual federally insured loans and on Federal loan insurance

(a) Annual and aggregate limits

(1) Annual limits

(A) The total of loans made to a student in any academic year or its equivalent (as determined by the Secretary) which may be covered by Federal loan insurance under this part may not exceed—

(i) in the case of a student at an eligible institution who has not successfully completed the first year of a program of undergraduate education—

(I) $2,625, if such student is enrolled in a program whose length is at least one academic year in length (as determined under section 1088 of this title);

(II) $1,750, if such student is enrolled in a program whose length is less than one academic year, but at least ⅔ of such an academic year; and

(III) $875, if such student is enrolled in a program whose length is less than ⅔, but at least ⅓, of such an academic year;

(ii) in the case of a student at an eligible institution who has successfully completed such first year but has not successfully com-

pleted the remainder of a program of undergraduate education—

(I) $3,500; or

(II) if such student is enrolled in a program of undergraduate education, the remainder of which is less than one academic year, the maximum annual loan amount that such student may receive may not exceed the amount that bears the same ratio to the amount specified in subclause (I) as such remainder measured in semester, trimester, quarter, or clock hours bears to one academic year;

(iii) in the case of a student at an eligible institution who has successfully completed the first and second years of a program of undergraduate education but has not successfully completed the remainder of such program—

(I) $5,500; or

(II) if such student is enrolled in a program of undergraduate education, the remainder of which is less than one academic year, the maximum annual loan amount that such student may receive may not exceed the amount that bears the same ratio to the amount specified in subclause (I) as such remainder measured in semester, trimester, quarter, or clock hours bears to one academic year;

(iv) in the case of a graduate or professional student (as defined in regulations of the Secretary) at an eligible institution, $8,500.

(B) The annual insurable limits contained in subparagraph (A) shall not apply in cases where the Secretary determines, pursuant to regulations, that a higher amount is warranted in order to carry out the purpose of this part with respect to students engaged in specialized training requiring exceptionally high costs of education. The annual insurable limit per student shall not be deemed to be exceeded by a line of credit under which actual payments by the lender to the borrower will not be made in any year in excess of the annual limit.

(C) For the purpose of subparagraph (A), the number of years that a student has completed in a program of undergraduate education shall include any prior enrollment in an eligible program of undergraduate education for which the student was awarded an associate or baccalaureate degree, if such degree is required by the institution for admission to the program in which the student is enrolled.

(2) Aggregate limits

(A) The aggregate insured unpaid principal amount for all such insured loans made to any student shall not at any time exceed—

(i) $23,000, in the case of any student who has not successfully completed a program of undergraduate education, excluding loans made under section 1078–1[1] or 1078–2 of this title; and

(ii) $65,500, in the case of any graduate or professional student (as defined by regulations of the Secretary) and (I) including any loans which are insured by the Secretary under this section, or by a guaranty agency, made to such student before the student became a graduate or professional student),[2] but (II) excluding loans made under section 1078–1[1] or 1078–2 of this title,

except that the Secretary may increase the limit applicable to students who are pursuing programs which the Secretary determines are exceptionally expensive.

(B) The Secretary may increase the aggregate insurable limit applicable to students who are pursuing programs which the Secretary determines are exceptionally expensive.

(b) Level of insurance coverage based on default rate

(1) Reduction for defaults in excess of 5 or 9 percent

(A) Except as provided in subparagraph (B), the insurance liability on any loan insured by the Secretary under this part shall be 100 percent of the unpaid balance of the principal amount of the loan plus interest, except that—

(i) if, for any fiscal year, the total amount of payments under section 1080 of this title by the Secretary to any eligible lender as described in section 1085(d)(1)(D) of this title exceeds 5 percent of the sum of the loans made by such lender which are insured by the Secretary and which were in repayment at the end of the preceding fiscal year, the insurance liability under this subsection for that portion of such excess which represents loans insured after the applicable date with respect to such loans, as determined under subparagraph (C), shall be equal to 90 percent of the amount of such portion; or

(ii) if, for any fiscal year, the total amount of such payments to such a lender exceeds 9 percent of such sum, the insurance liability under this subsection for that portion of such excess which represents loans insured after the applicable date with respect to such loans, as determined under subparagraph (C), shall be equal to 80 percent of the amount of such portion.

(B) Notwithstanding subparagraph (A), the provisions of clauses (i) and (ii) of such subparagraph shall not apply to an eligible lender as described in section 1085(d)(1)(D) of this title for the fiscal year in which such lender begins to carry on a loan program insured by the Secretary, or for any of the 4 succeeding fiscal years.

(C) The applicable date with respect to a loan made by an eligible lender as described in section 1085(d)(1)(D) of this title shall be—

(i) the 90th day after the adjournment of the next regular session of the appropriate State legislature which convenes after October 12, 1976, or

(ii) if the primary source of lending capital for such lender is derived from the sale of bonds, and the constitution of the appropriate State prohibits a pledge of such State's credit as security against such

[1] See References in Text note below.

[2] So in original. There is no opening parenthesis.

bonds, the day which is one year after such 90th day.

(2) Computation of amounts in repayment

For the purpose of this subsection, the sum of the loans made by a lender which are insured by the Secretary and which are in repayment shall be the original principal amount of loans made by such lender which are insured by the Secretary reduced by—

(A) the amount the Secretary has been required to pay to discharge his or her insurance obligations under this part;

(B) the original principal amount of loans insured by the Secretary which have been fully repaid;

(C) the original principal amount insured on those loans for which payment of first installment of principal has not become due pursuant to section 1077(a)(2)(B) of this title or such first installment need not be paid pursuant to section 1077(a)(2)(C) of this title; and

(D) the original principal amount of loans repaid by the Secretary under section 1087 of this title.

(3) Payments to assignees

For the purpose of this subsection, payments by the Secretary under section 1080 of this title to an assignee of the lender with respect to a loan shall be deemed payments made to such lender.

(4) Pledge of full faith and credit

The full faith and credit of the United States is pledged to the payment of all amounts which may be required to be paid under the provisions of section 1080 or 1087 of this title.

(Pub. L. 89–329, title IV, § 425, as added Pub. L. 99–498, title IV, § 402(a), Oct. 17, 1986, 100 Stat. 1359; amended Pub. L. 100–50, § 10(a), June 3, 1987, 101 Stat. 341; Pub. L. 102–325, title IV, § 413, July 23, 1992, 106 Stat. 512; Pub. L. 103–208, § 2(c)(2), (3), Dec. 20, 1993, 107 Stat. 2460, 2461.)

REFERENCES IN TEXT

Section 1078–1 of this title, referred to in subsec. (a)(2)(A), was repealed by Pub. L. 103–66, title IV, § 4047(b)–(d), Aug. 10, 1993, 107 Stat. 364, eff. July 1, 1994, except with respect to loans provided under that section as it existed prior to Aug. 10, 1993.

PRIOR PROVISIONS

A prior section 1075, Pub. L. 89–329, title IV, § 425, Nov. 8, 1965, 79 Stat. 1238; Pub. L. 90–575, title I, §§ 116(b)(1), 120(a)(2), Oct. 16, 1968, 82 Stat. 1023, 1027; Pub. L. 92–318, title I, §§ 132A(a), 132B(a), June 23, 1972, 86 Stat. 261, 262; Pub. L. 94–482, title I, § 127(a), Oct. 12, 1976, 90 Stat. 2104; Pub. L. 95–43, § 1(a)(15)–(17), June 15, 1977, 91 Stat. 214; Pub. L. 95–566, § 5(b)(2), Nov. 1, 1978, 92 Stat. 2403; Pub. L. 96–374, title IV, § 412(a), (b), (f), title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1416, 1417, 1503; Pub. L. 97–35, title V, § 535(a), (b), Aug. 13, 1981, 95 Stat. 455; Pub. L. 99–272, title XVI, § 16013(e)(1), Apr. 7, 1986, 100 Stat. 341, limited Federal loan insurance, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1993—Subsec. (a)(1)(A)(ii), (iii). Pub. L. 103–208, § 2(c)(2)(A), added cls. (ii) and (iii) and struck out former cls. (ii) and (iii) which read as follows:

''(ii) the case of a student who has successfully completed such first year but has not successfully completed the remainder of a program of undergraduate study—

''(I) $3,500, if such student is enrolled in a program whose length is at least one academic year in length (as determined under section 1088 of this title);

''(II) $2,325, if such student is enrolled in a program whose length is less than one academic year, but at least ⅔ of such an academic year; and

''(III) $1,175, if such student is enrolled in a program whose length is less than ⅔, but at least ⅓, of such an academic year;

''(iii) in the case of a student at an eligible institution who has successfully completed such first and second year but has not successfully completed the remainder of a program of undergraduate study—

''(I) $5,500, if such student is enrolled in a program whose length is at least one academic year in length (as determined under section 1088 of this title);

''(II) $3,675, if such student is enrolled in a program whose length is less than one academic year, but at least ⅔ of such an academic year; and

''(III) $1,825, if such student is enrolled in a program whose length is less than ⅔, but at least ⅓, of such an academic year; and''.

Subsec. (a)(1)(A)(iv). Pub. L. 103–208, § 2(c)(2)(B), substituted a period for semicolon at end.

Subsec. (a)(1)(C). Pub. L. 103–208, § 2(c)(3), added subpar. (C).

1992—Subsec. (a)(1)(A). Pub. L. 102–325, § 413(1), added cls. (i) to (iv) and struck out former cls. (i) to (iii) which read as follows:

''(i) $2,625, in the case of a student who has not successfully completed the first and second year of a program of undergraduate education;

''(ii) $4,000, in the case of a student who has successfully completed such first and second year but who has not successfully completed the remainder of a program of undergraduate education; or

''(iii) $7,500, in the case of a graduate or professional student (as defined in regulations of the Secretary).''

Subsec. (a)(2)(A). Pub. L. 102–325, § 413(2), added cls. (i) and (ii) and concluding provision and struck out former cls. (i) and (ii) which read as follows:

''(i) $17,250, in the case of any student who has not successfully completed a program of undergraduate education, excluding loans made under section 1078–1 or 1078–2 of this title; and

''(ii) $54,750, in the case of any graduate or professional student (as defined by regulations of the Secretary and including any loans which are insured by the Secretary under this part, or by a guaranty agency, made to such person before he or she became a graduate or professional student), excluding loans made under section 1078–1 or 1078–2 of this title.''

1987—Subsec. (a)(2)(A)(i). Pub. L. 100–50, § 10(a)(1), inserted '', excluding loans made under section 1078–1 or 1078–2 of this title'' after ''undergraduate education''.

Subsec. (a)(2)(A)(ii). Pub. L. 100–50, § 10(a)(2), inserted '', excluding loans made under section 1078–1 or 1078–2 of this title'' after ''graduate or professional student)''.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by section 2(c)(2) of Pub. L. 103–208 effective on and after July 1, 1994 and amendment by section 2(c)(3) of Pub. L. 103–208 effective on and after Dec. 20, 1993, see section 5(b)(2), (6) of Pub. L. 103–208 set out as a note under section 1003 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective July 23, 1992, with changes made in subsec. (a), relating to annual and aggregate loan limits, applicable with respect to loans for which first disbursement is made on or after July 1, 1993, except that changes made in subsec. (a)(1)(A)(i) applicable with respect to loans for which first disbursement is made on or after Oct. 1, 1992, and except that changes made in subsec. (a)(1)(A)(iv) applicable with respect to loans to cover costs of instruction for periods of enrollment beginning on or after Oct. 1,

1993, see section 432 of Pub. L. 102–325, set out as a note under section 1078 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

EFFECTIVE DATE

Section effective Oct. 17, 1986, except that subsec. (a) of this section applicable only to loans disbursed on or after Jan. 1, 1987, or made to cover the costs of instruction for periods of enrollment beginning on or after Jan. 1, 1987, see section 402(b) of Pub. L. 99–498, set out as a note under section 1071 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1078–3, 1080, 1094 of this title.

§ 1076. Sources of funds

Loans made by eligible lenders in accordance with this part shall be insurable by the Secretary whether made from funds fully owned by the lender or from funds held by the lender in a trust or similar capacity and available for such loans.

(Pub. L. 89–329, title IV, § 426, as added Pub. L. 99–498, title IV, § 402(a), Oct. 17, 1986, 100 Stat. 1361.)

PRIOR PROVISIONS

A prior section 1076, Pub. L. 89–329, title IV, § 426, Nov. 8, 1965, 79 Stat. 1238; Pub. L. 94–482, title I, § 127(a), Oct. 12, 1976, 90 Stat. 2106; Pub. L. 96–374, title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1503, related to insurability of loans made from funds owned by lender or held by lender in trust, prior to the general revision of this part by Pub. L. 99–498.

§ 1077. Eligibility of student borrowers and terms of federally insured student loans

(a) List of requirements

Except as provided in section 1078–3 of this title, a loan by an eligible lender shall be insurable by the Secretary under the provisions of this part only if—

(1) made to a student who (A) is an eligible student under section 1091 of this title, (B) has agreed to notify promptly the holder of the loan concerning any change of address, and (C) is carrying at least one-half the normal full-time academic workload for the course of study the student is pursuing (as determined by the institution); and

(2) evidenced by a note or other written agreement which—

(A) is made without security and without endorsement;

(B) provides for repayment (except as provided in subsection (c) of this section) of the principal amount of the loan in installments over a period of not less than 5 years (unless sooner repaid or unless the student, during the 6 months preceding the start of the repayment period, specifically requests that repayment be made over a shorter period) nor more than 10 years beginning 6 months after the month in which the student ceases to carry at an eligible institution at least one-half the normal full-time academic workload as determined by the institution, except—

(i) as provided in subparagraph (C);

(ii) that the note or other written instrument may contain such reasonable provisions relating to repayment in the event of default in the payment of interest or in the payment of the cost of insurance premiums, or other default by the borrower, as may be authorized by regulations of the Secretary in effect at the time the loan is made; and

(iii) that the lender and the student, after the student ceases to carry at an eligible institution at least one-half the normal full-time academic workload as determined by the institution, may agree to a repayment schedule which begins earlier, or is of shorter duration, than required by this subparagraph, but in the event a borrower has requested and obtained a repayment period of less than 5 years, the borrower may at any time prior to the total repayment of the loan, have the repayment period extended so that the total repayment period is not less than 5 years;

(C) provides that periodic installments of principal need not be paid, but interest shall accrue and be paid, during any period—

(i) during which the borrower—

(I) is pursuing at least a half-time course of study as determined by an eligible institution; or

(II) is pursuing a course of study pursuant to a graduate fellowship program approved by the Secretary, or pursuant to a rehabilitation training program for individuals with disabilities approved by the Secretary,

except that no borrower shall be eligible for a deferment under this clause, or a loan made under this part (other than a loan made under section 1078–2 or 1078–3 of this title), while serving in a medical internship or residency program;

(ii) not in excess of 3 years during which the borrower is seeking and unable to find full-time employment; or

(iii) not in excess of 3 years for any reason which the lender determines, in accordance with regulations prescribed by the Secretary under section 1085(*o*) of this title, has caused or will cause the borrower to have an economic hardship;

and provides that any such period shall not be included in determining the 10-year period described in subparagraph (B);

(D) provides for interest on the unpaid principal balance of the loan at a yearly rate, not exceeding the applicable maximum rate prescribed in section 1077a of this title, which interest shall be payable in installments over the period of the loan except that, if provided in the note or other written agreement, any interest payable by the student may be deferred until not later than the date upon which repayment of the first installment of principal falls due, in which case interest accrued during that period may be added on that date to the principal;

(E) provides that the lender will not collect or attempt to collect from the borrower any portion of the interest on the note which is payable by the Secretary under this part, and that the lender will enter into such agreements with the Secretary as may be necessary for the purpose of section 1087 of this title;

(F) entitles the student borrower to accelerate without penalty repayment of the whole or any part of the loan;

(G)(i) contains a notice of the system,[1] of disclosure of information concerning such loan to credit bureau organizations under section 1080a of this title, and (ii) provides that the lender on request of the borrower will provide information on the repayment status of the note to such organizations;

(H) provides that, no more than 6 months prior to the date on which the borrower's first payment on a loan is due, the lender shall offer the borrower the option of repaying the loan in accordance with a graduated or income-sensitive repayment schedule established by the lender and in accordance with the regulations of the Secretary; and

(I) contains such other terms and conditions, consistent with the provisions of this part and with the regulations issued by the Secretary pursuant to this part, as may be agreed upon by the parties to such loan, including, if agreed upon, a provision requiring the borrower to pay the lender, in addition to principal and interest, amounts equal to the insurance premiums payable by the lender to the Secretary with respect to such loan;

(3) the funds borrowed by a student are disbursed to the institution by check or other means that is payable to and requires the endorsement or other certification by such student, except—

(A) that nothing in this subchapter and part C of subchapter I of chapter 34 of title 42 shall be interpreted—

(i) to allow the Secretary to require checks to be made copayable to the institution and the borrower; or

(ii) to prohibit the disbursement of loan proceeds by means other than by check; and

(B) in the case of any student who is studying outside the United States in a program of study abroad that is approved for credit by the home institution at which such student is enrolled, the funds shall, at the request of the borrower, be delivered directly to the student and the checks may be endorsed, and fund transfers authorized, pursuant to an authorized power-of-attorney; and

(4) the funds borrowed by a student are disbursed in accordance with section 1078–7 of this title.

(b) Special rules for multiple disbursement

For the purpose of subsection (a)(4) of this section—

(1) all loans issued for the same period of enrollment shall be considered as a single loan; and

(2) the requirements of such subsection shall not apply in the case of a loan made under section 1078–2 or 1078–3 of this title, or made to a student to cover the cost of attendance at an eligible institution outside the United States.

(c) Special repayment rules

Except as provided in subsection (a)(2)(H) of this section, the total of the payments by a borrower during any year of any repayment period with respect to the aggregate amount of all loans to that borrower which are insured under this part shall not, unless the borrower and the lender otherwise agree, be less than $600 or the balance of all such loans (together with interest thereon), whichever amount is less (but in no instance less than the amount of interest due and payable).

(d) Borrower information

The lender shall obtain the borrower's driver's license number, if any, at the time of application for the loan.

(Pub. L. 89–329, title IV, § 427, as added Pub. L. 99–498, title IV, § 402(a), Oct. 17, 1986, 100 Stat. 1361; amended Pub. L. 100–50, § 10(b), (c), June 3, 1987, 101 Stat. 341; Pub. L. 100–369, §§ 5(b)(1), 7(c), 11(a), July 18, 1988, 102 Stat. 836–838; Pub. L. 101–239, title II, §§ 2002(a)(1), 2004(b)(2), Dec. 19, 1989, 103 Stat. 2111, 2116; Pub. L. 102–164, title VI, §§ 601(a), 602(a), Nov. 15, 1991, 105 Stat. 1065, 1066; Pub. L. 102–325, title IV, § 414, July 23, 1992, 106 Stat. 513; Pub. L. 103–208, § 2(c)(4), Dec. 20, 1993, 107 Stat. 2461.)

PRIOR PROVISIONS

A prior section 1077, Pub. L. 89–329, title IV, § 427, Nov. 8, 1965, 79 Stat. 1238; Pub. L. 89–794, title XI, § 1101(b)(1), Nov. 8, 1966, 80 Stat. 1476; Pub. L. 90–460, § 2(a)(1), Aug. 3, 1968, 82 Stat. 635; Pub. L. 90–575, title I, §§ 113(b)(2), 116(b)(2), 117(c), 120(c)(2), Oct. 16, 1968, 82 Stat. 1021, 1023, 1026, 1027; Pub. L. 92–318, title I, §§ 132B(b), 132C(c), June 23, 1972, 86 Stat. 262, 263; Pub. L. 94–482, title I, § 127(a), Oct. 12, 1976, 90 Stat. 2106; Pub. L. 95–43, § 1(a)(9), (18), June 15, 1977, 91 Stat. 213, 214; Pub. L. 95–566, § 5(a)(1), Nov. 1, 1978, 92 Stat. 2403; Pub. L. 96–374, title IV, §§ 413(a), (c), 415(a)(2), (b)(1), 416(a)(2), 423(a)(1), title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1417–1421, 1432, 1503; Pub. L. 97–35, title V, § 537(b)(1), (d)(2), (e)(1), Aug. 13, 1981, 95 Stat. 456, 457; Pub. L. 98–79, § 10[(a)], Aug. 15, 1983, 97 Stat. 484; Pub. L. 99–272, title XVI, §§ 16012(a), 16013(b), 16017(b)(1), Apr. 7, 1986, 100 Stat. 339, 340, 347, set out conditions for Federal loan insurance, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1993—Subsec. (a)(2)(C)(i). Pub. L. 103–208 inserted ''section'' before ''1078–2 or 1078–3''.

1992—Subsec. (a)(2)(A). Pub. L. 102–325, § 414(a), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: ''is made without security and without endorsement, except that prior to making a loan insurable by the Secretary under this part a lender shall—

''(i) obtain a credit report, from at least one national credit bureau organization, with respect to a loan applicant who will be at least 21 years of age as of July 1 of the award year for which assistance is being sought, for which the lender may charge the applicant an amount not to exceed the lesser of $25 or the actual cost of obtaining the credit report; and

''(ii) require an applicant of the age specified in clause (i) who, in the judgment of the lender in ac-

[1] So in original. The comma probably should not appear.

cordance with the regulations of the Secretary, has an adverse credit history, to obtain a credit worthy cosigner in order to obtain the loan, provided that, for purposes of this clause, an insufficient or nonexistent credit history may not be considered to be an adverse credit history;''.

Subsec. (a)(2)(C). Pub. L. 102–325, § 414(b), amended subpar. (C) generally, revising and restating as cls. (i) to (iii) provisions formerly contained in cls. (i) to (xi).

Subsec. (a)(2)(G) to (I). Pub. L. 102–325, § 414(c)(1), struck out ''and'' at end of subpar. (G), added subpar. (H), and redesignated former subpar. (H) as (I).

Subsec. (a)(3). Pub. L. 102–325, § 414(d), amended par. (3) generally. Prior to amendment, par. (3) read as follows: ''the funds borrowed by a student are disbursed to the institution by check or other means that is payable to and requires the endorsement or other certification by such student, except nothing in this subchapter and part C of subchapter I of chapter 34 of title 42 shall be interpreted to allow the Secretary to require checks to be made co-payable to the institution and the borrower or to prohibit the disbursement of loan proceeds by means other than by check; and''.

Subsec. (c). Pub. L. 102–325, § 414(c)(2), (e), substituted ''Special repayment rules'' for ''Minimum repayment rate'' in heading and in text ''Except as provided in subsection (a)(2)(H) of this section, the total'' for ''The total'' and ''(but in no instance less than the amount of interest due and payable)'' for '', except that in the case of a husband and wife, both of whom have such loans outstanding, the total of the combined payments for such a couple during any year shall not be less than $600 or the balance of all such loans, whichever is less''.

1991—Subsec. (a)(2)(A). Pub. L. 102–164, § 601(a), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: ''is made without security and without endorsement, except that if the borrower is a minor and such note or other written agreement executed by the borrower would not, under the applicable law, create a binding obligation, endorsement may be required;''.

Subsec. (d). Pub. L. 102–164, § 602(a), added subsec. (d).

1989—Subsec. (a)(2)(C)(i). Pub. L. 101–239, § 2002(a)(1), inserted before semicolon at end '', except that no borrower shall be eligible for a deferment under this clause, or a loan made under this part (other than a loan made under section 1078–2 or 1078–3 of this title), while serving in a medical internship or residency program''.

Subsec. (a)(4). Pub. L. 101–239, § 2004(b)(2), amended par. (4) generally. Prior to amendment, par. (4) read as follows: ''in the case of any loan made for any period of enrollment that ends more than 180 days (or 6 months) after the date disbursement is scheduled to occur, and for an amount of $1,000 or more, the proceeds of the loan will, subject to subsection (b) of this section, be disbursed directly by the lender in two or more installments, none of which exceeds one-half of the loan, with the second installment being disbursed after not less than one-third of such period (except as necessary to permit the second installment to be disbursed at the beginning of the second semester, quarter, or similar division of such period of enrollment).''

1988—Subsec. (a)(2)(C)(v). Pub. L. 100–369, § 7(c), substituted ''Internal Revenue Code of 1986'' for ''Internal Revenue Code of 1954'', which for purposes of codification was translated as ''title 26'' thus requiring no change in text.

Subsec. (a)(2)(C)(vii). Pub. L. 100–369, § 11(a), inserted ''after January 1, 1986,'' after ''service''.

Subsec. (b)(2). Pub. L. 100–369, § 5(b)(1), substituted ''section 1078–2 or 1078–3'' for ''section 1078–1, 1078–2, or 1078–3''.

1987—Subsec. (a)(2)(C)(vi). Pub. L. 100–50, § 10(b)(1), inserted ''nonprofit'' before ''private''.

Subsec. (a)(2)(C)(vii). Pub. L. 100–50, § 10(b)(2), inserted ''or serving in an internship or residency program leading to a degree or certificate awarded by an institution of higher education, a hospital, or a health care facility that offers postgraduate training'' before semicolon at end.

Subsec. (a)(4). Pub. L. 100–50, § 10(c), substituted ''$1,000 or more'' for ''more than $1,000''.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1003 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective July 23, 1992, except that changes made in subsec. (a)(2)(C), relating to deferments, applicable with respect to loans for which first disbursement is made on or after July 1, 1993, to an individual who is a new borrower on date such individual applies for a loan, and except that changes made in subsec. (a)(2)(H), relating to offering graduated or income sensitive repayment options, applicable with respect to loans for which first disbursement is made on or after July 1, 1993, to an individual who is a new borrower on date such individual applies for a loan, see section 432 of Pub. L. 102–325, set out as a note under section 1078 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Section 2002(a)(4) of Pub. L. 101–239 provided that: ''The amendments made by this subsection [amending this section and sections 1078 and 1087dd of this title] shall apply to any loan made, insured, or guaranteed under part B or part E of title IV of the Higher Education Act of 1965 [20 U.S.C. 1071 et seq., 1087aa et seq.], including a loan made before the enactment of this Act [Dec. 19, 1989], and shall take effect on January 1, 1990, except that such amendments shall not apply with respect to any portion of a period of deferment granted to a borrower under section 427(a)(2)(C)(i), 428(b)(1)(M)(i), or 464(c)(2)(A)(i) of the Higher Education Act of 1965 [sections 1077(a)(2)(C)(i), 1078(b)(1)(M)(i), 1087dd(c)(2)(A)(i) of this title] for service in a medical internship or residency program that is completed prior to the effective date of this section [Dec. 19, 1989].''

Section 2004(c) of Pub. L. 101–239 provided that: ''The amendments made by this section [enacting section 1078–7 of this title and amending this section and section 1078 of this title] shall apply with respect to loans made to cover the cost of instruction for periods of enrollment beginning on or after January 1, 1990.''

EFFECTIVE DATE OF 1988 AMENDMENT

Section 11(b) of Pub. L. 100–369 provided that: ''The amendments made by subsection (a) [amending this section and section 1078 of this title] and section 10(b) of the Higher Education Technical Amendments Act of 1987 [section 10(b) of Pub. L. 100–50, amending this section and section 1078 of this title] shall apply with respect to loans made, insured or guaranteed under part B of the Higher Education Act of 1965 [probably means part B of title IV of Pub. L. 89–329 which is classified to this part], on, before, or after the date of enactment of the Higher Education Technical Amendments Act of 1987 [June 3, 1987].''

Amendment by section 5(b)(1) of Pub. L. 100–369 effective with respect to loans made on or after Oct. 1, 1988, and amendment by section 7(c) of Pub. L. 100–369 effective July 18, 1988, see section 13(b) of Pub. L. 100–369, set out as a note under section 1091 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by section 10(b) of Pub. L. 100–50 applicable with respect to loans made, insured or guaranteed under this part on, before, or after June 3, 1987, see section 11(b) of Pub. L. 100–369, set out as an Effective Date of 1988 Amendment note above.

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

EFFECTIVE DATE

Section effective Oct. 17, 1986, except that subsec. (a)(2)(C) (other than cls. (viii), (ix), and (x) thereof) of this section shall apply only to loans to new borrowers made to cover the costs of instruction for periods of enrollment beginning on or after July 1, 1987, or disbursed on or after July 1, 1987, see section 402(b) of Pub. L. 99–498, set out as a note under section 1071 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1071, 1075, 1077a, 1078, 1078–2, 1078–8, 1085, 1087e of this title.

§ 1077a. Applicable interest rates

(a) Rates to be consistent for borrower's entire debt

With respect to any loan to cover the cost of instruction for any period of instruction beginning on or after January 1, 1981, the rate of interest applicable to any borrower shall—

(1) not exceed 7 percent per year on the unpaid principal balance of the loan in the case of any borrower who, on the date of entering into the note or other written evidence of that loan, has an outstanding balance of principal or interest on any loan made, insured, or guaranteed under this part, for which the interest rate does not exceed 7 percent;

(2) except as provided in paragraph (3), be 9 percent per year on the unpaid principal balance of the loan in the case of any borrower who, on the date of entering into the note or other written evidence of that loan, has no outstanding balance of principal or interest on any loan described in paragraph (1) or any loan for which the interest rate is determined under paragraph (1); or

(3) be 8 percent per year on the unpaid principal balance of the loan for a loan to cover the cost of education for any period of enrollment beginning on or after a date which is 3 months after a determination made under subsection (b) of this section in the case of any borrower who, on the date of entering into the note or other written evidence of the loan, has no outstanding balance of principal or interest on any loan for which the interest rate is determined under paragraph (1) or (2) of this subsection.

(b) Reduction for new borrowers after decline in Treasury bill rates

If for any 12-month period beginning on or after January 1, 1981, the Secretary, after consultation with the Secretary of the Treasury, determines that the average of the bond equivalent rates of 91-day Treasury bills auctioned for such 12-month period is equal to or less than 9 percent, the interest rate for loans under this part shall be the rate prescribed in subsection (a)(3) of this section for borrowers described in such subsection.

(c) Rates for supplemental loans for students and loans for parents

(1) In general

Except as otherwise provided in this subsection, the applicable rate of interest on loans made pursuant to section 1078–1[1] or 1078–2 of this title on or after October 1, 1981, shall be 14 percent per year on the unpaid principal balance of the loan.

(2) Reduction of rate after decline in Treasury bill rates

If for any 12-month period beginning on or after October 1, 1981, the Secretary, after consultation with the Secretary of the Treasury, determines that the average of the bond equivalent rates of 91-day Treasury bills auctioned for such 12-month period is equal to or less than 14 percent, the applicable rate of interest for loans made pursuant to section 1078–1[1] or 1078–2 of this title on and after the first day of the first month beginning after the date of publication of such determination shall be 12 percent per year on the unpaid principal balance of the loan.

(3) Increase of rate after increase in Treasury bill rates

If for any 12-month period beginning on or after the date of publication of a determination under paragraph (2), the Secretary, after consultation with the Secretary of the Treasury, determines that the average of the bond equivalent rates of 91-day Treasury bills auctioned for such 12-month period exceeds 14 percent, the applicable rate of interest for loans made pursuant to section 1078–1[1] or 1078–2 of this title on and after the first day of the first month beginning after the date of publication of that determination under this paragraph shall be 14 percent per year on the unpaid principal balance of the loan.

(4) Availability of variable rates

(A) For any loan made pursuant to section 1078–1[1] or 1078–2 of this title and disbursed on or after July 1, 1987, or any loan made pursuant to such section prior to such date that is refinanced pursuant to section 1078–1(d)[1] or 1078–2(d) of this title, the applicable rate of interest during any 12-month period beginning on July 1 and ending on June 30 shall be determined under subparagraph (B), except that such rate shall not exceed 12 percent.

(B) For any 12-month period beginning on July 1 and ending on June 30, the rate determined under this subparagraph is determined on the preceding June 1 and is equal to—

(i) the bond equivalent rate of 52-week Treasury bills auctioned at the final auction held prior to such June 1; plus

(ii) 3.25 percent.

(C) The Secretary shall determine the applicable rate of interest under subparagraph (B) after consultation with the Secretary of the Treasury and shall publish such rate in the Federal Register as soon as practicable after the date of determination.

(D) Notwithstanding subparagraph (A)—

(i) for any loan made pursuant to section 1078–1[1] of this title for which the first disbursement is made on or after October 1, 1992—

(I) subparagraph (B) shall be applied by substituting ''3.1'' for ''3.25''; and

(II) the interest rate shall not exceed 11 percent; and

(ii) for any loan made pursuant to section 1078–2 of this title for which the first dis-

[1] See References in Text note below.

bursement is made on or after October 1, 1992—

(I) subparagraph (B) shall be applied by substituting ''3.1'' for ''3.25''; and

(II) the interest rate shall not exceed 10 percent.

(E) Notwithstanding subparagraphs (A) and (D) for any loan made pursuant to section 1078–2 of this title for which the first disbursement is made on or after July 1, 1994—

(i) subparagraph (B) shall be applied by substituting ''3.1'' for ''3.25''; and

(ii) the interest rate shall not exceed 9 percent.

(d) Interest rates for new borrowers after July 1, 1988

Notwithstanding subsections (a) and (b) of this section, with respect to any loan (other than a loan made pursuant to sections 1078–1,[1] 1078–2, and 1078–3 of this title) to cover the cost of instruction for any period of enrollment beginning on or after July 1, 1988, to any borrower who, on the date of entering into the note or other written evidence of the loan, has no outstanding balance of principal or interest on any loan made, insured, or guaranteed under this part, the applicable rate of interest shall be—

(1) 8 percent per year on the unpaid principal balance of the loan during the period beginning on the date of the disbursement of the loan and ending 4 years after the commencement of repayment; and

(2) 10 percent per year on the unpaid principal balance of the loan during the remainder of the repayment period.

(e) Interest rates for new borrowers after October 1, 1992

(1) In general

Notwithstanding subsections (a), (b), and (d) of this section, with respect to any loan (other than a loan made pursuant to sections 1078–1,[2] 1078–2 and 1078–3 of this title) for which the first disbursement is made on or after October 1, 1992, to any borrower who, on the date of entering into the note or other written evidence of the loan, has no outstanding balance of principal or interest on any loan made, insured, or guaranteed under section 1077, 1078, or 1078–8 of this title, the applicable rate of interest shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to—

(A) the bond equivalent rate of 91-day Treasury bills auctioned at the final auction held prior to such June 1; plus

(B) 3.10 percent,

except that such rate shall not exceed 9 percent.

(2) Consultation

The Secretary shall determine the applicable rate of interest under paragraph (1) after consultation with the Secretary of the Treasury and shall publish such rate in the Federal Register as soon as practicable after the date of determination.

[2] See References in Text note below.

(f) Interest rates for new loans after July 1, 1994

(1) In general

Notwithstanding subsections (a), (b), (d), and (e) of this section, with respect to any loan made, insured, or guaranteed under this part (other than a loan made pursuant to section 1078–2 or 1078–3 of this title) for which the first disbursement is made on or after July 1, 1994, the applicable rate of interest shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to—

(A) the bond equivalent rate of 91-day Treasury bills auctioned at the final auction held prior to such June 1; plus

(B) 3.10 percent,

except that such rate shall not exceed 8.25 percent.

(2) Consultation

The Secretary shall determine the applicable rate of interest under paragraph (1) after consultation with the Secretary of the Treasury and shall publish such rate in the Federal Register as soon as practicable after the date of determination.

(g) In school and grace period rules

(1) General rule

Notwithstanding the provisions of subsection (f) of this section, but subject to subsection (h) of this section, with respect to any loan under section 1078 or 1078–8 of this title for which the first disbursement is made on or after July 1, 1995, the applicable rate of interest for interest which accrues—

(A) prior to the beginning of the repayment period of the loan; or

(B) during the period in which principal need not be paid (whether or not such principal is in fact paid) by reason of a provision described in section 1078(b)(1)(M) or 1077(a)(2)(C) of this title,

shall not exceed the rate determined under paragraph (2).

(2) Rate determination

For purposes of paragraph (1), the rate determined under this paragraph shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to—

(A) the bond equivalent rate of 91-day Treasury bills auctioned at the final auction prior to such June 1; plus

(B) 2.5 percent,

except that such rate shall not exceed 8.25 percent.

(3) Consultation

The Secretary shall determine the applicable rate of interest under this subsection after consultation with the Secretary of the Treasury and shall publish such rate in the Federal Register as soon as practicable after the date of determination.

(h) Interest rates for new loans after July 1, 1998

(1) In general

Notwithstanding subsections (a), (b), (d), (e), (f), and (g) of this section, with respect to any

loan made, insured, or guaranteed under this part (other than a loan made pursuant to sections 1078–2 and 1078–3 of this title) for which the first disbursement is made on or after July 1, 1998, the applicable rate of interest shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to—

(A) the bond equivalent rate of the securities with a comparable maturity as established by the Secretary; plus

(B) 1.0 percent,

except that such rate shall not exceed 8.25 percent.

(2) Interest rates for new plus loans after July 1, 1998

Notwithstanding subsections (a), (b), (d), (e), (f), and (g) of this section, with respect to any loan made under section 1078–2 of this title for which the first disbursement is made on or after July 1, 1998, paragraph (1) shall be applied—

(A) by substituting ''2.1 percent'' for ''1.0 percent'' in subparagraph (B); and

(B) by substituting ''9.0 percent'' for ''8.25 percent'' in the matter following such subparagraph.

(3) Consultation

The Secretary shall determine the applicable rate of interest under this subsection after consultation with the Secretary of the Treasury and shall publish such rate in the Federal Register as soon as practicable after the date of determination.

(i) Treatment of excess interest payments on new borrower accounts resulting from decline in Treasury bill rates

(1) Excess interest on 10 percent loans

If, with respect to a loan for which the applicable interest rate is 10 percent under subsection (d) of this section at the close of any calendar quarter, the sum of the average of the bond equivalent rates of 91-day Treasury bills auctioned for that quarter and 3.25 percent is less than 10 percent, then an adjustment shall be made to a borrower's account—

(A) by calculating excess interest in the amount computed under paragraph (2) of this subsection; and

(B)(i) during any period in which a student is eligible to have interest payments paid on his or her behalf by the Government pursuant to section 1078(a) of this title, by crediting the excess interest to the Government; or

(ii) during any other period, by crediting such excess interest to the reduction of principal to the extent provided in paragraph (5) of this subsection.

(2) Amount of adjustment for 10 percent loans

The amount of any adjustment of interest on a loan to be made under this subsection for any quarter shall be equal to—

(A) 10 percent minus the sum of (i) the average of the bond equivalent rates of 91-day Treasury bills auctioned for such calendar quarter, and (ii) 3.25 percent; multiplied by

(B) the average daily principal balance of the loan (not including unearned interest added to principal) during such calendar quarter; divided by

(C) four.

(3) Excess interest on loans after 1992 amendments, to borrowers with outstanding balances

If, with respect to a loan made on or after July 23, 1992, to a borrower, who on the date of entering into the note or other written evidence of the loan, has an outstanding balance of principal or interest on any other loan made, insured, or guaranteed under this part, the sum of the average of the bond equivalent rates of 91-day Treasury bills auctioned for that quarter and 3.1 percent is less than the applicable interest rate, then an adjustment shall be made—

(A) by calculating excess interest in the amount computed under paragraph (4) of this subsection; and

(B)(i) during any period in which a student is eligible to have interest payments paid on his or her behalf by the Government pursuant to section 1078(a) of this title, by crediting the excess interest to the Government; or

(ii) during any other period, by crediting such excess interest to the reduction of principal to the extent provided in paragraph (5) of this subsection.

(4) Amount of adjustment

The amount of any adjustment of interest on a loan to be made under this subsection for any quarter shall be equal to—

(A) the applicable interest rate minus the sum of (i) the average of the bond equivalent rates of 91-day Treasury bills auctioned for such calendar quarter, and (ii) 3.1 percent; multiplied by

(B) the average daily principal balance of the loan (not including unearned interest added to principal) during such calendar quarter; divided by

(C) four.

(5) Annual adjustment of interest and borrower eligibility for credit

Any adjustment amount computed pursuant to paragraphs (2) and (4) of this subsection for any quarter shall be credited, by the holder of the loan on the last day of the calendar year in which such quarter falls, to the loan account of the borrower so as to reduce the principal balance of such account. No such credit shall be made to the loan account of a borrower who on the last day of the calendar year is delinquent for more than 30 days in making a required payment on the loan, but the excess interest shall be calculated and credited to the Secretary. Any credit which is to be made to a borrower's account pursuant to this subsection shall be made effective commencing no later than 30 days following the last day of the calendar year in which the quarter falls for which the credit is being made. Nothing in this subsection shall be construed to require refunding any repayment of a loan. At the option of the lender, the amount of such adjustment may be distributed to the borrower either by reduction in the amount of the peri-

odic payment on loan, by reducing the number of payments that shall be made with respect to the loan, or by reducing the amount of the final payment of the loan. Nothing in this paragraph shall be construed to require the lender to make additional disclosures pursuant to section 1083(b) of this title.

(6) Publication of Treasury bill rate

For the purpose of enabling holders of loans to make the determinations and adjustments provided for in this subsection, the Secretary shall for each calendar quarter commencing with the quarter beginning on July 1, 1987, publish a notice of the average of the bond equivalent rates of 91-day Treasury bills auctioned for such quarter. Such notice shall be published not later than 7 days after the end of the quarter to which the notice relates.

(7) Conversion to variable rate

(A) Subject to subparagraphs (C) and (D), a lender or holder shall convert the interest rate on a loan that is made pursuant to this part and is subject to the provisions of this subsection to a variable rate. Such conversion shall occur not later than January 1, 1995, and, commencing on the date of conversion, the applicable interest rate for each 12-month period beginning on July 1 and ending on June 30 shall be determined by the Secretary on the June 1 preceding each such 12-month period and be equal to the sum of (i) the bond equivalent rate of the 91-day Treasury bills auctioned at the final auction prior to such June 1; and (ii) 3.25 percent in the case of loans described in paragraph (1), or 3.10 percent in the case of loans described in paragraph (3).

(B) In connection with the conversion specified in subparagraph (A) for any period prior to such conversion, and subject to paragraphs (C) and (D), a lender or holder shall convert the interest rate to a variable rate on a loan that is made pursuant to this part and is subject to the provisions of this subsection to a variable rate. The interest rates for such period shall be reset on a quarterly basis and the applicable interest rate for any quarter or portion thereof shall equal the sum of (i) the average of the bond equivalent rates of 91-Treasury bills auctioned for the preceding 3-month period, and (ii) 3.25 percent in the case of loans described in paragraph (1) or 3.10 percent in the case of loans described in paragraph (3). The rebate of excess interest derived through this conversion shall be provided to the borrower as specified in paragraph (5) for loans described in paragraph (1) or to the Government and borrower as specified in paragraph (3).

(C) A lender or holder of a loan being converted pursuant to this paragraph shall complete such conversion on or before January 1, 1995. The lender or holder shall notify the borrower that the loan shall be converted to a variable interest rate and provide a description of the rate to the borrower not later than 30 days prior to the conversion. The notice shall advise the borrower that such rate shall be calculated in accordance with the procedures set forth in this paragraph and shall provide the borrower with a substantially equivalent benefit as the adjustment otherwise provided for under this subsection. Such notice may be incorporated into the disclosure required under section 1083(b) of this title if such disclosure has not been previously made.

(D) The interest rate on a loan converted to a variable rate pursuant to this paragraph shall not exceed the maximum interest rate applicable to the loan prior to such conversion.

(E) Loans on which the interest rate is converted in accordance with subparagraph (A) or (B) shall not be subject to any other provisions of this subsection.

(j) Lesser rates permitted

Nothing in this section or section 1078–3 of this title shall be construed to prohibit a lender from charging a borrower interest at a rate less than the rate which is applicable under this part.

(k) Definitions

For the purpose of subsections (a) and (d) of this section—

(1) the term ''period of instruction'' shall, at the discretion of the lender, be any academic year, semester, trimester, quarter, or other academic period; or shall be the period for which the loan is made as determined by the institution of higher education; and

(2) the term ''period of enrollment'' shall be the period for which the loan is made as determined by the institution of higher education and shall coincide with academic terms such as academic year, semester, trimester, quarter, or other academic period as defined by such institution.

(Pub. L. 89–329, title IV, § 427A, as added Pub. L. 99–498, title IV, § 402(a), Oct. 17, 1986, 100 Stat. 1364; amended Pub. L. 100–50, § 10(d)(1), June 3, 1987, 101 Stat. 342; Pub. L. 102–325, title IV, § 415, July 23, 1992, 106 Stat. 514; Pub. L. 103–66, title IV, § 4101, Aug. 10, 1993, 107 Stat. 364; Pub. L. 103–208, § 2(c)(5)–(10), Dec. 20, 1993, 107 Stat. 2461.)

REFERENCES IN TEXT

Section 1078–1 of this title, referred to in subsecs. (c) to (e)(1), was repealed by Pub. L. 103–66, title IV, § 4047(b)–(d), Aug. 10, 1993, 107 Stat. 364, eff. July 1, 1994, except with respect to loans provided under that section as it existed prior to Aug. 10, 1993.

CODIFICATION

Amendments by section 2(c)(6)–(10) of Pub. L. 103–208 (which were effective as if included in Pub. L. 102–325) were executed to this section as amended by Pub. L. 102–325 and Pub. L. 103–66, to reflect the probable intent of Congress.

PRIOR PROVISIONS

A prior section 1077a, Pub. L. 89–329, title IV, § 427A, as added Pub. L. 96–374, title IV, § 415(a)(1), Oct. 3, 1980, 94 Stat. 1419; amended Pub. L. 97–35, title V, § 534(a)(1), Aug. 13, 1981, 95 Stat. 454; Pub. L. 98–79, § 5(a), (b)(1), Aug. 15, 1983, 97 Stat. 481, 482, prescribed applicable interest rates on loans, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1993—Subsec. (c)(4)(E). Pub. L. 103–66, § 4101(1), added subpar. (E).

Subsec. (e)(1). Pub. L. 103–208, § 2(c)(5), substituted ''under section 1077, 1078, or 1078–8 of this title'' for ''under this part''.

Subsecs. (f) to (h). Pub. L. 103–66, § 4101(3), added subsecs. (f) to (h). Former subsecs. (f) to (h) redesignated (i) to (k), respectively.

Subsec. (i). Pub. L. 103–66, § 4101(2), redesignated subsec. (f) as (i).

Subsec. (i)(1)(B). Pub. L. 103–208, § 2(c)(6), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: ''by crediting the excess interest to the reduction of principal to the extent provided for under paragraph (5) of this subsection.'' See Codification note above.

Subsec. (i)(2)(B). Pub. L. 103–208, § 2(c)(7), substituted ''average daily principal balance'' for ''outstanding principal balance'' and ''during'' for ''at the end of''. See Codification note above.

Subsec. (i)(4)(B). Pub. L. 103–208, § 2(c)(8), substituted ''average daily principal balance'' for ''outstanding principal balance'' and ''during'' for ''at the end of''. See Codification note above.

Subsec. (i)(5). Pub. L. 103–208, § 2(c)(9)(A)(i), (B), substituted ''paragraphs (2) and (4)'' for ''paragraph (2)'' in first sentence and inserted '', but the excess interest shall be calculated and credited to the Secretary'' after ''required payment on the loan'' in second sentence. See Codification note above.

Pub. L. 103–208, § 2(c)(9)(A)(ii), which directed substitution of ''principal'' for ''principle'' in first sentence, could not be executed because the word ''principle'' does not appear in text.

Subsec. (i)(7). Pub. L. 103–208, § 2(c)(10), added par. (7). See Codification note above.

Subsecs. (j), (k). Pub. L. 103–66, § 4101(2), redesignated subsecs. (g) and (h) as (j) and (k), respectively.

1992—Subsec. (c)(4)(D). Pub. L. 102–325, § 415(a), added subpar. (D).

Subsec. (e). Pub. L. 102–325, § 415(c)(2), added subsec. (e). Former subsec. (e) redesignated (f).

Pub. L. 102–325, § 415(b), amended par. (1) heading and substituted ''paragraph (5)'' for ''paragraph (3)'' in par. (1)(B), amended par. (2) heading, added pars. (3) and (4), redesignated former par. (3) as (5), struck out ''or'' before ''by reducing the number'' and inserted '', or by reducing the amount of the final payment of the loan. Nothing in this paragraph shall be construed to require the lender to make additional disclosures pursuant to section 1083(b) of this title'' before period at end, redesignated former par. (4) as (6), and struck out former par. (5) which provided for study of treatment of excess interest payments provisions.

Subsecs. (f) to (h). Pub. L. 102–325, § 415(c)(1), redesignated subsecs. (e) to (g) as (f) to (h), respectively.

1987—Subsec. (c)(4)(A). Pub. L. 100–50, § 10(d)(1)(A), (B), substituted ''and disbursed on or after July 1, 1987'' for ''to cover the cost of instruction for any period of enrollment beginning on or after July 1, 1987'' and ''any 12-month period beginning on or after July 1 and ending on June 30'' for ''any calendar year''.

Subsec. (c)(4)(B). Pub. L. 100–50, § 10(d)(1)(C), added subpar. (B) and struck out former subpar. (B) which read as follows: ''For any calendar year, the rate determined under this subparagraph is determined on December 15 preceding such calendar year and is equal to—

''(i) the average of the bond equivalent rates of 91-day Treasury bills auctioned during the 12 months ending on November 30 preceding such calendar year; plus

''(ii) 3.75 percent.''

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by section 2(c)(5) of Pub. L. 103–208 effective on and after Dec. 20, 1993, and amendment by section 2(c)(6)–(10) of Pub. L. 103–208 effective, except as otherwise provided, as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, see section 5(a), (b)(2) of Pub. L. 103–208, set out as a note under section 1003 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1077, 1078, 1078–2, 1078–3, 1078–8, 1087–1 of this title; title 42 section 7274e.

§ 1078. Federal payments to reduce student interest costs

(a) Federal interest subsidies

(1) Types of loans that qualify

Each student who has received a loan for study at an eligible institution—

(A) which is insured by the Secretary under this part; or

(B) which is insured under a program of a State or of a nonprofit private institution or organization which was contracted for, and paid to the student, within the period specified in paragraph (5), and which—

(i) in the case of a loan insured prior to July 1, 1967, was made by an eligible lender and is insured under a program which meets the requirements of subparagraph (E) of subsection (b)(1) of this section and provides that repayment of such loan shall be in installments beginning not earlier than 60 days after the student ceases to pursue a course of study (as described in subparagraph (D) of subsection (b)(1) of this section) at an eligible institution, or

(ii) in the case of a loan insured after June 30, 1967, was made by an eligible lender and is insured under a program covered by an agreement made pursuant to subsection (b) of this section,

shall be entitled to have paid on his or her behalf and for his or her account to the holder of the loan a portion of the interest on such loan under circumstances described in paragraph (2).

(2) Additional requirements to receive subsidy

(A) Each student qualifying for a portion of an interest payment under paragraph (1) shall—

(i) have provided to the lender a statement from the eligible institution, at which the student has been accepted for enrollment, or at which the student is in attendance, which—

(I) sets forth such student's estimated cost of attendance (as determined under section 1087*ll* of this title);

(II) sets forth such student's estimated financial assistance; and

(III) sets forth a schedule for disbursement of the proceeds of the loan in installments, consistent with the requirements of section 1078–7 of this title;

(ii) meet the requirements of subparagraph (B); and

(iii) have provided to the lender at the time of application for a loan made, insured, or guaranteed under this part, the student's driver's number, if any.

(B) For the purpose of clause (ii) of subparagraph (A), a student shall qualify for a portion of an interest payment under paragraph (1) if

the eligible institution has provided the lender with a statement evidencing a determination of need for a loan (as determined under part E of this subchapter) and the amount of such need, subject to the provisions of subparagraph (D).

(C) For the purpose of paragraph (1) and this paragraph—

(i) a student's estimated financial assistance means, for the period for which the loan is sought, the amount of assistance such student will receive under subpart 1 of part A of this subchapter (as determined in accordance with section 1091(b) of this title), subpart 3 of part A of this subchapter, and part C of subchapter I of chapter 34 of title 42 and part D of this subchapter, and any veterans' education benefits paid because of enrollment in a postsecondary education institution, including veterans' education benefits (as defined in section 1087vv(c) of this title), plus other scholarship, grant, or loan assistance; and

(ii) the determination of need and of the amount of a loan by an eligible institution under subparagraph (B) with respect to a student shall be calculated in accordance with part E of this subchapter.

(D) An eligible institution may not, in carrying out the provisions of subparagraphs (A) and (B) of this paragraph, provide a statement which certifies the eligibility of any student to receive any loan under this part in excess of the maximum amount applicable to such loan.

(E) For the purpose of subparagraphs (B) and (C) of this paragraph, any loan obtained by a student under section 1078–1[1] or 1078–8 of this title or a parent under section 1078–2 of this title or under any State-sponsored or private loan program for an academic year for which the determination is made may be used to offset the expected family contribution of the student for that year.

(F) Except as provided in subparagraph (D), an eligible institution may refuse to certify a statement which permits a student to receive a loan under this part or to certify a loan amount that is less than the student's determination of need (as determined under part E of this subchapter), if the reason for such action is documented and provided in written form to each student so affected.

(3) Amount of interest subsidy

(A)(i) Subject to section 1087–1(c) of this title, the portion of the interest on a loan which a student is entitled to have paid, on behalf of and for the account of the student, to the holder of the loan pursuant to paragraph (1) of this subsection shall be equal to the total amount of the interest on the unpaid principal amount of the loan—

(I) which accrues prior to the beginning of the repayment period of the loan, or

(II) which accrues during a period in which principal need not be paid (whether or not such principal is in fact paid) by reason of a provision described in subsection (b)(1)(M) of this section or in section 1077(a)(2)(C) of this title.

(ii) Such portion of the interest on a loan shall not exceed, for any period, the amount of the interest on that loan which is payable by the student after taking into consideration the amount of any interest on that loan which the student is entitled to have paid on his or her behalf for that period under any State or private loan insurance program.

(iii) The holder of a loan with respect to which payments are required to be made under this section shall be deemed to have a contractual right, as against the United States, to receive from the Secretary the portion of interest which has been so determined without administrative delay after the receipt by the Secretary of an accurate and complete request for payment pursuant to paragraph (4).

(iv) The Secretary shall pay this portion of the interest to the holder of the loan on behalf of and for the account of the borrower at such times as may be specified in regulations in force when the applicable agreement entered into pursuant to subsection (b) of this section was made, or, if the loan was made by a State or is insured under a program which is not covered by such an agreement, at such times as may be specified in regulations in force at the time the loan was paid to the student.

(v) A lender may not receive interest on a loan for any period that precedes the date that is—

(I) in the case of a loan disbursed by check, 10 days before the first disbursement of the loan; or

(II) in the case of a loan disbursed by electronic funds transfer, 3 days before the first disbursement of the loan.

(B) If—

(i) a State student loan insurance program is covered by an agreement under subsection (b) of this section,

(ii) a statute of such State limits the interest rate on loans insured by such program to a rate which is less than the applicable interest rate under this part, and

(iii) the Secretary determines that subsection (d) of this section does not make such statutory limitation inapplicable and that such statutory limitation threatens to impede the carrying out of the purpose of this part,

then the Secretary may pay an administrative cost allowance to the holder of each loan which is insured under such program and which is made during the period beginning on the 60th day after October 16, 1968, and ending 120 days after the adjournment of such State's first regular legislative session which adjourns after January 1, 1969. Such administrative cost allowance shall be paid over the term of the loan in an amount per year (determined by the Secretary) which shall not exceed 1 percent of the unpaid principal balance of the loan.

(4) Submission of statements by holders on amount of payment

Each holder of a loan with respect to which payments of interest are required to be made by the Secretary shall submit to the Secretary, at such time or times and in such man-

[1] See References in Text note below.

ner as the Secretary may prescribe, statements containing such information as may be required by or pursuant to regulation for the purpose of enabling the Secretary to determine the amount of the payment which he must make with respect to that loan.

(5) Duration of authority to make interest subsidized loans

The period referred to in subparagraph (B) of paragraph (1) of this subsection shall begin on November 8, 1965, and end at the close of September 30, 2002, except that, in the case of a loan made or insured under a student loan or loan insurance program to enable a student who has obtained a prior loan made or insured under such program to continue his or her education program, such period shall end at the close of September 30, 2006.

(6) Assessment of borrower's financial condition not prohibited or required

Nothing in this chapter or any other Act shall be construed to prohibit or require, unless otherwise specifically provided by law, a lender to evaluate the total financial situation of a student making application for a loan under this part, or to counsel a student with respect to any such loan, or to make a decision based on such evaluation and counseling with respect to the dollar amount of any such loan.

(7) Loans that have not been consummated

Lenders may not charge interest or receive interest subsidies or special allowance payments for loans for which the disbursement checks have not been cashed or for which electronic funds transfers have not been completed.

(b) Insurance program agreements to qualify loans for interest subsidies

(1) Requirements of insurance program

Any State or any nonprofit private institution or organization may enter into an agreement with the Secretary for the purpose of entitling students who receive loans which are insured under a student loan insurance program of that State, institution, or organization to have made on their behalf the payments provided for in subsection (a) of this section if the Secretary determines that the student loan insurance program—

(A) authorizes the insurance in any academic year or its equivalent (as determined under regulations of the Secretary) for any student who is carrying at an eligible institution or in a program of study abroad approved for credit by the eligible home institution at which such student is enrolled at least one-half the normal full-time academic workload (as determined by the institution) in any amount up to a maximum of—

(i) in the case of a student at an eligible institution who has not successfully completed the first year of a program of undergraduate education—

(I) $2,625, if such student is enrolled in a program whose length is at least one academic year in length (as determined under section 1088 of this title);

(II) $1,750, if such student is enrolled in a program whose length is less than one academic year, but at least ⅔ of such an academic year; and

(III) $875, if such student is enrolled in a program whose length is less than ⅔, but at least ⅓, of such an academic year;

(ii) in the case of a student at an eligible institution who has successfully completed such first year but has not successfully completed the remainder of a program of undergraduate education—

(I) $3,500; or

(II) if such student is enrolled in a program of undergraduate education, the remainder of which is less than one academic year, the maximum annual loan amount that such student may receive may not exceed the amount that bears the same ratio to the amount specified in subclause (I) as such remainder measured in semester, trimester, quarter, or clock hours bears to one academic year;

(iii) in the case of a student at an eligible institution who has successfully completed the first and second years of a program of undergraduate education but has not successfully completed the remainder of such program—

(I) $5,500; or

(II) if such student is enrolled in a program of undergraduate education, the remainder of which is less than one academic year, the maximum annual loan amount that such student may receive may not exceed the amount that bears the same ratio to the amount specified in subclause (I) as such remainder measured in semester, trimester, quarter, or clock hours bears to one academic year;

(iv) in the case of a student who has received an associate or baccalaureate degree and is enrolled in an eligible program for which the institution requires such degree for admission, the number of years that a student has completed in a program of undergraduate education shall, for the purposes of clauses (ii) and (iii), include any prior enrollment in the eligible program of undergraduate education for which the student was awarded such degree; and

(v) in the case of a graduate or professional student (as defined in regulations of the Secretary) at an eligible institution, $8,500;

except in cases where the Secretary determines, pursuant to regulations, that a higher amount is warranted in order to carry out the purpose of this part with respect to students engaged in specialized training requiring exceptionally high costs of education, but the annual insurable limit per student shall not be deemed to be exceeded by a line of credit under which actual payments by the lender to the borrower will not be made in any years in excess of the annual limit;

(B) provides that the aggregate insured unpaid principal amount for all such insured

loans made to any student shall be any amount up to a maximum of—

(i) $23,000, in the case of any student who has not successfully completed a program of undergraduate education, excluding loans made under section 1078–1[2] or 1078–2 of this title; and

(ii) $65,500, in the case of any graduate or professional student (as defined by regulations of the Secretary), and (I) including any loans which are insured by the Secretary under this section, or by a guaranty agency, made to such student before the student became a graduate or professional student, but (II) excluding loans made under section 1078–1[2] or 1078–2 of this title,

except that the Secretary may increase the limit applicable to students who are pursuing programs which the Secretary determines are exceptionally expensive;

(C) authorizes the insurance of loans to any individual student for at least 6 academic years of study or their equivalent (as determined under regulations of the Secretary);

(D) provides that (i) the student borrower shall be entitled to accelerate without penalty the whole or any part of an insured loan, (ii) the repayment period of any insured loan may not exceed 10 years, and (iii) the note, or other written evidence of any loan, may contain such reasonable provisions relating to repayment in the event of default by the borrower as may be authorized by regulations of the Secretary in effect at the time such note or written evidence was executed, and shall contain a notice that repayment may, following a default by the borrower, be subject to income contingent repayment in accordance with subsection (m) of this section;

(E) subject to subparagraphs (D) and (L), and except as provided by subparagraph (M), provides that—

(i) not more than 6 months prior to the date on which the borrower's first payment is due, the lender shall offer the borrower of a loan made, insured, or guaranteed under this section or section 1078–1[2] of this title, the option of repaying the loan in accordance with a graduated or income-sensitive repayment schedule established by the lender and in accordance with regulations of the Secretary; and

(ii) repayment of loans shall be in installments over a period of not less than 5 years (unless the student, during the 6 months immediately preceding the start of the repayment period, specifically requests that repayment be made over a shorter period) nor more than 10 years commencing at the beginning of the repayment period determined under paragraph (7) of this subsection;

(F) authorizes interest on the unpaid balance of the loan at a yearly rate not in excess (exclusive of any premium for insurance which may be passed on to the borrower) of the rate required by section 1077a of this title;

(G) insures not less than 98 percent of the unpaid principal of loans insured under the program, except that such program shall insure 100 percent of the unpaid principal of loans made with funds advanced pursuant to subsection (j) of this section or section 1087–2(q) of this title;

(H) provides for collection of a single insurance premium equal to not more than 1.0 percent of the principal amount of the loan, by deduction proportionately from each installment payment of the proceeds of the loan to the borrower, and insures that the proceeds of the premium will not be used for incentive payments to lenders;

(I) provides that the benefits of the loan insurance program will not be denied any student who is eligible for interest benefits under subsection (a)(1) and (2) of this section;

(J) provides that a student may obtain insurance under the program for a loan for any year of study at an eligible institution;

(K) in the case of a State program, provides that such State program is administered by a single State agency, or by one or more nonprofit private institutions or organizations under supervision of a single State agency;

(L) provides that the total of the payments by borrower—

(i) during any year of any repayment period with respect to the aggregate amount of all loans to that borrower which are insured under this part shall not, unless the borrower and the lender otherwise agree, be less than $600 or the balance of all such loans (together with interest thereon), whichever amount is less (but in no instance less than the amount of interest due and payable); and

(ii) for a monthly or other similar payment period with respect to the aggregate of all loans held by the lender may, when the amount of a monthly or other similar payment is not a multiple of $5, be rounded to the next highest whole dollar amount that is a multiple of $5;

(M) provides that periodic installments of principal need not be paid, but interest shall accrue and be paid by the Secretary, during any period—

(i) during which the borrower—

(I) is pursuing at least a half-time course of study as determined by an eligible institution; or

(II) is pursuing a course of study pursuant to a graduate fellowship program approved by the Secretary, or pursuant to a rehabilitation training program for disabled individuals approved by the Secretary,

except that no borrower shall be eligible for a deferment under this clause, or loan made under this part (other than a loan made under[3] 1078–2 or 1078–3 of this title),

[2] See References in Text note below.

[3] So in original. Probably should be followed by ''section''.

while serving in a medical internship or residency program;

(ii) not in excess of 3 years during which the borrower is seeking and unable to find full-time employment; or

(iii) not in excess of 3 years for any reason which the lender determines, in accordance with regulations prescribed by the Secretary under section 1085(*o*) of this title, has caused or will cause the borrower to have an economic hardship;

(N) provides that funds borrowed by a student—

(i) are disbursed to the institution by check or other means that is payable to, and requires the endorsement or other certification by, such student; or

(ii) in the case of a student who is studying outside the United States in a program of study abroad that is approved for credit by the home institution at which such student is enrolled or at an eligible foreign institution, are, at the request of the student, disbursed directly to the student by the means described in clause (i), unless such student requests that the check be endorsed, or the funds transfer authorized, pursuant to an authorized power-of-attorney;

(O) provides that the proceeds of the loans will be disbursed in accordance with the requirements of section 1078–7 of this title;

(P) requires the borrower to notify the institution concerning any change in local address during enrollment and requires the borrower and the institution at which the borrower is in attendance promptly to notify the holder of the loan, directly or through the guaranty agency, concerning (i) any change of permanent address, (ii) when the student ceases to be enrolled on at least a half-time basis, and (iii) any other change in status, when such change in status affects the student's eligibility for the loan;

(Q) provides for the guarantee of loans made to students and parents under sections 1078–1[4] and 1078–2 of this title;

(R) with respect to lenders which are eligible institutions, provides for the insurance of loans by only such institutions as are located within the geographic area served by such guaranty agency;

(S) provides no restrictions with respect to the insurance of loans for students who are otherwise eligible for loans under such program if such a student is accepted for enrollment in or is attending an eligible institution within the State, or if such a student is a legal resident of the State and is accepted for enrollment in or is attending an eligible institution outside that State;

(T) authorizes (i) the limitation of the total number of loans or volume of loans, made under this part to students attending a particular eligible institution during any academic year; and (ii) the limitation, suspension, or termination of the eligibility of an eligible institution if—

(I) such institution is ineligible for the emergency action, limitation, suspension, or termination of eligible institutions under regulations issued by the Secretary or is ineligible pursuant to criteria, rules, or regulations issued under the student loan insurance program which are substantially the same as regulations with respect to emergency action, limitation, suspension, or termination of such eligibility issued by the Secretary;

(II) there is a State constitutional prohibition affecting the eligibility of such an institution;

(III) such institution fails to make timely refunds to students as required by regulations issued by the Secretary or has not satisfied within 30 days of issuance a final judgment obtained by a student seeking such a refund;

(IV) such institution or an owner, director, or officer of such institution is found guilty in any criminal, civil, or administrative proceeding, or such institution or an owner, director, or officer of such institution is found liable in any civil or administrative proceeding, regarding the obtaining, maintenance, or disbursement of State or Federal grant, loan, or work assistance funds; or

(V) such institution or an owner, director, or officer of such institution has unpaid financial liabilities involving the improper acquisition, expenditure, or refund of State or Federal financial assistance funds;

except that, if a guaranty agency limits, suspends, or terminates the participation of an eligible institution, the Secretary shall apply that limitation, suspension, or termination to all locations of such institution, unless the Secretary finds, within 30 days of notification of the action by the guaranty agency, that the guaranty agency's action did not comply with the requirements of this section;

(U) provides (i) for the eligibility of all lenders described in section 1085(d)(1) of this title under reasonable criteria, unless (I) that lender is eliminated as a lender under regulations for the emergency action,,[5] limitation, suspension, or termination of a lender under the Federal student loan insurance program or is eliminated as a lender pursuant to criteria issued under the student loan insurance program which are substantially the same as regulations with respect to such eligibility as a lender issued under the Federal student loan insurance program, or (II) there is a State constitutional prohibition affecting the eligibility of a lender, (ii) assurances that the guaranty agency will report to the Secretary concerning changes in such criteria, including any procedures in effect under such program to take emergency action,,[5] limit, suspend, or terminate lenders, and (iii) for (I) a compliance audit of each lender at least once a year and covering

[4] See References in Text note below.

[5] So in original.

the period since the most recent audit, conducted by a qualified, independent organization or person in accordance with standards established by the Comptroller General for the audit of governmental organizations, programs, and functions, and as prescribed in regulations of the Secretary, the results of which shall be submitted to the Secretary, or (II) with regard to a lender that is audited under chapter 75 of title 31, such audit shall be deemed to satisfy the requirements of subclause (I) for the period covered by such audit, except that the Secretary may waive the requirements of this clause (iii) if the lender submits to the Secretary the results of an audit conducted for other purposes that the Secretary determines provides the same information as the audits required by this clause;

(V) provides authority for the guaranty agency to require a participation agreement between the guaranty agency and each eligible institution within the State in which it is designated, as a condition for guaranteeing loans made on behalf of students attending the institution;

(W) provides assurances that the agency will implement all requirements of the Secretary for uniform claims and procedures pursuant to section 1082(*l*) of this title; and

(X) provides information to the Secretary in accordance with subsection (c)(10) of this section and maintains reserve funds determined by the Secretary to be sufficient in relation to such agency's guarantee obligations.

(2) Contents of insurance program agreement

Such an agreement shall—

(A) provide that the holder of any such loan will be required to submit to the Secretary, at such time or times and in such manner as the Secretary may prescribe, statements containing such information as may be required by or pursuant to regulation for the purpose of enabling the Secretary to determine the amount of the payment which must be made with respect to that loan;

(B) include such other provisions as may be necessary to protect the United States from the risk of unreasonable loss and promote the purpose of this part, including such provisions as may be necessary for the purpose of section 1087 of this title, and as are agreed to by the Secretary and the guaranty agency, as the case may be;

(C) provide for making such reports, in such form and containing such information, including financial information, as the Secretary may reasonably require to carry out the Secretary's functions under this part and protect the financial interest of the United States, and for keeping such records and for affording such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports;

(D) provide for—

(i) conducting, except as provided in clause (ii), financial and compliance audits of the guaranty agency on at least an annual basis and covering the period since the most recent audit, conducted by a qualified, independent organization or person in accordance with standards established by the Comptroller General for the audit of governmental organizations, programs, and functions, and as prescribed in regulations of the Secretary, the results of which shall be submitted to the Secretary; or

(ii) with regard to a guaranty program of a State which is audited under chapter 75 of title 31, deeming such audit to satisfy the requirements of clause (i) for the period of time covered by such audit;

(E)(i) provide that any guaranty agency may transfer loans which are insured under this part to any other guaranty agency with the approval of the holder of the loan and such other guaranty agency; and

(ii) provide that the lender (or the holder of the loan) shall, not later than 120 days after the borrower has left the eligible institution, notify the borrower of the date on which the repayment period begins; and

(F) provide that, if the sale, other transfer, or assignment of a loan made under this part to another holder will result in a change in the identity of the party to whom the borrower must send subsequent payments or direct any communications concerning the loans, then—

(i) the transferor and the transferee will be required, not later than 45 days from the date the transferee acquires a legally enforceable right to receive payment from the borrower on such loan, either jointly or separately to provide a notice to the borrower of—

(I) the sale or other transfer;

(II) the identity of the transferee;

(III) the name and address of the party to whom subsequent payments or communications must be sent; and

(IV) the telephone numbers of both the transferor and the transferee; and

(ii) the transferee will be required to notify the guaranty agency, and, upon the request of an institution of higher education, the guaranty agency shall notify the last such institution the student attended prior to the beginning of the repayment period of any loan made under this part, of—

(I) any sale or other transfer of the loan; and

(II) the address and telephone number by which contact may be made with the new holder concerning repayment of the loan,

except that this subparagraph (F) shall only apply if the borrower is in the grace period described in section 1077(a)(2)(B) of this title or subsection (b)(7) of this section or is in repayment status.

(3) Restrictions on inducements, mailings, and advertising

A guaranty agency shall not—

(A) offer, directly or indirectly, premiums, payments, or other inducements to any edu-

cational institution or its employees in order to secure applicants for loans under this part;

(B) offer, directly or indirectly, any premium, incentive payment, or other inducement to any lender, or any agent, employee, or independent contractor of any lender or guaranty agency, in order to administer or market loans made under this part (other than a loan made under section 1078–8 of this title or a loan made as part of a guaranty agency's lender-of-last-resort program) for the purpose of securing the designation of that guaranty agency as the insurer of such loans;

(C) conduct unsolicited mailings to students enrolled in secondary school of student loan application forms; or

(D) conduct fraudulent or misleading advertising concerning loan availability.

(4) Special rule

For the purpose of paragraph (1)(M)(i)(III) of this subsection, the Secretary shall approve any course of study at a foreign university that is accepted for the completion of a recognized international fellowship program by the administrator of such a program. Requests for deferment of repayment of loans under this part by students engaged in graduate or postgraduate fellowship-supported study (such as pursuant to a Fulbright grant) outside the United States shall be approved until completion of the period of the fellowship.

(5) Guaranty agency information transfers

(A) Until such time as the Secretary has implemented section 1092b of this title and is able to provide to guaranty agencies the information required by such section, any guaranty agency may request information regarding loans made after January 1, 1987, to students who are residents of the State for which the agency is the designated guarantor, from any other guaranty agency insuring loans to such students.

(B) Upon a request pursuant to subparagraph (A), a guaranty agency shall provide—

(i) the name and the social security number of the borrower; and

(ii) the amount borrowed and the cumulative amount borrowed.

(C) Any costs associated with fulfilling the request of a guaranty agency for information on students shall be paid by the guaranty agency requesting the information.

(6) State guaranty agency information request of State licensing boards

Each guaranty agency is authorized to enter into agreements with each appropriate State licensing board under which the State licensing board, upon request, will furnish the guaranty agency with the address of a student borrower in any case in which the location of the student borrower is unknown or unavailable to the guaranty agency.

(7) Repayment period

(A) In the case of a loan made under section 1077 of this title or this section, the repayment period shall exclude any period of authorized deferment or forbearance and shall begin—

(i) the day after 6 months after the date the student ceases to carry at least one-half the normal full-time academic workload (as determined by the institution); or

(ii) on an earlier date if the borrower requests and is granted a repayment schedule that provides for repayment to commence at an earlier date.

(B) In the case of a loan made under section 1078–8 of this title, the repayment period shall exclude any period of authorized deferment or forbearance, and shall begin as described in clause (i) or (ii) of subparagraph (A), but interest shall begin to accrue or be paid by the borrower on the day the loan is disbursed.

(C) In the case of a loan made under section 1078–1,[6] 1078–2, or 1078–3 of this title, the repayment period shall begin on the day the loan is disbursed, or, if the loan is disbursed in multiple installments, on the day of the last such disbursement, and shall exclude any period of authorized deferment or forbearance.

(8) Means of disbursement of loan proceeds

Nothing in this subchapter and part C of subchapter I of chapter 34 of title 42 shall be interpreted to prohibit the disbursement of loan proceeds by means other than by check or to allow the Secretary to require checks to be made co-payable to the institution and the borrower.

(c) Guaranty agreements for reimbursing losses

(1) Authority to enter into agreements

(A) The Secretary may enter into a guaranty agreement with any guaranty agency, whereby the Secretary shall undertake to reimburse it, under such terms and conditions as the Secretary may establish, with respect to losses (resulting from the default of the student borrower) on the unpaid balance of the principal and accrued interest of any insured loan. The guaranty agency shall be deemed to have a contractual right against the United States, during the life of such loan, to receive reimbursement according to the provisions of this subsection. Upon receipt of an accurate and complete request by a guaranty agency for reimbursement with respect to such losses, the Secretary shall pay promptly and without administrative delay. Except as provided in subparagraph (B) of this paragraph and in paragraph (7), the amount to be paid a guaranty agency as reimbursement under this subsection shall be equal to 98 percent of the amount expended by it in discharge of its insurance obligation incurred under its loan insurance program. A guaranty agency shall file a claim for reimbursement with respect to losses under this subsection within 45 days after the guaranty agency discharges its insurance obligation on the loan.

(B) Notwithstanding subparagraph (A)—

(i) if, for any fiscal year, the amount of such reimbursement payments by the Secretary under this subsection exceeds 5 percent of the loans which are insured by such guaranty agency under such program and which were in repayment at the end of the

[6] See References in Text note below.

preceding fiscal year, the amount to be paid as reimbursement under this subsection for such excess shall be equal to 88 percent of the amount of such excess; and

(ii) if, for any fiscal year, the amount of such reimbursement payments exceeds 9 percent of such loans, the amount to be paid as reimbursement under this subsection for such excess shall be equal to 78 percent of the amount of such excess.

(C) For the purpose of this subsection, the amount of loans of a guaranty agency which are in repayment shall be the original principal amount of loans made by a lender which are insured by such a guaranty agency reduced by—

(i) the amount the insurer has been required to pay to discharge its insurance obligations under this part;

(ii) the original principal amount of loans insured by it which have been fully repaid; and

(iii) the original principal amount insured on those loans for which payment of the first installment of principal has not become due pursuant to subsection (b)(1)(E) of this section or such first installment need not be paid pursuant to subsection (b)(1)(M) of this section.

(D) Reimbursements of losses made by the Secretary on loans submitted for claim by an eligible lender, servicer, or guaranty agency designated for exceptional performance under section 1078–9 of this title shall not be subject to additional review by the Secretary or repurchase by the guaranty agency for any reason other than a determination by the Secretary that the eligible lender, servicer, or guaranty agency engaged in fraud or other purposeful misconduct in obtaining designation for exceptional performance.

(E) Notwithstanding any other provisions of this section, in the case of a loan made pursuant to a lender-of-last-resort program, the Secretary shall apply the provisions of—

(i) the fourth sentence of subparagraph (A) by substituting ''100 percent'' for ''98 percent'';

(ii) subparagraph (B)(i) by substituting ''100 percent'' for ''88 percent''; and

(iii) subparagraph (B)(ii) by substituting ''100 percent'' for ''78 percent''.

(F) Notwithstanding any other provisions of this section, in the case of an outstanding loan transferred to a guaranty agency from another guaranty agency pursuant to a plan approved by the Secretary in response to the insolvency of the latter such guarantee agency, the Secretary shall apply the provision of—

(i) the fourth sentence of subparagraph (A) by substituting ''100 percent'' for ''98 percent'';

(ii) subparagraph (B)(i) by substituting ''90 percent'' for ''88 percent''; and

(iii) subparagraph (B)(ii) by substituting ''80 percent'' for ''78 percent''.

(G) Notwithstanding any other provision of this section, the Secretary shall exclude a loan made pursuant to a lender-of-last-resort program when making reimbursement payment calculations under subparagraphs (B) and (C).

(2) Contents of guaranty agreements

The guaranty agreement—

(A) shall set forth such administrative and fiscal procedures as may be necessary to protect the United States from the risk of unreasonable loss thereunder, to ensure proper and efficient administration of the loan insurance program, and to assure that due diligence will be exercised in the collection of loans insured under the program, including a requirement that each beneficiary of insurance on the loan submit proof that reasonable attempts were made to locate the borrower (when the location of the borrower is unknown) and proof that contact was made with the borrower (when the location is known);

(B) shall provide for making such reports, in such form and containing such information, as the Secretary may reasonably require to carry out the Secretary's functions under this subsection, and for keeping such records and for affording such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports;

(C) shall set forth adequate assurances that, with respect to so much of any loan insured under the loan insurance program as may be guaranteed by the Secretary pursuant to this subsection, the undertaking of the Secretary under the guaranty agreement is acceptable in full satisfaction of State law or regulation requiring the maintenance of a reserve;

(D) shall provide that if, after the Secretary has made payment under the guaranty agreement pursuant to paragraph (1) of this subsection with respect to any loan, any payments are made in discharge of the obligation incurred by the borrower with respect to such loan (including any payments of interest accruing on such loan after such payment by the Secretary), there shall be paid over to the Secretary (for deposit in the fund established by section 1081 of this title) such proportion of the amounts of such payments as is determined (in accordance with paragraph (6)) to represent his equitable share thereof, but (i) shall provide for subrogation of the United States to the rights of any insurance beneficiary only to the extent required for the purpose of paragraph (8); and (ii) except as the Secretary may otherwise by or pursuant to regulation provide, amounts so paid by a borrower on such a loan shall be first applied in reduction of principal owing on such loan;

(E) shall set forth adequate assurance that an amount equal to each payment made under paragraph (1) will be promptly deposited in or credited to the accounts maintained for the purpose of section 1072(c) of this title;

(F) set forth adequate assurances that the guaranty agency will not engage in any pattern or practice which results in a denial of

a borrower's access to loans under this part because of the borrower's race, sex, color, religion, national origin, age, handicapped status, income, attendance at a particular eligible institution within the area served by the guaranty agency, length of the borrower's educational program, or the borrower's academic year in school;

(G) shall prohibit the Secretary from making any reimbursement under this subsection to a guaranty agency when a default claim is based on an inability to locate the borrower, unless the guaranty agency, at the time of filing for reimbursement, certifies to the Secretary that diligent attempts have been made to locate the borrower through the use of reasonable skip-tracing techniques in accordance with regulations prescribed by the Secretary; and

(H) set forth assurances that—

(i) upon the request of an eligible institution, the guaranty agency shall, subject to clauses (ii) and (iii), furnish to the institution information with respect to students (including the names and addresses of such students) who received loans made, insured, or guaranteed under this part for attendance at the eligible institution and for whom preclaims assistance activities have been requested under subsection (*l*) of this section;

(ii) the guaranty agency may require the payment by the institution of a reasonable fee (as determined in accordance with regulations prescribed by the Secretary) for such information; and

(iii) the guaranty agency will require the institution to use such information only to assist the institution in reminding students of their obligation to repay student loans and shall prohibit the institution from disseminating the information for any other purpose.

(I) may include such other provisions as may be necessary to promote the purpose of this part.

(3) Forbearance

A guaranty agreement under this subsection—

(A) shall contain provisions providing that—

(i) upon written request, a lender shall grant a borrower forbearance, renewable at 12-month intervals, on terms agreed to in writing by the parties to the loan with the approval of the insurer, and otherwise consistent with the regulations of the Secretary, if the borrower—

(I) is serving in a medical or dental internship or residency program, the successful completion of which is required to begin professional practice or service, or is serving in a medical or dental internship or residency program leading to a degree or certificate awarded by an institution of higher education, a hospital, or a health care facility that offers postgraduate training, provided that if the borrower qualifies for a deferment under section 1077(a)(2)(C)(vii) of this title or subsection (b)(1)(M)(vii) of this section as in effect prior to the enactment of the Higher Education Amendments of 1992, or section 1077(a)(2)(C) of this title or subsection (b)(1)(M) of this section as amended by such amendments, the borrower has exhausted his or her eligibility for such deferment;

(II) has a debt burden under this subchapter and part C of subchapter I of chapter 34 of title 42 that equals or exceeds 20 percent of income; or

(III) is serving in a national service position for which the borrower receives a national service educational award under the National and Community Service Trust Act of 1993;

(ii) the length of the forbearance granted by the lender—

(I) under clause (i)(I) shall equal the length of time remaining in the borrower's medical or dental internship or residency program, if the borrower is not eligible to receive a deferment described in such clause, or such length of time remaining in the program after the borrower has exhausted the borrower's eligibility for such deferment;

(II) under clause (i)(II) shall not exceed 3 years; or

(III) under clause (i)(III) shall not exceed the period for which the borrower is serving in a position described in such clause; and

(iii) no administrative or other fee may be charged in connection with the granting of a forbearance under clause (i), and no adverse information regarding a borrower may be reported to a credit bureau organization solely because of the granting of such forbearance;

(B) may, to the extent provided in regulations of the Secretary, contain provisions that permit such forbearance for the benefit of the student borrower as may be agreed upon by the parties to an insured loan and approved by the insurer; and

(C) shall contain provisions that specify that the form of forbearance granted by the lender for purposes of this paragraph shall be the temporary cessation of payments, unless the borrower selects forbearance in the form of an extension of time for making payments, or smaller payments than were previously scheduled.

Guaranty agencies shall not be precluded from permitting the parties to such a loan from entering into a forbearance agreement solely because the loan is in default. The Secretary shall permit lenders to exercise administrative forbearances that do not require the agreement of the borrower, under conditions authorized by the Secretary. Such forbearances shall include (i) forbearances for borrowers who are delinquent at the time of the granting of an authorized period of deferment under subsection (b)(1)(M) of this section or section 1077(a)(2)(C) of this title, and (ii) if the borrower is less than 60 days delinquent on such

loans at the time of sale or transfer, forbearances for borrowers on loans which are sold or transferred.

(4) Definitions

For the purpose of this subsection, the terms ''insurance beneficiary'' and ''default'' have the meanings assigned to them by section 1085 of this title.

(5) Applicability to existing loans

In the case of any guaranty agreement with a guaranty agency, the Secretary may, in accordance with the terms of this subsection, undertake to guarantee loans described in paragraph (1) which are insured by such guaranty agency and are outstanding on the date of execution of the guaranty agreement, but only with respect to defaults occurring after the execution of such guaranty agreement or, if later, after its effective date.

(6) Secretary's equitable share

(A) For the purpose of paragraph (2)(D), the Secretary's equitable share of payments made by the borrower shall be that portion of the payments remaining after the guaranty agency with which the Secretary has an agreement under this subsection has deducted from such payments—

(i) a percentage amount equal to the complement of the reinsurance percentage in effect when payment under the guaranty agreement was made with respect to the loan; and

(ii) an amount equal to 27 percent of such payments (subject to subparagraph (D) of this paragraph) for costs related to the student loan insurance program, including the administrative costs of collection of loans reimbursed under this subsection, the administrative costs of preclaims assistance for default prevention, the administrative costs of supplemental preclaims assistance for default prevention, and the administrative costs of monitoring the enrollment and repayment status of students (as such terms are defined in subparagraph (B) or (C) of this paragraph).

(B) For the purpose of this paragraph and subsection (f) of this section, the term—

(i) ''administrative costs of collection of loans'' means any administrative costs incurred by a guaranty agency which are directly related to the collection of the loan on which a default claim has been paid to the participating lender, including the attributable compensation of collection personnel (and in the case of personnel who perform several functions for such an agency only the portion of the compensation attributable to the collection activity), attorney's fees, fees paid to collection agencies, postage, equipment, supplies, telephone and similar charges, but does not include the overhead costs of such agency whether or not attributable;

(ii) ''administrative costs of preclaim assistance for default prevention'' means any administrative costs incurred by a guaranty agency which are directly related to providing collection assistance to the lender on a delinquent loan, prior to the loan's being legally in a default status, including the attributable compensation of appropriate personnel (and in the case of personnel who perform several functions for such an agency only the portion of compensation attributable to the collection activity), fees paid to locate a missing borrower, postage, equipment, supplies, telephone and similar charges, but does not include the overhead costs of such agency whether or not attributable; and

(iii) ''administrative costs of monitoring the enrollment and repayment status of students'' means any administrative costs by a guaranty agency which are directly related to ascertaining the student's enrollment status, prompt notification to the lender of such status, an audit of the note or written agreement to determine if the provisions of that note or agreement are consistent with the records of the guaranty agency as to the principal amount of the loan guaranteed, and an examination of the note or agreement to assure that the repayment provisions are consistent with the provisions of this part,

subject to such additional criteria as the Secretary may by regulation prescribe.

(C)(i) For the purpose of subsection (*l*) of this section, ''administrative costs of supplemental preclaims assistance'' means (subject to divisions (ii) through (iv)) any administrative costs—

(I) incurred by a guaranty agency in connection with a loan on which the guarantor has exercised preclaims assistance generally comparable in intensiveness to the level of preclaims assistance performed, prior to the 120th day of delinquency, by the guaranty agency as of October 16, 1990, and which has been in delinquent status for at least 120 days; and

(II) which are directly related to providing collection assistance to the lender on a delinquent loan, prior to a claim being filed with the guaranty agency,

including the attributable compensation of appropriate personnel (and in the case of personnel who perform several functions, only the portion of compensation attributable to the collection assistance), fees paid to locate a missing borrower, postage, equipment, supplies, telephone, and similar charges, but does not include overhead costs.

(ii) The administrative costs for which payment under subsection (*l*) of this section is authorized under this subparagraph must be clearly supplemental to the preclaim assistance for default prevention described in division (i)(I) of this subparagraph.

(iii) The services associated with carrying out this subparagraph may be provided by the guaranty agency directly or under contract, except that such services may not be carried out by an organization or entity (other than the guaranty agency)—

(I) that is the holder or servicer of the loan or an organization or entity that owns or controls the holder or servicer of the loan;

(II) that is owned or controlled by the same corporation, partnership, association, or individual that owns or controls the holder or servicer of the loan; or

(III) that is an organization or entity that has a contract with a guaranty agency to perform collection activities with respect to the same loans in the event of default.

(iv) In the case of accounts brought into repayment status as a result of performing supplemental preclaims assistance, the cost of such assistance is a permissible charge to the borrower (for the cost of collection) for which the borrower shall be liable.

(7) New programs eligible for 100 percent reinsurance

(A) Notwithstanding paragraph (1)(C), the amount to be paid a guaranty agency for any fiscal year—

(i) which begins on or after October 1, 1977 and ends before October 1, 1991; and

(ii) which is either the fiscal year in which such guaranty agency begins to actively carry on a student loan insurance program which is subject to a guaranty agreement under subsection (b) of this section, or is one of the 4 succeeding fiscal years,

shall be 100 percent of the amount expended by such guaranty agency in discharge of its insurance obligation insured under such program.

(B) Notwithstanding the provisions of paragraph (1)(C), the Secretary may pay a guaranty agency 100 percent of the amount expended by such agency in discharge of such agency's insurance obligation for any fiscal year which—

(i) begins on or after October 1, 1991; and

(ii) is the fiscal year in which such guaranty agency begins to actively carry on a student loan insurance program which is subject to a guaranty agreement under subsection (b) of this section or is one of the 4 succeeding fiscal years.

(C) The Secretary shall continuously monitor the operations of those guaranty agencies to which the provisions of subparagraph (A) or (B) are applicable and revoke the application of such subparagraph to any such guaranty agency which the Secretary determines has not exercised reasonable prudence in the administration of such program.

(8) Assignment to protect Federal fiscal interest

(A) If the Secretary determines that the protection of the Federal fiscal interest so requires, a guaranty agency shall assign to the Secretary any loan of which it is the holder and for which the Secretary has made a payment pursuant to paragraph (1) of this subsection.

(B) An orderly transition from the Federal Family Education Loan Program under this part to the Federal Direct Student Loan Program under part C of this subchapter shall be deemed to be in the Federal fiscal interest, and a guaranty agency shall promptly assign loans to the Secretary under this paragraph upon the Secretary's request.

(9) Guaranty agency reserve level

(A) Each guaranty agency which has entered into an agreement with the Secretary pursuant to this subsection shall maintain a current minimum reserve level of at least .5 percent of the total attributable amount of all outstanding loans guaranteed by such agency. For purposes of this paragraph, such total attributable amount does not include amounts of outstanding loans transferred to the guaranty agency from another guaranty agency pursuant to a plan of the Secretary in response to the insolvency of the latter such guaranty agency.

(B) The Secretary shall collect, on an annual basis, information from each guaranty agency having an agreement under this subsection to enable the Secretary to evaluate the financial solvency of each such agency. The information collected shall include the level of such agency's current reserves, cash disbursements and accounts receivable.

(C) If (i) any guaranty agency falls below the required minimum reserve level in any 2 consecutive years, (ii) any guaranty agency's Federal reimbursement payments are reduced to 80 percent pursuant to subsection (c)(1)(B)(ii) of this section, or (iii) the Secretary determines that the administrative or financial condition of a guaranty agency jeopardizes such agency's continued ability to perform its responsibilities under its guaranty agreement, then the Secretary shall require, as appropriate, the guaranty agency to submit and implement a management plan acceptable to the Secretary within 30 working days of any such event.

(D)(i) If the Secretary is not seeking to terminate the guaranty agency's agreement under subparagraph (E), or assuming the guaranty agency's functions under subparagraph (F), a management plan described in subparagraph (C) shall include the means by which the guaranty agency will improve its financial and administrative condition to the required level within 18 months.

(ii) If the Secretary is seeking to terminate the guaranty agency's agreement under subparagraph (E), or assuming the guaranty agency's functions under subparagraph (F), a management plan described in subparagraph (C) shall include the means by which the Secretary and the guaranty agency shall work together to ensure the orderly termination of the operations, and liquidation of the assets, of the guaranty agency.

(E) The Secretary may terminate a guaranty agency's agreement in accordance with subparagraph (F) if—

(i) a guaranty agency required to submit a management plan under this paragraph fails to submit a plan that is acceptable to the Secretary;

(ii) the Secretary determines that a guaranty agency has failed to improve substantially its administrative and financial condition;

(iii) the Secretary determines that the guaranty agency is in danger of financial collapse;

(iv) the Secretary determines that such action is necessary to protect the Federal fiscal interest;

(v) the Secretary determines that such action is necessary to ensure the continued availability of loans to student or parent borrowers; or

(vi) the Secretary determines that such action is necessary to ensure an orderly transition from the loan programs under this part to the direct student loan programs under part C of this subchapter.

(F) If a guaranty agency's agreement under this subsection is terminated pursuant to subparagraph (E), then the Secretary shall assume responsibility for all functions of the guaranty agency under the loan insurance program of such agency. In performing such functions the Secretary is authorized to—

(i) permit the transfer of guarantees to another guaranty agency;

(ii) revoke the reinsurance agreement of the guaranty agency at a specified date, so as to require the merger, consolidation, or termination of the guaranty agency;

(iii) transfer guarantees to the Department of Education for the purpose of payment of such claims and process such claims using the claims standards of the guaranty agency, if such standards are determined by the Secretary to be in compliance with this chapter;

(iv) design and implement a plan to restore the guaranty agency's viability;

(v) provide the guaranty agency with additional advance funds in accordance with section 1072(c)(7) of this title, with such restrictions on the use of such funds as is determined appropriate by the Secretary, in order to—

(I) meet the immediate cash needs of the guaranty agency;

(II) ensure the uninterrupted payment of claims; or

(III) ensure that the guaranty agency will make loans as the lender-of-last-resort, in accordance with subsection (j) of this section;

(vi) use all funds and assets of the guaranty agency to assist in the activities undertaken in accordance with this subparagraph and take appropriate action to require the return, to the guaranty agency or the Secretary, of any funds or assets provided by the guaranty agency, under contract or otherwise, to any person or organization; or

(vii) take any other action the Secretary determines necessary to ensure the continued availability of loans made under this part to residents of the State or States in which the guaranty agency did business, the full honoring of all guarantees issued by the guaranty agency prior to the Secretary's assumption of the functions of such agency, and the proper servicing of loans guaranteed by the guaranty agency prior to the Secretary's assumption of the functions of such agency, to avoid disruption of the student loan program, and to ensure an orderly transition from the loan programs under this part to the direct student loan programs under part C of this subchapter.

(G) Notwithstanding any other provision of Federal or State law, if the Secretary has terminated or is seeking to terminate a guaranty agency's agreement under subparagraph (E), or has assumed a guaranty agency's functions under subparagraph (F)—

(i) no State court may issue any order affecting the Secretary's actions with respect to such guaranty agency;

(ii) any contract with respect to the administration of a guaranty agency's reserve funds, or the administration of any assets purchased or acquired with the reserve funds of the guaranty agency, that is entered into or extended by the guaranty agency, or any other party on behalf of or with the concurrence of the guaranty agency, after August 10, 1993, shall provide that the contract is terminable by the Secretary upon 30 days notice to the contracting parties if the Secretary determines that such contract includes an impermissible transfer of the reserve funds or assets, or is otherwise inconsistent with the terms or purposes of this section; and

(iii) no provision of State law shall apply to the actions of the Secretary in terminating the operations of a guaranty agency.

(H) Notwithstanding any other provision of law, the Secretary's liability for any outstanding liabilities of a guaranty agency (other than outstanding student loan guarantees under this part), the functions of which the Secretary has assumed, shall not exceed the fair market value of the reserves of the guaranty agency, minus any necessary liquidation or other administrative costs.

(I) The Secretary shall not take any action under subparagraph (E) or (F) without giving the guaranty agency notice and the opportunity for a hearing.

(J) Notwithstanding any other provision of law, the information transmitted to the Secretary pursuant to this paragraph shall be confidential and exempt from disclosure under section 552 of title 5, relating to freedom of information, or any other Federal law.

(K) The Secretary, within 3 months after the end of each fiscal year, shall submit to the House Committee on Education and Labor and the Senate Committee on Labor and Human Resources a report specifying the Secretary's assessment of the fiscal soundness of the guaranty agency system and the progress of the transition from the loan programs under this part to the direct student loan programs under part C of this subchapter.

(d) Usury laws inapplicable

No provision of any law of the United States (other than this chapter) or of any State (other than a statute applicable principally to such State's student loan insurance program) which limits the rate or amount of interest payable on loans shall apply to a loan—

(1) which bears interest (exclusive of any premium for insurance) on the unpaid principal balance at a rate not in excess of the rate specified in this part; and

(2) which is insured (i) by the United States under this part, or (ii) by a guaranty agency under a program covered by an agreement made pursuant to subsection (b) of this section.

(e) Payments for lender referral services

(1) In general; agreements with guaranty agencies

(A) The Secretary shall make payments in accordance with this paragraph to a guaranty agency with which the Secretary has an agreement under subparagraph (B) which provides a lender referral service for students who meet the requirements of paragraph (2).

(B)(i) The Secretary may enter into agreements with guaranty agencies that meet standards established by the Secretary to provide lender referral services in geographic areas specified by the Secretary. Such guaranty agencies shall be paid in accordance with paragraph (3) for such services.

(ii) The Secretary shall publish in the Federal Register whatever standards, criteria, and procedures, consistent with the provisions of this part and part C of this subchapter, the Secretary determines are reasonable and necessary to provide lender referral services under this subsection and ensure loan access to student and parent borrowers during the transition from the loan programs under this part to the direct student loan programs under part C of this subchapter. Section 1232[7] of this title shall not apply to the publication of such standards, criteria, and procedures.

(2) Student eligibility

A student is eligible to apply for lender referral services to a guaranty agency with which the Secretary has an agreement under paragraph (1)(B) if—

(A) such student is either a resident of, or is accepted for enrollment in, or is attending, an eligible institution located in a geographic area for which the Secretary (i) determines that loans are not available to all eligible students, and (ii) has entered into an agreement with a guaranty agency under paragraph (1)(B) to provide lender referral services; and

(B) such student has sought and was unable to find a lender willing to make a loan under this part.

(3) Amount of payment

From funds available for costs of transition under section 1087h of this title, the amount which the Secretary shall pay to any eligible guaranty agency under this paragraph shall be equal to one-half of 1 percent of the total principal amount of the loans (upon which insurance was issued under this part) to a student described in paragraph (2) who subsequently obtained such loans because of such agency's referral service.

(4) Incentive fees to lenders

Nothing in this or any law shall prohibit an agency from using all or any portion of the funds received under this part for the payment of incentive fees to lenders who agree to participate in a lender referral service.

(f) Payments of certain costs

(1) Payments based on insurance program agreement

(A) For a fiscal year prior to fiscal year 1994, the Secretary shall make payments in accordance with the provisions of this paragraph to any guaranty agency for the purposes of—

(i) the administrative cost of promotion of eligible lender participation;

(ii) the administrative costs of collection of loans;

(iii) the administrative costs of preclaims assistance for default prevention;

(iv) the administrative costs of monitoring the enrollment and repayment status of students; or

(v) other such costs related to the student loan insurance program subject to such agreement.

(B) The total amount of payments for any fiscal year prior to fiscal year 1994 made under this paragraph shall be equal to 1 percent of the total principal amount of the loans upon which insurance was issued under this part during such fiscal year by such guaranty agency. The guaranty agency shall be deemed to have a contractual right against the United States to receive payments according to the provisions of this subparagraph. Payments shall be made promptly and without administrative delay to any guaranty agency submitting an accurate and complete application therefor under this subparagraph.

(C) No payment may be made under this paragraph for loans for which the disbursement checks have not been cashed or for which electronic funds transfers have not been completed.

(2) Applications for payments

No payment may be made under paragraph (1) of this subsection unless the guaranty agency submits to the Secretary an application at such time, at least annually, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require. Each such application shall—

(A) set forth assurances that the student loan insurance program subject to the guaranty agreement complies with subparagraphs (A), (B), (G), (R), (S), (T), and (U) of subsection (b)(1) of this section;

(B) contain provisions designed to demonstrate the capability of carrying out a necessary and successful program of collection of and preclaim assistance for the loan program subject to that agreement;

(C) set forth an estimate of the costs which are eligible for payment under the provisions of this subsection;

(D) provide for such administrative and fiscal procedures, including an audit, as are necessary to carry out the provisions of this subsection; and

(E) set forth assurances that the guaranty agency will furnish such data and information, including where necessary estimates, as the Secretary may reasonably require, to carry out the provisions of this subsection.

[7] See References in Text note below.

(g) Action on insurance program and guaranty agreements

If a nonprofit private institution or organization—

(1) applies to enter into an agreement with the Secretary under subsections (b) and (c) of this section with respect to a student loan insurance program to be carried on in a State with which the Secretary does not have an agreement under subsection (b) of this section, and

(2) as provided in the application, undertakes to meet the requirements of section 1072(c)(6)(B)(i), (ii), and (iii) of this title,

the Secretary shall consider and act upon such application within 180 days, and shall forthwith notify the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives of his actions.

(h) Lending by guaranty agencies

(1) Lending from Sallie Mae advances

From sums advanced by the Association pursuant to section 1087–2(p) of this title, each guaranty agency or an eligible lender in a State described in section 1085(d)(1)(D) or (F) of this title is authorized to make loans directly to students otherwise unable to obtain loans under this part.

(2) Amount of advances

(A) Each guaranty agency or an eligible lender in a State described in section 1085(d)(1)(D) or (F) of this title which has an application approved under section 1087–2(p)(2) of this title may receive advances under section 1087–2(p) of this title for each fiscal year in an amount necessary to meet the demand for loans under this section. The amount such agency or lender is eligible to receive may not exceed 25 percent of the average of the loans guaranteed by that agency or lender for the 3 years preceding the fiscal year for which the determination is made. Whenever the determination required by the preceding sentence cannot be made because the agency or lender does not have 3 years previous experience, the amount such agency or lender is eligible to receive may not exceed 25 percent of the loans guaranteed under a program of a State of comparable size.

(B) Each guaranty agency and each eligible lender in a State described in section 1085(d)(1)(D) or (F) of this title shall repay advances made under section 1087–2(p) of this title in accordance with agreements entered into between the Association and such agency or lender.

(3) Loan term, conditions, and benefits

Loans made pursuant to this subsection shall have the same terms, conditions, and benefits as all other loans made under this part.

(i) Multiple disbursement of loans

(1) Escrow accounts administered by escrow agent

Any guaranty agency or eligible lender (hereafter in this subsection referred to as the ''escrow agent'') may enter into an agreement with any other eligible lender that is not an eligible institution or an agency or instrumentality of the State (hereafter in this subsection referred to as the ''lender'') for the purpose of authorizing disbursements of the proceeds of a loan to a student. Such agreement shall provide that the lender will pay the proceeds of such loans into an escrow account to be administered by the escrow agent in accordance with the provisions of paragraph (2) of this subsection. Such agreement may allow the lender to make payments into the escrow account in amounts that do not exceed the sum of the amounts required for disbursement of initial or subsequent installments to borrowers and to make such payments not more than 21 days prior to the date of the disbursement of such installment to such borrowers. Such agreement shall require the lender to notify promptly the eligible institution when funds are escrowed under this subsection for a student at such institution.

(2) Authority of escrow agent

Each escrow agent entering into an agreement under paragraph (1) of this subsection is authorized to—

(A) make the disbursements in accordance with the note evidencing the loan;

(B) commingle the proceeds of all loans paid to the escrow agent pursuant to the escrow agreement entered into under such paragraph (1);

(C) invest the proceeds of such loans in obligations of the Federal Government or obligations which are insured or guaranteed by the Federal Government;

(D) retain interest or other earnings on such investment; and

(E) return to the lender undisbursed funds when the student ceases to carry at an eligible institution at least one-half of the normal full-time academic workload as determined by the institution.

(j) Lenders-of-last-resort

(1) General requirement

In each State, the guaranty agency or an eligible lender in the State described in section 1085(d)(1)(D) of this title shall make loans directly, or through an agreement with an eligible lender or lenders, to students eligible to receive interest benefits paid on their behalf under subsection (a) of this section who are otherwise unable to obtain loans under this part. Loans made under this subsection shall not exceed the amount of the need of the borrower, as determined under subsection (a)(2)(B) of this section, nor be less than $200. The guaranty agency shall consider the request of any eligible lender, as defined under section 1085(d)(1)(A) of this title, to serve as the lender-of-last-resort pursuant to this subsection.

(2) Rules and operating procedures

The guaranty agency shall develop rules and operating procedures for the lender-of-last-resort program designed to ensure that—

(A) the program establishes operating hours and methods of application designed

to facilitate application by students and ensure a response within 60 days after the student's original complete application is filed under this subsection;

(B) consistent with standards established by the Secretary, students applying for loans under this subsection shall not be subject to additional eligibility requirements or requests for additional information beyond what is required under this subchapter and part C of subchapter I of chapter 34 of title 42 in order to receive a loan under this part from an eligible lender, nor be required to receive more than two rejections from eligible lenders in order to obtain a loan under this subsection;

(C) information about the availability of loans under the program is made available to institutions of higher education in the State;

(D) appropriate steps are taken to ensure that borrowers receiving loans under the program are appropriately counseled on their loan obligation; and

(E) the guaranty agency notifies the Secretary when the guaranty agency believes or has reason to believe that the Secretary may need to exercise the Secretary's authority under section 1087–2(q) of this title.

(3) Advances to guaranty agencies for lender-of-last-resort services during transition to direct lending

(A) In order to ensure the availability of loan capital during the transition from the Federal Family Education Loan Program under this part to the Federal Direct Student Loan Program under part C of this subchapter, the Secretary is authorized to provide a guaranty agency with additional advance funds in accordance with section 1072(c)(7) of this title, with such restrictions on the use of such funds as are determined appropriate by the Secretary, in order to ensure that the guaranty agency will make loans as the lender-of-last-resort. Such agency shall make such loans in accordance with this subsection and the requirements of the Secretary.

(B) Notwithstanding any other provision in this part, a guaranty agency serving as a lender-of-last-resort under this paragraph shall be paid a fee, established by the Secretary, for making such loans in lieu of interest and special allowance subsidies, and shall be required to assign such loans to the Secretary on demand. Upon such assignment, the portion of the advance represented by the loans assigned shall be considered repaid by such guaranty agency.

(k) Information on defaults

(1) Provision of information to eligible institutions

Notwithstanding any other provision of law, in order to notify eligible institutions of former students who are in default of their continuing obligation to repay student loans, each guaranty agency shall, upon the request of an eligible institution, furnish information with respect to students who were enrolled at the eligible institution and who are in default on the repayment of any loan made, insured, or guaranteed under this part. The information authorized to be furnished under this subsection shall include the names and addresses of such students.

(2) Public dissemination not authorized

Nothing in paragraph (1) of this subsection shall be construed to authorize public dissemination of the information described in paragraph (1).

(3) Borrower location information

Any information provided by the institution relating to borrower location shall be used by the guaranty agency in conducting required skip-tracing activities.

***(l)* Preclaims assistance and supplemental preclaims assistance**

(1) Assistance required

Upon receipt of a proper request from the lender, a guaranty agency having an agreement with the Secretary under subsection (c) of this section shall engage in preclaims assistance activities (as described in subsection (c)(6)(C)(i)(I) of this section) and supplemental preclaims assistance activities (as described in subsection (c)(6)(C) of this section) with respect to each loan covered by such agreement.

(2) Payments for supplemental preclaims assistance

The Secretary shall make payments in accordance with the provisions of this paragraph to any guaranty agency that engages in supplemental preclaims assistance (as defined in subsection (c)(6)(C) of this section) on a loan guaranteed under this part. For each loan on which such assistance is performed and for which a default claim is not presented to the guaranty agency by the lender on or before the 150th day after the loan becomes 120 days delinquent, such payment shall be equal to one percent of the total of the unpaid principal and the accrued unpaid interest of the loan.

(m) Income contingent repayment

(1) Authority of Secretary to require

The Secretary shall require at least 10 percent of the borrowers who have defaulted on loans made under this part that are assigned to the Secretary under subsection (c)(8) of this section to repay those loans under an income contingent repayment plan, the terms and conditions of which shall be established by the Secretary and the same as, or similar to, an income contingent repayment plan established for purposes of part C of this subchapter.

(2) Loans for which income contingent repayment may be required

A loan made under this part may be required to be repaid under this subsection if the note or other evidence of the loan has been assigned to the Secretary pursuant to subsection (c)(8) of this section.

(n) State share of default costs

(1) In general

In the case of any State in which there are located any institutions of higher education

that have a cohort default rate that exceeds 20 percent, such State shall pay to the Secretary an amount equal to—

(A) the new loan volume attributable to all institutions in the State for the current fiscal year; multiplied by

(B) the percentage specified in paragraph (2); multiplied by

(C) the quotient of—

(i) the sum of the amounts calculated under paragraph (3) for each such institution in the State; divided by

(ii) the total amount of loan volume attributable to current and former students of institutions located in that State entering repayment in the period used to calculate the cohort default rate.

(2) Percentage

For purposes of paragraph (1)(B), the percentage used shall be—

(A) 12.5 percent for fiscal year 1995;

(B) 20 percent for fiscal year 1996; and

(C) 50 percent for fiscal year 1997 and succeeding fiscal years.

(3) Calculation

For purposes of paragraph (1)(C)(i), the amount shall be determined by calculating for each institution the amount by which—

(A) the amount of the loans received for attendance by such institution's current and former students who (i) enter repayment during the fiscal year used for the calculation of the cohort default rate, and (ii) default before the end of the following fiscal year; exceeds

(B) 20 percent of the loans received for attendance by all the current and former students who enter repayment during the fiscal year used for the calculation of the cohort default rate.

(4) Fee

A State may charge a fee to an institution of higher education that participates in the program under this part and is located in that State according to a fee structure, approved by the Secretary, that is based on the institution's cohort default rate and the State's risk of loss under this subsection. Such fee structure shall include a process by which an institution with a high cohort default rate is exempt from any fees under this paragraph if such institution demonstrates to the satisfaction of the State that exceptional mitigating circumstances, as determined by the State and approved by the Secretary, contributed to its cohort default rate.

(Pub. L. 89–329, title IV, § 428, as added Pub. L. 99–498, title IV, § 402(a), Oct. 17, 1986, 100 Stat. 1367; amended Pub. L. 100–50, § 10(a)–(c), (e)–(m), June 3, 1987, 101 Stat. 341–343; Pub. L. 100–203, title III, §§ 3001(b), 3002(b), 3003, Dec. 22, 1987, 101 Stat. 1330–38, 1330–39; Pub. L. 100–369, §§ 5(b)(2), 7(c), 11(a), July 18, 1988, 102 Stat. 836–838; Pub. L. 101–239, title II, §§ 2002(a)(2), (b)(1), 2004(b)(1), (3), 2006(b), Dec. 19, 1989, 103 Stat. 2111, 2116, 2118; Pub. L. 101–508, title III, §§ 3002, 3004(b), Nov. 5, 1990, 104 Stat. 1388–25, 1388–27; Pub. L. 102–26, § 9, Apr. 9, 1991, 105 Stat. 128; Pub. L. 102–164, title VI, §§ 601(b), 602(b), 604, 605(b)(2), Nov. 15, 1991, 105 Stat. 1065, 1066, 1068; Pub. L. 102–325, title IV, §§ 411(b)(2), 416(a)–(e)(1), (f)–(p)(7), (q)–(t), July 23, 1992, 106 Stat. 510, 516–525, 527–529; Pub. L. 103–66, title IV, §§ 4041(a)(1), (2)(B), (b), 4043(a), 4044, 4045, 4102(c), 4107(a), (b), 4108(a), (b), 4110(a), 4112(a), 4201(a), Aug. 10, 1993, 107 Stat. 354, 355, 358, 359, 367–370; Pub. L. 103–82, title I, § 102(c)(1), Sept. 21, 1993, 107 Stat. 823; Pub. L. 103–208, § 2(c)(11)–(28), Dec. 20, 1993, 107 Stat. 2462–2465; Pub. L. 103–382, title III, § 355(a), Oct. 20, 1994, 108 Stat. 3967; Pub. L. 105–33, title VI, §§ 6101(b), 6104(2), Aug. 5, 1997, 111 Stat. 652.)

REFERENCES IN TEXT

Section 1078–1 of this title, referred to in subsecs. (a)(2)(E) and (b)(1)(B), (E)(i), (Q), (7)(C), was repealed by Pub. L. 103–66, title IV, § 4047(b)–(d), Aug. 10, 1993, 107 Stat. 364, eff. July 1, 1994, except with respect to loans provided under that section as it existed prior to Aug. 10, 1993.

This chapter, referred to in subsecs. (a)(6), (c)(9)(F)(iii), and (d), was in the original ''this Act'', meaning Pub. L. 89–329, as amended, known as the Higher Education Act of 1965. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

The Higher Education Amendments of 1992, referred to in subsec. (c)(3)(A)(i)(I), is Pub. L. 102–325, July 23, 1992, 106 Stat. 448, as amended. For complete classification of this Act to the Code, see Short Title of 1992 Amendment note set out under section 1001 of this title and Tables.

The National and Community Service Trust Act of 1993, referred to in subsec. (c)(3)(A)(i)(III), is Pub. L. 103–82, Sept. 21, 1993, 107 Stat. 785. For complete classification of this Act to the Code, see Short Title of 1993 Amendment note set out under section 12501 of Title 42, The Public Health and Welfare, and Tables.

Section 1232 of this title, referred to in subsec. (e)(1)(B)(ii), was in the original a reference to section 431 of the General Education Provisions Act. Sections 422 and 431 of that Act were renumbered as sections 431 and 437, respectively, by Pub. L. 103–382, title II, § 212(b)(1), Oct. 20, 1994, 108 Stat. 3913, and are classified to sections 1231a and 1232, respectively, of this title.

CODIFICATION

Amendments by section 2(c)(17), (26), (27) of Pub. L. 103–208 (which were effective as if included in Pub. L. 102–325) were executed to this section as amended by Pub. L. 102–325, Pub. L. 103–66, and Pub. L. 103–82, to reflect the probable intent of Congress.

PRIOR PROVISIONS

A prior section 1078, Pub. L. 89–329, title IV, § 428, Nov. 8, 1965, 79 Stat. 1240; Pub. L. 90–460, §§ 1(a)(2), 2(a)(2), (b)(1), (2), 3(b), Aug. 3, 1968, 82 Stat. 634–636; Pub. L. 90–575, title I, §§ 111(a), (b)(1), 112(b), 113(b)(3), (4), 115(a)(1)–(3), (b), 116(b)(3), 117(a), (b), 120(a)(1), (b), (c)(1), Oct. 16, 1968, 82 Stat. 1020–1027; Pub. L. 92–318, title I, §§ 132(b), 132A(b), 132C(a), (b), 132D(b)–(d), June 23, 1972, 86 Stat. 261–264; Pub. L. 93–269, §§ 2–4, Apr. 18, 1974, 88 Stat. 87, 89; Pub. L. 94–328, § 2(b), June 30, 1976, 90 Stat. 727; Pub. L. 94–482, title I, § 127(a), Oct. 12, 1976, 90 Stat. 2108; S. Res. 4, Feb. 4, 1977; Pub. L. 95–43, § 1(a)(19)–(29), June 15, 1977, 91 Stat. 214–216; Pub. L. 95–566, § 5(a)(2), (b)(1), (3)–(5), Nov. 1, 1978, 92 Stat. 2403; S. Res. 30, Mar. 7, 1979; Pub. L. 96–49, § 5(b), Aug. 13, 1979, 93 Stat. 352; Pub. L. 96–374, title IV, §§ 411(b), 412(c), (d), (f), 413(b), (d), 414, 415(a)(3)–(5), (b)(2), 417, 423(a)(2), (b)–(d), title XIII, § 1391(a)(1), (2), Oct. 3, 1980, 94 Stat. 1416–1420, 1422, 1432, 1503; Pub. L. 97–35, title V, §§ 532(a), (b)(1), 535(c), (d), 536(b), 537(a)(1), (b)(2), (c), (d)(1), (e)(2), Aug. 13, 1981, 95 Stat. 451, 452, 455–457; Pub. L. 98–79, § 10(b), Aug. 15, 1983, 97 Stat. 484; Pub. L. 99–272, title XVI, §§ 16012(b), 16013(a), (c), (e)(2), (3), 16014(a)(1), (b)(1), (2) formerly (1), (3) formerly (2), 16015(b), 16016, 16018(a)(2), 16021, 16032(c), Apr. 7, 1986, 100 Stat. 340–343, 348, 349, 355, renumbered

and amended, Pub. L. 99–320, §2(a), (b), May 23, 1986, 100 Stat. 491, related to Federal interest subsidy payments, prior to the general revision of this part by Pub. L. 99–498.

A prior section 1078a, Pub. L. 91–95, §2, Oct. 22, 1969, 83 Stat. 141; Pub. L. 92–318, title I, §134(a), June 23, 1972, 86 Stat. 270; Pub. L. 93–269, §5, Apr. 18, 1974, 88 Stat. 89; Pub. L. 94–328, §2(c), June 30, 1976, 90 Stat. 727; Pub. L. 94–482, title I, §127(c)(1), Oct. 12, 1976, 90 Stat. 2142, related to special allowances for insured student loans, prior to repeal by Pub. L. 94–482, title I, §127(c)(2), Oct. 12, 1976, 90 Stat. 2142.

AMENDMENTS

1997—Subsec. (a)(5). Pub. L. 105–33, §6104(2), substituted ''September 30, 2002,'' for ''September 30, 1998,'' and ''September 30, 2006.'' for ''September 30, 2002.''

Subsec. (c)(9)(A). Pub. L. 105–33, §6101(b), struck out ''for the fiscal year of the agency that begins in 1993'' after ''loans guaranteed by such agency'' and struck out at end ''The minimum reserve level shall increase to—

''(i) .7 percent of such total attributable amount for the fiscal year of the agency that begins in 1994;

''(ii) .9 percent of such total attributable amount for the fiscal year of the agency that begins in 1995; and

''(iii) 1.1 percent of such total attributable amount for each fiscal year of the agency that begins on or after January 1, 1996.''

1994—Subsec. (c)(1)(G). Pub. L. 103–382 added subpar. (G).

1993—Subsec. (a)(2)(C)(i). Pub. L. 103–208, §2(c)(11), substituted ''; and'' for period at end.

Subsec. (a)(2)(E). Pub. L. 103–208, §2(c)(12), inserted ''or 1078–8'' after ''1078–1''.

Subsec. (b)(1)(A)(ii), (iii). Pub. L. 103–208, §2(c)(13)(A), added cls. (ii) and (iii) and struck out former cls. (ii) and (iii) which read as follows:

''(ii) in the case of a student who has successfully completed such first year but has not successfully completed the remainder of a program of undergraduate study—

''(I) $3,500, if such student is enrolled in a program whose length is at least one academic year in length (as determined under section 1088 of this title);

''(II) $2,325, if such student is enrolled in a program whose length is less than one academic year, but at least ⅔ of such academic year; and

''(III) $1,175, if such student is enrolled in a program whose length is less than ⅔, but at least ⅓, of such academic year;

''(iii) in the case of a student at an eligible institution who has successfully completed such first and second year but has not successfully completed the remainder of a program of undergraduate study—

''(I) $5,500, if such student is enrolled in a program whose length is at least one academic year in length (as determined under section 1088 of this title);

''(II) $3,675, if such student is enrolled in a program whose length is less than one academic year, but at least ⅔ of such an academic year; and

''(III) $1,825, if such student is enrolled in a program whose length is less than ⅔, but at least ⅓, of such an academic year; and''.

Subsec. (b)(1)(A)(iv), (v). Pub. L. 103–208, §2(c)(13)(B), (C), added cl. (iv) and redesignated former cl. (iv) as (v).

Subsec. (b)(1)(B). Pub. L. 103–208, §2(c)(14), substituted a semicolon for period at end of closing provisions.

Subsec. (b)(1)(D). Pub. L. 103–66, §4043(a)(1), substituted ''be subject to income contingent repayment in accordance with subsection (m) of this section;'' for ''be subject to repayment in accordance with the regulations required by subsection (m) of this section if the Secretary has published the finding required by paragraph (2) of such subsection;''.

Subsec. (b)(1)(G). Pub. L. 103–66, §4108(b), substituted ''98 percent'' for ''100 percent'' and inserted before semicolon at end '', except that such program shall insure 100 percent of the unpaid principal of loans made with funds advanced pursuant to subsection (j) of this section or section 1087–2(q) of this title''.

Subsec. (b)(1)(H). Pub. L. 103–66, §4102(c), substituted ''1.0 percent'' for ''3 percent''.

Subsec. (b)(1)(N). Pub. L. 103–208, §2(c)(15), amended subpar. (N) generally. Prior to amendment, subpar. (N) read as follows: ''provides that funds borrowed by a student are disbursed to the institution by check or other means that is payable to and requires the endorsement or other certification by such student, except nothing in this subchapter and part C of subchapter I of chapter 34 of title 42 shall be interpreted to allow the Secretary to require checks to be made co-payable to the institution and the borrower or to prohibit the disbursement of loan proceeds by means other than by check and except in the case of students who are studying outside the United States in a program of study abroad that is approved for credit by the home institution at which the student is enrolled, the funds shall, at the request of the borrower, be delivered directly to the student and the checks may be endorsed, and fund transfers authorized, pursuant to an authorized power-of-attorney;''.

Subsec. (b)(1)(U). Pub. L. 103–208, §2(c)(16), inserted a comma after ''emergency action'' in two places and substituted ''this clause'' for ''this clause;'' at end.

Subsec. (b)(1)(V). Pub. L. 103–208, §2(c)(17), redesignated subpar. (X) as (V) and struck out former subpar. (V) which related to procedure and requirements for granting a forbearance while a borrower is enrolled in a medical or dental internship or residency program. See Codification note above.

Subsec. (b)(1)(W). Pub. L. 103–208, §2(c)(17), redesignated subpar. (Y) as (W) and struck out former subpar. (W) which read as follows:

''(i) provides that, upon written request, a lender shall grant a borrower forbearance on such terms as are otherwise consistent with the regulations of the Secretary, during periods in which the borrower is serving in a national service position, for which the borrower receives a national service educational award under the National and Community Service Trust Act of 1993;

''(ii) provides that clauses (iii) and (iv) of subparagraph (V) shall also apply to a forbearance granted under this subparagraph; and

''(iii) provides that interest shall continue to accrue on a loan for which a borrower receives forbearance under this subparagraph and shall be capitalized or paid by the borrower;''. See Codification note above.

Pub. L. 103–82, §102(c)(1)(A), added subpar. (W) and redesignated former subpar. (W) as (X).

Subsec. (b)(1)(X). Pub. L. 103–208, §2(c)(17)(B), redesignated subpar. (Z) as (X). Former subpar. (X) redesignated (V). See Codification note above.

Pub. L. 103–82, §102(c)(1)(A)(i), redesignated subpar. (W) as (X). Former subpar. (X) redesignated (Y).

Subsec. (b)(1)(Y). Pub. L. 103–208, §2(c)(17)(B), redesignated subpar. (Y) as (W). See Codification note above.

Pub. L. 103–82, §102(c)(1)(A)(i), redesignated subpar. (X) as (Y). Former subpar. (Y) redesignated (Z).

Subsec. (b)(1)(Z). Pub. L. 103–208, §2(c)(17)(B), redesignated subpar. (Z) as (X). See Codification note above.

Pub. L. 103–82, §102(c)(1)(A)(i), redesignated subpar. (Y) as (Z).

Subsec. (b)(2)(F)(i). Pub. L. 103–208, §2(c)(18), substituted ''either jointly or separately to provide a notice'' for ''each to provide a separate notice''.

Subsec. (b)(2)(F)(ii). Pub. L. 103–208, §2(c)(19)–(21), substituted ''transferee'' for ''transferor'' in introductory provisions, struck out ''to another holder'' after ''the loan'' in subcl. (I), and substituted ''the new'' for ''such other'' in subcl. (II).

Subsec. (b)(7). Pub. L. 103–208, §2(c)(22), amended par. (7) generally. Prior to amendment, par. (7) read as follows:

''(A) In the case of a loan made under section 1077 of this title or this section, the repayment period shall begin on the day immediately following the expiration of the 6-month period after the student ceases to carry at least one-half the normal full-time academic work-

load as determined by the institution, unless the borrower requests and is granted a repayment schedule that provides for repayment to commence at an earlier point in time, and shall exclude any period of authorized deferment or forbearance.

''(B) In the case of a loan made under section 1078–1 or 1078–8 of this title, the repayment period shall begin on the day the loan is disbursed, or, if the loan is disbursed in multiple installments, on the day of the last such disbursement, and shall exclude any period of authorized deferment or forbearance.

''(C) In the case of a loan made under section 1078–2 or 1078–3 of this title, the repayment period shall begin on the day the loan is disbursed, and shall exclude any period of authorized deferment or forbearance.''

Subsec. (b)(8). Pub. L. 103–208, §2(c)(23), added par. (8).

Subsec. (c)(1)(A). Pub. L. 103–208, §2(c)(24), substituted last sentence for former last sentence which read as follows: ''In no case shall a guaranty agency file a claim under this subsection for reimbursement with respect to losses prior to 270 days after the loan becomes delinquent with respect to any installment thereon, or later than 45 days after the guaranty agency discharges its insurance obligation on the loan.''

Pub. L. 103–66, §4108(a)(1), substituted ''98 percent'' for ''100 percent'' in fourth sentence.

Subsec. (c)(1)(B), (E), (F). Pub. L. 103–66, §4108(a)(2)–(4), in subpar. (B), substituted ''88 percent'' for ''90 percent'' in cl. (i) and ''78 percent'' for ''80 percent'' in cl. (ii), and added subpars. (E) and (F).

Subsec. (c)(2)(G). Pub. L. 103–208, §2(c)(25), substituted ''certifies'' for ''demonstrates'' before ''to the Secretary''.

Subsec. (c)(3)(A). Pub. L. 103–208, §2(c)(26), added subpar. (A) and struck out former subpar. (A) which read as follows: ''shall contain provisions providing for forbearance in accordance with subparagraphs (V) and (W) of subsection (b)(1) of this section for the benefit of the student borrower serving in a medical or dental internship or residency program;''. See Codification note above.

Pub. L. 103–82, §102(c)(1)(B), substituted ''subparagraphs (V) and (W) of subsection (b)(1)'' for ''subsection (b)(1)(V)''.

Subsec. (c)(6)(A)(ii). Pub. L. 103–66, §4110(a), substituted ''27 percent'' for ''30 percent''.

Subsec. (c)(8). Pub. L. 103–66, §4044, designated existing provisions as subpar. (A), struck out second and third sentences, and added subpar. (B). Prior to amendment, second and third sentences read as follows: ''Prior to making such determination for any guaranty agency, the Secretary shall, in consultation with the guaranty agency, develop criteria to determine whether such agency has made adequate collections efforts. In determining whether a guaranty agency's collection efforts have met such criteria, the Secretary shall consider the agency's record of success in collecting on defaulted loans, the age of the loans, and the amount of recent payments received on the loans.''

Subsec. (c)(9). Pub. L. 103–66, §4107(a), redesignated par. (10) as (9) and struck out former par. (9) which required guaranty agencies to pay reinsurance fees to the Secretary.

Subsec. (c)(10). Pub. L. 103–66, §4107(a)(2), redesignated par. (10) as (9).

Subsec. (c)(10)(C). Pub. L. 103–66, §4045(1), inserted '', as appropriate,'' after ''the Secretary shall require''.

Subsec. (c)(10)(D). Pub. L. 103–66, §4045(2), designated existing provisions as cl. (i), substituted ''If the Secretary is not seeking to terminate the guaranty agency's agreement under subparagraph (E), or assuming the guaranty agency's functions under subparagraph (F), a'' for ''Each'', and added cl. (ii).

Subsec. (c)(10)(E)(iv) to (vi). Pub. L. 103–66, §4045(3), added cls. (iv) to (vi).

Subsec. (c)(10)(F). Pub. L. 103–66, §4045(4)(A), substituted ''If a guaranty'' for ''Except as provided in subparagraph (G), if a guaranty''.

Subsec. (c)(10)(F)(v). Pub. L. 103–66, §4045(4)(B), amended cl. (v) generally. Prior to amendment, cl. (v) read as follows: ''provide the guaranty agency with additional advance funds in accordance with section 1072(c)(7) of this title in order to meet immediate cash needs of the guaranty agency and ensure the uninterrupted payment of claims, with such restrictions on the use of such funds, as determined appropriate by the Secretary; or''.

Subsec. (c)(10)(F)(vi), (vii). Pub. L. 103–66, §4045(4)(C), (D), in cl. (vi), substituted ''to avoid'' for ''and to avoid'' before ''disruption of the student'' and inserted before period at end '', and to ensure an orderly transition from the loan programs under this part to the direct student loan programs under part C of this subchapter'', redesignated cl. (vi) as (vii), and added new cl. (vi).

Subsec. (c)(10)(G). Pub. L. 103–66, §4045(5), (7), added subpar. (G) and struck out former subpar. (G) which read as follows: ''The Secretary may not take any action under subparagraph (E) or (F) against any guaranty agency that is backed by the full faith and credit of the State where such guaranty agency is the primary guarantor.''

Subsec. (c)(10)(H) to (J). Pub. L. 103–66, §4045(6), (7), added subpar. (H) and redesignated former subpars. (H) and (I) as (I) and (J), respectively. Former subpar. (J) redesignated (K).

Subsec. (c)(10)(K). Pub. L. 103–66, §4045(6), (8), redesignated subpar. (J) as (K) and substituted ''system and the progress of the transition from the loan programs under this part to the direct student loan programs under part C of this subchapter.'' for ''system, together with recommendations for legislative changes, if necessary, for the maintenance of a strong guaranty agency system.''

Subsec. (e)(1). Pub. L. 103–66, §4041(b)(1), amended heading, designated existing provisions as subpar. (A) and substituted ''with which the Secretary has an agreement under subparagraph (B)'' for ''in any State'', and added subpar. (B).

Subsec. (e)(2). Pub. L. 103–66, §4041(b)(2)(A), in introductory provisions, substituted ''with which the Secretary has an agreement under paragraph (1)(B)'' for ''in a State''.

Subsec. (e)(2)(A). Pub. L. 103–208, §2(c)(27), redesignated former cl. (i), subcl. (I) as (i) and former cl. (i), subcl. (II) as (ii) and struck out cl. (i) designation following subpar. (A) designation. See Codification note above.

Pub. L. 103–66, §4041(b)(2)(B), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: ''such student is either a resident of such State or is accepted for enrollment in or is attending an eligible institution in such State; and''.

Subsec. (e)(3). Pub. L. 103–66, §4041(b)(3), substituted ''From funds available for costs of transition under section 1087h of this title, the'' for ''The''.

Subsec. (e)(5). Pub. L. 103–66, §4041(b)(4), struck out par. (5) which related to authorization of appropriations.

Subsec. (f)(1)(A). Pub. L. 103–66, §4107(b)(1), substituted ''For a fiscal year prior to fiscal year 1994, the Secretary'' for ''The Secretary''.

Subsec. (f)(1)(B). Pub. L. 103–66, §4107(b)(2), inserted ''prior to fiscal year 1994'' after ''any fiscal year''.

Subsec. (j)(2). Pub. L. 103–208, §2(c)(28), substituted ''lender-of-last-resort'' for ''lender of last resort'' in introductory provisions.

Subsec. (j)(2)(A) to (E). Pub. L. 103–66, §4041(a)(2)(B), in subpar. (A) inserted before semicolon ''and ensure a response within 60 days after the student's original complete application is filed under this subsection'', added subpar. (B), and redesignated former subpars. (B) to (D) as (C) to (E), respectively.

Subsec. (j)(3). Pub. L. 103–66, §4041(a)(1), added par. (3) consisting of subpars. (A) and (B), and struck out former par. (3) relating to limitation on lender-of-last-resort program, consisting of subpars. (A) to (C).

Subsec. (*l*)(2). Pub. L. 103–66, §4112(a), inserted second sentence and struck out former second sentence which read as follows: ''Such payments shall be equal to $50.00

for each loan on which such assistance is performed and for which a default claim is not presented to the guaranty agency by the lender on or before the 150th day after the loan becomes 120 days delinquent.''

Subsec. (m). Pub. L. 103–66, § 4043(a)(2), amended par. (1) generally, added par. (2), and struck out former pars. (2) to (4). Prior to amendment, former pars. (1) to (4) related to establishment of terms and conditions, collection mechanism, loans for which income contingent repayment is required, and additional authority, respectively.

Subsec. (n). Pub. L. 103–66, § 4201(a), added subsec. (n).

1992—Subsec. (a)(2)(C). Pub. L. 102–325, § 416(a)(1), amended cls. (i) and (ii) generally. Prior to amendment, cls. (i) and (ii) read as follows:

''(i) a student's estimated financial assistance means, for the period for which the loan is sought, the amount of assistance such student will receive under subpart 1 of part A of this subchapter (as determined in accordance with section 1091(b) of this title), subpart 2 of part A of this subchapter, part D of this subchapter, and part C of subchapter I of chapter 34 of title 42, and any amount paid the student under chapters 32, 34, and 35 of title 38, plus other scholarship, grant, or loan assistance; and

''(ii) the determination of need and of the amount of a loan by an eligible institution under subparagraph (B) with respect to a student shall be calculated by subtracting from the estimated cost of attendance at the eligible institution the total of the expected family contribution with respect to such student plus any estimated financial assistance reasonably available to such student.''

Subsec. (a)(3)(A)(v). Pub. L. 102–325, § 416(a)(2), added cl. (v).

Subsec. (a)(5). Pub. L. 102–325, § 411(b)(2), substituted ''September 30, 1998'' for ''September 30, 1992'' and ''September 30, 2002'' for ''September 30, 1997''.

Subsec. (a)(7). Pub. L. 102–325, § 416(a)(3), added par. (7).

Subsec. (b)(1)(A). Pub. L. 102–325, § 416(b)(1)(A), inserted ''or in a program of study abroad approved for credit by the eligible home institution at which such student is enrolled'' in introductory provisions.

Subsec. (b)(1)(A)(i) to (iv). Pub. L. 102–325, § 416(b)(1)(B), added cls. (i) to (iv) and struck out former cls. (i) to (iii) which read as follows:

''(i) $2,625, in the case of a student who has not successfully completed the first and second year of a program of undergraduate education;

''(ii) $4,000, in the case of a student who has successfully completed such first and second year but who has not successfully completed the remainder of a program of undergraduate education; and

''(iii) $7,500, in the case of a graduate or professional student (as defined in regulations of the Secretary);''.

Subsec. (b)(1)(B). Pub. L. 102–325, § 416(b)(2), which directed the amendment of subpar. (B) by striking clauses (i) and (ii) and inserting language which contained new cls. (i) and (ii) followed by concluding provisions, was executed by substituting the new cls. (i) and (ii) and concluding provisions for former cls. (i) and (ii) and former concluding provisions to reflect the probable intent of Congress. Prior to amendment, cls. (i) and (ii) and concluding provisions read as follows:

''(i) $17,250, in the case of any student who has not successfully completed a program of undergraduate education, excluding loans made under section 1078–1 or 1078–2 of this title; and

''(ii) $54,750, in the case of any graduate or professional student (as defined by regulations of the Secretary and including any loans which are insured by the Secretary under this part, or by a guaranty agency, made to such student before the student became a graduate or professional student), excluding loans made under section 1078–1 or 1078–2 of this title;

except that the Secretary may increase the limit applicable to students who are pursuing programs which the Secretary determines are exceptionally expensive;''.

Subsec. (b)(1)(D), (E). Pub. L. 102–325, § 416(c)(1), amended subpars. (D) and (E) generally. Prior to amendment, subpars. (D) and (E) read as follows:

''(D) provides that (i) the student borrower shall be entitled to accelerate without penalty the whole or any part of an insured loan, (ii) except as provided in subparagraph (M) of this paragraph, the repayment period of any insured loan may not exceed 10 years, and (iii) the note or other written evidence of any loan, may contain such reasonable provisions relating to repayment in the event of default by the borrower as may be authorized by regulations of the Secretary in effect at the time such note or written evidence was executed;

''(E) subject to subparagraphs (D) and (L) of this paragraph and except as provided by subparagraph (M) of this paragraph, provides that repayment of loans shall be in installments over a period of not less than 5 years (unless the student, during the 6 months preceding the start of the repayment period, specifically requests that repayment be made over a shorter period) nor more than 10 years beginning 6 months after the month in which the student ceases to carry at least one-half the normal full-time academic workload as determined by the institution;''.

Subsec. (b)(1)(L)(i). Pub. L. 102–325, § 416(d), substituted ''(but in no instance less than the amount of interest due and payable)'' for '', except that, in the case of a husband and wife, both of whom have such loans outstanding, the total of the combined payments for such a couple during any year shall not be less than $600 or the balance of all such loans, whichever is less''.

Subsec. (b)(1)(M). Pub. L. 102–325, § 416(e)(1), amended subpar. (M) generally, revising and restating as cls. (i) to (iii) provisions formerly contained in cls. (i) to (xi).

Subsec. (b)(1)(N). Pub. L. 102–325, § 416(f), substituted ''except in the case of students who are studying outside the United States in a program of study abroad that is approved for credit by the home institution at which the student is enrolled, the funds shall, at the request of the borrower, be delivered directly to the student and the checks may be endorsed, and fund transfers authorized, pursuant to an authorized power-of-attorney;'' for ''except in the case of attendance at an institution outside the United States, the funds shall be delivered directly to the student;''.

Subsec. (b)(1)(T). Pub. L. 102–325, § 416(g), amended subpar. (T) generally. Prior to amendment, subpar. (T) read as follows: ''provides no restrictions with respect to eligible institutions (other than nonresidential correspondence schools) which are more onerous than eligibility requirements for institutions under the Federal student loan insurance program as in effect on January 1, 1985, unless—

''(i) that institution is ineligible under regulations for the emergency action, limitation, suspension, or termination of eligible institutions under the Federal student loan insurance program or is ineligible pursuant to criteria issued under the student loan insurance program which are substantially the same as regulations with respect to such eligibility issued under the Federal student loan insurance program; or

''(ii) there is a State constitutional prohibition affecting the eligibility of such an institution;''.

Subsec. (b)(1)(U)(iii). Pub. L. 102–325, § 416(h), added cl. (iii).

Subsec. (b)(1)(V). Pub. L. 102–325, § 416(i)(4), (5), added cls. (ii) and (iii) and redesignated former cl. (ii) as (iv).

Pub. L. 102–325, § 416(i)(3), which directed the amendment of cl. (ii) by substituting a semicolon for a period at end, could not be executed because the period had been stricken by Pub. L. 102–164, § 601(b)(2).

Pub. L. 102–325, § 416(i)(1), (2), struck out ''and'' at end of cl. (i) and inserted ''or (ii)'' after ''clause (i)'' in two places in cl. (ii).

Subsec. (b)(1)(W) to (Y). Pub. L. 102–325, § 416(j), added subpars. (W) to (Y) and struck out former subpars. (W) and (X) which related to credit reports, credit worthy cosigners, and authorizations for entry of judgments against borrowers in the event of default.

Subsec. (b)(2)(C). Pub. L. 102–325, § 416(k)(1), substituted '', including financial information, as the Secretary may reasonably require to carry out the Secretary's functions under this part and protect the fi-

nancial interest of the United States,'' for '', as the Secretary may reasonably require to carry out the Secretary's functions under this part,''.

Subsec. (b)(2)(D)(i). Pub. L. 102–325, § 416(k)(2)(A), substituted ''on at least an annual basis'' for ''at least once every 2 years''.

Subsec. (b)(2)(E). Pub. L. 102–325, § 416(k)(3), designated existing provisions as cl. (i) and added cl. (ii).

Subsec. (b)(2)(F). Pub. L. 102–325, § 416(k)(2)(B), (4), added subpar. (F).

Subsec. (b)(3)(B) to (D). Pub. L. 102–325, § 416(*l*), added subpar. (B) and redesignated former subpars. (B) and (C) as (C) and (D), respectively.

Subsec. (b)(4). Pub. L. 102–325, § 416(n), inserted at end sentence relating to requests for deferment of repayment by students engaged in fellowship-supported study outside the United States.

Pub. L. 102–325, § 416(m), redesignated par. (5) as (4) and struck out former par. (4) which related to targeted teacher deferment rule.

Subsec. (b)(5). Pub. L. 102–325, § 416(m)(2), redesignated par. (6) as (5). Former par. (5) redesignated (4).

Subsec. (b)(6). Pub. L. 102–325, § 416(*o*), added par. (6). Former par. (6) redesignated (5).

Subsec. (b)(7). Pub. L. 102–325, § 416(c)(2), added par. (7).

Subsec. (c)(1)(A). Pub. L. 102–325, § 416(p)(1), substituted '', or later than 45 days after the guaranty agency discharges its insurance obligation on the loan.'' for period at end.

Subsec. (c)(1)(D). Pub. L. 102–325, § 416(p)(2), added subpar. (D).

Subsec. (c)(2). Pub. L. 102–325, § 416(p)(3), struck out ''and'' at end of subpar. (F), added subpars. (G) and (H), and redesignated former subpar. (G) as (I).

Subsec. (c)(3). Pub. L. 102–325, § 416(p)(4), added subpar. (C) and concluding provisions and struck out former last sentence which read as follows: ''Such regulations shall not preclude guaranty agencies from permitting the parties to such a loan from entering into a forbearance agreement solely because the loan is in default.''

Subsec. (c)(7)(A). Pub. L. 102–325, § 416(p)(5)(A), substituted ''(1)(C)'' for ''(1)(B)'' in introductory provisions and inserted ''and ends before October 1, 1991'' in cl. (i).

Subsec. (c)(7)(B). Pub. L. 102–325, § 416(p)(5)(D), added subpar. (B). Former subpar. (B) redesignated (C).

Subsec. (c)(7)(C). Pub. L. 102–325, § 416(p)(5)(B), (C), redesignated subpar. (B) as (C) and inserted ''or (B)'' after ''(A)''.

Subsec. (c)(8). Pub. L. 102–325, § 416(p)(6), inserted provisions at end directing Secretary to develop criteria to determine whether agency has made adequate collection efforts and directing Secretary to consider certain factors in making determination.

Subsec. (c)(10). Pub. L. 102–325, § 416(p)(7), added par. (10).

Subsec. (f)(1)(A)(i). Pub. L. 102–325, § 416(q)(1), substituted ''eligible lender'' for ''commercial lender''.

Subsec. (f)(1)(C). Pub. L. 102–325, § 416(q)(2), added subpar. (C).

Subsec. (j). Pub. L. 102–325, § 416(r), designated existing provisions as par. (1), inserted par. heading, and added pars. (2) and (3).

Subsec. (k)(3). Pub. L. 102–325, § 416(s), added par. (3).

Subsec. (m). Pub. L. 102–325, § 416(t), added subsec. (m).

1991—Subsec. (a)(2)(A)(iii). Pub. L. 102–164, § 602(b)(1), added cl. (iii).

Subsec. (a)(2)(F). Pub. L. 102–26 amended subpar. (F) generally. Prior to amendment, subpar. (F) read as follows: ''Except as provided in subparagraph (D), an eligible institution may not, in carrying out the provisions of subparagraphs (A) and (B) of this paragraph, refuse to provide to any eligible lender which has an agreement under subsection (b) of this section with any guaranty agency, a statement which permits a student to receive any loan under this part, except that, in individual cases where the institution determines that the portion of the student's expenses to be covered by the loan can be met more appropriately, either by the institution or directly by the student, from other sources, the institution may refuse to provide such statement or may reduce the determination of need contained in such statement.''

Subsec. (b)(1)(W). Pub. L. 102–164, § 601(b), added subpar. (W).

Subsec. (b)(1)(X). Pub. L. 102–164, § 604, added subpar. (X).

Subsec. (c)(6)(D). Pub. L. 102–164, § 605(b)(2), struck out subpar. (D) which read as follows: ''In the case of a State which enacts and enforces a garnishment law that complies with the requirements of section 1078–5 of this title, subparagraph (A)(ii) shall be applied by substituting '35 percent' for '30 percent'.''

1990—Subsec. (a)(2)(F). Pub. L. 101–508, § 3004(b), inserted before period at end '', except that, in individual cases where the institution determines that the portion of the student's expenses to be covered by the loan can be met more appropriately, either by the institution or directly by the student, from other sources, the institution may refuse to provide such statement or may reduce the determination of need contained in such statement''.

Subsec. (c)(1)(A). Pub. L. 101–508, § 3002(a)(1), struck out before period at end of first sentence '', including the administrative costs of supplemental preclaim assistance for default prevention as defined in paragraph (6)(C)''.

Subsec. (c)(6)(C). Pub. L. 101–508, § 3002(a)(2)–(5), in introductory provisions of cl. (i), substituted ''subsection (*l*) of this section'' for ''this paragraph'', in cl. (i)(I), substituted ''generally comparable in intensiveness to the level of preclaims assistance performed, prior to the 120th day of delinquency, by the guaranty agency as of October 16, 1990'' for ''required or permitted under paragraph (2)(A) of this subsection and subsection (f) of this section'', in cl. (ii), substituted ''payment under subsection (*l*) of this section'' for ''reimbursement'' and ''described in division (i)(I) of this subparagraph'' for ''which the guaranty agency is required or permitted to provide pursuant to paragraph (2)(A) of this subsection and subsection (f) of this section'', and in cl. (iv), struck out first sentence which read as follows: ''The costs for each delinquent loan associated with carrying out this subparagraph may not exceed 2 percent of the outstanding principal balance of each such loan subject to the supplemental preclaims assistance authorized by this subparagraph or $100, whichever is less.''

Subsec. (*l*). Pub. L. 101–508, § 3002(b), added subsec. (*l*).

1989—Subsec. (a)(2)(A)(i)(III). Pub. L. 101–239, § 2004(b)(1), added subcl. (III).

Subsec. (b)(1)(M)(i). Pub. L. 101–239, § 2002(a)(2), inserted before semicolon at end '', except that no borrower shall be eligible for a deferment under this clause, or loan made under this part (other than a loan made under section 1078–2 or 1078–3 of this title), while serving in a medical internship or residency program''.

Subsec. (b)(1)(O). Pub. L. 101–239, § 2004(b)(3), amended subpar. (O) generally, substituting requirement that student loans be disbursed in accordance with section 1078–7 of this title for provisions requiring that certain loans be disbursed directly by lender in 2 or more installments, none exceeding more than one-half of the loan, or in installments pursuant to escrow provisions in subsec. (i).

Subsec. (b)(1)(T)(i). Pub. L. 101–239, § 2006(b)(1), inserted ''emergency action,'' after ''regulations for the''.

Subsec. (b)(1)(U). Pub. L. 101–239, § 2006(b), in cl. (i) inserted ''emergency action,'' after ''regulations for the'', and in cl. (ii) inserted ''take emergency action,'' after ''such program to''.

Subsec. (b)(1)(V). Pub. L. 101–239, § 2002(b)(1)(A), added subpar. (V).

Subsec. (c)(3). Pub. L. 101–239, § 2002(b)(1)(B), amended par. (3) generally. Prior to amendment, par. (3) read as follows: ''To the extent provided in regulations of the Secretary, a guaranty agreement under this subsection may contain provisions which permit such forbearance for the benefit of the student borrower as may be

agreed upon by the parties to an insured loan and approved by the insurer. Such regulations shall not preclude guaranty agencies from permitting the parties to such a loan from entering into a forbearance agreement solely because the loan is in default.''

1988—Subsec. (b)(1)(M)(v). Pub. L. 100–369, § 7(c), substituted ''Internal Revenue Code of 1986'' for ''Internal Revenue Code of 1954'', which for purposes of codification was translated as ''title 26'' thus requiring no change in text.

Subsec. (b)(1)(M)(vii). Pub. L. 100–369, § 11(a), inserted ''after January 1, 1986,'' after ''service''.

Subsec. (b)(1)(O). Pub. L. 100–369, § 5(b)(2), substituted ''section 1078–2 or 1078–3'' for ''section 1078–1, 1078–2, or 1078–3''.

1987—Subsec. (a)(2)(D). Pub. L. 100–50, § 10(e), substituted ''certifies the eligibility of any student'' for ''permits the student''.

Subsec. (b)(1)(A)(i). Pub. L. 100–50, § 10(f)(1), substituted ''first and'' for ''first or''.

Subsec. (b)(1)(B)(i). Pub. L. 100–50, § 10(a)(1), inserted '', excluding loans made under section 1078–1 or 1078–2 of this title'' after ''undergraduate education''.

Subsec. (b)(1)(B)(ii). Pub. L. 100–50, § 10(a)(2), inserted '', excluding loans made under section 1078–1 or 1078–2 of this title'' after ''graduate or professional student)''.

Subsec. (b)(1)(M)(vi). Pub. L. 100–50, § 10(b)(1), inserted ''nonprofit'' before ''private''.

Subsec. (b)(1)(M)(vii). Pub. L. 100–50, § 10(b)(2), inserted ''or serving in an internship or residency program leading to a degree or certificate awarded by an institution of higher education, a hospital, or a health care facility that offers postgraduate training'' before semicolon at end.

Subsec. (b)(1)(N). Pub. L. 100–50, § 10(f)(2), inserted ''and except in the case of attendance at an institution outside the United States, the funds shall be delivered directly to the student'' before semicolon at end.

Subsec. (b)(1)(O). Pub. L. 100–50, § 10(c), substituted ''$1,000 or more'' for ''more than $1,000''.

Subsec. (b)(1)(O)(i). Pub. L. 100–50, § 10(f)(3), substituted ''being disbursed'' for ''being dispensed''.

Subsec. (b)(1)(P). Pub. L. 100–50, § 10(f)(4), added subpar. (P) and struck out former subpar. (P) which read as follows: ''requires the borrower and the institution at which the borrower is in attendance to promptly notify the holder of the loan, directly or through the guaranty agency, concerning any change of address or status;''.

Subsec. (b)(1)(T). Pub. L. 100–50, § 10(f)(5), inserted ''(other than nonresidential correspondence schools)'' after ''eligible institutions''.

Subsec. (b)(5). Pub. L. 100–50, § 10(g), substituted ''paragraph (1)(M)(i)(III)'' for ''paragraph (1)(M)''.

Subsec. (b)(6)(A). Pub. L. 100–50, § 10(h)(1), substituted ''Until such time as the Secretary has implemented section 1092b of this title and is able to provide to guaranty agencies the information required by such section'' for ''Prior to the implementation of section 1092b of this title''.

Subsec. (b)(6)(B)(ii). Pub. L. 100–50, § 10(h)(2), added cl. (ii) and struck out former cl. (ii) which read as follows: ''the amount borrowed, the cumulative amount borrowed, the income reported on the loan application, and the purposes and the cost of attendance of the borrower.''

Subsec. (c)(1)(A). Pub. L. 100–203, § 3002(b)(1), substituted ''shall be deemed'' for ''shall, subject to section 1072(e) of this title, be deemed''.

Pub. L. 100–203, § 3001(b)(1), substituted ''shall, subject to section 1072(e) of this title, be deemed'' for ''shall be deemed''.

Subsec. (c)(6)(C)(iv). Pub. L. 100–50, § 10(i), inserted at end ''In the case of accounts brought into repayment status as a result of performing supplemental preclaims assistance, the cost of such assistance is a permissible charge to the borrower (for the cost of collection) for which the borrower shall be liable.''

Subsec. (c)(6)(D). Pub. L. 100–50, § 10(j), inserted ''and enforces'' after ''enacts''.

Subsec. (c)(9)(A). Pub. L. 100–203, § 3002(b)(2), substituted ''an amount equal to'' for ''an amount, subject to section 1072(e) of this title, equal to'' in introductory provisions.

Pub. L. 100–203, § 3001(b)(2), substituted ''an amount, subject to section 1072(e) of this title, equal to'' for ''an amount equal to'' in introductory provisions.

Subsec. (c)(9)(A)(i), (ii). Pub. L. 100–50, § 10(k)(1), inserted ''covered'' before ''loans''.

Subsec. (c)(9)(D). Pub. L. 100–50, § 10(k)(2), added subpar. (D).

Subsec. (f)(1)(B). Pub. L. 100–203, § 3002(b)(3), substituted ''shall be deemed'' for ''shall, subject to section 1072(e) of this title, be deemed''.

Pub. L. 100–203, § 3001(b)(3), substituted ''shall, subject to section 1072(e) of this title, be deemed'' for ''shall be deemed''.

Subsec. (i)(1). Pub. L. 100–50, § 10(*l*), struck out ''multiple'' after ''authorizing'' and substituted ''21 days'' for ''45 days''.

Subsec. (j). Pub. L. 100–50, § 10(m), inserted provision at end that the guaranty agency consider the request of an eligible lender to serve as the lender-of-last-resort pursuant to this subsection.

Subsec. (k)(1). Pub. L. 100–203, § 3003, substituted ''Notwithstanding any other provision of law, in'' for ''In'', ''guaranty agency shall'' for ''guaranty agency may'', and ''subsection shall include'' for ''subsection may include''.

CHANGE OF NAME

Committee on Education and Labor of House of Representatives treated as referring to Committee on Economic and Educational Opportunities of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Economic and Educational Opportunities of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Fifth Congress, Jan. 7, 1997.

EFFECTIVE DATE OF 1994 AMENDMENT

Section 355(b) of Pub. L. 103–382 provided that: ''Subsection (a) [amending this section] and the amendment made by subsection (a) shall take effect on August 10, 1993.''

EFFECTIVE DATE OF 1993 AMENDMENTS

Amendment by section 2(c)(11), (12), (14)–(17), (22)–(28) of Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, amendment by section 2(c)(13)(A) of Pub. L. 103–208 effective on and after July 1, 1994, amendment by section 2(c)(13)(B), (C) and (18) of Pub. L. 103–208 effective on and after Dec. 20, 1993, and amendment by section 2(c)(19)–(21) of Pub. L. 103–208 effective on and after 30 days after Dec. 20, 1993, see section 5(a), (b)(2), (3), (6) of Pub. L. 103–208, set out as a note under section 1003 of this title.

Amendment by Pub. L. 103–82 effective Oct. 1, 1993, see section 123 of Pub. L. 103–82, set out as a note under section 1701 of Title 16, Conservation.

Section 4043(b) of Pub. L. 103–66 provided that: ''The amendments made by this section [amending this section] shall take effect on July 1, 1994.''

Section 4102(d) of Pub. L. 103–66 provided that: ''The amendments made by this section [amending this section and sections 1078–8 and 1087–1 of this title] shall take effect on July 1, 1994.''

Section 4107(c) of Pub. L. 103–66 provided that: ''The amendments made by this section [amending this section] shall take effect on October 1, 1993.''

Section 4108(c) of Pub. L. 103–66 provided that: ''The amendments made by this section [amending this section] shall apply to any loan for which the first disbursement is made on or after October 1, 1993.''

Section 4110(b) of Pub. L. 103–66 provided that: ''The amendment made by subsection (a) [amending this section] shall take effect on October 1, 1993.''

Section 4112(b) of Pub. L. 103–66 provided that: ''The amendment made by this section [amending this section] shall take effect on October 1, 1993.''

Section 4201(b) of Pub. L. 103–66 provided that: ''The amendment made by this section [amending this section] shall take effect on October 1, 1994.''

EFFECTIVE DATE OF 1992 AMENDMENT

Section 432 of Pub. L. 102–325, as amended by Pub. L. 103–208, §2(k)(5), Dec. 20, 1993, 107 Stat. 2486, provided that:

''(a) IN GENERAL.—The changes made in part B of title IV of the Act [20 U.S.C. 1071 et seq.] by the amendments made by this part [part B (§§411–432) of title IV of Pub. L. 102–325, see Tables for classification] shall take effect on the date of enactment of this Act [July 23, 1992], except—

''(1) as otherwise provided in such part B;

''(2) that the changes made in sections 425(a), 428(b)(1)(A), 428(b)(1)(B), 428A(b), 428B(b) [20 U.S.C. 1075(a), 1078(b)(1)(A), (B), 1078–1(b), 1078–2(b)], relating to annual and aggregate loan limits, shall apply with respect to loans for which the first disbursement is made on or after July 1, 1993, except that—

''(A) the changes made in section 425(a)(1)(A)(i) and 428(b)(1)(A)(i) shall apply with respect to loans for which the first disbursement is made on or after October 1, 1992; and

''(B) the changes made in section 425(a)(1)(A)(iv) and 428(b)(1)(A)(iv) shall apply with respect to loans to cover the costs of instruction for periods of enrollment beginning on or after October 1, 1993;

''(3) that the changes made in sections 427(a)(2)(C), 428(b)(1)(M), and 428B(d)(1) [20 U.S.C. 1077(a)(2)(C), 1078(b)(1)(M), 1078–2(d)(1)], relating to deferments, shall apply with respect to loans for which the first disbursement is made on or after July 1, 1993, to an individual who is a new borrower on the date such individual applies for a loan;

''(4) that the changes made in sections 428(a)(7) and 428(f)(1)(C), relating to payments for unconsummated loans, shall apply with respect to loans made on or after October 1, 1992;

''(5) that the changes made in sections 427(a)(2)(H) and 428(b)(1)(E)(i), relating to offering graduated or income sensitive repayment options, shall apply with respect to loans for which the first disbursement is made on or after July 1, 1993, to an individual who is a new borrower on the date such individual applies for a loan;

''(6) that the changes made in section 428(b)(4), relating to teacher deferment, shall apply with respect to loans for which the first disbursement is made on or after July 1, 1993, to an individual who is a new borrower on the date such individual applies for a loan;

''(7) that section 428(c)(2)(H)(i) as added by such amendments shall be effective on and after October 1, 1992;

''(8) that the changes in section 428(c)(3) with respect to forbearance after a default shall be effective on and after October 1, 1992;

''(9) that the changes made in section 428B(a) [20 U.S.C. 1078–2(a)] with respect to use of credit histories shall apply with respect to loans for which the first disbursement is made on or after July 1, 1993;

''(10) that section 428B(c) as added by such amendments, relating to disbursement of Federal PLUS Loans, shall apply with respect to loans for which the first disbursement is made on or after October 1, 1992;

''(11) that the changes made in section 428C [20 U.S.C. 1078–3], relating to consolidation loans, shall apply with respect to loans under such section for which the application is received by an eligible lender on or after January 1, 1993;

''(12) that section 428H [20 U.S.C. 1078–8] as added by such amendments shall be effective with respect to loans made to cover the cost of instruction for periods of enrollment beginning on or after October 1, 1992;

''(13) that the changes made in section 438 [20 U.S.C. 1087–1] shall apply with respect to loans for which the first disbursement is made on or after October 1, 1992;

''(14) that the changes in section 439(d)(1) [20 U.S.C. 1087–2(d)(1)], relating to facilities loans, shall apply with respect to applications received on or after July 1, 1992; and

''(15) that the changes in the designation or names of loans or programs under part B is [sic] effective with respect to applications or other documents (used in making such loans) that are printed after the date of enactment of this Act.

''(b) NEW BORROWERS.—For purposes of the section, the term 'new borrower' means, with respect to any date, an individual who on that date has no outstanding balance of principal or interest owing on any loan made, insured, or guaranteed under part B of title IV of the Act [20 U.S.C. 1071 et seq.].''

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by section 2002(a)(2) of Pub. L. 101–239 applicable to any loan made, insured, or guaranteed under this part or part D of this subchapter, including a loan made before Dec. 19, 1989, and amendment effective Jan. 1, 1990, but inapplicable with respect to any portion of a period of deferment granted to a borrower under section 1077(a)(2)(C)(i), 1078(b)(1)(M)(i), or 1087dd(c)(2)(A)(i) of this title for service in a medical internship or residency program completed prior to Dec. 19, 1989, see section 2002(a)(4) of Pub. L. 101–239, set out as a note under section 1077 of this title.

Section 2002(b)(2) of Pub. L. 101–239 provided that: ''The amendments made by this subsection [amending this section] shall apply with respect to loans made before, on, or after the date of enactment of this Act [Dec. 19, 1989].''

Amendment by section 2004(b)(1), (3) of Pub. L. 101–239 applicable with respect to loans made to cover the cost of instruction for periods of enrollment beginning on or after Jan. 1, 1990, see section 2004(c) of Pub. L. 101–239, set out as a note under section 1077 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 11(a) of Pub. L. 100–369 applicable with respect to loans made, insured or guaranteed under this part on, before, or after June 3, 1987, see section 11(b) of Pub. L. 100–369, set out as a note under section 1077 of this title.

Amendment by section 5(b)(2) of Pub. L. 100–369 effective with respect to loans made on or after Oct. 1, 1988, and amendment by section 7(c) of Pub. L. 100–369 effective July 18, 1988, see section 13(b) of Pub. L. 100–369, set out as a note under section 1091 of this title.

EFFECTIVE DATE OF 1987 AMENDMENTS

Section 3002(b)(1)–(3) of Pub. L. 100–203 provided in part that the amendments by section 3002(b)(1)–(3) of Pub. L. 100–203 are effective Sept. 30, 1989.

Amendment by section 10(b) of Pub. L. 100–50 applicable with respect to loans made, insured or guaranteed under this part on, before, or after June 3, 1987, see section 11(b) of Pub. L. 100–369, set out as an Effective Date of 1988 Amendment note under section 1077 of this title.

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

EFFECTIVE DATE

Section effective Oct. 17, 1987, with subsection (b)(1)(M) (except cls. (viii), (ix), and (x)) applicable only to loans to new borrowers made to cover the costs of instruction for periods of enrollment beginning on or after July 1, 1987, or disbursed on or after July 1, 1987, subsection (b)(1)(A) and (B) applicable with respect only to loans disbursed on or after Jan. 1, 1987, or made to cover the costs of instruction for periods of enrollment beginning on or after Jan. 1, 1987, and subsection (b)(1)(H) applicable with respect only to loans for which

the borrower files an application on or after July 1, 1987, see section 402(b) of Pub. L. 99–498, set out as a note under section 1071 of this title.

GUARANTEED STUDENT LOAN FAMILY CONTRIBUTION SCHEDULE FOR THE PERIODS OF INSTRUCTION BEGINNING AFTER JUNE 30, 1983

Pub. L. 97–301, §9, Oct. 13, 1982, 96 Stat. 1403, as amended by Pub. L. 98–79, §4(b), Aug. 15, 1983, 97 Stat. 481; Pub. L. 98–511, title VII, §707(7), (8), Oct. 19, 1984, 98 Stat. 2407, 2408; Pub. L. 99–272, title XVI, §16018(b), Apr. 7, 1986, 100 Stat. 348; Pub. L. 99–498, title IV, §408(a)(6), (7), Oct. 17, 1986, 100 Stat. 1495, specified that the family contribution schedule for specific periods of instruction through June 30, 1988, for loans made, insured, or guaranteed under this part be the family contribution schedule for such loans for the period of instruction from July 1, 1982, through June 30, 1983, and required the family contribution schedule for the period of instruction from July 1, 1982, through June 30, 1983, to be modified by the Secretary of Education for use for each of the specific periods of instruction to reflect the most recent and relevant data, prior to repeal by Pub. L. 99–498, title IV, §408(b), Oct. 17, 1986, 100 Stat. 1495, effective with respect to any academic year beginning on or after July 1, 1988, Pub. L. 97–301.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1058, 1071, 1072, 1073, 1077a, 1078–2, 1078–3, 1078–6, 1078–7, 1078–8, 1080, 1080a, 1081, 1082, 1084, 1085, 1087, 1087–1, 1087–2, 1087a, 1087c, 1087e, 1087f, 1087h, 1091, 1091a, 1092, 1094, 1095a, 1099a–1, 1099a–3, 1104b of this title; title 16 section 1727; title 42 section 12656.

§ 1078–1. Repealed. Pub. L. 103–66, title IV, § 4047(b), Aug. 10, 1993, 107 Stat. 364

Section, Pub. L. 89–329, title IV, §428A, as added Pub. L. 99–498, title IV, §402(a), Oct. 17, 1986, 100 Stat. 1384; amended Pub. L. 100–50, §10(n), (o)(1), (p)(1), (q), (r)(1), June 3, 1987, 101 Stat. 343, 344; Pub. L. 100–369, §§3–5(a), (b)(3), July 18, 1988, 102 Stat. 835, 836; Pub. L. 101–239, title II, §2003(a)(1), (b)(1), (c)(1), Dec. 19, 1989, 103 Stat. 2112, 2114; Pub. L. 101–508, title III, §3006(b), Nov. 5, 1990, 104 Stat. 1388–28; Pub. L. 102–26, §2(c)(1), Apr. 9, 1991, 105 Stat. 123; Pub. L. 102–325, title IV, §417, July 23, 1992, 106 Stat. 529; Pub. L. 103–208, §2(c)(29)–(32), Dec. 20, 1993, 107 Stat. 2465, 2466, related to Federal supplemental loans for students.

A prior section 1078–1, Pub. L. 89–329, title IV, §428A, as added Pub. L. 94–482, title I, §127(a), Oct. 12, 1976, 90 Stat. 2120; amended Pub. L. 95–43, §1(a)(30)–(32), June 15, 1977, 91 Stat. 216; Pub. L. 96–374, title IV, §412(e), (f), title XIII, §1391(a)(1), Oct. 3, 1980, 94 Stat. 1416, 1417, 1503; Pub. L. 97–35, title V, §535(e), Aug. 13, 1981, 95 Stat. 455, related to student loan insurance programs, prior to the general revision of this part by Pub. L. 99–498.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1994, except as otherwise provided, see section 4047(d) of Pub. L. 103–66, set out as an Effective Date of 1993 Amendments note under section 1078–8 of this title.

CONTINUING APPLICABILITY OF TERMS, CONDITIONS, AND BENEFITS OF LOANS

Terms, conditions, and benefits applicable with respect to loans provided under this section as it existed on the date preceding Aug. 10, 1993, to continue to apply after Aug. 10, 1993, notwithstanding repeal of this section, see section 4047(c) of Pub. L. 103–66, set out as a note under section 1078–8 of this title.

§ 1078–2. Federal PLUS loans

(a) Authority to borrow

Parents of a dependent student, who do not have an adverse credit history as determined pursuant to regulations of the Secretary, shall be eligible to borrow funds under this section in amounts specified in subsection (b) of this section, and unless otherwise specified in subsections (c), (d), and (e) of this section, such loans shall have the same terms, conditions, and benefits as all other loans made under this part. Whenever necessary to carry out the provisions of this section, the terms ''student'' and ''borrower'' as used in this part shall include a parent borrower under this section.

(b) Limitation based on need

Any loan under this section may be counted as part of the expected family contribution in the determination of need under this subchapter and part C of subchapter I of chapter 34 of title 42, but no loan may be made to any parent under this section for any academic year in excess of (A) the student's estimated cost of attendance, minus (B) other financial aid as certified by the eligible institution under section 1078(a)(2)(A) of this title. The annual insurable limit on account of any student shall not be deemed to be exceeded by a line of credit under which actual payments to the borrower will not be made in any year in excess of the annual limit.

(c) PLUS loan disbursement

All loans made under this section shall be disbursed in accordance with the requirements of section 1078–7 of this title and shall be disbursed by—

(1) an electronic transfer of funds from the lender to the eligible institution; or

(2) a check copayable to the eligible institution and the parent borrower.

(d) Payment of principal and interest

(1) Commencement of repayment

Repayment of principal on loans made under this section shall commence not later than 60 days after the date such loan is disbursed by the lender, subject to deferral during any period during which the parent meets the conditions required for a deferral under section 1077(a)(2)(C) or 1078(b)(1)(M) of this title.

(2) Capitalization of interest

Interest on loans made under this section for which payments of principal are deferred pursuant to paragraph (1) of this subsection shall, if agreed upon by the borrower and the lender (A) be paid monthly or quarterly, or (B) be added to the principal amount of the loan not more frequently than quarterly by the lender. Such capitalization of interest shall not be deemed to exceed the annual insurable limit on account of the borrower.

(3) Subsidies prohibited

No payments to reduce interest costs shall be paid pursuant to section 1078(a) of this title on loans made pursuant to this section.

(4) Applicable rates of interest

Interest on loans made pursuant to this section shall be at the applicable rate of interest provided in section 1077a(c) of this title.

(5) Amortization

The amount of the periodic payment and the repayment schedule for any loan made pursu-

ant to this section shall be established by assuming an interest rate equal to the applicable rate of interest at the time the repayment of the principal amount of the loan commences. At the option of the lender, the note or other written evidence of the loan may require that—

(A) the amount of the periodic payment will be adjusted annually, or

(B) the period of repayment of principal will be lengthened or shortened,

in order to reflect adjustments in interest rates occurring as a consequence of section 1077a(c)(4) of this title.

(e) Refinancing

(1) Refinancing to secure combined payment

An eligible lender may at any time consolidate loans held by it which are made under this section to a borrower, including loans which were made under this section as in effect prior to October 17, 1986, under a single repayment schedule which provides for a single principal payment and a single payment of interest, and shall calculate the repayment period for each included loan from the date of the commencement of repayment of the most recent included loan. Unless the consolidated loan is obtained by a borrower who is electing to obtain variable interest under paragraph (2) or (3), such consolidated loan shall bear interest at the weighted average of the rates of all included loans. The extension of any repayment period of an included loan pursuant to this paragraph shall be reported (if required by them) to the Secretary or guaranty agency insuring the loan, as the case may be, but no additional insurance premiums shall be payable with respect to any such extension. The extension of the repayment period of any included loan shall not require the formal extension of the promissory note evidencing the included loan or the execution of a new promissory note, but shall be treated as an administrative forbearance of the repayment terms of the included loan.

(2) Refinancing to secure variable interest rate

An eligible lender may reissue a loan which was made under this section before July 1, 1987, or under this section as in effect prior to October 17, 1986, in order to permit the borrower to obtain the interest rate provided under section 1077a(c)(4) of this title. A lender offering to reissue a loan or loans for such purpose may charge a borrower an amount not to exceed $100 to cover the administrative costs of reissuing such loan or loans, not more than one-half of which shall be paid to the guarantor of the loan being reissued to cover costs of reissuance. Reissuance of a loan under this paragraph shall not affect any insurance applicable with respect to the loan, and no additional insurance fee may be charged to the borrower with respect to the loan.

(3) Refinancing by discharge of previous loan

A borrower who has applied to an original lender for reissuance of a loan under paragraph (2) and who is denied such reissuance may obtain a loan from another lender for the purpose of discharging the loan from such original lender. A loan made for such purpose—

(A) shall bear interest at the applicable rate of interest provided under section 1077a(c)(4) of this title;

(B) shall not result in the extension of the duration of the note (other than as permitted under subsection (c)(5)(B) of this section);

(C) may be subject to an additional insurance fee but shall not be subject to the administrative cost charge permitted by paragraph (2) of this subsection; and

(D) shall be applied to discharge the borrower from any remaining obligation to the original lender with respect to the original loan.

(4) Certification in lieu of promissory note presentation

Each new lender may accept certification from the original lender of the borrower's original loan in lieu of presentation of the original promissory note.

(5) Notification to borrowers of availability of refinancing options

Each holder of a loan made under this section or under this section as in effect prior to October 17, 1986, shall, not later than October 1, 1987, in the case of loans made before October 17, 1986, notify the borrower of such loan—

(A) of the refinancing options for which the borrower is eligible under this subsection;

(B) of those options which will be made available by the holder and of the practical consequences of such options in terms of interest rates and monthly and total payments for a set of loan examples; and

(C) that, with respect to any option that the holder will not make available, the holder will, to the extent practicable, refer the borrower to an eligible lender offering such option.

(Pub. L. 89–329, title IV, § 428B, as added Pub. L. 99–498, title IV, § 402(a), Oct. 17, 1986, 100 Stat. 1386; amended Pub. L. 100–50, § 10(*o*), (p)(2), (q), (r)(1), June 3, 1987, 101 Stat. 343, 344; Pub. L. 102–325, title IV, § 418, July 23, 1992, 106 Stat. 531; Pub. L. 103–66, title IV, § 4109(a), Aug. 10, 1993, 107 Stat. 369.)

CODIFICATION

October 17, 1986, referred to in subsec. (e)(5), was in the original ''the date of enactment of this Act'', which was translated as meaning the date of enactment of Pub. L. 99–498 which enacted this section in the general revision of this part, to reflect the probable intent of Congress.

PRIOR PROVISIONS

A prior section 1078–2, Pub. L. 89–329, title IV, § 428B, as added Pub. L. 96–374, title IV, § 419, Oct. 3, 1980, 94 Stat. 1424; amended Pub. L. 97–35, title V, §§ 532(b)(3), 534(a)(2), (c)(1), (2), Aug. 13, 1981, 95 Stat. 452, 454; Pub. L. 98–79, § 12, Aug. 15, 1983, 97 Stat. 484, related to auxiliary loans to assist students, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1993—Subsec. (c). Pub. L. 103–66 inserted ''shall be disbursed in accordance with the requirements of section 1078–7 of this title and'' after ''under this section''.

1992—Pub. L. 102–325, §418(a), substituted ''Federal PLUS'' for ''PLUS'' in section catchline.

Subsec. (a). Pub. L. 102–325, §418(b)(1), substituted ''subsections (c), (d), and (e)'' for ''subsections (c) and (d)'' and inserted '', who do not have an adverse credit history as determined pursuant to regulations of the Secretary,'' after ''a dependent student''.

Subsec. (b). Pub. L. 102–325, §418(b)(2), struck out subsec. (b) designation and heading, redesignated par. (3) as subsec. (b), and struck out pars. (1) and (2) which set the annual limit on the amount parents may borrow for one student in any academic year at $4,000 and set the aggregate insured principal amount for insured loans at not to exceed $20,000.

Subsec. (c). Pub. L. 102–325, §418(b)(4), added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 102–325, §418(c), (d), amended pars. (1) and (2) generally. Prior to amendment, pars. (1) and (2) read as follows:

''(1) COMMENCEMENT OF REPAYMENT.—Repayment of principal on loans made under this section shall commence not later than 60 days after the date such loan is disbursed by the lender, subject to deferral (A) during any period during which the parent meets the conditions required for a deferral under clause (i), (viii), or (ix) of section 1077(a)(2)(C) or 1078(b)(1)(M) of this title; and (B) during any period during which the borrower has a dependent student for whom a loan obligation was incurred under this section and who meets the conditions required for a deferral under clause (i) of either such section.

''(2) CAPITALIZATION OF INTEREST.—Interest on loans made under this section for which payments of principal are deferred pursuant to paragraph (1) of this subsection shall, if agreed upon by the borrower and the lender (A) be paid monthly or quarterly or (B) be added to the principal amount of the loan on a quarterly basis by the lender. Such capitalization of interest shall not be deemed to exceed the annual insurable limit on account of the student.''

Pub. L. 102–325, §418(b)(3), redesignated subsec. (c) as (d). Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 102–325, §418(b)(3), redesignated subsec. (d) as (e).

1987—Subsec. (a). Pub. L. 100–50, §10(*o*)(2)(A), struck out '', but such a parent borrower shall not be eligible for any deferment pursuant to section 1077(a)(2)(C) or 1078(b)(1)(M) of this title except for the deferments allowed (with respect to the student) under clauses (i), (viii), and (ix) of such sections'' after ''borrower under this section''.

Subsec. (b)(3). Pub. L. 100–50, §10(p)(2), amended first sentence generally, substituting ''for any academic year in excess of (A) the student's estimated cost of attendance, minus (B) other financial aid'' for ''which would cause the combined loans of the parent and the student for any academic year to exceed the student's estimated cost of attendance minus such student's estimated financial assistance''.

Subsec. (c)(1). Pub. L. 100–50, §10(*o*)(2)(B), struck out ''pursuant to sections 1077(a)(2)(C)(i), (viii), and (ix) and 1078(b)(1)(M)(i), (viii), and (ix) of this title'' after ''subject to deferral'' and inserted in lieu cls. (A) and (B).

Subsec. (c)(2). Pub. L. 100–50, §10(*o*)(1), (2)(C), (q), in introductory provisions, struck out ''and interest'' after first reference to ''principal'', and substituted ''pursuant to paragraph (1) of this subsection'' for ''under sections 1077(a)(2)(C)(i) and 1078(b)(1)(M)(i) of this title'', and, in subpar. (A), inserted ''monthly or'' before ''quarterly''.

Subsec. (d)(1). Pub. L. 100–50, §10(r)(1)(A), inserted ''at any time'' after ''eligible lender may'' in first sentence, substituted ''the consolidated loan is obtained by a borrower who is electing to obtain variable interest under paragraph (2) or (3)'' for ''the borrower complies with the requirements of paragraph (2)'' in second sentence, and inserted ''(if required by them)'' after ''shall be reported'' in third sentence.

Subsec. (d)(2). Pub. L. 100–50, §10(r)(1)(B), inserted ''under this section before July 1, 1987, or'' before ''under this section'' and substituted ''to reissue a loan or loans'' for ''to reissue a loan'' and ''reissuing such loan or loans'' for ''reissuing such loan''.

Subsec. (d)(5). Pub. L. 100–50, §10(r)(1)(C), substituted ''October 1, 1987'' for ''January 1, 1987'' and, in subpar. (B), inserted ''and of the practical consequences of such options in terms of interest rates and monthly and total payments for a set of loan examples'' before semicolon at end.

EFFECTIVE DATE OF 1993 AMENDMENT

Section 4109(c) of Pub. L. 103–66 provided that: ''The amendments made by this section [amending this section and section 1078–7 of this title] shall be effective with respect to loans for which the first disbursement is made on or after October 1, 1993.''

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective July 23, 1992, except that changes made in subsec. (b), relating to annual and aggregate loan limits, are applicable with respect to loans for which first disbursement is made on or after July 1, 1993, changes made in subsec. (a) with respect to use of credit histories are applicable with respect to loans for which first disbursement is made on or after July 1, 1993, and subsec. (c), as added by Pub. L. 102–325, relating to disbursement of Federal PLUS Loans, is applicable with respect to loans for which first disbursement is made on or after Oct. 1, 1992, see section 432 of Pub. L. 102–325, set out as a note under section 1078 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

AMENDMENT OF NOTE OR OTHER WRITTEN EVIDENCE OF LOAN BY ELIGIBLE LENDER AT REQUEST OF BORROWER; CIRCUMSTANCES; DENIAL OF REQUEST

Section 10(r)(2) of Pub. L. 100–50 provided that: ''An eligible lender who has refinanced a loan or loans under section 428A(d) or 428B(d) [20 U.S.C. 1078–1(d), 1078–2(d)] between the date of enactment of the Higher Education Amendments of 1986 [Oct. 17, 1986] and July 1, 1987, may, at the request of a borrower or with the written consent of the borrower, amend the note or other written evidence of loan as necessary to comply with the requirements of such sections and section 427A(c)(4) [20 U.S.C. 1077a(c)(4)] as amended by this Act. Any borrower who is denied such a request shall be treated as eligible to obtain a loan from another lender under section 428A(d)(3) or 428B(d)(3), as applicable, for the purposes of discharging the loan from the original lender, and a borrower exercising this option shall not be subject to an additional insurance fee under section 428A(d)(3)(C) or 428B(d)(3)(C).''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1075, 1077, 1077a, 1078, 1078–8, 1078–10, 1083, 1085, 1087, 1087–0, 1087–1, 1087d, 1087e, 1091, 1091b, 1092, 1099a–3 of this title; title 26 section 144; title 42 section 12604.

§ 1078–3. Federal consolidation loans

(a) Agreements with eligible lenders

(1) Agreement required for insurance coverage

For the purpose of providing loans to eligible borrowers for consolidation of their obligations with respect to eligible student loans, the Secretary or a guaranty agency shall enter into agreements in accordance with subsection (b) of this section with the following eligible lenders:

(A) the Student Loan Marketing Association or the Holding Company of the Student

Loan Marketing Association, including any subsidiary of the Holding Company, created pursuant to section 1087–3 of this title;

(B) State agencies described in subparagraphs (D) and (F) of section 1085(d)(1) of this title; and

(C) other eligible lenders described in subparagraphs (A), (B), (C), (E), and (J) of such section.

(2) Insurance coverage of consolidation loans

Except as provided in section 1079(e) of this title, no contract of insurance under this part shall apply to a consolidation loan unless such loan is made under an agreement pursuant to this section and is covered by a certificate issued in accordance with subsection (b)(2) of this section. Loans covered by such a certificate that is issued by a guaranty agency shall be considered to be insured loans for the purposes of reimbursements under section 1078(c) of this title, but no payment shall be made with respect to such loans under section 1078(f) of this title to any such agency.

(3) "Eligible borrower" defined

(A) For the purpose of this section, the term ''eligible borrower'' means a borrower who, at the time of application for a consolidation loan is in repayment status, or in a grace period preceding repayment, or is a defaulted borrower who has made arrangements to repay the obligation on the defaulted loans satisfactory to the holders of the defaulted loans.

(B)(i) An individual's status as an eligible borrower under this section terminates upon receipt of a consolidation loan under this section, except—

(I) with respect to eligible student loans received after the date of receipt of the consolidation loan; and

(II) that loans received prior to the date of the consolidation loan may be added to the consolidation loan during the 180-day period following the making of the consolidation loan.

(ii) Loans made under this section shall, to the extent used to discharge loans made under this subchapter and part C of subchapter I of chapter 34 of title 42, be counted against applicable limitations on aggregate indebtedness contained in sections 1075(a)(2), 1078(b)(1)(B), 1078–1(b)(2),[1] and 1087dd(a)(2) of this title.

(C)(i) A married couple, each of whom has eligible student loans, may be treated as if such couple were an individual borrowing under subparagraphs (A) and (B) if such couple agrees to be held jointly and severally liable for the repayment of a consolidation loan, without regard to the amounts of the respective loan obligations that are to be consolidated, and without regard to any subsequent change that may occur in such couple's marital status.

(ii) Only one spouse in a married couple applying for a consolidation loan under this subparagraph need meet any of the requirements of subsection (b) of this section, except that each spouse shall—

(I) individually make the initial certification that no other application is pending in accordance with subsection (b)(1)(A) of this section; and

(II) agree to notify the holder concerning any change of address in accordance with subsection (b)(4) of this section.

(4) "Eligible student loans" defined

For the purpose of paragraph (1), the term ''eligible student loans'' means loans—

(A) made, insured, or guaranteed under this part, including loans on which the borrower has defaulted (but has made arrangements to repay the obligation on the defaulted loans satisfactory to the Secretary or guaranty agency, whichever insured the loans);

(B) made under part D of this subchapter;

(C) made under part D of this subchapter, except that loans made under such part shall be eligible student loans only for consolidation loans for which the application is received by an eligible lender during the period beginning on November 13, 1997, and ending on October 1, 1998;

(D) made under subpart II of part A of title VII of the Public Health Service Act [42 U.S.C. 292q et seq.]; or

(E) made under subpart II of part B of title VIII of the Public Health Service Act [42 U.S.C. 297a et seq.].

(b) Contents of agreements, certificates of insurance, and loan notes

(1) Agreements with lenders

Any lender described in subparagraph (A), (B), or (C) of subsection (a)(1) of this section who wishes to make consolidation loans under this section shall enter into an agreement with the Secretary or a guaranty agency which provides—

(A) that, in the case of all lenders described in subsection (a)(1) of this section, the lender will make a consolidation loan to an eligible borrower (on request of that borrower) only if the borrower certifies that the borrower has no other application pending for a loan under this section and (i) the lender holds an outstanding loan of that borrower which is selected by the borrower for consolidation under this section, or (ii) the borrower certifies that the borrower has sought and has been unable to obtain a consolidation loan with income-sensitive repayment terms from the holders of the outstanding loans of that borrower (which are so selected for consolidation);

(B) that each consolidation loan made by the lender will bear interest, and be subject to repayment, in accordance with subsection (c) of this section;

(C) that each consolidation loan will be made, notwithstanding any other provision of this part limiting the annual or aggregate principal amount for all insured loans made to a borrower, in an amount (i) which is not less than the minimum amount required for eligibility of the borrower under subsection (a)(3) of this section, and (ii) which is equal to the sum of the unpaid principal and ac-

[1] See References in Text note below.

crued unpaid interest and late charges of all eligible student loans received by the eligible borrower which are selected by the borrower for consolidation;

(D) that the proceeds of each consolidation loan will be paid by the lender to the holder or holders of the loans so selected to discharge the liability on such loans;

(E) that the lender shall offer an income-sensitive repayment schedule, established by the lender in accordance with the regulations promulgated by the Secretary, to the borrower of any consolidation loan made by the lender on or after July 1, 1994; and

(F) such other terms and conditions as the Secretary or the guaranty agency may specifically require of the lender to carry out this section.

(2) Issuance of certificate of comprehensive insurance coverage

The Secretary shall issue a certificate of comprehensive insurance coverage under section 1079(b) of this title to a lender which has entered into an agreement with the Secretary under paragraph (1) of this subsection. The guaranty agency may issue a certificate of comprehensive insurance coverage to a lender with which it has an agreement under such paragraph. The Secretary shall not issue a certificate to a lender described in subparagraph (B) or (C) of subsection (a)(1) of this section unless the Secretary determines that such lender has first applied to, and has been denied a certificate of insurance by, the guaranty agency which insures the preponderance of its loans (by value).

(3) Contents of certificate

A certificate issued under paragraph (2) shall, at a minimum, provide—

(A) that all consolidation loans made by such lender in conformity with the requirements of this section will be insured by the Secretary or the guaranty agency (whichever is applicable) against loss of principal and interest;

(B) that a consolidation loan will not be insured unless the lender has determined to its satisfaction, in accordance with reasonable and prudent business practices, for each loan being consolidated—

(i) that the loan is a legal, valid, and binding obligation of the borrower;

(ii) that each such loan was made and serviced in compliance with applicable laws and regulations; and

(iii) in the case of loans under this part, that the insurance on such loan is in full force and effect;

(C) the effective date and expiration date of the certificate;

(D) the aggregate amount to which the certificate applies;

(E) the reporting requirements of the Secretary on the lender and an identification of the office of the Department of Education or of the guaranty agency which will process claims and perform other related administrative functions;

(F) the alternative repayment terms which will be offered to borrowers by the lender;

(G) that, if the lender prior to the expiration of the certificate no longer proposes to make consolidation loans, the lender will so notify the issuer of the certificate in order that the certificate may be terminated (without affecting the insurance on any consolidation loan made prior to such termination); and

(H) the terms upon which the issuer of the certificate may limit, suspend, or terminate the lender's authority to make consolidation loans under the certificate (without affecting the insurance on any consolidation loan made prior to such limitation, suspension, or termination).

(4) Terms and conditions of loans

A consolidation loan made pursuant to this section shall be insurable by the Secretary or a guaranty agency pursuant to paragraph (2) only if the loan is made to an eligible borrower who has agreed to notify the holder of the loan promptly concerning any change of address and the loan is evidenced by a note or other written agreement which—

(A) is made without security and without endorsement, except that if the borrower is a minor and such note or other written agreement executed by him or her would not, under applicable law, create a binding obligation, endorsement may be required;

(B) provides for the payment of interest and the repayment of principal in accordance with subsection (c) of this section;

(C)(i) provides that periodic installments of principal need not be paid, but interest shall accrue and be paid in accordance with clause (ii), during any period for which the borrower would be eligible for a deferral under section 1078(b)(1)(M) of this title, and that any such period shall not be included in determining the repayment schedule pursuant to subsection (c)(2) of this section; and

(ii) provides that interest shall accrue and be paid—

(I) by the Secretary, in the case of a consolidation loan for which the application is received by an eligible lender before November 13, 1997, or on or after October 1, 1998, that consolidated only Federal Stafford Loans for which the student borrower received an interest subsidy under section 1078 of this title;

(II) by the Secretary, in the case of a consolidation loan for which the application is received by an eligible lender on or after November 13, 1997, and before October 1, 1998, except that the Secretary shall pay such interest only on that portion of the loan that repays Federal Stafford Loans for which the student borrower received an interest subsidy under section 1078 of this title or Federal Direct Stafford Loans for which the borrower received an interest subsidy under section 1087e of this title; or

(III) by the borrower, or capitalized, in the case of a consolidation loan other than a loan described in subclause (I) or (II);

(D) entitles the borrower to accelerate without penalty repayment of the whole or any part of the loan; and

(E)(i) contains a notice of the system of disclosure concerning such loan to credit bureau organizations under section 1080a of this title, and (ii) provides that the lender on request of the borrower will provide information on the repayment status of the note to such organizations.

(5) Direct loans

In the event that a borrower is unable to obtain a consolidation loan from a lender with an agreement under subsection (a)(1) of this section, or is unable to obtain a consolidation loan with income-sensitive repayment terms acceptable to the borrower from such a lender, the Secretary shall offer any such borrower who applies for it, a direct consolidation loan. Such direct consolidation loan shall, as requested by the borrower, be repaid either pursuant to income contingent repayment under part C of this subchapter or pursuant to any other repayment provision under this section. The Secretary shall not offer such loans if, in the Secretary's judgment, the Department of Education does not have the necessary origination and servicing arrangements in place for such loans.

(6) Nondiscrimination in loan consolidation

An eligible lender that makes consolidation loans under this section shall not discriminate against any borrower seeking such a loan—

(A) based on the number or type of eligible student loans the borrower seeks to consolidate;

(B) based on the type or category of institution of higher education that the borrower attended;

(C) based on the interest rate to be charged to the borrower with respect to the consolidation loan; or

(D) with respect to the types of repayment schedules offered to such borrower.

(c) Payment of principal and interest

(1) Interest rates

(A) Consolidation loans made under this section shall bear interest at rates determined under subparagraph (B), (C), or (D). For the purposes of payment of special allowances under section 1087–1(b)(2) of this title, the interest rate required by this subsection is the applicable interest rate with respect to a consolidation loan.

(B) A consolidation loan made before July 1, 1994, shall bear interest at an annual rate on the unpaid principal balance of the loan that is equal to the greater of—

(i) the weighted average of the interest rates on the loans consolidated, rounded to the nearest whole percent; or

(ii) 9 percent.

(C) A consolidation loan made on or after July 1, 1994, shall bear interest at an annual rate on the unpaid principal balance of the loan that is equal to the weighted average of the interest rates on the loans consolidated, rounded upward to the nearest whole percent.

(D) A consolidation loan for which the application is received by an eligible lender on or after November 13, 1997, and before October 1, 1998, shall bear interest at an annual rate on the unpaid principal balance of the loan that is equal to the rate specified in section 1077a(f) of this title, except that the eligible lender may continue to calculate interest on such a loan at the rate previously in effect and defer, until not later than April 1, 1998, the recalculation of the interest on such a loan at the rate required by this subparagraph if the recalculation is applied retroactively to the date on which the loan is made.

(2) Repayment schedules

(A) Notwithstanding any other provision of this part, to the extent authorized by its certificate of insurance under subsection (b)(2)(F) of this section and approved by the issuer of such certificate, the lender of a consolidation loan shall establish repayment terms as will promote the objectives of this section, which shall include the establishment of graduated or income-sensitive repayment schedules, established by the lender in accordance with the regulations of the Secretary. Except as required by such income-sensitive repayment schedules, or by the terms of repayment pursuant to income contingent repayment offered by the Secretary under subsection (b)(5) of this section, such repayment terms shall require that if the sum of the consolidation loan and the amount outstanding on other student loans to the individual—

(i) is less than $7,500, then such consolidation loan shall be repaid in not more than 10 years;

(ii) is equal to or greater than $7,500 but less than $10,000, then such consolidation loan shall be repaid in not more than 12 years;

(iii) is equal to or greater than $10,000 but less than $20,000, then such consolidation loan shall be repaid in not more than 15 years;

(iv) is equal to or greater than $20,000 but less than $40,000, then such consolidation loan shall be repaid in not more than 20 years;

(v) is equal to or greater than $40,000 but less than $60,000, then such consolidation loan shall be repaid in not more than 25 years; or

(vi) is equal to or greater than $60,000, then such consolidation loan shall be repaid in not more than 30 years.

(B) The amount outstanding on other student loans which may be counted for the purpose of subparagraph (A) may not exceed the amount of the consolidation loan.

(3) Additional repayment requirements

Notwithstanding paragraph (2)—

(A) a repayment schedule established with respect to a consolidation loan shall require that the minimum installment payment be an amount equal to not less than the accrued unpaid interest; and

(B) except as required by the terms of repayment pursuant to income contingent repayment offered by the Secretary under subsection (b)(5) of this section, the lender of a consolidation loan may, with respect to re-

payment on the loan, when the amount of a monthly or other similar payment on the loan is not a multiple of $5, round the payment to the next highest whole dollar amount that is a multiple of $5.

(4) Commencement of repayment

Repayment of a consolidation loan shall commence within 60 days after all holders have, pursuant to subsection (b)(1)(D) of this section, discharged the liability of the borrower on the loans selected for consolidation.

(5) Insurance premiums prohibited

No insurance premium shall be charged to the borrower on any consolidation loan, and no insurance premium shall be payable by the lender to the Secretary with respect to any such loan, but a fee may be payable by the lender to the guaranty agency to cover the costs of increased or extended liability with respect to such loan.

(d) Special program authorized

(1) General rule and definition of eligible student loan

(A) In general

Subject to the provisions of this subsection, the Secretary or a guaranty agency shall enter into agreements with eligible lenders described in subparagraphs (A), (B), and (C) of subsection (a)(1) of this section for the consolidation of eligible student loans.

(B) Applicability rule

Unless otherwise provided in this subsection, the agreements entered into under subparagraph (A) and the loans made under such agreements for the consolidation of eligible student loans under this subsection shall have the same terms, conditions, and benefits as all other agreements and loans made under this section.

(C) "Eligible student loans" defined

For the purpose of this subsection, the term ''eligible student loans'' means loans—

(i) of the type described in subparagraphs (A), (B), and (C) of subsection (a)(4) of this section; and

(ii) made under subpart I of part A of title VII of the Public Health Service Act [42 U.S.C. 292 et seq.].

(2) Interest rate rule

(A) In general

The portion of each consolidated loan that is attributable to an eligible student loan described in paragraph (1)(C)(ii) shall bear interest at a rate not to exceed the rate determined under subparagraph (B).

(B) Determination of the maximum interest rate

For the 12-month period beginning after July 1, 1992, and for each 12-month period thereafter, beginning on July 1 and ending on June 30, the interest rate applicable under subparagraph (A) shall be equal to the average of the bond equivalent rates of the 91-day Treasury bills auctioned for the quarter prior to July 1, for each 12-month period for which the determination is made, plus 3 percent.

(C) Publication of maximum interest rate

The Secretary shall determine the applicable rate of interest under subparagraph (B) after consultation with the Secretary of the Treasury and shall publish such rate in the Federal Register as soon as practicable after the date of such determination.

(3) Special rules

(A) No special allowance rule

No special allowance under section 1087–1 of this title shall be paid with respect to the portion of any consolidated loan under this subsection that is attributable to any loan described in paragraph (1)(C)(ii).

(B) No interest subsidy rule

No interest subsidy under section 1078(a) of this title shall be paid on behalf of any eligible borrower for any portion of a consolidated loan under this subsection that is attributable to any loan described in paragraph (1)(C)(ii).

(C) Additional reserve rule

Notwithstanding any other provision of this chapter, additional reserves shall not be required for any guaranty agency with respect to a loan made under this subsection.

(D) Insurance rule

Any insurance premium paid by the borrower under subpart I of part A of title VII of the Public Health Service Act [42 U.S.C. 292 et seq.] with respect to a loan made under that subpart and consolidated under this subsection shall be retained by the student loan insurance fund established under section 710 of the Public Health Service Act [42 U.S.C. 292i].

(4) Regulations

The Secretary is authorized to promulgate such regulations as may be necessary to facilitate carrying out the provisions of this subsection.

(e) Termination of authority

The authority to make loans under this section expires at the close of September 30, 2002. Nothing in this section shall be construed to authorize the Secretary to promulgate rules or regulations governing the terms or conditions of the agreements and certificates under subsection (b) of this section. Loans made under this section which are insured by the Secretary shall be considered to be new loans made to students for the purpose of section 1074(a) of this title.

(f) Interest payment rebate fee

(1) In general

For any month beginning on or after October 1, 1993, each holder of a consolidation loan under this section for which the first disbursement was made on or after October 1, 1993, shall pay to the Secretary, on a monthly basis and in such manner as the Secretary shall prescribe, a rebate fee calculated on an annual basis equal to 1.05 percent of the principal plus accrued unpaid interest on such loan.

(2) Deposit

The Secretary shall deposit all fees collected pursuant to subsection (a) of this section into the insurance fund established in section 1081 of this title.

(Pub. L. 89–329, title IV, § 428C, as added Pub. L. 99–498, title IV, § 402(a), Oct. 17, 1986, 100 Stat. 1388; amended Pub. L. 100–50, § 10(s), June 3, 1987, 101 Stat. 345; Pub. L. 102–325, title IV, § 419, July 23, 1992, 106 Stat. 532; Pub. L. 102–408, title III, § 306(a), (b), Oct. 13, 1992, 106 Stat. 2084, 2086; Pub. L. 103–66, title IV, §§ 4046(a), (b)(2), 4106(a), Aug. 10, 1993, 107 Stat. 360, 363, 368; Pub. L. 103–208, § 2(c)(33)–(37), Dec. 20, 1993, 107 Stat. 2466; Pub. L. 103–382, title III, § 356, Oct. 20, 1994, 108 Stat. 3967; Pub. L. 104–208, div. A, title I, § 101(e) [title VI, § 602(b)(1)(A)(ii)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–283; Pub. L. 105–33, title VI, § 6104(3), Aug. 5, 1997, 111 Stat. 652; Pub. L. 105–78, title VI, § 609(b)–(e), Nov. 13, 1997, 111 Stat. 1522, 1523.)

REFERENCES IN TEXT

Section 1078–1 of this title, referred to in subsec. (a)(3)(B)(ii), was repealed by Pub. L. 103–66, title IV, § 4047(b)–(d), Aug. 10, 1993, 107 Stat. 364, eff. July 1, 1994, except with respect to loans provided under that section as it existed prior to Aug. 10, 1993.

The Public Health Service Act, referred to in subsecs. (a)(4)(D), (E) and (d)(1)(C)(ii), (3)(D), is act July 1, 1944, ch. 373, 58 Stat. 682, as amended. Subparts I and II of part A of title VII of the Act are classified generally to subpart I (§ 292 et seq.) and subpart II (§ 292q et seq.), respectively, of part A of subchapter V of chapter 6A of Title 42, The Public Health and Welfare. Subpart II of part B of title VIII of the Act is classified generally to subpart II (§ 297a et seq.) of part B of subchapter VI of chapter 6A of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 201 of Title 42 and Tables.

This chapter, referred to in subsec. (d)(3)(C), was in the original ''this Act'', meaning Pub. L. 89–329, as amended, known as the Higher Education Act of 1965. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

CODIFICATION

Amendments by section 2(c)(33), (36) of Pub. L. 103–208 (which were effective as if included in Pub. L. 102–325) were executed to this section as amended by Pub. L. 102–325 and Pub. L. 103–66, to reflect the probable intent of Congress.

PRIOR PROVISIONS

A prior section 1078–3, Pub. L. 89–329, title IV, § 428C, as added Pub. L. 99–272, title XVI, § 16017(a), Apr. 7, 1986, 100 Stat. 343, related to consolidation loans, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1997—Subsec. (a)(4)(C) to (E). Pub. L. 105–78, § 609(b), added subpar. (C) and redesignated former subpars. (C) and (D) as (D) and (E), respectively.

Subsec. (b)(4)(C)(ii)(I). Pub. L. 105–78, § 609(c)(1), (2), inserted ''for which the application is received by an eligible lender before November 13, 1997, or on or after October 1, 1998,'' after ''consolidation loan'' and struck out ''or'' at end.

Subsec. (b)(4)(C)(ii)(II), (III). Pub. L. 105–78, § 609(c)(3)–(5), added subpar. (II) and redesignated former subpar. (II) as (III) and inserted ''or (II)'' before semicolon at end.

Subsec. (b)(6). Pub. L. 105–78, § 609(d), added par. (6).

Subsec. (c)(1)(A). Pub. L. 105–78, § 609(e)(1), substituted ''subparagraph (B), (C), or (D)'' for ''subparagraph (B) or (D)''.

Subsec. (c)(1)(D). Pub. L. 105–78, § 609(e)(2), added subpar. (D).

Subsec. (e). Pub. L. 105–33 substituted ''September 30, 2002.'' for ''September 30, 1998.''

1996—Subsec. (a)(1)(A). Pub. L. 104–208 inserted ''or the Holding Company of the Student Loan Marketing Association, including any subsidiary of the Holding Company, created pursuant to section 1087–3 of this title'' after ''Student Loan Marketing Association''.

1994—Subsec. (a)(4)(D). Pub. L. 103–382 added subpar. (D).

1993—Subsec. (a)(3). Pub. L. 103–66, § 4046(a)(1), amended heading.

Subsec. (a)(3)(A). Pub. L. 103–208, § 2(c)(33), substituted ''defaulted borrower who has made arrangements to repay the obligation on the defaulted loans satisfactory to the holders of the defaulted loans'' for ''delinquent or defaulted borrower who will reenter repayment through loan consolidation''. See Codification note above.

Pub. L. 103–66, § 4046(a)(1), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: ''For the purpose of this section, the term 'eligible borrower' means a borrower who, at the time of application for a consolidation loan—

''(i) has an outstanding indebtedness on eligible student loans, at the time of application for a consolidation loan, of not less than $7,500; and

''(ii) is in repayment status, or in a grace period preceding repayment, or is a delinquent or defaulted borrower who will reenter repayment through loan consolidation.''

Subsec. (a)(3)(B)(ii). Pub. L. 103–66, § 4046(b)(2), struck out at end ''Nothing in this section shall be interpreted to authorize the Secretary to require lenders, holders, or guarantors of consolidated loans to receive, to maintain, or to make reports with respect to preexisting records relating to any eligible student loan (as defined under paragraph (4)) discharged by a borrower in receiving a consolidation loan.''

Subsec. (a)(4)(A). Pub. L. 103–208, § 2(c)(34), struck out before semicolon at end '', except for loans made to parent borrowers under section 1078–2 of this title as in effect prior to October 17, 1986''.

Subsec. (a)(4)(C). Pub. L. 103–208, § 2(c)(35), substituted ''part A'' for ''part C'' before ''of title VII of the Public Health Service Act''.

Subsec. (b)(1)(A), (E), (F). Pub. L. 103–66, § 4046(a)(2)(A), inserted ''with income-sensitive repayment terms'' after ''obtain a consolidation loan'' in subpar. (A)(ii), added subpar. (E), and redesignated former subpar. (E) as (F).

Subsec. (b)(4)(C). Pub. L. 103–66, § 4046(a)(2)(B), amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: ''provides that periodic installments of principal need not be paid, but interest shall accrue and be paid by the Secretary, during any period for which the borrower would be eligible for a deferral under section 1078(b)(1)(M) of this title, and that any such period shall not be included in determining the repayment period pursuant to subsection (c)(2) of this section;''.

Subsec. (b)(5). Pub. L. 103–66, § 4046(a)(2)(C), added par. (5).

Subsec. (c)(1)(B), (C). Pub. L. 103–66, § 4046(a)(3)(A), amended subpars. (B) and (C) generally. Prior to amendment, subpars. (B) and (C) read as follows:

''(B) Except as provided in subparagraph (C), a consolidation loan shall bear interest at an annual rate on the unpaid principal balance of the loan which is equal to the weighted average of the interest rates on the loans consolidated, rounded to the nearest whole percent.

''(C) A consolidation loan shall bear interest at an annual rate on the unpaid principal balance of the loan equal to not less than 9 percent.''

Subsec. (c)(2)(A). Pub. L. 103–208, § 2(c)(36), inserted period at end of cl. (vi). See Codification note above.

Pub. L. 103–66, § 4046(a)(3)(B)(i), in introductory provisions substituted ''income-sensitive repayment sched-

ules, established by the lender in accordance with the regulations of the Secretary. Except as required by such income-sensitive repayment schedules, or by the terms of repayment pursuant to income contingent repayment offered by the Secretary under subsection (b)(5) of this section, such repayment terms'' for ''income sensitive repayment schedules. Such repayment terms'', added cl. (i), and redesignated former cls. (i) to (v) as (ii) to (vi), respectively.

Subsec. (c)(2)(B), (C). Pub. L. 103–66, § 4046(a)(3)(B)(ii), (iii), redesignated subpar. (C) as (B) and struck out former subpar. (B) which read as follows: ''Unless a consolidation loan under subparagraph (A)(ii) will be used to discharge at least $5,000 of loans made under this part, such loan shall be repaid in accordance with subparagraph (A)(i).''

Subsec. (c)(3)(A). Pub. L. 103–208, § 2(c)(37), inserted ''be an amount'' before ''equal to''.

Subsec. (c)(3)(B). Pub. L. 103–66, § 4046(a)(3)(C), inserted ''except as required by the terms of repayment pursuant to income contingent repayment offered by the Secretary under subsection (b)(5) of this section,'' before ''the lender''.

Subsec. (f). Pub. L. 103–66, § 4106(a), added subsec. (f).

1992—Pub. L. 102–325, § 419(a), substituted ''Federal consolidation'' for ''Consolidation'' in section catchline.

Subsec. (a)(3)(A)(i). Pub. L. 102–325, § 419(b)(1)(A), substituted ''$7,500'' for ''$5,000''.

Subsec. (a)(3)(A)(ii). Pub. L. 102–325, § 419(b)(1)(B), amended cl. (ii) generally. Prior to amendment, cl. (ii) read as follows: ''is in repayment status, or in a grace period preceding repayment, and is not delinquent with respect to any required payment on such indebtedness by more than 90 days.''

Subsec. (a)(3)(B). Pub. L. 102–325, § 419(c), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: ''An individual's status as an eligible borrower under this section terminates upon receipt of a consolidation loan under this section except with respect to eligible student loans received after the date of receipt of the consolidation loan. Loans made under this section shall, to the extent used to discharge loans made under this subchapter and part C of subchapter I of chapter 34 of title 42, be counted against the applicable limitations on aggregate indebtedness contained in sections 1075(a)(2), 1078(b)(1)(B), 1078–1(b)(2), and 1087dd(a)(2) of this title. Nothing in this subparagraph shall be interpreted to authorize the Secretary to require lenders, holders, or guarantors of consolidation loans to receive, to maintain, or to make reports with respect to pre-existing records relating to any eligible student loan (as defined under subsection (a)(4) of this section) discharged by a borrower in receiving a consolidation loan.''

Subsec. (a)(3)(C). Pub. L. 102–325, § 419(d), added subpar. (C).

Subsec. (a)(4)(A). Pub. L. 102–325, § 419(b)(2), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: ''made, insured, or guaranteed under this part, except for loans made to parent borrowers under section 1078–2 of this title, including loans made to parent borrowers under section 1078–2 of this title as in effect prior to October 17, 1986;''.

Subsec. (b)(4)(C). Pub. L. 102–325, § 419(e), amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: ''provides that periodic installments of principal need not be paid, but interest shall accrue and be paid, during any period for which the borrower would be eligible for a deferral under clause (i), (viii), or (ix) of section 1078(b)(1)(M) of this title, and that any such period shall not be included in determining the repayment period pursuant to subsection (c)(2) of this section;''.

Subsec. (c)(2)(A). Pub. L. 102–325, § 419(f), substituted ''which shall include'' for ''which may include'' in first sentence, inserted second sentence, and struck out former second sentence which read as follows: ''Such repayment terms shall require that if the sum of the consolidation loan and the amount outstanding on other student loans to the individual—

''(i) is equal to or greater than $5,000 but less than $7,500, then such consolidation loan shall be repaid in not more than 10 years;

''(ii) is equal to or greater than $7,500 but less than $10,000, then such consolidation loan shall be repaid in not more than 12 years;

''(iii) is equal to or greater than $10,000 but less than $20,000, then such consolidation loan shall be repaid in not more than 15 years;

''(iv) is equal to or greater than $20,000 but less than $45,000, then such consolidation loan shall be repaid in not more than 20 years; or

''(v) is equal to or greater than $45,000, then such consolidation loan shall be repaid in not more than 25 years.''

Subsec. (d). Pub. L. 102–408, § 306(a), added subsec. (d). Former subsec. (d) redesignated (e).

Pub. L. 102–325, § 419(g), substituted ''September 30, 1998'' for ''September 30, 1992''.

Subsec. (e). Pub. L. 102–408, § 306(b), which directed the substitution of ''1997'' for ''1992'', could not be executed because ''1992'' did not appear in text subsequent to the amendment by Pub. L. 102–325, § 419(g). See above.

Pub. L. 102–408, § 306(a)(1), redesignated subsec. (d) as subsec. (e).

1987—Subsec. (a)(1)(C). Pub. L. 100–50, § 10(s)(1), which directed the amendment of subpar. (C) by substituting ''(C), (E), and (J)'' for ''(C) and (E)'', was executed by substituting the new language for ''(C), and (E)'', as the probable intent of Congress.

Subsec. (a)(3)(A). Pub. L. 100–50, § 10(s)(2), struck out cl. (iii) which read as follows: ''is not a parent borrower under section 1078–2 of this title.''

Subsec. (a)(3)(B). Pub. L. 100–50, § 10(s)(3), substituted ''eligible student loans received'' for ''loans received under this subchapter and part C of subchapter I of chapter 34 of title 42'', ''under this subchapter and part C of subchapter I of chapter 34 of title 42'' for ''under this part'', and '', 1078(b)(1)(B), 1078–1(b)(2), and 1087dd(a)(2) of this title'' for ''and 1078(b)(1)(B) of this title'', and inserted provision that nothing in subpar. (B) should be interpreted to authorize Secretary to require lenders, holders, or guarantors of consolidation loans to make reports with respect to pre-existing records relating to eligible student loans discharged by a borrower in receiving a consolidation loan.

Subsec. (a)(4)(A). Pub. L. 100–50, § 10(s)(4), inserted exception for loans made to parent borrowers under section 1078–2 of this title.

Subsec. (b)(1)(C). Pub. L. 100–50, § 10(s)(5), in cl. (i), substituted ''subsection (a)(3) of this section'' for ''subsection (a)(2) of this section'' and, in cl. (ii), substituted ''all eligible student loans received by the eligible borrower'' for ''all loans received by the eligible borrower under this subchapter and part C of subchapter I of chapter 34 of title 42''.

Subsec. (c)(2)(A)(v). Pub. L. 100–50, § 10(s)(6), substituted ''equal to or greater'' for ''more'' the first time appearing, as the probable intent of Congress.

Subsec. (c)(5). Pub. L. 100–50, § 10(s)(7), inserted '', but a fee may be payable by the lender to the guaranty agency to cover the costs of increased or extended liability with respect to such loan'' before period at end.

EFFECTIVE DATE OF 1996 AMENDMENT

Section 101(e) [title VI, § 602(b)(1)(B)] of div. A of Pub. L. 104–208 provided that: ''The amendments made by this paragraph [amending this section and section 1085 of this title] shall take effect on the reorganization effective date as defined in section 440(h) of the Higher Education Act of 1965 [20 U.S.C. 1087–3(h)] (as added by subsection (a)).''

EFFECTIVE DATE OF 1993 AMENDMENTS

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1003 of this title.

Section 4046(c) of Pub. L. 103–66 provided that: ''The amendments made by this section [amending this section and section 1085 of this title] shall take effect on July 1, 1994, except that the amendments made by subsection (a)(2)(B) [amending this section] shall take effect upon enactment [Aug. 10, 1993].''

EFFECTIVE DATE OF 1992 AMENDMENTS

Section 306(c) of Pub. L. 102–408 provided that: ''The amendments made by this section [amending this section] take effect 60 days after the date of enactment of this Act [Oct. 13, 1992].''

Amendment by Pub. L. 102–325 effective July 23, 1992, except that changes made in this section, relating to consolidation loans, applicable with respect to loans for which the application is received by an eligible lender on or after Jan. 1, 1993, see section 432, set out as a note under section 1078 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

PENDING APPLICANTS

Section 609(f) of Pub. L. 105–78 provided that: ''The consolidation loans authorized by the amendments made by this section [amending this section] shall be available notwithstanding any pending application by a student for a consolidation loan under part D of title IV of the Higher Education Act of 1965 (20 U.S.C. 1087a et seq.), upon withdrawal of such application by the student at any time prior to receipt of such a consolidation loan.''

COST EVALUATION REPORT

Pub. L. 99–272, title XVI, §16017(d), Apr. 7, 1986, 100 Stat. 348, provided that: ''The Secretary of Education shall evaluate the cost, efficiency, and impact of the consolidation loan program established by the amendments made by this section [enacting former section 1078–3 of this title and amending former sections 1077, 1085, 1087–1, and 1087–2 of this title] and shall report to the Congress not later than June 30, 1988, on the findings and recommendations required by this subsection.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1077, 1077a, 1078, 1078–7, 1078–10, 1083, 1085, 1087, 1087–1, 1087–2, 1087e, 1091, 1092a of this title; title 42 section 292e.

§ 1078–4. Commingling of funds

Notwithstanding any other provision of this part regarding permissible uses of funds from any source, funds received by a guaranty agency under any provision of this part may be commingled with funds received under any other provision of this part and may be used to carry out the purposes of such other provision, except that—

(1) the total amount expended for the purposes of such other provision shall not exceed the amount the guaranty agency would otherwise be authorized to expend; and

(2) the authority to commingle such funds shall not relieve such agency of any accounting or auditing obligations under this part.

(Pub. L. 89–329, title IV, §428D, as added Pub. L. 99–498, title IV, §402(a), Oct. 17, 1986, 100 Stat. 1393.)

§ 1078–5. Repealed. Pub. L. 102–164, title VI, § 605(b)(1), Nov. 15, 1991, 105 Stat. 1068

Section, Pub. L. 89–329, title IV, §428E, as added Pub. L. 99–498, title IV, §402(a), Oct. 17, 1986, 100 Stat. 1393; amended Pub. L. 100–50, §10(t), June 3, 1987, 101 Stat. 345, related to State garnishment law requirements.

§ 1078–6. Default reduction program

(a) Other repayment incentives

(1) Sale of loan

(A) Each guaranty agency shall enter into an agreement with the Secretary which shall provide that upon securing consecutive payments for 12 months of amounts owed on a loan for which the Secretary has made a payment under paragraph (1) of section 1078(c) of this title, the guaranty agency (pursuant to an agreement with the Secretary) or the Secretary shall, if practicable, sell the loan to an eligible lender. Such loan shall not be sold to an eligible lender who has been found by the guaranty agency or the Secretary to have substantially failed to exercise the due diligence required of lenders under this part. Neither the guaranty agency nor the Secretary shall demand from a borrower as monthly payment amounts referred to in this paragraph more than is reasonable and affordable based upon the borrower's total financial circumstances.

(B) An agreement between the guaranty agency and the Secretary for purposes of this paragraph shall provide—

(i) for the repayment by the agency to the Secretary of 81.5 percent of the amount of the principal balance outstanding at the time of such sale, multiplied by the reinsurance percentage in effect when payment under the guaranty agreement was made with respect to the loan; and

(ii) for the reinstatement by the Secretary (I) of the obligation to reimburse such agency for the amount expended by it in discharge of its insurance obligation under its loan insurance program, and (II) of the obligation to pay to the holder of such loan a special allowance pursuant to section 1087–1 of this title.

(C) A loan which does not meet the requirements of subparagraph (A) may also be eligible for sale under this paragraph upon a determination that the loan was in default due to clerical or data processing error and would not, in the absence of such error, be in a delinquent status.

(2) Use of proceeds of sales

Amounts received by the Secretary pursuant to the sale of such loans by a guaranty agency under paragraph (1) of this subsection shall be deducted from the calculations of the amount of reimbursement for which the agency is eligible under paragraph (1)(B)(ii) of this subsection for the fiscal year in which the amount was received, notwithstanding the fact that the default occurred in a prior fiscal year.

(3) Borrower eligibility

Any borrower whose loan is sold under paragraph (1) shall not be precluded by section 1091 of this title from receiving additional loans or grants under this subchapter and part C of subchapter I of chapter 34 of title 42 (for which he or she is otherwise eligible) on the basis of defaulting on the loan prior to such loan sale.

(4) Applicability of general loan conditions

A loan which is sold under paragraph (1) of this subsection shall, so long as the borrower continues to make scheduled repayments thereon, be subject to the same terms and conditions and qualify for the same benefits and privileges as other loans made under this part.

(b) Special rule

Each guaranty agency shall establish a program which allows a borrower with a defaulted loan or loans to renew eligibility for all title IV student financial assistance (regardless of whether the defaulted loan has been sold to an eligible lender) upon the borrower's payment of 6 consecutive monthly payments. The guaranty agency shall not demand from a borrower as a monthly payment amount under this subsection more than is reasonable and affordable based upon the borrower's total financial circumstances. A borrower may only obtain the benefit of this subsection with respect to renewed eligibility once.

(Pub. L. 89–329, title IV, § 428F, as added Pub. L. 99–498, title IV, § 402(a), Oct. 17, 1986, 100 Stat. 1394; amended Pub. L. 100–50, § 10(u), June 3, 1987, 101 Stat. 346; Pub. L. 101–239, title II, § 2005(a), Dec. 19, 1989, 103 Stat. 2116; Pub. L. 102–325, title IV, § 420, July 23, 1992, 106 Stat. 534; Pub. L. 103–208, § 2(c)(38)–(40), Dec. 20, 1993, 107 Stat. 2466.)

REFERENCES IN TEXT

Title IV, referred to in subsec. (b), means title IV of the Higher Education Act of 1965, Pub. L. 89–329, which is classified generally to this subchapter and part C (§ 2751 et seq.) of subchapter I of chapter 34 of Title 42, The Public Health and Welfare. For complete classification of title IV to the Code, see Tables.

AMENDMENTS

1993—Subsec. (a)(2). Pub. L. 103–208, § 2(c)(38), substituted ''paragraph (1) of this subsection'' for ''this paragraph'' and ''this subsection'' for ''this section''.

Subsec. (a)(4). Pub. L. 103–208, § 2(c)(39), substituted ''paragraph (1) of this subsection'' for ''this paragraph''.

Subsec. (b). Pub. L. 103–208, § 2(c)(40), inserted at end ''A borrower may only obtain the benefit of this subsection with respect to renewed eligibility once.''

1992—Subsec. (a). Pub. L. 102–325, § 420(1)–(3), redesignated subsec. (b) as (a), in par. (1)(A) substituted ''Each guaranty agency shall enter into an agreement with the Secretary which shall provide that upon'' for ''Upon'' and inserted provision at end that neither the guaranty agency nor the Secretary demand from the borrower as monthly payments more than is reasonable and affordable based upon the borrower's total financial circumstances, in par. (3) inserted ''or grants'' after ''loans'', and struck out former subsec. (a) which related to program requirements for the default reduction program.

Subsec. (b). Pub. L. 102–325, § 420(4), added subsec. (b). Former subsec. (b) redesignated (a).

1989—Pub. L. 101–239 amended section generally, substituting provisions relating to default reduction program for former provisions relating to rehabilitation of defaulted loans.

1987—Subsecs. (b), (c). Pub. L. 100–50 redesignated subsec. (c) as (b) and struck out former subsec. (b) which read as follows: ''The loans which shall be eligible for rehabilitation under this section shall be only those loans which are made to borrowers who, at the time of default on the loan, are unemployed or institutionalized.''

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1003 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

PUBLICITY THROUGH COMMUNICATIONS MEDIA OF AVAILABILITY OF DEFAULT REDUCTION PROGRAM

Section 2005(b) of Pub. L. 101–239 provided that: ''The Secretary of Education shall, from funds available through student loan collections, commencing not less than 30 days before the beginning of the default reduction program required by the amendment made by this section [amending this section], and continuing throughout the duration of such program, widely publicize (through various communications media) the availability of the default reduction program.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1011f of this title.

§ 1078–7. Requirements for disbursement of student loans

(a) Multiple disbursement required

(1) Two disbursements required

The proceeds of any loan made, insured, or guaranteed under this part that is made for any period of enrollment shall be disbursed in 2 or more installments, none of which exceeds one-half of the loan.

(2) Minimum interval required

The interval between the first and second such installments shall be not less than one-half of such period of enrollment, except as necessary to permit the second installment to be disbursed at the beginning of the second semester, quarter, or similar division of such period of enrollment.

(b) Disbursement and endorsement requirements

(1) First year students

The first installment of the proceeds of any loan made, insured, or guaranteed under this part that is made to a student borrower who is entering the first year of a program of undergraduate education, and who has not previously obtained a loan under this part, shall not (regardless of the amount of such loan or the duration of the period of enrollment) be presented by the institution to the student for endorsement until 30 days after the borrower begins a course of study, but may be delivered to the eligible institution prior to the end of that 30-day period.

(2) Other students

The proceeds of any loan made, insured, or guaranteed under this part that is made to any student other than a student described in paragraph (1) shall not be disbursed more than 30 days prior to the beginning of the period of enrollment for which the loan is made.

(c) Method of multiple disbursement

Disbursements under subsection (a) of this section—

(1) shall be made in accordance with a schedule provided by the institution (under section 1078(a)(2)(A)(i)(III) of this title) that complies with the requirements of this section;

(2) may be made directly by the lender or, in the case of a loan under sections 1078 and 1078–1[1] of this title, may be disbursed pursuant to the escrow provisions of section 1078(i) of this title; and

(3) notwithstanding subsection (a)(2) of this section, may, with the permission of the borrower, be disbursed by the lender on a weekly or monthly basis, provided that the proceeds of the loan are disbursed in substantially equal weekly or monthly installments, as the case may be, over the period of enrollment for which the loan is made.

(d) Withholding of second disbursement

(1) Withdrawing students

A lender or escrow agent that is informed by the borrower or the institution that the borrower has ceased to be enrolled before the disbursement of the second or any succeeding installment shall withhold such disbursement. Any disbursement which is so withheld shall be credited to the borrower's loan and treated as a prepayment thereon.

(2) Students receiving over-awards

If the sum of a disbursement for any student and the other financial aid obtained by such student exceeds the amount of assistance for which the student is eligible under this subchapter and part C of subchapter I of chapter 34 of title 42, the institution such student is attending shall withhold and return to the lender or escrow agent the portion (or all) of such installment that exceeds such eligible amount, except that overawards permitted pursuant to section 2753(b)(4) of title 42 shall not be construed to be overawards for purposes of this paragraph. Any portion (or all) of a disbursement installment which is so returned shall be credited to the borrower's loan and treated as a prepayment thereon.

(e) Exclusion of consolidation and foreign study loans

The provisions of this section shall not apply in the case of a loan made under section 1078–3 of this title or made to a student to cover the cost of attendance at an eligible institution outside the United States.

(f) Beginning of period of enrollment

For purposes of this section, a period of enrollment begins on the first day that classes begin for the applicable period of enrollment.

(g) Sales prior to disbursement prohibited

An eligible lender shall not sell or transfer a promissory note for any loan made, insured, or guaranteed under this part until the final disbursement of such loan has been made, except that the prohibition of this subsection shall not apply if—

(1) the sale of the loan does not result in a change in the identity of the party to whom payments will be made for the loan; and

(2) the first disbursement of such loan has been made.

(Pub. L. 89–329, title IV, § 428G, as added Pub. L. 101–239, title II, § 2004(a), Dec. 19, 1989, 103 Stat. 2115; amended Pub. L. 101–508, title III, § 3003(a), Nov. 5, 1990, 104 Stat. 1388–26; Pub. L. 102–325, title IV, § 421, July 23, 1992, 106 Stat. 534; Pub. L. 103–66, title IV, § 4109(b), Aug. 10, 1993, 107 Stat. 369; Pub. L. 103–208, § 2(c)(41), Dec. 20, 1993, 107 Stat. 2466.)

REFERENCES IN TEXT

Section 1078–1 of this title, referred to in subsec. (c)(2), was repealed by Pub. L. 103–66, title IV, § 4047(b)–(d), Aug. 10, 1993, 107 Stat. 364, eff. July 1, 1994, except with respect to loans provided under that section as it existed prior to Aug. 10, 1993.

AMENDMENTS

1993—Subsec. (c)(3). Pub. L. 103–208 directed the substitution of ''disbursed by the lender'' for ''disbursed'' and was executed by making the substitution the first place ''disbursed'' appeared, to reflect the probable intent of Congress.

Subsec. (e). Pub. L. 103–66 substituted ''consolidation'' for ''PLUS, consolidation,'' in heading and ''section 1078–3'' for ''section 1078–2 or 1078–3'' in text.

1992—Subsec. (c)(3). Pub. L. 102–325, § 421(a), added par. (3).

Subsec. (d)(2). Pub. L. 102–325, § 421(b), inserted '', except that overawards permitted pursuant to section 2753(b)(4) of title 42 shall not be construed to be overawards for purposes of this paragraph'' before period at end of first sentence.

Subsec. (g). Pub. L. 102–325, § 421(c), added subsec. (g).

1990—Subsec. (b)(1). Pub. L. 101–508 amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''The first installment of the proceeds of any loan made under section 1078–1 of this title that is made to a student borrower who has not successfully completed the first year of a program of undergraduate education shall not (regardless of the amount of such loan or the duration of the period of enrollment) be presented by the institution to the student for endorsement until—

''(A) 30 days after the borrower begins a course of study; and

''(B) the institution certifies that the borrower continues to be enrolled and in attendance at the end of such 30-day period, and is maintaining satisfactory progress;

but may be disbursed to the eligible institution prior to the end of such 30-day period.''

EFFECTIVE DATE OF 1993 AMENDMENTS

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1003 of this title.

Amendment by Pub. L. 103–66 effective with respect to loans for which the first disbursement is made on or after Oct. 1, 1993, see section 4109(c) of Pub. L. 103–66, set out as a note under section 1078–2 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Section 3003(b) of Pub. L. 101–508 provided that: ''The amendment made by this section [amending this section] shall be effective for loans made on or after the date of enactment of this Act [Nov. 5, 1990] to cover the cost of instruction for periods of enrollment beginning on or after January 1, 1991.''

EFFECTIVE DATE

Section applicable with respect to loans made to cover cost of instruction for periods of enrollment beginning on or after Jan. 1, 1990, see section 2004(c) of Pub. L. 101–239, set out as an Effective Date of 1989 Amendment note under section 1077 of this title.

[1] See References in Text note below.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1077, 1078, 1078–2, 1087d of this title.

§ 1078–8. Unsubsidized Stafford loans for middle-income borrowers

(a) In general

It is the purpose of this section to authorize insured loans under this part for borrowers who do not qualify for Federal interest subsidy payments under section 1078 of this title. Except as provided in this section, all terms and conditions for Federal Stafford loans established under section 1078 of this title shall apply to loans made pursuant to this section.

(b) Eligible borrowers

Any student meeting the requirements for student eligibility under section 1091 of this title (including graduate and professional students as defined in regulations promulgated by the Secretary) shall be entitled to borrow an unsubsidized Stafford loan. Such student shall provide to the lender a statement from the eligible institution at which the student has been accepted for enrollment, or at which the student is in attendance, which—

(1) sets forth such student's estimated cost of attendance (as determined under section 1087*ll* of this title);

(2) sets forth such student's estimated financial assistance, including a loan which qualifies for subsidy payments under section 1078 of this title; and

(3) certifies the eligibility of the student to receive a loan under this section and the amount of the loan for which such student is eligible, in accordance with subsection (c) of this section.

(c) Determination of amount of loan

The determination of the amount of a loan by an eligible institution under subsection (b) of this section shall be calculated by subtracting from the estimated cost of attendance at the eligible institution any estimated financial assistance reasonably available to such student. An eligible institution may not, in carrying out the provisions of subsection (b) of this section, provide a statement which certifies the eligibility of any student to receive any loan under this section in excess of the amount calculated under the preceding sentence.

(d) Loan limits

(1) In general

Except as provided in paragraphs (2) and (3), the annual and aggregate limits for loans under this section shall be the same as those established under section 1078(b)(1) of this title, less any amount received by such student pursuant to the subsidized loan program established under section 1078 of this title.

(2) Annual limits for independent, graduate, and professional students

The maximum annual amount of loans under this section an independent student (or a student whose parents are unable to borrow under section 1078–2 of this title or the Federal Direct PLUS Loan Program) may borrow in any academic year or its equivalent or in any period of 7 consecutive months, whichever is longer, shall be the amount determined under paragraph (1), plus—

(A) in the case of such a student attending an eligible institution who has not completed such student's first 2 years of undergraduate study—

(i) $4,000, if such student is enrolled in a program whose length is at least one academic year in length (as determined under section 1088 of this title);

(ii) $2,500, if such student is enrolled in a program whose length is less than one academic year, but at least ⅔ of such an academic year; and

(iii) $1,500, if such student is enrolled in a program whose length is less than ⅔, but at least ⅓, of such an academic year;

(B) in the case of a student at an eligible institution who has successfully completed such first and second years but has not successfully completed the remainder of a program of undergraduate education—

(i) $5,000; or

(ii) if such student is enrolled in a program of undergraduate education, the remainder of which is less than one academic year, the maximum annual loan amount that such student may receive may not exceed the amount that bears the same ratio to the amount specified in subclause (I) as such remainder measured in semester, trimester, quarter, or clock hours bears to one academic year;

(C) in the case of such a student who is a graduate or professional student attending an eligible institution, $10,000;

except in cases where the Secretary determines,[1] that a higher amount is warranted in order to carry out the purpose of this part with respect to students engaged in specialized training requiring exceptionally high costs of education, but the annual insurable limit per student shall not be deemed to be exceeded by a line of credit under which actual payments by the lender to the borrower will not be made in any years in excess of the annual limit.

(3) Aggregate limits for independent, graduate, and professional students

The maximum aggregate amount of loans under this section a student described in paragraph (2) may borrow shall be the amount described in paragraph (1), adjusted to reflect the increased annual limits described in paragraph (2), as prescribed by the Secretary by regulation.

(e) Payment of principal and interest

(1) Commencement of repayment

Repayment of principal on loans made under this section shall begin at the beginning of the repayment period described in section 1078(b)(7) of this title. Not less than 30 days prior to the anticipated commencement of such repayment period, the holder of such loan shall provide notice to the borrower that in-

[1] So in original. The comma probably should not appear.

terest will accrue before repayment begins and of the borrower's option to begin loan repayment at an earlier date.

(2) Capitalization of interest

Interest on loans made under this section for which payments of principal are not required during the in-school and grace periods or for which payments are deferred under sections 1077(a)(2)(C) and 1078(b)(1)(M) of this title shall, if agreed upon by the borrower and the lender (A) be paid monthly or quarterly, or (B) be added to the principal amount of the loan not more frequently than quarterly by the lender. Such capitalization of interest shall not be deemed to exceed the annual insurable limit on account of the student.

(3) Subsidies prohibited

No payments to reduce interest costs shall be paid pursuant to section 1078(a) of this title on loans made pursuant to this section.

(4) Applicable rates of interest

Interest on loans made pursuant to this section shall be at the applicable rate of interest provided in section 1077a of this title.

(5) Amortization

The amount of the periodic payment and the repayment schedule for any loan made pursuant to this section shall be established by assuming an interest rate equal to the applicable rate of interest at the time the repayment of the principal amount of the loan commences. At the option of the lender, the note or other written evidence of the loan may require that—

(A) the amount of the periodic payment will be adjusted annually; or

(B) the period of repayment of principal will be lengthened or shortened,

in order to reflect adjustments in interest rates occurring as a consequence of section 1077a(c)(4) of this title.

(6) Repayment period

For purposes of calculating the 10-year repayment period under section 1078(b)(1)(D) of this title, such period shall commence at the time the first payment of principal is due from the borrower.

(f) Origination fee

(1) Amount of origination fee

The lender shall charge the borrower an origination fee in the amount of 3.0 percent of the principal amount of the loan, to be deducted proportionately from each installment payment of the proceeds of the loan prior to payment to the borrower.

(2) Relation to applicable interest

Such origination fee shall not be taken into account for purposes of determining compliance with section 1077a of this title.

(3) Disclosure required

The lender shall disclose to the borrower the amount and method of calculating the origination fee.

(4) Use of origination fee to offset default costs

Each lender making loans under this section shall transmit all origination fees authorized to be collected from borrowers to the Secretary, who shall use such fees to pay the Federal costs of default claims paid for loans under this section and to reduce the cost of special allowances paid thereon, if any, under section 1087–1(b) of this title.

(5) Review of origination fee and insurance premium

In fiscal year 1995, the Secretary is directed to analyze the risk rates of borrowers who have participated in this program in the 2 previous fiscal years. If the Secretary finds, that as a result of this review, the projected defaults and special allowance costs of the unsubsidized program do not exceed the combined origination fee under this subsection and the insurance premium under subsection (h) of this section, the Secretary is directed to lower the origination fee and insurance premium accordingly.

(g) Single application form and loan repayment schedule

A guaranty agency shall use a single application form and a single repayment schedule for subsidized Federal Stafford loans made pursuant to section 1078 of this title and for unsubsidized Federal Stafford loans made pursuant to this section.

(h) Insurance premium

Each State or nonprofit private institution or organization having an agreement with the Secretary under section 1078(b)(1) of this title may charge a borrower under this section an insurance premium equal to not more than 1.0 percent of the principal amount of the loan, if such premium will not be used for incentive payments to lenders.

(Pub. L. 89–329, title IV, § 428H, as added Pub. L. 102–325, title IV, § 422, July 23, 1992, 106 Stat. 535; amended Pub. L. 103–66, title IV, §§ 4047(a), 4102(b), Aug. 10, 1993, 107 Stat. 363, 366; Pub. L. 103–208, § 2(c)(42)–(45), Dec. 20, 1993, 107 Stat. 2466, 2467; Pub. L. 104–134, title I, § 101(d) [title V, § 514(a)], Apr. 26, 1996, 110 Stat. 1321–211, 1321–245; renumbered title I, Pub. L. 104–140, § 1(a), May 2, 1996, 110 Stat. 1327.)

CODIFICATION

Amendments by section 2(c)(42), (45) of Pub. L. 103–208 (which were effective as if included in Pub. L. 102–325) were executed to this section as amended by Pub. L. 102–325 and Pub. L. 103–66, to reflect the probable intent of Congress.

AMENDMENTS

1996—Subsec. (d)(2). Pub. L. 104–134 substituted semicolon for period at end of subpar. (C) and inserted concluding provisions.

1993—Subsec. (b). Pub. L. 103–66, § 4047(a)(1), inserted ''(including graduate and professional students as defined in regulations promulgated by the Secretary)'' in introductory provisions.

Subsec. (d). Pub. L. 103–66, § 4047(a)(2), amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: ''The annual and aggregate limits for loans under this section shall be the same as those established under section 1078(b)(1) of this title, less any amount received by such student pursuant to the subsidized loan program established under section 1078 of this title.''

Subsec. (d)(2)(B). Pub. L. 103–208, § 2(c)(42), amended subpar. (B) generally. Prior to amendment, subpar. (B)

read as follows: ''in the case of such a student attending an eligible institution who has completed the first 2 years of undergraduate study but who has not completed the remainder of a program of undergraduate study—

''(i) $5,000, if such student is enrolled in a program whose length is at least one academic year in length (as determined under section 1088 of this section);

''(ii) $3,325, if such student is enrolled in a program whose length is less than one academic year, but at least ⅔ of such an academic year; and

''(iii) $1,675, if such student is enrolled in a program whose length is less than ⅔, but at least ⅓, of such an academic year; and''. See Codification note above.

Subsec. (e)(1). Pub. L. 103–208, § 2(c)(43), substituted ''shall begin at the beginning of the repayment period described in section 1078(b)(7) of this title.'' for ''shall commence 6 months after the month in which the student ceases to carry at least one-half the normal full-time workload as determined by the institution.'' and inserted at end ''Not less than 30 days prior to the anticipated commencement of such repayment period, the holder of such loan shall provide notice to the borrower that interest will accrue before repayment begins and of the borrower's option to begin loan repayment at an earlier date.''

Subsec. (e)(4). Pub. L. 103–208, § 2(c)(44), substituted ''section 1077a'' for ''section 1077a(e)''.

Subsec. (e)(5), (6). Pub. L. 103–66, § 4047(a)(3), added pars. (5) and (6).

Subsec. (f). Pub. L. 103–66, § 4102(b)(1)(A), substituted ''Origination fee'' for ''Insurance premium'' in section catchline.

Subsec. (f)(1). Pub. L. 103–66, § 4102(b)(1)(B), (C), struck out reference to insurance premium in heading and in text substituted ''an origination fee in the amount of 3.0 percent'' for ''a combined origination fee and insurance premium in the amount of 6.5 percent'' and struck out second sentence which read as follows: ''A guaranty agency may not charge an insurance premium on any loan made under this section.''

Subsec. (f)(2). Pub. L. 103–66, § 4102(b)(1)(D), substituted ''origination fee'' for ''combined fee and premium''.

Subsec. (f)(3). Pub. L. 103–66, § 4102(b)(1)(E), substituted ''origination fee'' for ''combined origination fee and insurance premium''.

Subsec. (f)(4). Pub. L. 103–66, § 4102(b)(1)(F), in heading substituted ''origination fee'' for ''insurance premium'' and in text substituted ''origination fees'' for ''combined origination fee and insurance premiums'' and ''to pay'' for ''and premiums to pay''.

Subsec. (f)(5). Pub. L. 103–66, § 4102(b)(1)(G), inserted ''origination fee and'' in heading and in text substituted ''do not exceed the combined origination fee under this subsection and the insurance premium under subsection (h) of this section, the Secretary is directed to lower the origination fee and insurance premium accordingly'' for ''do not exceed the 6.5 percent insurance premium, the Secretary is directed to lower the insurance premium accordingly''.

Subsec. (h). Pub. L. 103–208, § 2(c)(45), redesignated subsec. (*l*) as (h). See Codification note above.

Subsec. (*l*). Pub. L. 103–208, § 2(c)(45), redesignated subsec. (*l*) as (h). See Codification note above.

Pub. L. 103–66, § 4102(b)(2), added subsec. (*l*).

EFFECTIVE DATE OF 1996 AMENDMENT

Section 101(d) [title V, § 514(b)] of Pub. L. 104–134 provided that: ''The amendments made by subsection (a) [amending this section] shall be effective for loans made to cover the cost of instruction for periods of enrollment beginning on or after July 1, 1996.''

EFFECTIVE DATE OF 1993 AMENDMENTS

Amendment by section 2(c)(42)–(43)(A), (44), (45) of Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, and amendment by section 2(c)(43)(B) of Pub. L. 103–208 effective on and after Apr. 1, 1994, see section 5(a), (b)(5) of Pub. L. 103–208, set out as a note under section 1003 of this title.

Section 4047(d) of Pub. L. 103–66 provided that: ''Except as otherwise provided herein [see section 4047(c) of Pub. L. 103–66, set out below], the amendments made by this section [amending this section and repealing section 1078–1 of this title] shall take effect on July 1, 1994.''

Amendment by section 4102(b) of Pub. L. 103–66 effective July 1, 1994, see section 4102(d) of Pub. L. 103–66, set out as a note under section 1078 of this title.

EFFECTIVE DATE

Section effective with respect to loans made to cover the cost of instruction for periods of enrollment beginning on or after Oct. 1, 1992, see section 432(a)(12) of Pub. L. 102–325, set out as an Effective Date of 1992 Amendment note under section 1078 of this title.

CONTINUING APPLICABILITY OF TERMS, CONDITIONS, AND BENEFITS OF LOANS

Section 4047(c) of Pub. L. 103–66 provided that: ''Notwithstanding the amendments made by this section [amending this section and repealing section 1078–1 of this section], with respect to loans provided under sections 428A and 428H of the Act [20 U.S.C. 1078–1, 1078–8] (as such sections existed on the date preceding the date of enactment of this Act [Aug. 10, 1993]) the terms, conditions and benefits applicable to such loans under such sections shall continue to apply to such loans after the date of enactment of this Act.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1077a, 1078, 1078–1, 1083, 1085, 1087, 1087–1, 1087d, 1087e, 1091 of this title.

§ 1078–9. Special insurance and reinsurance rules

(a) Designation of lenders, servicers, and guaranty agencies

(1) Authority

Whenever the Secretary determines that an eligible lender, servicer, or guaranty agency has a compliance performance rating that equals or exceeds 97 percent, the Secretary shall designate the eligible lender, servicer, or guaranty agency, as the case may be, for exceptional performance. The Secretary shall notify each appropriate guaranty agency of the eligible lenders and servicers designated under this section.

(2) Compliance performance rating

For purposes of paragraph (1), a compliance performance rating is determined with respect to compliance with due diligence in the collection of loans under this part for each year for which the determination is made. Such rating is equal to the percent of all due diligence requirements applicable to each loan, on average, as established by the Secretary by regulation, with respect to—

(A) loans serviced during the period by the eligible lender or servicer; or

(B) loans on which loan collection was attempted by the guaranty agency.

(b) Payment to lenders and servicers

(1) 100 percent payment rule

Each guaranty agency shall pay each eligible lender or servicer (as agent for an eligible lender) designated under subsection (a) of this section 100 percent of the unpaid principal and

interest of all loans for which claims are submitted for payment by that eligible lender or servicer for the one-year period following the receipt by the guaranty agency of the notification of designation under this section or until the guaranty agency receives notice from the Secretary that the designation of the lender or servicer under subsection (a) of this section has been revoked.

(2) Revocation authority

The Secretary shall revoke the designation of a lender or servicer under subsection (a) of this section if any quarterly audit required under subsection (c)(5) of this section is not received by the Secretary by the date established by the Secretary or if the audit indicates the lender or servicer failed to maintain 97 percent or higher compliance with program regulations, as reflected in the performance of not less than 97 percent of all due diligence requirements applicable to each loan, on average, as established by the Secretary for the purpose of this section, for 2 consecutive months or 90 percent for 1 month.

(3) Documentation

Nothing in this section shall restrict or limit the authority of guaranty agencies to require the submission of claims documentation evidencing servicing performed on loans, except that the guaranty agency may not require greater documentation than that required for lenders and servicers not designated under subsection (a) of this section.

(4) Payments to guaranty agencies

The Secretary shall pay to each guaranty agency designated under subsection (a) of this section the appropriate percentage under this subsection for the 1-year period following the receipt by the guaranty agency of the notification of designation under subsection (a) of this section.

(c) Supervision of designated lenders and servicers

(1) Audits for lenders and servicers

Each eligible lender or servicer desiring a designation under subsection (a) of this section shall have a financial and compliance audit of the loan portfolio of such eligible lender or servicer conducted annually by a qualified independent organization from a list of qualified organizations promulgated by the Secretary in accordance with standards established by the Comptroller General and the Secretary. The standards shall measure the lender's or servicer's compliance with the due diligence standards and shall include a defined statistical sampling technique designed to measure the performance rating of the eligible lender or servicer for the purpose of this section. Each eligible lender or servicer shall submit the audit required by this section to the Secretary and to each appropriate guaranty agency.

(2) Additional information on lenders and servicers

Each appropriate guaranty agency shall provide the Secretary with such other information in its possession regarding an eligible lender or servicer desiring designation as may relate to the Secretary's determination under subsection (a) of this section, including but not limited to any information suggesting that the application of a lender or servicer for designation under subsection (a) of this section should not be approved.

(3) Secretary's determinations

The Secretary shall make the determination under subsection (a) of this section based upon the audits submitted under this section, such other information as provided by any guaranty agency under paragraph (2), and any information in the possession of the Secretary or submitted by any other agency or office of the Federal Government. If the results of the audit are not persuasively rebutted by such other information, the Secretary shall inform the eligible lender or servicer and the appropriate guaranty agency that its application for designation as an exceptional lender or servicer has been approved.

(4) Cost of audit

Each eligible lender or servicer shall pay for all the costs of the audits required under this section.

(5) Compliance audit

In order to maintain its status as an exceptional eligible lender or servicer, the lender or servicer shall undergo a quarterly compliance audit at the end of each quarter (other than the quarter in which status as an exceptional lender or servicer is established through a financial and compliance audit, as described in subsection (c)(1) of this section), and submit the results of such audit to the Secretary and such appropriate guaranty agency. The compliance audit will review compliance with due diligence requirements for the period since the last audit.

(6) Loss of designation

If the audit performed pursuant to paragraph (5) fails to meet the standards for designation as an exceptional lender or servicer under subsection (a)(1) of this section, the lender or servicer shall lose its designation as an exceptional lender or servicer. A lender or servicer receiving a compliance audit not meeting the standard for designation as an exceptional lender or servicer may reapply for designation under subsection (a) of this section at any time.

(7) Due diligence standards

Due diligence standards used for determining compliance under paragraph (5) shall be promulgated by the Secretary after consultation with lenders, guaranty agencies and servicers and shall consist of a list of specific elements for the Federal regulations selected to provide an indication of systems degradation.

(8) Additional revocation authority

Notwithstanding any other provision of this section, designation under subsection (a) of this section may be revoked at any time by the Secretary if the Secretary determines that the eligible lender or servicer has failed to

maintain an overall level of regulatory compliance consistent with the audit submitted by the eligible lender or servicer under this section or if the Secretary believes the lender or servicer may have engaged in fraud in securing designation under subsection (a) of this section or is failing to service loans in accordance with program regulations.

(d) Supervision of designated guaranty agencies

(1) Audit of guaranty agencies

Each guaranty agency desiring a designation under subsection (a) of this section shall have a financial and compliance audit of the defaulted loan portfolio of such guaranty agency conducted annually by a qualified independent organization or person from a list of qualified organizations or persons promulgated by the Secretary in accordance with standards established by the Comptroller General and the Secretary. The standards shall include defined statistical sampling techniques designed to measure the performance rating of the guaranty agency for the purpose of this section. Each guaranty agency shall submit the audit required by this paragraph to the Secretary.

(2) Quarterly sample audits

The Secretary may require quarterly sample audits as a means of determining continued qualification of the guaranty agency for designation as an exceptional guaranty agency.

(3) Secretary's determinations

The Secretary shall make the determination under subsection (a) of this section based upon the audits submitted under this section and other information in his possession. If the results of the audit are not persuasively rebutted by such other information, the Secretary shall inform the guaranty agency that its application for designation as an exceptional guaranty agency has been approved.

(4) Costs of audits

Each guaranty agency shall pay for all of the costs of the audits regulated by this section.

(5) Revocation for fraud

The Secretary may revoke the designation of a guaranty agency under subsection (a) of this section at any time if the Secretary has reason to believe the guaranty agency secured its designation under subsection (a) of this section through fraud or fails to comply with applicable regulations.

(6) Revocation based on performance

Designation as an exceptional guaranty agency may be revoked at any time by the Secretary upon 30 days notice and an opportunity for a hearing before the Secretary upon a finding by the Secretary that the guaranty agency has failed to maintain an acceptable overall level of regulatory compliance.

(e) Special rule

Reimbursements made by the Secretary on loans submitted for claim by an eligible lender or loan servicer designated for exceptional performance under this section shall not be subject to additional review by the Secretary or repurchase by the guaranty agency for any reason other than a determination by the Secretary that the eligible lender, loan servicer, or guaranty agency engaged in fraud or other purposeful misconduct in obtaining designation for exceptional performance.

(f) Limitation

Nothing in this section shall be construed to affect the processing of claims on student loans of eligible lenders not subject to this paragraph.

(g) Claims

A lender, servicer, or guaranty agency designated under subsection (a) of this section failing to service loans or otherwise comply with applicable program regulations shall be considered in violation of section 3729 of title 31.

(h) Evaluation

Not later than 3 years after July 23, 1992, the Comptroller General shall submit to the Chairman of the Senate Labor and Human Resources Committee and the House Committee on Education and Labor, an evaluation of the provisions of this section including, but not limited to, the following:

(1) The effectiveness of due diligence performed by lenders and servicers receiving designation as exceptional lenders or servicers from the perspective of securing maximum collections from borrowers.

(2) A quantification of the dollar volume of claims that were paid to exceptional lenders and servicers that would not have been paid under applicable program provisions prior to the enactment of this section.

(3) An assessment of the impact of this section on the financial condition of guaranty agencies.

(4) An assessment of the savings to lenders, servicers, and guaranty agencies resulting from designation as exceptional performance.

(5) An identification of specific administration steps that lenders, servicers, and guaranty agencies do not have to perform as a result of designation as exceptional lenders, servicers, or guaranty agencies.

(6) A recommendation for program modifications applicable to all program participants based on the findings of the evaluation.

(7) A recommendation for modifications to this section and whether the program should be continued.

(i) Termination

After receipt of the study authorized in subsection (h) of this section, the Secretary may terminate such program if he determines such termination to be in the fiscal interest of the United States.

(j) Definitions

For the purpose of this section—

(1) the term ''due diligence requirements'' means the activities required to be performed by lenders on delinquent loans pursuant to regulations issued by the Secretary;

(2) the term ''eligible loan'' means a loan made, insured or guaranteed under this part;

(3) the term ''servicer'' means an entity servicing and collecting student loans which—

(A) has substantial experience in servicing and collecting consumer loans or student loans;

(B) has an independent financial audit annually which is furnished to the Secretary and any other parties designated by the Secretary;

(C) has business systems which are capable of meeting the requirements of this part;

(D) has adequate personnel who are knowledgeable about the student loan programs authorized by this part; and

(E) does not have any owner, majority shareholder, director, or officer of the entity who has been convicted of a felony.

(Pub. L. 89–329, title IV, § 428I, as added Pub. L. 102–325, title IV, § 422, July 23, 1992, 106 Stat. 536; amended Pub. L. 103–208, § 2(c)(46), Dec. 20, 1993, 107 Stat. 2467.)

CODIFICATION

July 23, 1992, referred to in subsec. (h), was in the original ''the date of enactment of this Act'', which was translated as meaning the date of enactment of Pub. L. 102–325 which enacted this section, to reflect the probable intent of Congress.

AMENDMENTS

1993—Subsec. (g). Pub. L. 103–208 substituted ''section 3729 of title 31'' for ''the Federal False Claims Act''.

CHANGE OF NAME

Committee on Education and Labor of House of Representatives treated as referring to Committee on Economic and Educational Opportunities of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Economic and Educational Opportunities of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Fifth Congress, Jan. 7, 1997.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1003 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1078, 1087–1 of this title.

§ 1078–10. Loan forgiveness for teachers, individuals performing national community service and nurses

(a) Statement of purpose

It is the purpose of this section to encourage individuals to—

(1) enter the teaching and nursing profession; and

(2) perform national and community service.

(b) Demonstration program

(1) In general

The Secretary, in consultation with the Secretary of Health and Human Services, is authorized to carry out a demonstration program of assuming the obligation to repay a loan made, insured or guaranteed under this part (excluding loans made under section 1078–1,[1] 1078–2, or 1078–3 of this title) for any new borrower after October 1, 1989, who—

(A) is employed as a full-time teacher—

(i) in a school which qualifies under section 1087ee(a)(2)(A) of this title for loan cancellation for Perkins loan recipients who teach in such schools; and

(ii) of mathematics, science, foreign languages, special education, bilingual education, or any other field of expertise where the State educational agency determines there is a shortage of qualified teachers;

(B) serves as a full-time volunteer under the Peace Corps Act [22 U.S.C. 2501 et seq.] or under the Domestic Volunteer Service Act of 1973 [42 U.S.C. 4950 et seq.], or to perform comparable service as a full-time employee of an organization which is exempt from taxation under section 501(c)(3) of title 26, if the borrower does not receive compensation which exceeds the greater of—

(i) the minimum wage rate described in section 206 of title 29; or

(ii) an amount equal to 100 percent of the poverty line for a family of two (as defined in section 9902(2) of title 42); or

(C) is employed full-time as a nurse in a public hospital, a rural health clinic, a migrant health center, an Indian Health Service, an Indian health center, a Native Hawaiian health center or in an acute care or long-term care facility.

(2) Regulations

The Secretary is authorized to issue such regulations as may be necessary to carry out the provisions of this section.

(c) Loan repayment

(1) In general

The Secretary shall assume the obligation to repay—

(A) 15 percent of the total amount of Stafford loans incurred by the student borrower during such borrower's last 2 years of undergraduate education for the first or second year of service in which such borrower meets the requirements described in subsection (a) of this section;

(B) 20 percent of such total amount for such third or fourth year of service; and

(C) 30 percent of such total amount for such fifth year of service.

(2) Construction

Nothing in this subsection shall be construed to authorize the refunding of any repayment of a Stafford loan.

(3) Interest

If a portion of a loan is repaid by the Secretary under this section for any year, the proportionate amount of interest on such loan which accrues for such year shall be repaid by the Secretary.

(4) Special rule

In the case where a student borrower who is not participating in loan repayment pursuant to this section returns to an institution of higher education after graduation from an institution of higher education for the purpose

[1] See References in Text note below.

of obtaining a teaching certificate, the Secretary is authorized to assume the obligation to repay the total amount of Stafford loans incurred for a maximum of 2 academic years in returning to an institution of higher education for the purpose of obtaining a teaching certificate or additional certification. Such Stafford loans shall only be repaid for borrowers who qualify for loan repayment pursuant to the provisions of this section, and shall be repaid in accordance with the provisions of paragraph (1).

(5) Ineligibility of national service educational award recipients

No student borrower may, for the same volunteer service, receive a benefit under both this section and subtitle D of title I of the National and Community Service Act of 1990 [42 U.S.C. 12601 et seq.].

(d) Repayment to eligible lenders

The Secretary shall pay to each eligible lender or holder for each fiscal year an amount equal to the aggregate amount of Stafford loans which are subject to repayment pursuant to this section for such year.

(e) Application for repayment

(1) In general

Each eligible individual desiring loan repayment under this section shall submit a complete and accurate application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require. Loan repayment under this section shall be on a first-come, first-served basis and subject to the availability of appropriations.

(2) Conditions

An eligible individual may apply for repayment after completing each year of qualifying service. The borrower shall receive forbearance while engaged in qualifying service unless the borrower is in deferment while so engaged.

(f) "Eligible lender" defined

For the purpose of this section the term ''eligible lender'' has the same meaning given such term in section 1085(d) of this title.

(g) Evaluation

(1) In general

The Secretary shall conduct, by grant or contract, an independent national evaluation of the impact of the program assisted under this part on the fields of teaching, nursing, and community service.

(2) Competitive basis

The grant or contract described in paragraph (1) shall be awarded on a competitive basis.

(3) Contents

The evaluation described in this section shall—

(A) assess whether the program assisted under this section has brought into teaching, nursing, and community service a significant number of highly capable individuals who otherwise would not have entered such fields;

(B) assess whether a significant number of students perform the service described in subsection (b) of this section or opt to repay the loans instead of remaining in the career for which such student received loan repayment under this section;

(C) identify the barriers to the effectiveness of the program assisted under this section;

(D) assess the cost-effectiveness of such program in improving teacher, nursing, and community service worker quality and quantity and the ways to improve the cost-effectiveness of such program;

(E) identify the reasons for which participants in the program have chosen to take part in such program; and

(F) identify other areas of community service or employment which may serve as appropriate methods of loan repayment.

(4) Interim evaluation reports

The Secretary shall prepare and submit to the President and the Congress such interim reports on the evaluation described in this section as the Secretary deems appropriate, and shall submit such a final report by January 1, 1997.

(5) Authorization of appropriations

There are authorized to be appropriated to carry out this section $10,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(Pub. L. 89–329, title IV, § 428J, as added Pub. L. 102–325, title IV, § 422, July 23, 1992, 106 Stat. 541; amended Pub. L. 103–82, title I, § 102(c)(2), Sept. 21, 1993, 107 Stat. 824; Pub. L. 103–208, § 2(c)(47)–(51), Dec. 20, 1993, 107 Stat. 2467.)

REFERENCES IN TEXT

Section 1078–1 of this title, referred to in subsec. (b)(1), was repealed by Pub. L. 103–66, title IV, § 4047(b)–(d), Aug. 10, 1993, 107 Stat. 364, eff. July 1, 1994, except with respect to loans provided under that section as it existed prior to Aug. 10, 1993.

The Peace Corps Act, referred to in subsec. (b)(1)(B), is Pub. L. 87–293, Sept. 22, 1961, 75 Stat. 612, as amended, which is classified principally to chapter 34 (§ 2501 et seq.) of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 2501 of Title 22 and Tables.

The Domestic Volunteer Service Act of 1973, referred to in subsec. (b)(1)(B), is Pub. L. 93–113, Oct. 1, 1973, 87 Stat. 394, as amended, which is classified principally to chapter 66 (§ 4950 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4950 of Title 42 and Tables.

The National and Community Service Act of 1990, referred to in subsec. (c)(5), is Pub. L. 101–610, Nov. 16, 1990, 104 Stat. 3127, as amended. Subtitle D of title I of the Act is classified generally to division D of subchapter I (§ 12601 et seq.) of chapter 129 of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 12501 of Title 42 and Tables.

AMENDMENTS

1993—Subsec. (b)(1). Pub. L. 103–208, § 2(c)(47), substituted ''section'' for ''sections'' in introductory provisions.

Pub. L. 103–82, § 102(c)(2)(A), substituted ''October 1, 1989'' for ''October 1, 1992'' in introductory provisions.

Subsec. (b)(1)(B). Pub. L. 103–208, §2(c)(48), substituted ''serves as a full-time volunteer'' for ''agrees in writing to volunteer for service''.

Subsec. (c)(1). Pub. L. 103–208, §2(c)(49), substituted ''year of service'' for ''academic year'' wherever appearing.

Subsec. (c)(5). Pub. L. 103–82, §102(c)(2)(B), added par. (5).

Subsec. (d). Pub. L. 103–208, §2(c)(50), substituted ''to eligible'' for ''of eligibility'' in heading.

Subsec. (e). Pub. L. 103–208, §2(c)(51), amended subsec. (e) generally. Prior to amendment, subsec. (e) read as follows: ''Each eligible individual desiring loan repayment under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.''

EFFECTIVE DATE OF 1993 AMENDMENTS

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1003 of this title.

Amendment by Pub. L. 103–82 effective Oct. 1, 1993, see section 123 of Pub. L. 103–82, set out as a note under section 1701 of Title 16, Conservation.

REFERENCE TO COMMUNITY, MIGRANT, PUBLIC HOUSING, OR HOMELESS HEALTH CENTER CONSIDERED REFERENCE TO HEALTH CENTER

Reference to community health center, migrant health center, public housing health center, or homeless health center considered reference to health center, see section 4(c) of Pub. L. 104–299, set out as a note under section 254b of Title 42, The Public Health and Welfare.

§ 1079. Certificate of Federal loan insurance—effective date of insurance

(a) Loan-by-loan insurance

(1) Authority to issue certificates on application

If, upon application by an eligible lender, made upon such form, containing such information, and supported by such evidence as the Secretary may require, and otherwise in conformity with this section, the Secretary finds that the applicant has made a loan to an eligible student which is insurable under the provisions of this part, he may issue to the applicant a certificate of insurance covering the loan and setting forth the amount and terms of the insurance.

(2) Effectiveness of certificate

Insurance evidenced by a certificate of insurance pursuant to subsection (a)(1) of this section shall become effective upon the date of issuance of the certificate, except that the Secretary is authorized, in accordance with regulations, to issue commitments with respect to proposed loans, or with respect to lines (or proposed lines) of credit, submitted by eligible lenders, and in that event, upon compliance with subsection (a)(1) of this section by the lender, the certificate of insurance may be issued effective as of the date when any loan, or any payment by the lender pursuant to a line of credit, to be covered by such insurance was made. Such insurance shall cease to be effective upon 60 days' default by the lender in the payment of any installment of the premiums payable pursuant to subsection (c) of this section.

(3) Contents of applications

An application submitted pursuant to subsection (a)(1) of this section shall contain (A) an agreement by the applicant to pay, in accordance with regulations, the premiums fixed by the Secretary pursuant to subsection (c) of this section, and (B) an agreement by the applicant that if the loan is covered by insurance the applicant will submit such supplementary reports and statement during the effective period of the loan agreement, upon such forms, at such times, and containing such information as the Secretary may prescribe by or pursuant to regulation.

(b) Comprehensive insurance coverage certificate

(1) Establishment of system by regulation

In lieu of requiring a separate insurance application and issuing a separate certificate of insurance for each student loan made by an eligible lender as provided in subsection (a) of this section, the Secretary may, in accordance with regulations consistent with section 1074 of this title, issue to any eligible lender applying therefor a certificate of comprehensive insurance coverage which shall, without further action by the Secretary, insure all insurable loans made by that lender, on or after the date of the certificate and before a specified cutoff date, within the limits of an aggregate maximum amount stated in the certificate. Such regulations may provide for conditioning such insurance, with respect to any loan, upon compliance by the lender with such requirements (to be stated or incorporated by reference in the certificate) as in the Secretary's judgment will best achieve the purpose of this subsection while protecting the United States from the risk of unreasonable loss and promoting the objectives of this part, including (but not limited to) provisions as to the reporting of such loans and information relevant thereto to the Secretary and as to the payment of initial and other premiums and the effect of default therein, and including provision for confirmation by the Secretary from time to time (through endorsement of the certificate) of the coverage of specific new loans by such certificate, which confirmation shall be incontestable by the Secretary in the absence of fraud or misrepresentation of fact or patent error.

(2) Uncovered loans

If the holder of a certificate of comprehensive insurance coverage issued under this subsection grants to a student a line of credit extending beyond the cutoff date specified in that certificate, loans or payments thereon made by the holder after that date pursuant to the line of credit shall not be deemed to be included in the coverage of that certificate except as may be specifically provided therein; but, subject to the limitations of section 1074 of this title, the Secretary may, in accordance with regulations, make commitments to insure such future loans or payments, and such commitments may be honored either as provided in subsection (a) of this section or by inclusion of such insurance on comprehensive coverage under the subsection for the period

or periods in which such future loans or payments are made.

(c) Charges for Federal insurance

The Secretary shall, pursuant to regulations, charge for insurance on each loan under this part a premium in an amount not to exceed one-fourth of 1 percent per year of the unpaid principal amount of such loan (excluding interest added to principal), payable in advance, at such times and in such manner as may be prescribed by the Secretary. Such regulations may provide that such premium shall not be payable, or if paid shall be refundable, with respect to any period after default in the payment of principal or interest or after the borrower has died or becomes totally and permanently disabled, if (1) notice of such default or other event has been duly given, and (2) requests for payment of the loss insured against has been made or the Secretary has made such payment on his own motion pursuant to section 1080(a) of this title.

(d) Assignability of insurance

The rights of an eligible lender arising under insurance evidenced by a certificate of insurance issued to it under this section may be assigned as security by such lender only to another eligible lender, and subject to regulation by the Secretary.

(e) Consolidation not to affect insurance

The consolidation of the obligations of two or more federally insured loans obtained by a student borrower in any fiscal year into a single obligation evidenced by a single instrument of indebtedness shall not affect the insurance by the United States. If the loans thus consolidated are covered by separate certificates of insurance issued under subsection (a) of this section, the Secretary may upon surrender of the original certificates issue a new certificate of insurance in accordance with that subsection upon the consolidated obligation; if they are covered by a single comprehensive certificate issued under subsection (b) of this section, the Secretary may amend that certificate accordingly.

(Pub. L. 89–329, title IV, § 429, as added Pub. L. 99–498, title IV, § 402(a), Oct. 17, 1986, 100 Stat. 1395.)

PRIOR PROVISIONS

A prior section 1079, Pub. L. 89–329, title IV, § 429, Nov. 8, 1965, 79 Stat. 1243; Pub. L. 94–482, title I, § 127(a), Oct. 12, 1976, 90 Stat. 2123; Pub. L. 96–374, title XIII, § 1391(a)(1), (2), Oct. 3, 1980, 94 Stat. 1503, related to certificates of Federal loan insurance, prior to the general revision of this part by Pub. L. 99–498.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1073, 1078–3, 1080, 1082, 1085, 1087–2 of this title.

§ 1080. Default of student under Federal loan insurance program

(a) Notice to Secretary and payment of loss

Upon default by the student borrower on any loan covered by Federal loan insurance pursuant to this part, and prior to the commencement of suit or other enforcement proceedings upon security for that loan, the insurance beneficiary shall promptly notify the Secretary, and the Secretary shall if requested (at that time or after further collection efforts) by the beneficiary, or may on the Secretary's own motion, if the insurance is still in effect, pay to the beneficiary the amount of the loss sustained by the insured upon that loan as soon as that amount has been determined. The ''amount of the loss'' on any loan shall, for the purposes of this subsection and subsection (b) of this section, be deemed to be an amount equal to the unpaid balance of the principal amount and accrued interest, including interest accruing from the date of submission of a valid default claim (as determined by the Secretary) to the date on which payment is authorized by the Secretary, reduced to the extent required by section 1075(b) of this title. Such beneficiary shall be required to meet the standards of due diligence in the collection of the loan and shall be required to submit proof that reasonable attempts were made to locate the borrower (when the location of the borrower is unknown) and proof that contact was made with the borrower (when the location is known). The Secretary shall make the determination required to carry out the provisions of this section not later than 90 days after the notification by the insurance beneficiary and shall make payment in full on the amount of the beneficiary's loss pending completion of the due diligence investigation.

(b) Effect of payment of loss

Upon payment of the amount of the loss pursuant to subsection (a) of this section, the United States shall be subrogated for all of the rights of the holder of the obligation upon the insured loan and shall be entitled to an assignment of the note or other evidence of the insured loan by the insurance beneficiary. If the net recovery made by the Secretary on a loan after deduction of the cost of that recovery (including reasonable administrative costs and collection costs, to the extent set forth in regulations issued by the Secretary) exceeds the amount of the loss, the excess shall be paid over to the insured. The Secretary may, in attempting to make recovery on such loans, contract with private business concerns, State student loan insurance agencies, or State guaranty agencies, for payment for services rendered by such concerns or agencies in assisting the Secretary in making such recovery. Any contract under this subsection entered into by the Secretary shall provide that attempts to make recovery on such loans shall be fair and reasonable, and do not involve harassment, intimidation, false or misleading representations, or unnecessary communications concerning the existence of any such loan to persons other than the student borrower.

(c) Forbearance not precluded

Nothing in this section or in this part shall be construed to preclude any forbearance for the benefit of the student borrower which may be agreed upon by the parties to the insured loan and approved by the Secretary, or to preclude forbearance by the Secretary in the enforcement of the insured obligation after payment on that insurance. Any forbearance which is approved by the Secretary under this subsection with respect to the repayment of a loan, including a

forbearance during default, shall not be considered as indicating that a holder of a federally insured loan has failed to exercise reasonable care and due diligence in the collection of the loan.

(d) Care and diligence required of holders

Nothing in this section or in this part shall be construed to excuse the holder of a federally insured loan from exercising reasonable care and diligence in the making and collection of loans under the provisions of this part. If the Secretary, after a reasonable notice and opportunity for hearing to an eligible lender, finds that it has substantially failed to exercise such care and diligence or to make the reports and statements required under section 1078(a)(4) of this title and section 1079(a)(3) of this title, or to pay the required Federal loan insurance premiums, the Secretary shall disqualify that lender for further Federal insurance on loans granted pursuant to this part until the Secretary is satisfied that its failure has ceased and finds that there is reasonable assurance that the lender will in the future exercise necessary care and diligence or comply with such requirements, as the case may be.

(e) Default rate of lenders, holders, and guaranty agencies

(1) In general

The Secretary shall annually publish a list indicating the cohort default rate (determined in accordance with section 1085(m) of this title) for each originating lender, subsequent holder, and guaranty agency participating in the program assisted under this part and an average cohort default rate for all institutions of higher education within each State.

(2) Regulations

The Secretary shall prescribe regulations designed to prevent an institution from evading the application to that institution of a cohort default rate through the use of such measures as branching, consolidation, change of ownership or control, or any similar device.

(3) Rate establishment and correction

The Secretary shall establish a cohort default rate for lenders, holders, and guaranty agencies (determined consistent with section 1085(m) of this title), except that the rate for lenders, holders, and guaranty agencies shall not reflect any loans issued in accordance with section 1078(j) of this title. The Secretary shall allow institutions, lenders, holders, and guaranty agencies the opportunity to correct such cohort default rate information.

(Pub. L. 89–329, title IV, § 430, as added Pub. L. 99–498, title IV, § 402(a), Oct. 17, 1986, 100 Stat. 1397; amended Pub. L. 102–325, title IV, § 423, July 23, 1992, 106 Stat. 543.)

PRIOR PROVISIONS

A prior section 1080, Pub. L. 89–329, title IV, § 430, Nov. 8, 1965, 79 Stat. 1244; Pub. L. 90–575, title I, § 113(b)(5), Oct. 16, 1968, 82 Stat. 1021; Pub. L. 92–318, title I, § 132B(c), June 23, 1972, 86 Stat. 262; Pub. L. 94–482, title I, § 127(a), Oct. 12, 1976, 90 Stat. 2125; Pub. L. 95–43, § 1(a)(33), June 15, 1977, 91 Stat. 216; Pub. L. 96–374, title IV, §§ 416(a)(1), (b), 422, title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1420, 1421, 1432, 1503; Pub. L. 99–272, title XVI, §§ 16014(a)(2), 16022, Apr. 7, 1986, 100 Stat. 341, 349, related to default of student borrowers under Federal loan insurance program, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1992—Subsec. (e). Pub. L. 102–325 added subsec. (e).

STUDY OF FRAUD-BASED DEFENSES

Section 1403 of Pub. L. 102–325 provided that:

''(a) STUDY.—The Secretary shall conduct a study of the impact of fraud-based defenses on the Federal Family Education Loan Program. Such study shall include—

''(1) an analysis of statutory, regulatory, and case law regarding the use of fraud-based defenses against repayment of such loans;

''(2) an estimate of the total number of borrowers filing for relief from repayment of such loans using a fraud-based defense and amount of such loan principal involved;

''(3) an estimate of such loan principal relieved annually through fraud-based defenses;

''(4) an evaluation of the importance of a fraud-based defense to the protection of borrowers of such loans; and

''(5) an evaluation of the effects of the availability of a fraud-based defense on the accessibility of Stafford loans by geographical area and by type of post-secondary institution.

''(b) DATE.—The study described in subsection (a) shall be completed not later than 18 months after the date of enactment of this Act [July 23, 1992].

''(c) REPORT.—

''(1) IN GENERAL.—The Secretary shall submit a report to the Congress on the study described in subsection (a) that makes specific recommendations for legislative options that may be needed to address the rights of borrowers with respect to the availability of fraud-based defenses under the Federal Family Education Loan Program without jeopardizing the participation of lenders or the solvency of guaranty agencies required to maintain the integrity of such program.

''(2) DATE.—The report described in paragraph (1) shall be completed not later than 19 months after the date of enactment of this Act [July 23, 1992].''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1075, 1079, 1080a, 1082, 1092b of this title.

§ 1080a. Reports to credit bureaus and institutions of higher education

(a) Agreements to exchange information

For the purpose of promoting responsible repayment of loans covered by Federal loan insurance pursuant to this part or covered by a guaranty agreement pursuant to section 1078 of this title, the Secretary, each guaranty agency, eligible lender, and subsequent holder shall enter into agreements with credit bureau organizations to exchange information concerning student borrowers, in accordance with the requirements of this section. For the purpose of assisting such organizations in complying with the Fair Credit Reporting Act [15 U.S.C. 1681 et seq.], such agreements may provide for timely response by the Secretary (concerning loans covered by Federal loan insurance), by a guaranty agency, eligible lender, or subsequent holder (concerning loans covered by a guaranty agreement), or to requests from such organizations for responses to objections raised by borrowers. Subject to the requirements of sub-

section (c) of this section, such agreements shall require the Secretary, the guaranty agency, eligible lender, or subsequent holder, as appropriate, to disclose to such organizations, with respect to any loan under this part that has not been repaid by the borrower—

(1) the total amount of loans made to any borrower under this part and the remaining balance of the loans;

(2) information concerning the date of any default on the loan and the collection of the loan, including information concerning the repayment status of any defaulted loan on which the Secretary has made a payment pursuant to section 1080(a) of this title or the guaranty agency has made a payment to the previous holder of the loan; and

(3) the date of cancellation of the note upon completion of repayment by the borrower of the loan or payment by the Secretary pursuant to section 1087 of this title.

(b) Additional information

Such agreements may also provide for the disclosure by such organizations to the Secretary or a guaranty agency, whichever insures or guarantees a loan, upon receipt of a notice under subsection (a)(2) of this section that such a loan is in default, of information concerning the borrower's location or other information which may assist the Secretary, the guaranty agency, the eligible lender, or the subsequent holder in collecting the loan.

(c) Contents of agreements

Agreements entered into pursuant to this section shall contain such provisions as may be necessary to ensure that—

(1) no information is disclosed by the Secretary or the guaranty agency, eligible lender, or subsequent holder unless its accuracy and completeness have been verified and the Secretary or the guaranty agency has determined that disclosure would accomplish the purpose of this section;

(2) as to any information so disclosed, such organizations will be promptly notified of, and will promptly record, any change submitted by the Secretary, the guaranty agency, eligible lender, or subsequent holder with respect to such information, or any objections by the borrower with respect to any such information, as required by section 611 of the Fair Credit Reporting Act (15 U.S.C. 1681i);

(3) no use will be made of any such information which would result in the use of collection practices with respect to such a borrower that are not fair and reasonable or that involve harassment, intimidation, false or misleading representations, or unnecessary communication concerning the existence of such loan or concerning any such information; and

(4) with regard to notices of default under subsection (a)(2) of this section, except for disclosures made to obtain the borrower's location, the Secretary, or the guaranty agency, eligible lender, or subsequent holder whichever is applicable (A) shall not disclose any such information until the borrower has been notified that such information will be disclosed to credit bureau organizations unless the borrower enters into repayment of his or her loan, but (B) shall, if the borrower has not entered into repayment within a reasonable period of time, but not less than 30 days, from the date such notice has been sent to the borrower, disclose the information required by this subsection.

(d) Contractor status of participants

A guaranty agency, eligible lender, or subsequent holder or credit bureau organization which discloses or receives information under this section shall not be considered a Government contractor within the meaning of section 552a of title 5.

(e) Disclosure to institutions

The Secretary and each guaranty agency, eligible lender, and subsequent holder of a loan are authorized to disclose information described in subsections (a) and (b) of this section concerning student borrowers to the eligible institutions such borrowers attend or previously attended. To further the purpose of this section, an eligible institution may enter into an arrangement with any or all of the holders of delinquent loans made to borrowers who attend or previously attended such institution for the purpose of providing current information regarding the borrower's location or employment or for the purpose of assisting the holder in contacting and influencing borrowers to avoid default.

(f) Duration of authority

Notwithstanding paragraphs (4) and (6) of subsection (a) of section 605 of the Fair Credit Reporting Act (15 U.S.C. 1681c(a)(4), (a)(6)), a consumer reporting agency may make a report containing information received from the Secretary or a guaranty agency, eligible lender, or subsequent holder regarding the status of a borrower's defaulted account on a loan guaranteed under this part until—

(1) 7 years from the date on which the Secretary or the agency paid a claim to the holder on the guaranty;

(2) 7 years from the date the Secretary, guaranty agency, eligible lender, or subsequent holder first reported the account to the consumer reporting agency; or

(3) in the case of a borrower who reenters repayment after defaulting on a loan and subsequently goes into default on such loan, 7 years from the date the loan entered default such subsequent time.

(Pub. L. 89–329, title IV, § 430A, as added Pub. L. 99–498, title IV, § 402(a), Oct. 17, 1986, 100 Stat. 1398; amended Pub. L. 100–50, § 10(v), June 3, 1987, 101 Stat. 346; Pub. L. 102–325, title IV, § 424, July 23, 1992, 106 Stat. 543; Pub. L. 103–208, § 2(c)(52), Dec. 20, 1993, 107 Stat. 2467.)

REFERENCES IN TEXT

The Fair Credit Reporting Act, referred to in subsec. (a), is title VI of Pub. L. 90–321, as added by Pub. L. 91–508, title VI, § 601, Oct. 26, 1970, 84 Stat. 1127, as amended, which is classified generally to subchapter III (§ 1681 et seq.) of chapter 41 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 15 and Tables.

PRIOR PROVISIONS

A prior section 1080a, Pub. L. 89–329, title IV, § 430A, as added Pub. L. 99–272, title XVI, § 16023, Apr. 7, 1986,

100 Stat. 349; amended Pub. L. 99–320, § 2(c), May 23, 1986, 100 Stat. 491, related to reports to credit bureaus and institutions of higher education, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1993—Subsec. (f)(1). Pub. L. 103–208 substituted a semicolon for the comma at end.

1992—Subsec. (f). Pub. L. 102–325 struck out ''or'' at end of par. (1), added pars. (2) and (3), and struck out former par. (2) which read as follows: ''with regard to an account on a loan on which the Secretary or the guaranty agency has paid a claim but not reported the account to a consumer reporting agency on or before October 1, 1985, 7 years from that date.''

1987—Subsec. (e). Pub. L. 100–50 inserted sentence at end permitting an eligible institution to enter into arrangements with holders of delinquent loans made to borrowers for purpose of providing current information on borrower's location or employment or to assist holder in contacting and influencing borrower to avoid default.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1003 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1077, 1078–3, 1087cc of this title.

§ 1081. Insurance fund

(a) Establishment

There is hereby established a student loan insurance fund (hereinafter in this section called the ''fund'') which shall be available without fiscal year limitation to the Secretary for making payments in connection with the default of loans insured by the Secretary under this part, or in connection with payments under a guaranty agreement under section 1078(c) of this title. All amounts received by the Secretary as premium charges for insurance and as receipts, earnings, or proceeds derived from any claim or other assets acquired by the Secretary in connection with operations under this part, any excess advances under section 1072 of this title, and any other moneys, property, or assets derived by the Secretary from operations in connection with this section, shall be deposited in the fund. All payments in connection with the default of loans insured by the Secretary under this part, or in connection with such guaranty agreements shall be paid from the fund. Moneys in the fund not needed for current operations under this section may be invested in bonds or other obligations guaranteed as to principal and interest by the United States.

(b) Borrowing authority

If at any time the moneys in the fund are insufficient to make payments in connection with the default of any loan insured by the Secretary under this part, or in connection with any guaranty agreement made under section 1078(c) of this title, the Secretary is authorized, to the extent provided in advance by appropriations Acts, to issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be prescribed by the Secretary with the approval of the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury is authorized and directed to purchase any notes and other obligations issued hereunder and for that purpose is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, and the purposes for which securities may be issued under that chapter, are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States. Sums borrowed under the subsection shall be deposited in the fund and redemption of such notes and obligations shall be made by the Secretary from such fund.

(Pub. L. 89–329, title IV, § 431, as added Pub. L. 99–498, title IV, § 402(a), Oct. 17, 1986, 100 Stat. 1400; amended Pub. L. 100–50, § 10(w), June 3, 1987, 101 Stat. 346.)

CODIFICATION

In subsec. (b), ''chapter 31 of title 31'' and ''that chapter'' substituted for ''the Second Liberty Bond Act, as amended'' and ''that Act, as amended'', respectively, on authority of Pub. L. 97–258, § 4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

PRIOR PROVISIONS

A prior section 1081, Pub. L. 89–329, title IV, § 431, Nov. 8, 1965, 79 Stat. 1245; Pub. L. 90–460, § 3(c), Aug. 3, 1968, 82 Stat. 638; Pub. L. 94–482, title I, § 127(a), Oct. 12, 1976, 90 Stat. 2126; Pub. L. 96–374, title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1503, related to a student loan insurance fund, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1987—Subsec. (a). Pub. L. 100–50 substituted ''section 1072 of this title'' for ''section 1072(a)(4)(C) of this title''.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

TRANSFER OF ASSETS AND LIABILITIES OF THE VOCATIONAL STUDENT LOAN INSURANCE FUND

All assets and liabilities of the vocational student loan insurance fund transferred to the student loan insurance fund, see section 116(c)(2) of Pub. L. 90–575, set out as a note under former section 981 et seq. of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1071, 1072, 1078, 1078–3, 1087–1, 1087–2 of this title.

§ 1082. Legal powers and responsibilities

(a) General powers

In the performance of, and with respect to, the functions, powers, and duties, vested in him by this part, the Secretary may—

(1) prescribe such regulations as may be necessary to carry out the purposes of this part, including regulations applicable to third party servicers (including regulations concerning financial responsibility standards for, and the assessment of liabilities for program violations against, such servicers) to establish minimum standards with respect to sound management and accountability of programs under this part, except that in no case shall damages be assessed against the United States for the actions or inactions of such servicers;

(2) sue and be sued in any court of record of a State having general jurisdiction or in any district court of the United States, and such district courts shall have jurisdiction of civil actions arising under this part without regard to the amount in controversy, and action instituted under this subsection by or against the Secretary shall survive notwithstanding any change in the person occupying the office of Secretary or any vacancy in that office; but no attachment, injunction, garnishment, or other similar process, mesne or final, shall be issued against the Secretary or property under the Secretary's control and nothing herein shall be construed to except litigation arising out of activities under this part from the application of sections 509, 517, 547, and 2679 of title 28;

(3) include in any contract for Federal loan insurance such terms, conditions, and covenants relating to repayment of principal and payment of interest, relating to the Secretary's obligations and rights to those of eligible lenders, and borrowers in case of default, and relating to such other matters as the Secretary determines to be necessary to assure that the purposes of this part will be achieved; and any term, condition, and covenant made pursuant to this paragraph or pursuant to any other provision of this part may be modified by the Secretary, after notice and opportunity for a hearing, if the Secretary finds that the modification is necessary to protect the United States from the risk of unreasonable loss;

(4) subject to the specific limitations in this part, consent to modification, with respect to rate of interest, time of payment of any installment of principal and interest or any portion thereof, or any other provision of any note or other instrument evidencing a loan which has been insured by the Secretary under this part;

(5) enforce, pay, or compromise, any claim on, or arising because of, any such insurance or any guaranty agreement under section 1078(c) of this title; and

(6) enforce, pay, compromise, waive, or release any right, title, claim, lien, or demand, however acquired, including any equity or any right of redemption.

(b) Financial operations responsibilities

The Secretary shall, with respect to the financial operations arising by reason of this part prepare annually and submit a budget program as provided for wholly owned Government corporations by chapter 91 of title 31. The transactions of the Secretary, including the settlement of insurance claims and of claims for payments pursuant to section 1078 of this title, and transactions related thereto and vouchers approved by the Secretary in connection with such transactions, shall be final and conclusive upon all accounting and other officers of the Government.

(c) Data collection

(1) Collection by category of loan

(A) For loans insured after December 31, 1976, or in the case of each insurer after such earlier date where the data required by this subsection are available, the Secretary and all other insurers under this part shall collect and accumulate all data relating to (i) loan volume insured and (ii) defaults reimbursed or default rates according to the categories of loans listed in subparagraph (B) of this paragraph.

(B) The data indicated in subparagraph (A) of this paragraph shall be accumulated according to the category of lender making the loan and shall be accumulated separately for lenders who are (i) eligible institutions, (ii) State or private, nonprofit direct lenders, (iii) commercial financial institutions who are banks, savings and loan associations, or credit unions, and (iv) all other types of institutions or agencies.

(C) The Secretary may designate such additional subcategories within the categories specified in subparagraph (B) of this paragraph as the Secretary deems appropriate.

(D) The category or designation of a loan shall not be changed for any reason, including its purchase or acquisition by a lender of another category.

(2) Collection and reporting requirements

(A) The Secretary shall collect data under this subsection from all insurers under this part and shall publish not less often than once every fiscal year a report showing loan volume guaranteed and default data for each category specified in subparagraph (B) of paragraph (1) of this subsection and for the total of all lenders.

(B) The reports specified in subparagraph (A) of this paragraph shall include a separate report for each insurer under this part including the Secretary, and where an insurer insures loans for lenders in more than one State, such insurer's report shall list all data separately for each State.

(3) Institutional, public, or nonprofit lenders

For purposes of clarity in communications, the Secretary shall separately identify loans made by the lenders referred to in clause (i) and loans made by the lenders referred to in clause (ii) of paragraph (1)(B) of this subsection.

(d) Delegation

(1) Regional offices

The functions of the Secretary under this part listed in paragraph (2) of this subsection may be delegated to employees in the regional office of the Department.

(2) Delegable functions

The functions which may be delegated pursuant to this subsection are—

(A) reviewing applications for loan insurance under section 1079 of this title and issuing contracts for Federal loan insurance, certificates of insurance, and certificates of comprehensive insurance coverage to eligible lenders which are financial or credit institutions subject to examination and supervision by an agency of the United States or of any State;

(B) receiving claims for payments under section 1080(a) of this title, examining those claims, and pursuant to regulations of the Secretary, approving claims for payment, or requiring lenders to take additional collection action as a condition for payment of claims; and

(C) certifying to the central office when collection of defaulted loans has been completed, compromising or agreeing to the modification of any Federal claim against a borrower (pursuant to regulations of the Secretary issued under subsection (a) of this section), and recommending litigation with respect to any such claim.

(e) Use of information on borrowers

Notwithstanding any other provision of law, the Secretary may provide to eligible lenders, and to any guaranty agency having a guaranty agreement under section 1078(c)(1) of this title, any information with respect to the names and addresses of borrowers or other relevant information which is available to the Secretary, from whatever source such information may be derived.

(f) Audit of financial transactions

(1) Comptroller General and Inspector General authority

The Comptroller General and the Inspector General of the Department of Education shall each have the authority to conduct an audit of the financial transactions of—

(A) any guaranty agency operating under an agreement with the Secretary pursuant to section 1078(b) of this title;

(B) any eligible lender as defined in section 1085(d)(1)(D), (F), or (H) of this title;

(C) a representative sample of eligible lenders under this part, upon the request of the Committee on Education and Labor of the House of Representatives or the Committee on Labor and Human Resources of the Senate, with respect to the payment of the special allowance under section 1087–1 of this title in order to evaluate the program authorized by this part; and

(D) any Authority required to file a plan for doing business under section 1087–1(d)[1] of this title.

[1] See References in Text note below.

(2) Access to records

For the purpose of carrying out this subsection, the records of any entity described in subparagraph (A), (B), (C), or (D) of paragraph (1) shall be available to the Comptroller General and the Inspector General of the Department of Education. For the purpose of section 716(c) of title 31, such records shall be considered to be records to which the Comptroller General has access by law, and for the purpose of section 6(a)(4) of the Inspector General Act of 1978, such records shall be considered to be records necessary in the performance of functions assigned by that Act to the Inspector General.

(3) "Record" defined

For the purpose of this subsection, the term ''record'' includes any information, document, report, answer, account, paper, or other data or documentary evidence.

(4) Audit procedures

In conducting audits pursuant to this subsection, the Comptroller General and the Inspector General of the Department of Education shall audit the records to determine the extent to which they, at a minimum, comply with Federal statutes, and rules and regulations prescribed by the Secretary, in effect at the time that the record was made, and in no case shall the Comptroller General or the Inspector General apply subsequently determined standards, procedures, or regulations to the records of such agency, lender, or Authority.

(g) Civil penalties

(1) Authority to impose penalties

Upon determination, after reasonable notice and opportunity for a hearing, that a lender or a guaranty agency—

(A) has violated or failed to carry out any provision of this part or any regulation prescribed under this part, or

(B) has engaged in substantial misrepresentation of the nature of its financial charges,

the Secretary may impose a civil penalty upon such lender or agency of not to exceed $25,000 for each violation, failure, or misrepresentation.

(2) Limitations

No civil penalty may be imposed under paragraph (1) of this subsection unless the Secretary determines that—

(A) the violation, failure, or substantial misrepresentation referred to in that paragraph resulted from a violation, failure, or misrepresentation that is material; and

(B) the lender or guaranty agency knew or should have known that its actions violated or failed to carry out the provisions of this part or the regulations thereunder.

(3) Correction of failure

A lender or guaranty agency has no liability under paragraph (1) of this subsection if, prior to notification by the Secretary under that paragraph, the lender or guaranty agency cures or corrects the violation or failure or no-

tifies the person who received the substantial misrepresentation of the actual nature of the financial charges involved.

(4) Consideration as single violation

For the purpose of paragraph (1) of this subsection, violations, failures, or substantial misrepresentations arising from a specific practice of a lender or guaranty agency, and occurring prior to notification by the Secretary under that paragraph, shall be deemed to be a single violation, failure, or substantial misrepresentation even if the violation, failure, or substantial misrepresentation affects more than one loan or more than one borrower, or both. The Secretary may only impose a single civil penalty for each such violation, failure, or substantial misrepresentation.

(5) Assignees not liable for violations by others

If a loan affected by a violation, failure, or substantial misrepresentation is assigned to another holder, the lender or guaranty agency responsible for the violation, failure, or substantial misrepresentation shall remain liable for any civil money penalty provided for under paragraph (1) of this subsection, but the assignee shall not be liable for any such civil money penalty.

(6) Compromise

Until a matter is referred to the Attorney General, any civil penalty under paragraph (1) of this subsection may be compromised by the Secretary. In determining the amount of such penalty, or the amount agreed upon in compromise, the Secretary shall consider the appropriateness of the penalty to the resources of the lender or guaranty agency subject to the determination; the gravity of the violation, failure, or substantial misrepresentation; the frequency and persistence of the violation, failure, or substantial misrepresentation; and the amount of any losses resulting from the violation, failure, or substantial misrepresentation. The amount of such penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owing by the United States to the lender or agency charged, unless the lender or agency has, in the case of a final agency determination, commenced proceedings for judicial review within 90 days of the determination, in which case the deduction may not be made during the pendency of the proceeding.

(h) Authority of the Secretary to impose and enforce limitations, suspensions, and terminations

(1) Imposition of sanctions

(A) If the Secretary, after a reasonable notice and opportunity for hearing to an eligible lender, finds that the eligible lender—

(i) has substantially failed—

(I) to exercise reasonable care and diligence in the making and collecting of loans under the provisions of this part,

(II) to make the reports or statements under section 1078(a)(4) of this title, or

(III) to pay the required loan insurance premiums to any guaranty agency, or

(ii) has engaged in—

(I) fraudulent or misleading advertising or in solicitations that have resulted in the making of loans insured or guaranteed under this part to borrowers who are ineligible; or

(II) the practice of making loans that violate the certification for eligibility provided in section 1078 of this title,

the Secretary shall limit, suspend, or terminate that lender from participation in the insurance programs operated by guaranty agencies under this part.

(B) The Secretary shall not lift any such limitation, suspension, or termination until the Secretary is satisfied that the lender's failure under subparagraph (A)(i) of this paragraph or practice under subparagraph (A)(ii) of this paragraph has ceased and finds that there are reasonable assurances that the lender will—

(i) exercise the necessary care and diligence,

(ii) comply with the requirements described in subparagraph (A)(i), or

(iii) cease to engage in the practices described in subparagraph (A)(ii),

as the case may be.

(2) Review of sanctions on lenders

(A) The Secretary shall review each limitation, suspension, or termination imposed by any guaranty agency pursuant to section 1078(b)(1)(U) of this title within 60 days after receipt by the Secretary of a notice from the guaranty agency of the imposition of such limitation, suspension, or termination, unless the right to such review is waived in writing by the lender. The Secretary shall uphold the imposition of such limitation, suspension, or termination in the student loan insurance program of each of the guaranty agencies under this part, and shall notify such guaranty agencies of such sanction—

(i) if such review is waived; or

(ii) if such review is not waived, unless the Secretary determines that the limitation, suspension, or termination was not imposed in accordance with requirements of such section.

(B) The Secretary's review under this paragraph of the limitation, suspension, or termination imposed by a guaranty agency pursuant to section 1078(b)(1)(U) of this title shall be limited to—

(i) a review of the written record of the proceedings in which the guaranty agency imposed such sanctions; and

(ii) a determination as to whether the guaranty agency complied with section 1078(b)(1)(U) of this title and any notice and hearing requirements prescribed in regulations of the Secretary under this part.

(C) The Secretary shall not lift any such sanction until the Secretary is satisfied that the lender has corrected the failures which led to the limitation, suspension, or termination, and finds that there are reasonable assurances that the lender will, in the future, comply with the requirements of this part. The Secretary shall notify each guaranty agency of the lifting of any such sanction.

(3) Review of sanctions on eligible institutions

(A) The Secretary shall review each limitation, suspension, or termination imposed by any guaranty agency pursuant to section 1078(b)(1)(T) of this title within 60 days after receipt by the Secretary of a notice from the guaranty agency of the imposition of such limitation, suspension, or termination, unless the right to such review is waived in writing by the institution. The Secretary shall uphold the imposition of such limitation, suspension, or termination in the student loan insurance program of each of the guaranty agencies under this part, and shall notify such guaranty agencies of such sanctions—

(i) if such review is waived; or

(ii) if such review is not waived, unless the Secretary determines that the limitation, suspension, or termination was not imposed in accordance with requirements of such section.

(B) The Secretary's review under this paragraph of the limitation, suspension, or termination imposed by a guaranty agency pursuant to section 1078(b)(1)(T) of this title shall be limited to—

(i) a review of the written record of the proceedings in which the guaranty agency imposed such sanctions; and

(ii) a determination as to whether the guaranty agency complied with section 1078(b)(1)(T) of this title and any notice and hearing requirements prescribed in regulations of the Secretary under this part.

(C) The Secretary shall not lift any such sanction until the Secretary is satisfied that the institution has corrected the failures which led to the limitation, suspension, or termination, and finds that there are reasonable assurances that the institution will, in the future, comply with the requirements of this part. The Secretary shall notify each guaranty agency of the lifting of any such sanction.

(i) Authority to sell defaulted loans

In the event that all other collection efforts have failed, the Secretary is authorized to sell defaulted student loans assigned to the United States under this part to collection agencies, eligible lenders, guaranty agencies, or other qualified purchaser on such terms as the Secretary determines are in the best financial interests of the United States. A loan may not be sold pursuant to this subsection if such loan is in repayment status.

(j) Authority of Secretary to take emergency actions against lenders

(1) Imposition of sanctions

If the Secretary—

(A) receives information, determined by the Secretary to be reliable, that a lender is violating any provision of this subchapter and part C of subchapter I of chapter 34 of title 42, any regulation prescribed under this subchapter and part C of subchapter I of chapter 34 of title 42, or any applicable special arrangement, agreement, or limitation;

(B) determines that immediate action is necessary to prevent misuse of Federal funds; and

(C) determines that the likelihood of loss outweighs the importance of following the limitation, suspension, or termination procedures authorized in subsection (h) of this section;

the Secretary shall, effective on the date on which a notice and statement of the basis of the action is mailed to the lender (by registered mail, return receipt requested), take emergency action to stop the issuance of guarantee commitments and the payment of interest benefits and special allowance to the lender.

(2) Length of emergency action

An emergency action under this subsection may not exceed 30 days unless a limitation, suspension, or termination proceeding is initiated against the lender under subsection (h) of this section before the expiration of that period.

(3) Opportunity to show cause

The Secretary shall provide the lender, if it so requests, an opportunity to show cause that the emergency action is unwarranted.

(k) Program of assistance for borrowers

(1) In general

The Secretary shall undertake a program to encourage corporations and other private and public employers, including the Federal Government, to assist borrowers in repaying loans received under this subchapter and part C of subchapter I of chapter 34 of title 42, including providing employers with options for payroll deduction of loan payments and offering loan repayment matching provisions as part of employee benefit packages.

(2) Publication

The Secretary shall publicize models for providing the repayment assistance described in paragraph (1) and each year select entities that deserve recognition, through means devised by the Secretary, for the development of innovative plans for providing such assistance to employees.

(3) Recommendation

Within 1 year after July 23, 1992, the Secretary shall recommend to the appropriate committees in the Senate and House of Representatives changes to statutes that could be made in order to further encourage such efforts.

(*l*) Uniform administrative and claims procedures

(1) In general

The Secretary shall, by regulation developed in consultation with guaranty agencies, lenders, institutions of higher education, secondary markets, students, third party servicers and other organizations involved in providing loans under this part, prescribe standardized forms and procedures regarding—

(A) origination of loans;

(B) electronic funds transfer;

(C) guaranty of loans;

(D) deferments;

(E) forbearance;

(F) servicing;
(G) claims filing;
(H) borrower status change; and
(I) cures.

(2) Special rules

(A) The forms and procedures described in paragraph (1) shall include all aspects of the loan process as such process involves eligible lenders and guaranty agencies and shall be designed to minimize administrative costs and burdens (other than the costs and burdens involved in the transition to new forms and procedures) involved in exchanges of data to and from borrowers, schools, lenders, secondary markets, and the Department.

(B) Nothing in this paragraph shall be construed to limit the development of electronic forms and procedures.

(3) Simplification requirements

Such regulations shall include—

(A) standardization of computer formats, forms design, and guaranty agency procedures relating to the origination, servicing, and collection of loans made under this part;

(B) authorization of alternate means of document retention, including the use of microfilm, microfiche, laser disc, compact disc, and other methods allowing the production of a facsimile of the original documents;

(C) authorization of the use of computer or similar electronic methods of maintaining records relating to the performance of servicing, collection, and other regulatory requirements under this chapter; and

(D) authorization and implementation of electronic data linkages for the exchange of information to and from lenders, guarantors, institutions of higher education, third party servicers, and the Department of Education for student status confirmation reports, claim filing, interest and special allowance billing, deferment processing, and all other administrative steps relating to loans made pursuant to this part where using electronic data linkage is feasible.

(4) Additional recommendations

The Secretary shall review regulations prescribed pursuant to paragraph (1) and seek additional recommendations from guaranty agencies, lenders, institutions of higher education, students, secondary markets, third party servicers and other organizations involved in providing loans under this part, not less frequently than annually, for additional methods of simplifying and standardizing the administration of the programs authorized by this part.

(m) Common forms and formats

(1) Common guaranteed student loan application form and promissory note

(A) In general

The Secretary, in cooperation with representatives of guaranty agencies, eligible lenders, and organizations involved in student financial assistance, shall prescribe a common application form and promissory note to be used for applying for loans under this part.

(B) Requirements

The form prescribed by the Secretary shall—

(i) use clear, concise, and simple language to facilitate understanding of loan terms and conditions by applicants;

(ii) be formatted to require the applicant to clearly indicate a choice of lender; and

(iii) permit, to the maximum extent practicable, application for any loan under this part.

(C) Approval of form

The Secretary shall approve a form for use not later than 360 days after July 23, 1992.

(D) Special rule

Nothing in this section shall be construed to limit the development of electronic forms and procedures.

(2) Common deferment form

The Secretary, in cooperation with representatives of guaranty agencies, institutions of higher education, and lenders involved in loans made under this part, shall prescribe a common deferment reporting form to be used for the processing of deferments of loans made under this subchapter and part C of subchapter I of chapter 34 of title 42.

(3) Common reporting formats

The Secretary shall promulgate standards including necessary rules, regulations (including the definitions of all relevant terms), and procedures so as to require all lenders and guaranty agencies to report information on all aspects of loans made under this part in uniform formats, so as to permit the direct comparison of data submitted by individual lenders, servicers, or guaranty agencies.

(n) Default reduction management

(1) Authorization

There are authorized to be appropriated $25,000,000 for fiscal year 1993 and each of the four succeeding fiscal years, for the Secretary to expend for default reduction management activities for the purposes of establishing a performance measure that will reduce defaults by 5 percent relative to the prior fiscal year. Such funds shall be in addition to, and not in lieu of, other appropriations made for such purposes.

(2) Allowable activities

Allowable activities for which such funds shall be expended by the Secretary shall include the following: (A) program reviews; (B) audits; (C) debt management programs; (D) training activities; and (E) such other management improvement activities approved by the Secretary.

(3) Plan for use required

The Secretary shall submit a plan, for inclusion in the materials accompanying the President's budget each fiscal year, detailing the expenditure of funds authorized by this section to accomplish the 5 percent reduction in defaults. At the conclusion of the fiscal year, the Secretary shall report the Secretary's findings and activities concerning the expendi-

ture of funds and whether the performance measure was met. If the performance measure was not met, the Secretary shall report the following:

(A) why the goal was not met, including an indication of any managerial deficiencies or of any legal obstacles;

(B) plans and a schedule for achieving the established performance goal;

(C) recommended legislative or regulatory changes necessary to achieve the goal; and

(D) if the performance standard or goal is impractical or infeasible, why that is the case and what action is recommended, including whether the goal should be changed or the program altered or eliminated.

This report shall be submitted to the Appropriations Committees of the House of Representatives and the Senate and to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate.

(*o*) Consequences of guaranty agency insolvency

In the event that the Secretary has determined that a guaranty agency is unable to meet its insurance obligations under this part, the holder of loans insured by the guaranty agency may submit insurance claims directly to the Secretary and the Secretary shall pay to the holder the full insurance obligation of the guaranty agency, in accordance with insurance requirements no more stringent than those of the guaranty agency. Such arrangements shall continue until the Secretary is satisfied that the insurance obligations have been transferred to another guarantor who can meet those obligations or a successor will assume the outstanding insurance obligations.

(p) Reporting requirement

All officers and directors, and those employees and paid consultants of eligible institutions, eligible lenders, guaranty agencies, loan servicing agencies, accrediting agencies or associations, State licensing agencies or boards, State postsecondary reviewing entities designated under subpart 1 of part G of this subchapter, and entities acting as secondary markets (including the Student Loan Marketing Association), who are engaged in making decisions as to the administration of any program or funds under this subchapter and part C of subchapter I of chapter 34 of title 42 or as to the eligibility of any entity or individual to participate under this subchapter and part C of subchapter I of chapter 34 of title 42, shall report to the Secretary, in such manner and at such time as the Secretary shall require, on any financial interest which such individual may hold in any other entity participating in any program assisted under this subchapter and part C of subchapter I of chapter 34 of title 42.

(Pub. L. 89–329, title IV, §432, as added Pub. L. 99–498, title IV, §402(a), Oct. 17, 1986, 100 Stat. 1401; amended Pub. L. 100–50, §10(x), (y), June 3, 1987, 101 Stat. 346; Pub. L. 101–239, title II, §2006(a), Dec. 19, 1989, 103 Stat. 2118; Pub. L. 102–325, title IV, §425, July 23, 1992, 106 Stat. 543; Pub. L. 103–208, §2(k)(2), (3), Dec. 20, 1993, 107 Stat. 2485; Pub. L. 104–66, title I, §1042(e), Dec. 21, 1995, 109 Stat. 716.)

REFERENCES IN TEXT

Section 1087–1(d) of this title, referred to in subsec. (f)(1)(D), was redesignated section 1087–1(e) by Pub. L. 103–66, title IV, §4103(1), Aug. 10, 1993, 107 Stat. 367.

The Inspector General Act of 1978, referred to in subsec. (f)(2), is Pub. L. 95–452, Oct. 12, 1978, 92 Stat. 1101, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

This chapter, referred to in subsec. (*l*)(3)(C), was in the original ''this Act'', meaning Pub. L. 89–329, as amended, known as the Higher Education Act of 1965. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

PRIOR PROVISIONS

A prior section 1082, Pub. L. 89–329, title IV, §432, Nov. 8, 1965, 79 Stat. 1246; Pub. L. 90–460, §3(d), Aug. 3, 1968, 82 Stat. 638; Pub. L. 93–604, title VII, §705(a), Jan. 2, 1975, 88 Stat. 1964; Pub. L. 94–482, title I, §127(a), Oct. 12, 1976, 90 Stat. 2127; Pub. L. 96–88, title III, §301(b)(2), Oct. 17, 1979, 93 Stat. 678; Pub. L. 96–374, title IV, §416(c), title XIII, §1391(a)(1), Oct. 3, 1980, 94 Stat. 1421, 1503; Pub. L. 99–272, title XVI, §16024, Apr. 7, 1986, 100 Stat. 351, related to functions, powers, and duties of Secretary, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1995—Subsec. (b). Pub. L. 104–66 amended heading and text of subsec. (b) generally. Prior to amendment, text read as follows: ''The Secretary shall, with respect to the financial operations arising by reason of this part—

''(1) prepare annually and submit a budget program as provided for wholly owned Government corporations by chapter 91 of title 31; and

''(2) maintain with respect to insurance under this part an integral set of accounts and prepare financial statements in accordance with generally accepted accounting principles, which shall be audited annually by the General Accounting Office in conformity with generally accepted Government auditing standards except that the transactions of the Secretary, including the settlement of insurance claims and of claims for payments pursuant to section 1078 of this title, and transactions related thereto and vouchers approved by the Secretary in connection with such transactions, shall be final and conclusive upon all accounting and other officers of the Government.''

1993—Subsec. (h)(2)(A), (3)(A). Pub. L. 103–208 amended directory language of Pub. L. 102–325, §425(d)(1). See 1992 Amendment notes below.

1992—Subsec. (a)(1). Pub. L. 102–325, §425(a), inserted before semicolon at end '', including regulations applicable to third party servicers (including regulations concerning financial responsibility standards for, and the assessment of liabilities for program violations against, such servicers) to establish minimum standards with respect to sound management and accountability of programs under this part, except that in no case shall damages be assessed against the United States for the actions or inactions of such servicers''.

Subsecs. (a)(3), (g)(1). Pub. L. 102–325, §425(b)(1), (2), struck out ''on the record'' after ''for a hearing''.

Subsec. (g)(2). Pub. L. 102–325, §425(c)(1), amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''No civil penalty may be imposed under paragraph (1) of this subsection unless it is determined that the violation, failure, or substantial misrepresentation referred to in that paragraph resulted from—

''(A)(i) a clear and consistent pattern or practice of violations, failures, or substantial misrepresentations in which the lender or guaranty agency did not maintain procedures reasonably adapted to avoid the violation, failure, or substantial misrepresentation;

''(ii) gross negligence; or

''(iii) willful actions on the part of the lender or guaranty agency; and

''(B) the violation, failure, or substantial misrepresentation is material.''

Subsec. (g)(3). Pub. L. 102–325, § 425(c)(2), substituted ''notification by the Secretary under that paragraph'' for ''the institution of an action under that paragraph''.

Subsec. (g)(4). Pub. L. 102–325, § 425(c)(3), inserted '', and occurring prior to notification by the Secretary under that paragraph,'' after ''guaranty agency'' and substituted ''or both. The'' for ''or both, and the''.

Subsec. (h)(2)(A). Pub. L. 102–325, § 425(d)(1), as amended by Pub. L. 103–208, § 2(k)(2), in second sentence substituted ''The Secretary shall uphold the imposition of such limitation, suspension, or termination in the student loan insurance program of each of the guaranty agencies under this part, and shall notify such guaranty agencies of such sanction'' for ''The Secretary shall disqualify such lender from participation in the student loan insurance program of each of the guaranty agencies under this part, and notify such guaranty agencies of such disqualification''.

Pub. L. 102–325, § 425(b)(3), in first sentence struck out '', in accordance with sections 556 and 557 of title 5,'' after ''The Secretary shall''.

Subsec. (h)(2)(B), (C). Pub. L. 102–325, § 425(d)(2), (3), added subpar. (B), redesignated former subpar. (B) as (C), and substituted ''sanction'' for ''disqualification'' in two places.

Subsec. (h)(3)(A). Pub. L. 102–325, § 425(d)(4), as amended by Pub. L. 103–208, § 2(k)(3), in second sentence substituted ''The Secretary shall uphold the imposition of such limitation, suspension, or termination in the student loan insurance program of each of the guaranty agencies under this part, and shall notify such guaranty agencies of such sanctions'' for ''The Secretary shall disqualify such institution from participation in the student loan insurance program of each of the guaranty agencies under this part, and notify such guaranty agencies of such disqualification''.

Pub. L. 102–325, § 425(b)(4), in first sentence struck out '', in accordance with sections 556 and 557 of title 5,'' after ''The Secretary shall''.

Subsec. (h)(3)(B), (C). Pub. L. 102–325, § 425(d)(5), (6), added subpar. (B), redesignated former subpar. (B) as (C), and substituted ''sanction'' for ''disqualification'' in two places.

Subsecs. (k) to (p). Pub. L. 102–325, § 425(e), added subsecs. (k) to (p).

1989—Subsec. (j). Pub. L. 101–239 added subsec. (j).

1987—Subsec. (f)(4). Pub. L. 100–50, § 10(x), added par. (4).

Subsec. (g)(2)(A)(i), (B). Pub. L. 100–50, § 10(y), substituted ''misrepresentation'' for ''representation''.

CHANGE OF NAME

Committee on Education and Labor of House of Representatives treated as referring to Committee on Economic and Educational Opportunities of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Economic and Educational Opportunities of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Fifth Congress, Jan. 7, 1997.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1003 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1078, 1087c, 1087hh, 1090, 1094 of this title.

§ 1083. Student loan information by eligible lenders

(a) Required disclosure before disbursement

Each eligible lender shall, at or prior to the time such lender disburses a loan which is insured or guaranteed under this part (other than a loan made under section 1078–3 of this title), provide thorough and accurate loan information on such loan to the borrower. Any disclosure required by this subsection may be made by an eligible lender as part of the written application material provided to the borrower, or as part of the promissory note evidencing the loan, or on a separate written form provided to the borrower. The disclosure shall include—

(1) a statement prominently and clearly displayed and in bold print that the borrower is receiving a loan that must be repaid;

(2) the name of the eligible lender, and the address to which communications and payments should be sent;

(3) the principal amount of the loan;

(4) the amount of any charges, such as the origination fee and insurance premium, collected by the lender at or prior to the disbursal of the loan and whether such charges are deducted from the proceeds of the loan or paid separately by the borrower;

(5) the stated interest rate on the loan;

(6) the yearly and cumulative maximum amounts that may be borrowed;

(7) an explanation of when repayment of the loan will be required and when the borrower will be obligated to pay interest that accrues on the loan;

(8) a statement as to the minimum and maximum repayment term which the lender may impose, and the minimum annual payment required by law;

(9) a statement of the total cumulative balance, including the loan applied for, owed by the student to that lender, and an estimate of the projected monthly payment, given such cumulative balance;

(10) an explanation of any special options the borrower may have for loan consolidation or other refinancing of the loan;

(11) a statement that the borrower has the right to prepay all or part of the loan, at any time, without penalty, a statement summarizing circumstances in which repayment of the loan or interest that accrues on the loan may be deferred, and a brief notice of the program for repayment of loans, on the basis of military service, pursuant to section 902 of the Department of Defense Authorization Act, 1981 (10 U.S.C. 2141, note);[1]

(12) a definition of default and the consequences to the borrower if the borrower defaults, including a statement that the default will be reported to a credit bureau or credit reporting agency;

(13) to the extent practicable, the effect of accepting the loan on the eligibility of the borrower for other forms of student assistance; and

(14) an explanation of any cost the borrower may incur in the making or collection of the loan.

[1] See References in Text note below.

(b) Required disclosure before repayment

Each eligible lender shall, at or prior to the start of the repayment period of the student borrower on loans made, insured, or guaranteed under this part, disclose to the borrower the information required under this subsection. For any loan made, insured, or guaranteed under this part, other than a loan made under section 1078–2 or 1078–3 of this title, such disclosure required by this subsection shall be made not less than 30 days nor more than 240 days before the first payment on the loan is due from the borrower. The disclosure shall include—

(1) the name of the eligible lender, and the address to which communications and payments should be sent;

(2) the scheduled date upon which the repayment period is to begin;

(3) the estimated balance owed by the borrower on the loan or loans covered by the disclosure as of the scheduled date on which the repayment period is to begin (including, if applicable, the estimated amount of interest to be capitalized);

(4) the stated interest rate on the loan or loans, or the combined interest rate of loans with different stated interest rates;

(5) the nature of any fees which may accrue or be charged to the borrower during the repayment period;

(6) the repayment schedule for all loans covered by the disclosure including the date the first installment is due, and the number, amount, and frequency of required payments;

(7) an explanation of any special options the borrower may have for loan consolidation or other refinancing of the loan and of the availability and terms of such other options, except that such explanation is not required when the loan being made is a consolidation loan under section 1078–3 of this title;

(8) except as provided in subsection (e) of this section, the projected total of interest charges which the borrower will pay on the loan or loans, assuming that the borrower makes payments exactly in accordance with the repayment schedule; and

(9) a statement that the borrower has the right to prepay all or part of the loan or loans covered by the disclosure at any time without penalty.

(c) Cost of disclosure and consequences of nondisclosure

Such information shall be available without cost to the borrower. The failure of an eligible lender to provide information as required by this section shall not (1) relieve a borrower of the obligation to repay a loan in accordance with its terms, (2) provide a basis for a claim for civil damages, or (3) be deemed to abrogate the obligation of the Secretary under a contract of insurance or reinsurance, or the obligation of a guaranty agency under a contract of guaranty. Nothing in this section shall be construed as subjecting the lender to the Truth in Lending Act [15 U.S.C. 1601 et seq.] with regard to loans made under this part. The Secretary may limit, suspend, or terminate the continued participation of an eligible lender in making loans under this part for failure by that lender to comply with this section.

(d) Separate statement

Each eligible lender shall, at the time such lender notifies a borrower of approval of a loan which is insured or guaranteed under this part, provide the borrower with a separate paper which summarizes (in plain English) the rights and responsibilities of the borrower with respect to the loan, including a statement of the consequences of defaulting on the loan and a statement that each borrower who defaults will be reported to a credit bureau. The requirement of this subsection shall be in addition to the information required by subsection (a) of this section.

(e) Special disclosure rules on SLS loans and PLUS loans and unsubsidized loans

Loans made under sections 1078–1,[2] 1078–2, and 1078–8 of this title shall not be subject to the disclosure of projected monthly payment amounts required under subsection (b)(8) of this section if the lender, in lieu of such disclosure, provides the borrower with sample projections of monthly repayment amounts assuming different levels of borrowing and interest accruals resulting from capitalization of interest while the borrower is in school. Such sample projections shall disclose the cost to the student of capitalizing—

(1) principal and interest; and

(2) interest only.

(Pub. L. 89–329, title IV, §433, as added Pub. L. 99–498, title IV, §402(a), Oct. 17, 1986, 100 Stat. 1406; amended Pub. L. 100–50, §10(z), June 3, 1987, 101 Stat. 346; Pub. L. 102–325, title IV, §426, July 23, 1992, 106 Stat. 548; Pub. L. 103–208, §2(c)(53), (54), (k)(4), Dec. 20, 1993, 107 Stat. 2468, 2485.)

REFERENCES IN TEXT

Section 902 of the Department of Defense Authorization Act, 1981, referred to in subsec. (a)(11), is section 902 of Pub. L. 96–342, title IX, Sept. 8, 1980, 94 Stat. 1115, as amended, which was set out as a note under section 2141 of Title 10, Armed Forces, and was repealed by Pub. L. 99–145, title VI, §671(a)(3), Nov. 8, 1985, 99 Stat. 663. See section 16302 of Title 10.

Truth in Lending Act, referred to in subsec. (c), is title I of Pub. L. 90–321, May 29, 1968, 82 Stat. 146, as amended, which is classified generally to subchapter I (§1601 et seq.) of chapter 41 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 15 and Tables.

Section 1078–1 of this title, referred to in subsec. (e), was repealed by Pub. L. 103–66, title IV, §4047(b)–(d), Aug. 10, 1993, 107 Stat. 364, eff. July 1, 1994, except with respect to loans provided under that section as it existed prior to Aug. 10, 1993.

PRIOR PROVISIONS

A prior section 1083, Pub. L. 89–329, title IV, §433, Nov. 8, 1965, 79 Stat. 1247; Pub. L. 90–575, title I, §116(d), Oct. 16, 1968, 82 Stat. 1024; Pub. L. 92–318, title I, §132(c), June 23, 1972, 86 Stat. 261; Pub. L. 94–482, title I, §127(a), Oct. 12, 1976, 90 Stat. 2129; Pub. L. 95–43, §1(a)(34), June 15, 1977, 91 Stat. 216; Pub. L. 96–374, title XIII, §1391(a)(1), Oct. 3, 1980, 94 Stat. 1503, related to requirements for institutional lenders, prior to the general revision of this part by Pub. L. 99–498.

A prior section 1083a, Pub. L. 89–329, title IV, §433A, as added Pub. L. 96–374, title IV, §418, Oct. 3, 1980, 94 Stat. 1423; amended Pub. L. 97–301, §13(a), Oct. 13, 1982, 96 Stat. 1404; Pub. L. 98–79, §3(a), Aug. 15, 1983, 97 Stat.

[2] See References in Text note below.

476; Pub. L. 99–272, title XVI, § 16012(c), Apr. 7, 1986, 100 Stat. 340, related to student loan information to be provided by eligible lenders, prior to the general revision of this part by Pub. L. 99–498. See section 1083 of this title.

AMENDMENTS

1993—Subsec. (b). Pub. L. 103–208, § 2(c)(53), substituted ''30 days'' for ''60 days'' in introductory provisions.

Subsec. (e). Pub. L. 103–208, § 2(k)(4), amended directory language of Pub. L. 102–325, § 426(c). See 1992 Amendment note below.

Pub. L. 103–208, § 2(c)(54), substituted ''sections'' for ''section'' before ''1078–1''.

1992—Subsec. (a). Pub. L. 102–325, § 426(a), added par. (1) and redesignated former pars. (1) to (13) as (2) to (14), respectively.

Subsec. (b). Pub. L. 102–325, § 426(b)(1), in introductory provisions, inserted second sentence and struck out former second sentence which read as follows: ''Any disclosure required by this subsection may be made by an eligible lender either in a promissory note evidencing the loan or loans or in a written statement provided to the borrower.''

Subsec. (b)(8). Pub. L. 102–325, § 426(b)(2), inserted ''except as provided in subsection (e) of this section,'' before ''the projected''.

Subsec. (e). Pub. L. 102–325, § 426(c), as amended by Pub. L. 103–208, § 2(k)(4), added subsec. (e).

1987—Subsec. (a). Pub. L. 100–50, § 10(z)(1), inserted ''(other than a loan made under section 1078–3 of this title)'' after ''this part'' in first sentence.

Subsec. (a)(8). Pub. L. 100–50, § 10(z)(2), added par. (8) and struck out former par. (8) which read as follows: ''a statement of the total cumulative balance, including the loan applied for, owed by the student to that lender, the projected level of indebtedness of the student based on a 4-year college career, and an estimate of the projected monthly repayment given the level of indebtedness over a 4- or 5-year college career;''.

Subsec. (b)(7). Pub. L. 100–50, § 10(z)(3), inserted '', except that such explanation is not required when the loan being made is a consolidation loan under section 1078–3 of this title'' before semicolon at end.

Subsec. (d). Pub. L. 100–50, § 10(z)(4), substituted ''notifies a borrower of approval of a loan'' for ''makes the first disbursement of a loan with respect to a borrower''.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by section 2(c)(53) of Pub. L. 103–208 effective on and after 60 days after Dec. 20, 1993 and amendments by section 2(c)(54), (k)(4) of Pub. L. 103–208 effective, except as otherwise provided, as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, see section 5(a), (b)(4) of Pub. L. 103–208, set out as a note under section 1003 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

EFFECTIVE DATE

Section effective Oct. 17, 1986, with subsecs. (a), (b), and (d) of this section applicable only with respect to loans disbursed on or after Jan. 1, 1987, or made to cover the costs of instruction for periods of enrollment beginning on or after Jan. 1, 1987, see section 402(b) of Pub. L. 99–498, set out as a note under section 1071 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1077a of this title.

§ 1084. Participation by Federal credit unions in Federal, State, and private student loan insurance programs

Notwithstanding any other provision of law, Federal credit unions shall, pursuant to regulations of the National Credit Union Administration, have power to make insured loans to student members in accordance with the provisions of this part relating to federally insured loans, or in accordance with the provisions of any State or nonprofit private student loan insurance program which meets the requirements of section 1078(a)(1)(B) of this title.

(Pub. L. 89–329, title IV, § 434, as added Pub. L. 99–498, title IV, § 402(a), Oct. 17, 1986, 100 Stat. 1408.)

PRIOR PROVISIONS

A prior section 1084, Pub. L. 89–329, title IV, § 434, Nov. 8, 1965, 79 Stat. 1247; Pub. L. 90–575, title I, § 116(b)(4), Oct. 16, 1968, 82 Stat. 1024; Pub. L. 91–206, § 6, Mar. 10, 1970, 84 Stat. 51; Pub. L. 92–318, title I, § 132D(e), June 23, 1972, 86 Stat. 264; Pub. L. 94–482, title I, § 127(a), Oct. 12, 1976, 90 Stat. 2129; Pub. L. 95–630, title V, § 502(a), Nov. 10, 1978, 92 Stat. 3681, related to participation by Federal credit unions in Federal, State, and private student loan insurance programs, prior to the general revision of this part by Pub. L. 99–498.

§ 1085. Definitions for student loan insurance program

As used in this part:

(a) Eligible institution

(1) In general

Except as provided in paragraph (2), the term ''eligible institution'' means an institution of higher education, as defined in section 1088 of this title, except that, for the purposes of sections 1077(a)(2)(C)(i) and 1078(b)(1)(M)(i) of this title, an eligible institution includes any institution that is within this definition without regard to whether such institution is participating in any program under this subchapter and part C of subchapter I of chapter 34 of title 42 and includes any institution ineligible for participation in any program under this part pursuant to paragraph (2) of this subsection.

(2) Ineligibility based on high default rates

(A) An institution whose cohort default rate is equal to or greater than the threshold percentage specified in subparagraph (B) for each of the three most recent fiscal years for which data are available shall not be eligible to participate in a program under this part for the fiscal year for which the determination is made and for the two succeeding fiscal years, unless, within 30 days of receiving notification from the Secretary of the loss of eligibility under this paragraph, the institution appeals the loss of its eligibility to the Secretary. The Secretary shall issue a decision on any such appeal within 45 days after its submission. Such decision may permit the institution to continue to participate in a program under this part if—

(i) the institution demonstrates to the satisfaction of the Secretary that the Secretary's calculation of its cohort default

rate is not accurate, and that recalculation would reduce its cohort default rate for any of the three fiscal years below the threshold percentage specified in subparagraph (B); or

(ii) there are, in the judgment of the Secretary, exceptional mitigating circumstances that would make the application of this paragraph inequitable.

During such appeal, the Secretary may permit the institution to continue to participate in a program under this part.

(B) For purposes of determinations under subparagraph (A), the threshold percentage is—

(i) 35 percent for fiscal year 1991 and 1992;

(ii) 30 percent for fiscal year 1993; and

(iii) 25 percent for any succeeding fiscal year.

(C) Until July 1, 1998, this paragraph shall not apply to any institution that is—

(i) a part B institution within the meaning of section 1061(2) of this title;

(ii) a tribally controlled community college within the meaning of section 1801(a)(4) of title 25; or

(iii) a Navajo Community College under the Navajo Community College Act [25 U.S.C. 640a et seq.].

(3) Appeals based upon allegations of improper loan servicing

An institution that—

(A) is subject to loss of eligibility for the Federal Family Education Loan Program pursuant to paragraph (2)(A) of this subsection;

(B) is subject to loss of eligibility for the Federal Supplemental Loans for Students pursuant to section 1078–1(a)(2)[1] of this title; or

(C) is an institution whose cohort default rate equals or exceeds 20 percent for the most recent year for which data are available;

may include in its appeal of such loss or rate a defense based on improper loan servicing (in addition to other defenses). In any such appeal, the Secretary shall take whatever steps are necessary to ensure that such institution has access to a representative sample (as determined by the Secretary) of the relevant loan servicing and collection records of the affected guaranty agencies and loan servicers for a reasonable period of time, not to exceed 30 days. The Secretary shall reduce the institution's cohort default rate to reflect the percentage of defaulted loans in the representative sample that are required to be excluded pursuant to subsection (m)(1)(B) of this section.

(b), (c) Repealed. Pub. L. 102–325, title IV, § 427(b)(1), (c), July 23, 1992, 106 Stat. 549

(d) Eligible lender

(1) In general

Except as provided in paragraphs (2) through (6), the term ''eligible lender'' means—

(A) a National or State chartered bank, a mutual savings bank, a savings and loan association, a stock savings bank, or a credit union which—

(i) is subject to examination and supervision by an agency of the United States or of the State in which its principal place of operation is established, and

(ii) does not have as its primary consumer credit function the making or holding of loans made to students under this part unless (I) it is a bank which is wholly owned by a State, or a bank which is subject to examination and supervision by an agency of the United States, makes student loans as a trustee pursuant to an express trust, operated as a lender under this part prior to January 1, 1975, and which meets the requirements of this provision prior to July 23, 1992, or (II) it is a single wholly owned subsidiary of a bank holding company which does not have as its primary consumer credit function the making or holding of loans made to students under this part;

(B) a pension fund as defined in the Employee Retirement Income Security Act [29 U.S.C. 1001 et seq.];

(C) an insurance company which is subject to examination and supervision by an agency of the United States or a State;

(D) in any State, a single agency of the State or a single nonprofit private agency designated by the State;

(E) an eligible institution which meets the requirements of paragraphs (2) through (5) of this subsection;

(F) for purposes only of purchasing and holding loans made by other lenders under this part, the Student Loan Marketing Association or the Holding Company of the Student Loan Marketing Association, including any subsidiary of the Holding Company, created pursuant to section 1087–3 of this title, or an agency of any State functioning as a secondary market;

(G) for purposes of making loans under sections 1078–1(d),[1] 1078–2(d), 1078–3, and 1087–2(q) of this title, the Student Loan Marketing Association or the Holding Company of the Student Loan Marketing Association, including any subsidiary of the Holding Company, created pursuant to section 1087–3 of this title;

(H) for purposes of making loans under sections 1078(h) and 1078(j) of this title, a guaranty agency;

(I) a Rural Rehabilitation Corporation, or its successor agency, which has received Federal funds under Public Law 499, Eighty-first Congress (64 Stat. 98 (1950)); and

(J) for purpose of making loans under section 1078–3 of this title, any nonprofit private agency functioning in any State as a secondary market.

(2) Additional requirements of eligible institutions

To be an eligible lender under this part, an eligible institution—

(A) shall employ at least one person whose full-time responsibilities are limited to the

[1] See References in Text note below.

administration of programs of financial aid for students attending such institution;

(B) shall not be a home study school;

(C) shall make loans to not more than 50 percent of the undergraduate students at the institution;

(D) shall not make a loan, other than a loan to a graduate or professional student, unless the borrower has previously received a loan from the school or has been denied a loan by an eligible lender;

(E) shall not have a cohort default rate (as defined in subsection (m) of this section) greater than 15 percent; and

(F) shall use the proceeds from special allowance payments and interest payments from borrowers for need-based grant programs, except for reasonable reimbursement for direct administrative expenses;

except that the requirements of subparagraphs (C) and (D) shall not apply with respect to loans made, and loan commitments made, after October 17, 1986, and prior to July 1, 1987.

(3) Disqualification for high default rates

The term ''eligible lender'' does not include any eligible institution in any fiscal year immediately after the fiscal year in which the Secretary determines, after notice and opportunity for a hearing, that for each of 2 consecutive years, 15 percent or more of the total amount of such loans as are described in section 1078(a)(1) of this title made by the institution with respect to students at that institution and repayable in each such year, are in default, as defined in subsection (m) of this section.

(4) Waiver of disqualification

Whenever the Secretary determines that—

(A) there is reasonable possibility that an eligible institution may, within 1 year after a determination is made under paragraph (3), improve the collection of loans described in section 1078(a)(1) of this title, so that the application of paragraph (3) would be a hardship to that institution, or

(B) the termination of the lender's status under paragraph (3) would be a hardship to the present or for prospective students of the eligible institution, after considering the management of that institution, the ability of that institution to improve the collection of loans, the opportunities that institution offers to economically disadvantaged students, and other related factors,

the Secretary shall waive the provisions of paragraph (3) with respect to that institution. Any determination required under this paragraph shall be made by the Secretary prior to the termination of an eligible institution as a lender under the exception of paragraph (3). Whenever the Secretary grants a waiver pursuant to this paragraph, the Secretary shall provide technical assistance to the institution concerned in order to improve the collection rate of such loans.

(5) Disqualification for use of certain incentives

The term ''eligible lender'' does not include any lender that the Secretary determines, after notice and opportunity for a hearing, has after October 17, 1986—

(A) offered, directly or indirectly, points, premiums, payments, or other inducements, to any educational institution or individual in order to secure applicants for loans under this part;

(B) conducted unsolicited mailings to students of student loan application forms, except to students who have previously received loans under this part from such lender;

(C) offered, directly or indirectly, loans under this part as an inducement to a prospective borrower to purchase a policy of insurance or other product; or

(D) engaged in fraudulent or misleading advertising.

(6) Rebate fee requirement

To be an eligible lender under this part, an eligible lender shall pay rebate fees in accordance with section 1078–3(f) of this title.

(e) Line of credit

The term ''line of credit'' means an arrangement or agreement between the lender and the borrower whereby a loan is paid out by the lender to the borrower in annual installments, or whereby the lender agrees to make, in addition to the initial loan, additional loans in subsequent years.

(f) Due diligence

The term ''due diligence'' requires the utilization by a lender, in the servicing and collection of loans insured under this part, of servicing and collection practices at least as extensive and forceful as those generally practiced by financial institutions for the collection of consumer loans.

(g), (h) Repealed. Pub. L. 102–325, title IV, § 427(f), July 23, 1992, 106 Stat. 550

(i) Holder

The term ''holder'' means an eligible lender who owns a loan.

(j) Guaranty agency

The term ''guaranty agency'' means any State or nonprofit private institution or organization with which the Secretary has an agreement under section 1078(b) of this title.

(k) Insurance beneficiary

The term ''insurance beneficiary'' means the insured or its authorized representative assigned in accordance with section 1079(d) of this title.

***(l)* Default**

Except as provided in subsection (m) of this section, the term ''default'' includes only such defaults as have existed for (1) 180 days in the case of a loan which is repayable in monthly installments, or (2) 240 days in the case of a loan which is repayable in less frequent installments.

(m) Cohort default rate

(1) In general

(A) Except as provided in paragraph (2), the term ''cohort default rate'' means, for any fiscal year in which 30 or more current and former students at the institution enter repay-

ment on loans under section 1078, 1078–1,[2] or 1078–8 of this title received for attendance at the institution, the percentage of those current and former students who enter repayment on such loans (or on the portion of a loan made under section 1078–3 of this title that is used to repay any such loans) received for attendance at that institution in that fiscal year who default before the end of the following fiscal year. The Secretary shall require that each guaranty agency that has insured loans for current or former students of the institution afford such institution a reasonable opportunity (as specified by the Secretary) to review and correct errors in the information required to be provided to the Secretary by the guaranty agency for the purposes of calculating a cohort default rate for such institution, prior to the calculation of such rate.

(B) In determining the number of students who default before the end of such fiscal year, the Secretary shall include only loans for which the Secretary or a guaranty agency has paid claims for insurance, and, in considering appeals with respect to cohort default rates pursuant to subsection (a)(3) of this section, exclude any loans which, due to improper servicing or collection, would, as demonstrated by the evidence submitted in support of the institution's timely appeal to the Secretary, result in an inaccurate or incomplete calculation of such cohort default rate.

(C) For any fiscal year in which fewer than 30 of the institution's current and former students enter repayment, the term ''cohort default rate'' means the percentage of such current and former students who entered repayment on such loans (or on the portion of a loan made under section 1078–3 of this title that is used to repay any such loans) in any of the three most recent fiscal years, who default before the end of the fiscal year immediately following the year in which they entered repayment.

(2) Special rules

(A) In the case of a student who has attended and borrowed at more than one school, the student (and such student's subsequent repayment or default) is attributed to each school for attendance at which the student received a loan that entered repayment in the fiscal year.

(B) A loan on which a payment is made by the school, such school's owner, agent, contractor, employee, or any other entity or individual affiliated with such school, in order to avoid default by the borrower, is considered as in default for purposes of this subsection.

(C) Any loan which has been rehabilitated before the end of such following fiscal year is not considered as in default for the purposes of this subsection.

(D) For the purposes of this subsection, a loan made in accordance with section 1078–1[2] of this title (or the portion of a loan made under section 1078–3 of this title that is used to repay a loan made under section 1078–1[2] of this title) shall not be considered to enter repayment until after the borrower has ceased to be enrolled in a course of study leading to a degree or certificate at an eligible institution on at least a half-time basis (as determined by the institution) and ceased to be in a period of forbearance based on such enrollment. Each eligible lender of a loan made under section 1078–1[2] of this title (or a loan made under section 1078–3 of this title a portion of which is used to repay a loan made under section 1078–1[2] of this title) shall provide the guaranty agency with the information necessary to determine when the loan entered repayment for purposes of this subsection, and the guaranty agency shall provide such information to the Secretary.

(3) Regulations to prevent evasions

The Secretary shall prescribe regulations designed to prevent an institution from evading the application to that institution of a default rate determination under this subsection through the use of such measures as branching, consolidation, change of ownership or control, or any similar device.

(4) Collection and reporting of cohort default rates

(A) The Secretary shall collect data from all insurers under this part and shall publish not less often than once every fiscal year a report showing default data for each category of institution, including (i) 4-year public institutions, (ii) 4-year private institutions, (iii) 2-year public institutions, (iv) 2-year private institutions, (v) 4-year proprietary institutions, (vi) 2-year proprietary institutions, and (vii) less than 2-year proprietary institutions.

(B) The Secretary may designate such additional subcategories within the categories specified in subparagraph (A) as the Secretary deems appropriate.

(C) The Secretary shall publish not less often than once every fiscal year a report showing default data for each institution for which a cohort default rate is calculated under this subsection.

(n) Repealed. Pub. L. 102–325, title IV, § 427(f), July 23, 1992, 106 Stat. 550

***(o)* Economic hardship**

(1) In general

For purposes of this part and part D of this subchapter, a borrower shall be considered to have an economic hardship if—

(A) such borrower is working full-time and is earning an amount which does not exceed the greater of—

(i) the minimum wage rate described in section 206 of title 29; or

(ii) an amount equal to 100 percent of the poverty line for a family of 2 as determined in accordance with section 9902(2) of title 42;

(B) such borrower is working full-time and has a Federal educational debt burden that equals or exceeds 20 percent of such borrower's adjusted gross income, and the difference between such borrower's adjusted gross income minus such burden is less than 220 percent of the greater of—

[2] See References in Text note below.

(i) the annual earnings of an individual earning the minimum wage under section 206 of title 29; or

(ii) the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 9902(2) of title 42) applicable to a family of two; or

(C) such borrower meets such other criteria as are established by the Secretary by regulation in accordance with paragraph (2).

(2) Considerations

In establishing criteria for purposes of paragraph (1)(C), the Secretary shall consider the borrower's income and debt-to-income ratio as primary factors.

(Pub. L. 89–329, title IV, § 435, as added Pub. L. 99–498, title IV, § 402(a), Oct. 17, 1986, 100 Stat. 1408; amended Pub. L. 100–50, § 10(aa), June 3, 1987, 101 Stat. 347; Pub. L. 101–239, title II, §§ 2003(a)(2), 2007(a), Dec. 19, 1989, 103 Stat. 2113, 2120; Pub. L. 101–508, title III, § 3004(a), Nov. 5, 1990, 104 Stat. 1388–26; Pub. L. 101–542, title III, § 301, Nov. 8, 1990, 104 Stat. 2387; Pub. L. 102–26, § 2(a)(1), Apr. 9, 1991, 105 Stat. 123; Pub. L. 102–325, title IV, §§ 416(e)(2), 427(a), (b)(1), (c)–(g), July 23, 1992, 106 Stat. 519, 549, 550; Pub. L. 103–66, title IV, §§ 4046(b)(1), 4106(b), Aug. 10, 1993, 107 Stat. 362, 368; Pub. L. 103–208, § 2(c)(55)–(62), Dec. 20, 1993, 107 Stat. 2468, 2469; Pub. L. 103–235, § 1, Apr. 28, 1994, 108 Stat. 381; Pub. L. 103–382, title III, § 357, Oct. 20, 1994, 108 Stat. 3967; Pub. L. 104–208, div. A, title I, § 101(e) [title VI, § 602(b)(1)(A)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–283.)

REFERENCES IN TEXT

The Navajo Community College Act, referred to in subsec. (a)(2)(C)(iii), is Pub. L. 92–189, Dec. 15, 1971, 85 Stat. 646, as amended, which is classified to section 640a et seq. of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 640a of Title 25 and Tables.

The Employee Retirement Income Security Act, referred to in subsec. (d)(1)(B), probably means the Employee Retirement Income Security Act of 1974, Pub. L. 93–406, Sept. 2, 1974, 88 Stat. 829, as amended, which is classified principally to chapter 18 (§ 1001 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 29 and Tables.

Section 1078–1 of this title, referred to in subsecs. (a)(3)(B), (d)(1)(G), and (m)(1)(A), (2)(D), was repealed by Pub. L. 103–66, title IV, § 4047(b)–(d), Aug. 10, 1993, 107 Stat. 364, eff. July 1, 1994, except with respect to loans provided under that section as it existed prior to Aug. 10, 1993.

Public Law 499, Eighty-first Congress (64 Stat. 98 (1950)), referred to in subsec. (d)(1)(I), is act May 3, 1950, ch. 152, 64 Stat. 98, known as the Rural Rehabilitation Corporation Trust Liquidation Act, which was classified to sections 440 to 444 of Title 40, Public Buildings, Property, and Works and as notes set out under section 1001 of Title 7, Agriculture, and section 440 of Title 40, and was omitted from the Code.

PRIOR PROVISIONS

A prior section 1085, Pub. L. 89–329, title IV, § 435, Nov. 8, 1965, 79 Stat. 1247; Pub. L. 89–698, title II, § 204, Oct. 29, 1966, 80 Stat. 1072; Pub. L. 90–575, title I, §§ 116(a), 118(a), Oct. 16, 1968, 82 Stat. 1023, 1026; Pub. L. 94–482, title I, § 127(a), Oct. 12, 1976, 90 Stat. 2130; Pub. L. 95–43, § 1(a)(35), (36), June 15, 1977, 91 Stat. 216; Pub. L. 96–374, title IV, §§ 413(e), 421(e)(2), title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1418, 1432, 1503; Pub. L. 99–272, title XVI, §§ 16017(b)(2), 16020, Apr. 7, 1986, 100 Stat. 347, 349, defined terms used in this part, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1996—Subsec. (d)(1)(F). Pub. L. 104–208, § 101(e) [title VI, § 602(b)(1)(A)(i)], inserted ''or the Holding Company of the Student Loan Marketing Association, including any subsidiary of the Holding Company, created pursuant to section 1087–3 of this title,'' after ''Student Loan Marketing Association''.

Subsec. (d)(1)(G). Pub. L. 104–208, § 101(e) [title VI, § 602(b)(1)(A)(ii)], inserted ''or the Holding Company of the Student Loan Marketing Association, including any subsidiary of the Holding Company, created pursuant to section 1087–3 of this title'' after ''Student Loan Marketing Association''.

1994—Subsec. (a)(2)(C). Pub. L. 103–235 substituted ''July 1, 1998'' for ''July 1, 1994''.

Subsec. (*o*)(1). Pub. L. 103–382, § 357(1)–(3), struck out ''or'' at end of subpar. (A), added subpar. (B), and redesignated former subpar. (B) as (C).

Subsec. (*o*)(2). Pub. L. 103–382, § 357(4), substituted ''(1)(C)'' for ''(1)(B)''.

1993—Subsec. (a)(3). Pub. L. 103–208, § 2(c)(55), added par. (3).

Subsec. (d)(1). Pub. L. 103–66, § 4106(b)(1), in par. (1) substituted ''through (6)'' for ''through (5)'' in introductory provisions.

Subsec. (d)(2). Pub. L. 103–208, § 2(c)(57), realigned margins of closing provisions.

Subsec. (d)(2)(D). Pub. L. 103–208, § 2(c)(56), substituted ''lender;'' for ''lender; and''.

Subsec. (d)(3). Pub. L. 103–208, § 2(c)(58), substituted ''subsection (m)'' for ''subsection (*o*)''.

Subsec. (d)(6). Pub. L. 103–66, § 4106(b)(2), added par. (6).

Subsec. (m)(1). Pub. L. 103–66, § 4046(b)(1)(C), which directed the insertion in par. (1)(D) of ''(or the portion of a loan made under section 1078–3 of this title that is used to repay a loan made under such section)'' after ''section 1078–1 of this title'' the first place it appears, and ''(or a loan made under section 1078–3 of this title a portion of which is used to repay a loan made under such section)'' after ''section 1078–1 of this title'' the second place it appears, could not be executed because subsec. (m)(1) does not contain a subpar. (D).

Subsec. (m)(1)(A). Pub. L. 103–208, § 2(c)(60)(A), inserted at end ''The Secretary shall require that each guaranty agency that has insured loans for current or former students of the institution afford such institution a reasonable opportunity (as specified by the Secretary) to review and correct errors in the information required to be provided to the Secretary by the guaranty agency for the purposes of calculating a cohort default rate for such institution, prior to the calculation of such rate.''

Pub. L. 103–208, § 2(c)(59), substituted ''section 1078, 1078–1, or 1078–8'' for ''section 1078 or 1078–1''.

Pub. L. 103–66, § 4046(b)(1)(A), inserted ''(or on the portion of a loan made under section 1078–3 of this title that is used to repay any such loans)'' after ''on such loans''.

Subsec. (m)(1)(B). Pub. L. 103–208, § 2(c)(60)(B), substituted ''and, in considering appeals with respect to cohort default rates pursuant to subsection (a)(3) of this section, exclude any loans which, due to improper servicing or collection, would, as demonstrated by the evidence submitted in support of the institution's timely appeal to the Secretary, result in an inaccurate or incomplete calculation of such cohort default rate.'' for ''and, in calculating the cohort default rate, exclude any loans which, due to improper servicing or collection, would result in an inaccurate or incomplete calculation of the cohort default rate.''

Subsec. (m)(1)(C). Pub. L. 103–66, § 4046(b)(1)(B), inserted ''(or on the portion of a loan made under section 1078–3 of this title that is used to repay any such loans)'' after ''on such loans''.

Subsec. (m)(2)(D). Pub. L. 103–208, §2(c)(61), inserted ''(or the portion of a loan made under section 1078–3 of this title that is used to repay a loan made under section 1078–1 of this title)'' after ''in accordance with section 1078–1 of this title'', and ''(or a loan made under section 1078–3 of this title a portion of which is used to repay a loan made under section 1078–1 of this title)'' after ''a loan made under section 1078–1 of this title''.

Subsec. (m)(4). Pub. L. 103–208, §2(c)(62), added par. (4).

1992—Subsec. (a)(1). Pub. L. 102–325, §427(a)(1), added par. (1) and struck out former par. (1) which read as follows: ''Subject to subsection (n) of this section, the term 'eligible institution' means—

''(A) an institution of higher education;

''(B) a vocational school; or

''(C) with respect to students who are nationals of the United States, an institution outside the United States which is comparable to an institution of higher education or to a vocational school and which has been approved by the Secretary for the purpose of this part,

except that such term does not include any such institution or school which employs or uses commissioned salesmen to promote the availability of any loan program described in section 1078(a)(1), 1078–1, or 1078–2 of this title at that institution or school.''

Subsec. (a)(2). Pub. L. 102–325, §427(a)(3), struck out ''and'' at end of subpar. (B)(i), substituted ''fiscal year 1993; and'' for ''any succeeding fiscal year.'' in subpar. (B)(ii), and added subpar. (B)(iii).

Pub. L. 102–325, §427(a)(1), (2), redesignated par. (3) as (2) and struck out former par. (2) which required Secretary to establish criteria for qualifying foreign medical schools as ''eligible institutions''.

Subsec. (a)(3). Pub. L. 102–325, §427(a)(2), redesignated par. (3) as (2).

Subsec. (b). Pub. L. 102–325, §427(b)(1), struck out subsec. (b) which defined ''institution of higher education''. See section 1088(a) of this title.

Subsec. (c). Pub. L. 102–325, §427(c), struck out subsec. (c) which defined ''vocational school''.

Subsec. (d)(1)(A). Pub. L. 102–325, §427(d)(1), in introductory provisions, struck out ''a trust company,'' after ''stock savings bank,'' and in cl. (ii), inserted at end of subcl. (I) ''or a bank which is subject to examination and supervision by an agency of the United States, makes student loans as a trustee pursuant to an express trust, operated as a lender under this part prior to January 1, 1975, and which meets the requirements of this provision prior to July 23, 1992, or'' and substituted a semicolon for ''or (III) it is a trust company which makes student loans as a trustee pursuant to an express trust and which operated as a lender under this part prior to January 1, 1981;''.

Subsec. (d)(2)(E), (F). Pub. L. 102–325, §427(d)(2), added subpars. (E) and (F).

Subsec. (f). Pub. L. 102–325, §427(e), inserted ''servicing and'' before ''collection practices''.

Subsecs. (g), (h). Pub. L. 102–325, §427(f), struck out subsec. (g) which defined ''temporarily totally disabled'' and subsec. (h) which defined ''parental leave''.

Subsec. (m). Pub. L. 102–325, §427(g), amended subsec. (m) generally, revising and restating as pars. (1) to (3) provisions formerly contained in a single paragraph.

Subsec. (n). Pub. L. 102–325, §427(f), struck out subsec. (n) which related to impact of loss of accreditation on certification or recertification as an eligible institution.

Subsec. (*o*). Pub. L. 102–325, §416(e)(2), added subsec. (*o*).

1991—Subsec. (c)(1). Pub. L. 102–26 substituted ''or who are beyond the age of compulsory school attendance in the State in which the institution is located'' for ''and who have the ability to benefit (as determined by the institution under section 1088(d) of this title) from the training offered by such institution;''.

1990—Subsec. (a)(3). Pub. L. 101–508 added par. (3).

Subsec. (*l*). Pub. L. 101–542, §301(1), substituted ''Except as provided in subsection (m) of this section, the term'' for ''The term''.

Subsec. (m). Pub. L. 101–542, §301(2), inserted after first sentence ''In determining the number of students who default before the end of such fiscal year, the Secretary shall include only loans for which the Secretary or a guaranty agency has paid claims for insurance, and, in calculating the cohort default rate, exclude any loans which, due to improper servicing or collection, would result in an inaccurate or incomplete calculation of the cohort default rate.''

1989—Subsec. (a)(1). Pub. L. 101–239, §2007(a)(1), substituted ''Subject to subsection (n) of this section, the term'' for ''The term''.

Subsec. (m). Pub. L. 101–239, §2003(a)(2), added subsec. (m).

Subsec. (n). Pub. L. 101–239, §2007(a)(2), added subsec. (n).

1987—Subsec. (b)(3). Pub. L. 100–50, §10(aa)(1), inserted '', or in the case of a hospital or health care facility, which provides training of not less than one year for graduates of accredited health professions programs, leading to a degree or certificate upon completion of such training'' before semicolon at end.

Subsec. (d)(1)(J). Pub. L. 100–50, §10(aa)(2), added subpar. (J).

Subsec. (d)(2). Pub. L. 100–50, §10(aa)(3), added subpars. (C) and (D) and inserted concluding provision that the requirements of subpars. (C) and (D) not apply with respect to loans made, and loan commitments made, after Oct. 17, 1986, and prior to July 1, 1987.

Subsec. (g)(2). Pub. L. 100–50, §10(aa)(4), added par. (2) and struck out former par. (2) which read as follows: ''Such term when used with respect to the disabled dependent of a single parent borrower means a dependent who, by reason of injury or illness, cannot be expected to be able to attend school or to be gainfully employed during a period of injury or illness of not less than 3 months and who during such period requires continuous nursing or similar services.''

Subsec. (h). Pub. L. 100–50, §10(aa)(5), struck out ''Definition of'' before ''Parental'' in heading.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–208 effective on reorganization effective date as defined in section 1087–3(h) of this title, see section 101(e) [title VI, §602(b)(1)(B)] of Pub. L. 104–208, set out as a note under section 1078–3 of this title.

EFFECTIVE DATE OF 1993 AMENDMENTS

Amendments by section 2(c)(55), (60)(B) of Pub. L. 103–208 applicable with respect to determination (and appeals from determinations) of cohort default rates for fiscal year 1989 and any succeeding fiscal year, amendments by section 2(c)(56)–(58), (61) of Pub. L. 103–208 effective, except as otherwise provided, as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, amendment by section 2(c)(59) of Pub. L. 103–208 effective on and after 30 days after Dec. 20, 1993, amendment by section 2(c)(60)(A) of Pub. L. 103–208 effective on and after Oct. 1, 1994, and amendment by section 2(c)(62) effective on and after Dec. 20, 1993, see section 5(a), (b)(2), (3), (7), (8) of Pub. L. 103–208, set out as a note under section 1003 of this title.

Amendment by section 4046(b)(1) of Pub. L. 103–66 effective July 1, 1994, see section 4046(c) of Pub. L. 103–66, set out as a note under section 1078–3 of this title.

EFFECTIVE DATE OF 1991 AMENDMENT

Section 2(d)(1) of Pub. L. 102–26 provided that: ''The amendments made by this section [amending this section and sections 1078–1, 1088, 1091, 1094, and 1141 of this title] shall apply to any grant, loan, or work assistance to cover the cost of instruction for periods of enrollment beginning on or after July 1, 1991.''

EFFECTIVE DATE OF 1990 AMENDMENT

Section 3004(d) of Pub. L. 101–508 provided that: ''The amendments made by this section [amending this section, section 1078 of this title, and provisions set out as

a note under section 1078–1 of this title] shall be effective July 1, 1991, except that the amendment made by subsection (b) [amending section 1078 of this title] shall be effective upon enactment.''

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

EFFECTIVE DATE

Section effective Oct. 17, 1986, with subsec. (d)(5) of this section effective 30 days after Oct. 17, 1986, see section 402(b) of Pub. L. 99–498, set out as a note under section 1071 of this title.

DEFINITION OF INSTITUTION OF HIGHER EDUCATION

Section 427(b)(2) of Pub. L. 102–325 provided that: ''With respect to reference in any other provision of law to the definition of institution of higher education contained in section 435(b) of the Act [former 20 U.S.C. 1085(b)], such provision shall be deemed to refer to section 481(a) of the Act [20 U.S.C. 1088(a)].''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1011a, 1071, 1074, 1075, 1077, 1078, 1078–3, 1078–10, 1080, 1082, 1087–2, 1087c, 1087e, 1087dd, 1099a–3, 2341a, 2394a, 2404 of this title; title 2 section 1602; title 11 section 362; title 25 section 3324.

§ 1086. District of Columbia student loan insurance program

(a) Authority

The government of the District of Columbia is authorized (1) to establish a student loan insurance program which meets the requirements of this part for a State loan insurance program in order to enter into agreements with the Secretary for the purposes of this subchapter and part C of subchapter I of chapter 34 of title 42, (2) to enter into such agreements with the Secretary, (3) to use amounts appropriated for the purposes of this section to establish a fund for such purposes and for expenses in connection therewith, and (4) to accept and use donations for the purposes of this section.

(b) Binding effect on minors

Notwithstanding the provisions of any applicable law, if the borrower, on any loan insured under the program established pursuant to this section, is a minor, any otherwise valid vote or other written agreement executed by him for the purposes of such loan shall create a binding obligation.

(c) Appropriations authorized

There are authorized to be appropriated such amounts as may be necessary for the purposes of this section.

(Pub. L. 89–329, title IV, § 436, as added Pub. L. 99–498, title IV, § 402(a), Oct. 17, 1986, 100 Stat. 1413.)

CODIFICATION

Section is also set out in D.C. Code, § 1–358.

PRIOR PROVISIONS

A prior section 1086, Pub. L. 89–329, title IV, § 436, as added Pub. L. 89–752, § 12, Nov. 3, 1966, 80 Stat. 1244; amended Pub. L. 90–575, title I, § 116(b)(5), Oct. 16, 1968, 82 Stat. 1024; Pub. L. 94–482, title I, § 127(a), Oct. 12, 1976, 90 Stat. 2132; Pub. L. 96–374, title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1503, related to a District of Columbia student loan insurance program, prior to the general revision of this part by Pub. L. 99–498.

§ 1087. Repayment by Secretary of loans of bankrupt, deceased, or disabled borrowers; treatment of borrowers attending closed schools or falsely certified as eligible to borrow

(a) Repayment in full for death and disability

If a student borrower who has received a loan described in subparagraph (A) or (B) of section 1078(a)(1) of this title dies or becomes permanently and totally disabled (as determined in accordance with regulations of the Secretary), then the Secretary shall discharge the borrower's liability on the loan by repaying the amount owed on the loan.

(b) Payment of claims on loans in bankruptcy

The Secretary shall pay to the holder of a loan described in section 1078(a)(1)(A) or (B), 1078–1,[1] 1078–2, 1078–3, or 1078–8 of this title, the amount of the unpaid balance of principal and interest owed on such loan—

(1) when the borrower files for relief under chapter 12 or 13 of title 11;

(2) when the borrower who has filed for relief under chapter 7 or 11 of such title commences an action for a determination of dischargeability under section 523(a)(8)(B) of such title; or

(3) for loans described in section 523(a)(8)(A) of such title, when the borrower files for relief under chapter 7 or 11 of such title.

(c) Discharge

(1) In general

If a borrower who received, on or after January 1, 1986, a loan made, insured, or guaranteed under this part and the student borrower, or the student on whose behalf a parent borrowed, is unable to complete the program in which such student is enrolled due to the closure of the institution or if such student's eligibility to borrow under this part was falsely certified by the eligible institution, then the Secretary shall discharge the borrower's liability on the loan (including interest and collection fees) by repaying the amount owed on the loan and shall subsequently pursue any claim available to such borrower against the institution and its affiliates and principals or settle the loan obligation pursuant to the financial responsibility authority under subpart 3 of part G of this subchapter.

(2) Assignment

A borrower whose loan has been discharged pursuant to this subsection shall be deemed to have assigned to the United States the right to a loan refund up to the amount discharged against the institution and its affiliates and principals.

(3) Eligibility for additional assistance

The period of a student's attendance at an institution at which the student was unable to complete a course of study due to the closing of the institution shall not be considered for purposes of calculating the student's period of

[1] See References in Text note below.

eligibility for additional assistance under this subchapter and part C of subchapter I of chapter 34 of title 42.

(4) Special rule

A borrower whose loan has been discharged pursuant to this subsection shall not be precluded from receiving additional grants, loans, or work assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 for which the borrower would be otherwise eligible (but for the default on such discharged loan). The amount discharged under this subsection shall be treated the same as loans under section 1087ee(a)(5) of this title.

(5) Reporting

The Secretary shall report to credit bureaus with respect to loans which have been discharged pursuant to this subsection.

(d) Repayment of loans to parents

If a student on whose behalf a parent has received a loan described in section 1078–2 of this title dies, then the Secretary shall discharge the borrower's liability on the loan by repaying the amount owed on the loan.

(Pub. L. 89–329, title IV, § 437, as added Pub. L. 99–498, title IV, § 402(a), Oct. 17, 1986, 100 Stat. 1414; amended Pub. L. 102–325, title IV, § 428, July 23, 1992, 106 Stat. 551; Pub. L. 103–208, § 2(c)(63)–(65), Dec. 20, 1993, 107 Stat. 2469.)

REFERENCES IN TEXT

Section 1078–1 of this title, referred to in subsec. (b), was repealed by Pub. L. 103–66, title IV, § 4047(b)–(d), Aug. 10, 1993, 107 Stat. 364, eff. July 1, 1994, except with respect to loans provided under that section as it existed prior to Aug. 10, 1993.

PRIOR PROVISIONS

A prior section 1087, Pub. L. 89–329, title IV, § 437, as added Pub. L. 90–575, title I, § 113(a), Oct. 16, 1968, 82 Stat. 1020; amended Pub. L. 92–318, title I, § 132D(a), June 23, 1972, 86 Stat. 263; Pub. L. 94–482, title I, § 127(a), Oct. 12, 1976, 90 Stat. 2133; Pub. L. 96–374, title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1503, related to repayment of loans by Secretary, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1993—Subsec. (b). Pub. L. 103–208, § 2(c)(63), amended heading and text of subsec. (b) generally. Prior to amendment, text read as follows: ''If the collection of a loan described in subparagraph (A) or (B) of section 1078(a)(1) of this title or sections 1078–1, 1078–2, 1078–3, or 1078–8 of this title is stayed in any action under title 11, the Secretary shall repay the unpaid balance of principal and interest owed on the loan.''

Subsec. (c)(1). Pub. L. 103–208, § 2(c)(64), substituted ''If a borrower'' for ''If a student borrower'', ''under this part and the student borrower, or the student on whose behalf a parent borrowed, is unable'' for ''under this part is unable'', and ''in which such student is enrolled'' for ''in which the borrower is enrolled''.

Subsec. (c)(4). Pub. L. 103–208, § 2(c)(65), inserted at end ''The amount discharged under this subsection shall be treated the same as loans under section 1087ee(a)(5) of this title.''

1992—Pub. L. 102–325 amended section generally, substituting subsecs. (a) to (d) for former subsecs. (a) and (b) which related to repayment by Secretary of loans of bankrupt, deceased, or disabled borrowers.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1003 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1071, 1075, 1077, 1078, 1080a, 1092b, 1099c of this title.

§ 1087–0. Debt management options

(a) Program authority

For the purpose of offering additional debt management options, the Secretary is authorized, to the extent of funds appropriated—

(1) to acquire from eligible holders the notes of borrowers under this part (other than section 1078–2 of this title) who are considered to be at high risk of default and who submit a request to the Secretary for an alternative repayment option;

(2) to offer such borrowers one or more alternative repayment options, which may include graduated or extended repayment and which shall, subject to subsection (b)(2) of this section, include an income contingent repayment option established in accordance with subsection (b) of this section; and

(3) to enter into contracts or other agreements with private firms or other agencies of the Government as necessary to carry out the purposes of this section.

(b) Income contingent repayment option

(1) Regulations

For the purposes of subsection (a)(2) of this section, the Secretary shall, by regulation, establish the terms and conditions for an income contingent repayment option. Such regulations shall specify the schedules under which income will be assessed for repayment of loans, shall permit the discharge of the remaining obligation on the loan not later than 25 years after the commencement of income contingent repayment, and may provide for the potential collection of amounts in excess of the principal and interest owed on the original loan or loans.

(2) Collection mechanism determination required

Such regulations shall not be effective unless the Secretary publishes a finding that—

(A) the Secretary has, pursuant to subsection (a)(3) of this section, established a collection mechanism that will provide a high degree of certainty that collections will be made in accordance with the repayment option established under paragraph (1); and

(B) the use of such repayment option and collection mechanism will result in an increase in the net amount the Government will collect.

(c) Determinations of high risk of default

In making determinations under subsection (a)(1) of this section, the Secretary shall—

(1) consider the ratio of part B debt repayment to income; or

(2) establish, by regulation, such other indicators of high risk as the Secretary considers appropriate.

(d) Loan limitation

Not more than $200,000,000 may be used to acquire loans under this section in any fiscal year.

(Pub. L. 89–329, title IV, § 437A, as added Pub. L. 102–325, title IV, § 429, July 23, 1992, 106 Stat. 552; amended Pub. L. 103–208, § 2(c)(66)–(68), Dec. 20, 1993, 107 Stat. 2469.)

REFERENCES IN TEXT

Part B, referred to in subsec. (c)(1), means part B (§ 1071 et seq.) of this subchapter.

AMENDMENTS

1993—Subsec. (a). Pub. L. 103–208, § 2(c)(66), struck out ''under subsection (d) of this section'' after ''appropriated'' in introductory provisions.

Subsec. (c)(2). Pub. L. 103–208, § 2(c)(67), inserted a period at end.

Subsec. (e). Pub. L. 103–208, § 2(c)(68), struck out heading and text of subsec. (e). Text read as follows: ''There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 1994 and for each of the 4 succeeding fiscal years.''

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1003 of this title.

§ 1087–1. Special allowances

(a) Findings

In order to assure (1) that the limitation on interest payments or other conditions (or both) on loans made or insured under this part, do not impede or threaten to impede the carrying out of the purposes of this part or do not cause the return to holders of loans to be less than equitable, (2) that incentive payments on such loans are paid promptly to eligible lenders, and (3) that appropriate consideration of relative administrative costs and money market conditions is made in setting the quarterly rate of such payments, the Congress finds it necessary to establish an improved method for the determination of the quarterly rate of the special allowances on such loans, and to provide for a thorough, expeditious, and objective examination of alternative methods for the determination of the quarterly rate of such allowances.

(b) Computation and payment

(1) Quarterly payment based on unpaid balance

A special allowance shall be paid for each of the 3-month periods ending March 31, June 30, September 30, and December 31 of every year and the amount of such allowance paid to any holder with respect to any 3-month period shall be a percentage of the average unpaid balance of principal (not including unearned interest added to principal) of all eligible loans held by such holder during such period.

(2) Rate of special allowance

(A) Subject to subparagraphs (B), (C), (D), (E), and (F) and paragraph (4), the special allowance paid pursuant to this subsection on loans shall be computed (i) by determining the average of the bond equivalent rates of 91-day Treasury bills auctioned for such 3-month period, (ii) by subtracting the applicable interest rate on such loans from such average, (iii) by adding 3.10 percent to the resultant percent, and (iv) by dividing the resultant percent by 4. If such computation produces a number less than zero, such loans shall be subject to section 1077a(f) of this title.

(B)(i) The quarterly rate of the special allowance for holders of loans which were made or purchased with funds obtained by the holder from the issuance of obligations, the income from which is exempt from taxation under title 26 shall be one-half the quarterly rate of the special allowance established under subparagraph (A), except that, in determining the rate for the purpose of this division, subparagraph (A)(iii) shall be applied by substituting ''3.5 percent'' for ''3.10 percent''. Such rate shall also apply to holders of loans which were made or purchased with funds obtained by the holder from collections or default reimbursements on, or interests or other income pertaining to, eligible loans made or purchased with funds described in the preceding sentence of this subparagraph or from income on the investment of such funds. This subparagraph shall not apply to loans which were made or insured prior to October 1, 1980.

(ii) The quarterly rate of the special allowance set under division (i) of this subparagraph shall not be less than 9.5 percent minus the applicable interest rate on such loans, divided by 4.

(iii) No special allowance may be paid under this subparagraph unless the issuer of such obligations complies with subsection (d) of this section.

(iv) Notwithstanding clauses (i) and (ii), the quarterly rate of the special allowance for holders of loans which are financed with funds obtained by the holder from the issuance of obligations originally issued on or after October 1, 1993, the income from which is excluded from gross income under title 26, shall be the quarterly rate of the special allowance established under subparagraph (A), (E), or (F), as the case may be. Such rate shall also apply to holders of loans which were made or purchased with funds obtained by the holder from collections or default reimbursements on, or interest or other income pertaining to, eligible loans made or purchased with funds described in the preceding sentence of this subparagraph or from income on the investment of such funds.

(C)(i) In the case of loans made before October 1, 1992, pursuant to section 1078–1[1] or 1078–2 of this title for which the interest rate is determined under section 1077a(c)(4) of this title, a special allowance shall not be paid unless the rate determined for any 12-month period under subparagraph (B) of such section exceeds 12 percent.

(ii) In the case of loans disbursed on or after October 1, 1992, pursuant to section 1078–1[1] or 1078–2 of this title for which the interest rate is determined under section 1077a(c)(4) of this title, a special allowance shall not be paid unless the rate determined for any 12-month period under section 1077a(c)(4)(B) of this title exceeds—

(I) 11 percent in the case of a loan under section 1078–1[1] of this title; or

[1] See References in Text note below.

(II) 10 percent in the case of a loan under section 1078–2 of this title.

(D)(i) In the case of loans made or purchased directly from funds loaned or advanced pursuant to a qualified State obligation, subparagraph (A)(iii) shall be applied by substituting ''3.5 percent'' for ''3.10 percent''.

(ii) For the purpose of division (i) of this subparagraph, the term ''qualified State obligation'' means—

(I) an obligation of the Maine Educational Loan Marketing Corporation to the Student Loan Marketing Association pursuant to an agreement entered into on January 31, 1984; or

(II) an obligation of the South Carolina Student Loan Corporation to the South Carolina National Bank pursuant to an agreement entered into on July 30, 1986.

(E) In the case of any loan for which the applicable rate of interest is described in section 1077a(g)(2) of this title, subparagraph (A)(iii) shall be applied by substituting ''2.5 percent'' for ''3.10 percent''.

(F) Subject to paragraph (4), the special allowance paid pursuant to this subsection on loans for which the applicable rate of interest is determined under section 1077a(h) of this title shall be computed (i) by determining the applicable bond equivalent rate of the security with a comparable maturity, as established by the Secretary, (ii) by subtracting the applicable interest rates on such loans from such applicable bond equivalent rate, (iii) by adding 1.0 percent to the resultant percent, and (iv) by dividing the resultant percent by 4. If such computation produces a number less than zero, such loans shall be subject to section 1077a(f) of this title.

(3) Contractual right of holders to special allowance

The holder of an eligible loan shall be deemed to have a contractual right against the United States, during the life of such loan, to receive the special allowance according to the provisions of this section. The special allowance determined for any such 3-month period shall be paid promptly after the close of such period, and without administrative delay after receipt of an accurate and complete request for payment, pursuant to procedures established by regulations promulgated under this section.

(4) Penalty for late payment

(A) If payments of the special allowances payable under this section or of interest payments under section 1078(a) of this title with respect to a loan have not been made within 30 days after the Secretary has received an accurate, timely, and complete request for payment thereof, the special allowance payable to such holder shall be increased by an amount equal to the daily interest accruing on the special allowance and interest benefits payments due the holder.

(B) Such daily interest shall be computed at the daily equivalent rate of the sum of the special allowance rate computed pursuant to paragraph (2) and the interest rate applicable to the loan and shall be paid for the later of (i) the 31st day after the receipt of such request for payment from the holder, or (ii) the 31st day after the final day of the period or periods covered by such request, and shall be paid for each succeeding day until, and including, the date on which the Secretary authorizes payment.

(C) For purposes of reporting to the Congress the amounts of special allowances paid under this section, amounts of special allowances paid pursuant to this paragraph shall be segregated and reported separately.

(5) "Eligible loan" defined

As used in this section, the term ''eligible loan'' means a loan—

(A)(i) on which a portion of the interest is paid on behalf of the student and for the student's account to the holder of the loan under section 1078(a) of this title;

(ii) which is made under section 1078–1,[2] 1078–2, 1078–3, 1078–8, or 1087–2(*o*) of this title; or

(iii) which was made prior to October 1, 1981; and

(B) which is insured under this part, or made under a program covered by an agreement under section 1078(b) of this title.

As used in this section, the term ''eligible loan'' includes all loans subject to section 1078–9 of this title.

(6) Regulation of time and manner of payment

The Secretary shall pay the holder of an eligible loan, at such time or times as are specified in regulations, a special allowance prescribed pursuant to this subsection subject to the condition that such holder shall submit to the Secretary, at such time or times and in such a manner as the Secretary may deem proper, such information as may be required by regulation for the purpose of enabling the Secretary to carry out his functions under this section and to carry out the purposes of this section.

(7) Use of average quarterly balance

The Secretary shall permit lenders to calculate interest benefits and special allowance through the use of the average quarterly balance method until July 1, 1988.

(c) Origination fees from students

(1) Deduction from interest and special allowance subsidies

Notwithstanding subsection (b) of this section, the total amount of interest and special allowance payable under section 1078(a)(3)(A) of this title and subsection (b) of this section, respectively, to any holder shall be reduced by the Secretary by the amount which the lender is authorized to charge as an origination fee in accordance with paragraph (2) of this subsection. If the total amount of interest and special allowance payable under section 1078(a)(3)(A) of this title and subsection (b) of this section, respectively, is less than the amount the lender was authorized to charge

[2] See References in Text note below.

borrowers for origination fees in that quarter, the Secretary shall deduct the excess amount from the subsequent quarters' payments until the total amount has been deducted.

(2) Amount of origination fees

Subject to paragraph (6) of this subsection, with respect to any loan (other than loans made under sections 1078–3 and 1087–2(*o*) of this title) for which a completed note or other written evidence of the loan was sent or delivered to the borrower for signing on or after 10 days after August 13, 1981, each eligible lender under this part is authorized to charge the borrower an origination fee in an amount not to exceed 3.0 percent of the principal amount of the loan, to be deducted proportionately from each installment payment of the proceeds of the loan prior to payment to the borrower.

(3) Relation to applicable interest

Such origination fee shall not be taken into account for purposes of determining compliance with section 1077a of this title.

(4) Disclosure required

The lender shall disclose to the borrower the amount and method of calculating the origination fee.

(5) Prohibition on department compelling origination fee collections by lenders

Nothing in this subsection shall be construed to permit the Secretary to require any lender that is making loans that are insured or guaranteed under this part, but for which no amount will be payable for interest under section 1078(a)(3)(A) of this title or for special allowances under subsection (b) of this section, to collect any origination fee or to submit the sums collected as origination fees to the United States. The Secretary shall, not later than January 1, 1987, return to any such lender any such sums collected before October 17, 1986, together with interest thereon.

(6) SLS and PLUS loans

With respect to any loans made under section 1078–1[3] or 1078–2 of this title on or after October 1, 1992, each eligible lender under this part shall charge the borrower an origination fee of 3.0 percent of the principal amount of the loan, to be deducted proportionately from each installment payment of the proceeds of the loan prior to payments to the borrower.

(7) Distribution of origination fees

All origination fees collected pursuant to this section on loans authorized under section 1078–1[3] or 1078–2 of this title shall be paid to the Secretary by the lender and deposited in the fund authorized under section 1081 of this title.

(d) Loan fees from lenders

(1) Deduction from interest and special allowance subsidies

Notwithstanding subsection (b) of this section, the Secretary shall reduce the total amount of interest and special allowance payable under section 1078(a)(3)(A) of this title and subsection (b) of this section, respectively, to any holder of a loan by a loan fee in an amount determined in accordance with paragraph (2) of this subsection. If the total amount of interest and special allowance payable under section 1078(a)(3)(A) of this title and subsection (b) of this section, respectively, is less than the amount of such loan fee, then the Secretary shall deduct such excess amount from subsequent quarters' payments until the total amount has been deducted.

(2) Amount of loan fees

With respect to any loan under this part for which the first disbursement was made on or after October 1, 1993, the amount of the loan fee which shall be deducted under paragraph (1) shall be equal to 0.50 percent of the principal amount of the loan.

(3) Distribution of loan fees

The Secretary shall deposit all fees collected pursuant to paragraph (3) into the insurance fund established in section 1081 of this title.

(e) Lending from proceeds of tax exempt obligations

(1) Plan for doing business required

In order for the holders of loans any portion of which were made or purchased with funds obtained by the holder from an Authority issuing obligations, the income from which is exempt from taxation under title 26, to be eligible to receive a special allowance under subsection (b)(2) of this section, the Authority shall submit to the Governor of the State, and to the guaranty agency determined by the Secretary to be the principal guaranty agency for the State, a plan for doing business. The Governor shall, after consultation with the guaranty agency, approve or disapprove the plan within 30 days of the receipt of the proposed plan from the Authority. Such plan shall also be transmitted to the Secretary within 60 days after approval.

(2) Contents of plan

Each such plan shall contain provisions designed to assure that—

(A) no eligible lender in the area served by the Authority will be excluded from participation in the program of the Authority and all eligible lenders may participate in the program on the same terms and conditions if eligible lenders are going to participate in the program;

(B) no director or staff member of the Authority who receives compensation from the Authority may own stock in, or receive compensation from, any agency that would contract to service and collect the loans of the Authority;

(C) student loans will not be purchased from participating lenders at a premium amounting to more than 1 percent of the unpaid principal amount borrowed plus accrued interest to the date of acquisition, but a reasonable loan transfer fee may be paid by the purchaser;

(D) the Authority will, within the limit of funds available and subject to the applicable

[3] See References in Text note below.

State and Federal law, make loans to, or purchase loans incurred by, all eligible students who are residents of, or who attend an eligible institution within, the area served by the Authority;

(E) the Authority has a plan under which the Authority will pursue the development of new lender participation in a continuing program of benefits to students together with assurances of existing lender commitments to the program; and

(F) there will be an annual audit of the Authority by a certified public accounting firm which will include review of compliance by the Authority with the provisions of the plan.

(3) Nondiscrimination

In order for the holders of loans which were made or purchased with funds obtained by the holder from an Authority issuing obligations, the income from which is exempt from taxation under title 26, to be eligible to receive a special allowance under subsection (b)(2) of this section on any such loans, the Authority shall not engage in any pattern or practice which results in a denial of a borrower's access to loans under this part because of the borrower's race, sex, color, religion, national origin, age, handicapped status, income, attendance at a particular eligible institution within the area served by the Authority, length of the borrower's educational program, or the borrower's academic year in school.

(4) Report by the Secretary

The Secretary shall, no later than September 30, 1988, and each succeeding September 30th, submit a report to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate specifying—

(A) the amount of student loan credit provided through the use of tax-exempt obligations for the most recent fiscal year;

(B) an assessment of the impact of the availability of such financing on the availability of student credit in the areas served by the authorities issuing such obligations;

(C) an assessment of the need for additional tax-exempt financing for student credit for the next fiscal year; and

(D) any other information determined by the Secretary to be relevant to the purposes of the report.

(f) Regulations to prevent denial of loans to eligible students

The Secretary shall adopt or amend appropriate regulations pertaining to programs carried out under this part to prevent, where practicable, any practices which the Secretary finds have denied loans to a substantial number of eligible students.

(Pub. L. 89–329, title IV, §438, as added Pub. L. 99–498, title IV, §402(a), Oct. 17, 1986, 100 Stat. 1414; amended Pub. L. 100–50, §10(d)(2), (bb), (cc), June 3, 1987, 101 Stat. 342, 347; Pub. L. 100–369, §7(c), July 18, 1988, 102 Stat. 837; Pub. L. 102–325, title IV, §430, July 23, 1992, 106 Stat. 553; Pub. L. 103–66, title IV, §§4102(a), 4103, 4105, 4111, Aug. 10, 1993, 107 Stat. 366, 367, 368, 370.)

REFERENCES IN TEXT

Section 1078–1 of this title, referred to in subsecs. (b)(2)(C), (5)(A)(ii) and (c)(6), (7), was repealed by Pub. L. 103–66, title IV, §4047(b)–(d), Aug. 10, 1993, 107 Stat. 364, eff. July 1, 1994, except with respect to loans provided under that section as it existed prior to Aug. 10, 1993.

PRIOR PROVISIONS

A prior section 1087–1, Pub. L. 89–329, title IV, §438, as added Pub. L. 92–318, title I, §132E(a), June 23, 1972, 86 Stat. 264; amended Pub. L. 94–482, title I, §127(a), Oct. 12, 1976, 90 Stat. 2133; Pub. L. 95–43, §1(a)(37), June 15, 1977, 91 Stat. 216; Pub. L. 96–49, §5(c)(1), Aug. 13, 1979, 93 Stat. 352; Pub. L. 96–374, title IV, §§420(a), 451(d), title XIII, §1391(a)(1), Oct. 3, 1980, 94 Stat. 1425, 1458, 1503; Pub. L. 97–35, title V, §§532(b)(4), 534(b), 536(a), Aug. 13, 1981, 95 Stat. 452, 454, 455; Pub. L. 98–79, §7(a), (c), Aug. 15, 1983, 97 Stat. 482, 483; Pub. L. 99–272, title XVI, §§16013(d), 16017(b)(3), (c), Apr. 7, 1986, 100 Stat. 340, 347, related to special allowances, prior to the general revision of this part by Pub. L. 99–498.

A prior section 1087–1a, Pub. L. 96–374, title IV, §420(b), Oct. 3, 1980, 94 Stat. 1427, related to eligibility for special allowances covering loans made or purchased with funds obtained from Authorities issuing tax exempt obligations, and established requirement relating to plans for doing business, prior to repeal by Pub. L. 98–79, §7(b), Aug. 15, 1983, 97 Stat. 483. See section 1087–1(d) of this title.

AMENDMENTS

1993—Subsec. (b)(2)(A). Pub. L. 103–66, §4111(1), substituted ''subparagraphs (B), (C), (D), (E), and (F)'' for ''subparagraphs (B), (C), and (D)'' and ''section 1077a(f)'' for ''section 1077a(e)''.

Subsec. (b)(2)(B)(iv). Pub. L. 103–66, §4105, added cl. (iv).

Subsec. (b)(2)(E), (F). Pub. L. 103–66, §4111(2), added subpars. (E) and (F).

Subsec. (c). Pub. L. 103–66, §4102(a)(1), inserted ''from students'' after ''origination fees'' in heading.

Subsec. (c)(2). Pub. L. 103–66, §4102(a)(2)(A), substituted ''sections 1078–3 and 1087–2(*o*)'' for ''sections 1078–1, 1078–2, 1078–3, and 1087–2(*o*)'' and ''3.0 percent'' for ''5 percent''.

Subsec. (c)(6). Pub. L. 103–66, §4102(a)(2)(B), substituted ''3.0 percent'' for ''5 percent''.

Subsecs. (d) to (f). Pub. L. 103–66, §4103, added subsec. (d) and redesignated former subsecs. (d) and (e) as (e) and (f), respectively.

1992—Subsec. (b)(2)(A). Pub. L. 102–325, §430(a)(1), (2), substituted ''3.10'' for ''3.25'' and inserted at end ''If such computation produces a number less than zero, such loans shall be subject to section 1077a(e) of this title.''

Subsec. (b)(2)(B)(i). Pub. L. 102–325, §430(a)(3), substituted ''3.10'' for ''3.25''.

Subsec. (b)(2)(B)(ii). Pub. L. 102–325, §430(a)(4), added cl. (ii) and struck out former cl. (ii) which read as follows: ''The rate set under division (i) shall not be less than (I) 2.5 percent per year in the case of loans for which the applicable interest rate is 7 percent per year, (II) 1.5 percent per year in the case of loans for which the applicable interest rate is 8 percent per year, or (III) 0.5 percent in the case of loans for which the applicable rate is 9 percent per year.''

Subsec. (b)(2)(C). Pub. L. 102–325, §430(a)(5), designated existing provision as cl. (i), inserted ''before October 1, 1992,'' after ''made'', and added cl. (ii).

Subsec. (b)(2)(D)(i). Pub. L. 102–325, §430(a)(6), substituted ''3.10'' for ''3.25''.

Subsec. (b)(5). Pub. L. 102–325, §430(c), inserted closing provision which defined ''eligible loan'' as used in this section to include all loans subject to section 1078–9 of this title.

Subsec. (b)(5)(A)(ii). Pub. L. 102–325, §430(b), inserted ''1078–8,'' after ''1078–3,''.

Subsec. (c)(2). Pub. L. 102–325, §430(d)(1), substituted ''Subject to paragraph (6) of this subsection, with'' for ''With''.

Subsec. (c)(6), (7). Pub. L. 102–325, § 430(d)(2), added pars. (6) and (7).

Subsec. (d)(2)(C). Pub. L. 102–325, § 430(e), struck out ''or discount'' after ''premium''.

1988—Subsecs. (b)(2)(B)(i), (d)(1), (3). Pub. L. 100–369 substituted ''Internal Revenue Code of 1986'' for ''Internal Revenue Code of 1954'', which for purposes of codification was translated as ''title 26'' thus requiring no change in text.

1987—Subsec. (b)(2)(B)(iii). Pub. L. 100–50, § 10(bb)(1), substituted ''subsection (d) of this section'' for ''subsection (c) of this section''.

Subsec. (b)(2)(C). Pub. L. 100–50, § 10(d)(2), substituted ''12 percent'' for ''12.5 percent''.

Subsec. (b)(7). Pub. L. 100–50, § 10(bb)(2), added par. (7).

Subsec. (d)(4)(C). Pub. L. 100–50, § 10(cc), struck out '', as evidenced by the information submitted under paragraph (2)(G) of this subsection'' after ''fiscal year''.

CHANGE OF NAME

Committee on Education and Labor of House of Representatives treated as referring to Committee on Economic and Educational Opportunities of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Economic and Educational Opportunities of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Fifth Congress, Jan. 7, 1997.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by section 4102(a) of Pub. L. 103–66 effective July 1, 1994, see section 4102(d) of Pub. L. 103–66, set out as a note under section 1078 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 applicable with respect to loans for which first disbursement is made on or after Oct. 1, 1992, see section 432(a)(13) of Pub. L. 102–325, set out as a note under section 1078 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

EFFECTIVE DATE

Section effective Oct. 17, 1986, with subsec. (b) of this section effective with respect to loans disbursed on or after 30 days after Oct. 17, 1986, or made to cover the costs of instruction for periods of enrollment beginning on or after 30 days after Oct. 17, 1986, and subsec. (d) of this section effective 30 days after Oct. 17, 1986, see section 402(b) of Pub. L. 99–498, set out as a note under section 1071 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1078, 1078–3, 1078–8, 1082 of this title; title 2 section 906; title 26 sections 144, 148; title 42 section 292e.

§ 1087–2. Student Loan Marketing Association

(a) Purpose

The Congress hereby declares that it is the purpose of this section (1) to establish a private corporation which will be financed by private capital and which will serve as a secondary market and warehousing facility for student loans, including loans which are insured by the Secretary under this part or by a guaranty agency, and which will provide liquidity for student loan investments; (2) in order to facilitate secured transactions involving student loans, to provide for perfection of security interests in student loans either through the taking of possession or by notice filing; and (3) to assure nationwide the establishment of adequate loan insurance programs for students, to provide for an additional program of loan insurance to be covered by agreements with the Secretary.

(b) Establishment

(1) In general

There is hereby created a body corporate to be known as the Student Loan Marketing Association (hereinafter referred to as the ''Association''). The Association shall have succession until dissolved. It shall maintain its principal office in the District of Columbia and shall be deemed, for purposes of venue and jurisdiction in civil actions, to be a resident and citizen thereof. Offices may be established by the Association in such other place or places as it may deem necessary or appropriate for the conduct of its business.

(2) Exemption from State and local taxes

The Association, including its franchise, capital, reserves, surplus, mortgages, or other security holdings, and income shall be exempt from all taxation now or hereafter imposed by any State, territory, possession, Commonwealth, or dependency of the United States, or by the District of Columbia, or by any county, municipality, or local taxing authority, except that any real property of the Association shall be subject to State, territorial, county, municipal, or local taxation to the same extent according to its value as other real property is taxed.

(3) Appropriations authorized for establishment

There is hereby authorized to be appropriated to the Secretary $5,000,000 for making advances for the purpose of helping to establish the Association. Such advances shall be repaid within such period as the Secretary may deem to be appropriate in light of the maturity and solvency of the Association. Such advances shall bear interest at a rate not less than (A) a rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining period to maturity comparable to the maturity of such advances, adjusted to the nearest one-eighth of 1 percent, plus (B) an allowance adequate in the judgment of the Secretary to cover administrative costs and probable losses. Repayments of such advances shall be deposited into miscellaneous receipts of the Treasury.

(c) Board of Directors

(1) Composition of Board; Chairman

(A) The Association shall have a Board of Directors which shall consist of 21 persons, 7 of whom shall be appointed by the President and shall be representative of the general public. The remaining 14 directors shall be elected by the common stockholders of the Association entitled to vote pursuant to subsection (f) of this section. Commencing with the annual shareholders meeting to be held in 1993—

(i) 7 of the elected directors shall be affiliated with an eligible institution; and

(ii) 7 of the elected directors shall be affiliated with an eligible lender.

(B) The President shall designate 1 of the directors to serve as Chairman.

(2) Terms of appointed and elected members

The directors appointed by the President shall serve at the pleasure of the President and until their successors have been appointed and have qualified. The remaining directors shall each be elected for a term ending on the date of the next annual meeting of the common stockholders of the Association, and shall serve until their successors have been elected and have qualified. Any appointive seat on the Board which becomes vacant shall be filled by appointment of the President. Any elective seat on the Board which becomes vacant after the annual election of the directors shall be filled by the Board, but only for the unexpired portion of the term.

(3) Affiliated members

For the purpose of this subsection, the references to a director ''affiliated with the eligible institution'' or a director ''affiliated with an eligible lender'' means an individual who is, or within 5 years of election to the Board has been, an employee, officer, director, or similar official of—

(A) an eligible institution or an eligible lender;

(B) an association whose members consist primarily of eligible institutions or eligible lenders; or

(C) a State agency, authority, instrumentality, commission, or similar institution, the primary purpose of which relates to educational matters or banking matters.

(4) Meetings and functions of the Board

The Board of Directors shall meet at the call of its Chairman, but at least semiannually. The Board shall determine the general policies which shall govern the operations of the Association. The Chairman of the Board shall, with the approval of the Board, select, appoint, and compensate qualified persons to fill the offices as may be provided for in the bylaws, with such functions, powers, and duties as may be prescribed by the bylaws or by the Board of Directors, and such persons shall be the officers of the Association and shall discharge all such functions, powers, and duties.

(d) Authority of Association

(1) In general

The Association is authorized, subject to the provisions of this section—

(A) pursuant to commitments or otherwise to make advances on the security of, purchase, or repurchase, service, sell or resell, offer participations, or pooled interests or otherwise deal in, at prices and on terms and conditions determined by the Association, student loans which are insured by the Secretary under this part or by a guaranty agency;

(B) to buy, sell, hold, underwrite, and otherwise deal in obligations, if such obligations are issued, for the purpose of making or purchasing insured loans, by a guaranty agency or by an eligible lender in a State described in section 1085(d)(1)(D) or (F) of this title;

(C) to buy, sell, hold, insure, underwrite, and otherwise deal in obligations issued for the purpose of financing or refinancing the construction, reconstruction, renovation, improvement, or purchase at institutions of higher education of any of the following facilities (including the underlying property) and materials (including related equipment, instrumentation, and furnishings) at an eligible institution of higher education:

(i) educational and training facilities;

(ii) housing for students and faculties, dining halls, student unions, and facilities specifically designed to promote fitness and health for students, faculty, and staff or for physical education courses; and

(iii) library facilities, including the acquisition of library materials at institutions of higher education;

except that not more than 30 percent of the value of transactions entered into under this subparagraph shall involve transactions of the types described in clause (ii);

(D) to undertake a program of loan insurance pursuant to agreements with the Secretary under section 1078 of this title, and except with respect to loans under subsection (*o*) of this section or under section 1078–3 of this title, the Secretary may enter into an agreement with the Association for such purpose only if the Secretary determines that (i) eligible borrowers are seeking and unable to obtain loans under this part, and (ii) no guaranty agency is capable of or willing to provide a program of loan insurance for such borrowers; and

(E) to undertake any other activity which the Board of Directors of the Association determines to be in furtherance of the programs of insured student loans authorized under this part or will otherwise support the credit needs of students, except that—

(i) in carrying out all such activities the purpose shall always be to provide secondary market and other support for lending programs offered by other organizations and not to replace or compete with such other programs;

(ii) nothing in this subparagraph (E) shall be deemed to authorize the Association to acquire, own, operate, or control any bank, savings and loan association, savings bank or credit union; and

(iii) not later than 30 days prior to the initial implementation of a program undertaken pursuant to this subparagraph (E), the Association shall advise the Chairman and the Ranking Member on the Committee on Labor and Human Resources of the Senate and the Chairman and the Ranking Member of the Committee on Education and Labor of the House of Representatives in writing of its plans to offer such program and shall provide information relating to the general terms and conditions of such program.

The Association is further authorized to undertake any activity with regard to student

loans which are not insured or guaranteed as provided for in this subsection as it may undertake with regard to insured or guaranteed student loans. Any warehousing advance made on the security of such loans shall be subject to the provisions of paragraph (3) of this subsection to the same extent as a warehousing advance made on the security of insured loans.

(2) Warehousing advances

Any warehousing advance made under paragraph (1)(A) of this subsection shall be made on the security of (A) insured loans, (B) marketable obligations and securities issued, guaranteed, or insured by, the United States, or for which the full faith and credit of the United States is pledged for the repayment of principal and interest thereof, or (C) marketable obligations issued, guaranteed, or insured by any agency, instrumentality, or corporation of the United States for which the credit of such agency, instrumentality, or corporation is pledged for the repayment of principal and interest thereof, in an amount equal to the amount of such advance. The proceeds of any such advance secured by insured loans shall either be invested in additional insured loans or the lender shall provide assurances to the Association that during the period of the borrowing it will maintain a level of insured loans in its portfolio not less than the aggregate outstanding balance of such loans held at the time of the borrowing. The proceeds from any such advance secured by collateral described in clauses (B) and (C) shall be invested in additional insured student loans.

(3) Perfection of security interests in student loans

Notwithstanding the provisions of any State law to the contrary, including the Uniform Commercial Code as in effect in any State, a security interest in insured student loans created on behalf of the Association or any eligible lender as defined in section 1085(a) of this title may be perfected either through the taking of possession of such loans or by the filing of notice of such security interest in such loans in the manner provided by such State law for perfection of security interests in accounts.

(4) Form of securities

Securities issued pursuant to the offering of participations or pooled interests under paragraph (1) of this subsection may be in the form of debt obligations, or trust certificates of beneficial ownership, or both. Student loans set aside pursuant to the offering of participations or pooled interests shall at all times be adequate to ensure the timely principal and interest payments on such securities.

(5) Restrictions on facilities and housing activities

Not less than 75 percent of the aggregate dollar amount of obligations bought, sold, held, insured, underwritten, and otherwise supported in accordance with the authority contained in paragraph (1)(C) shall be obligations which are listed by a nationally recognized statistical rating organization at a rating below the second highest rating of such organization.

(e) Advances to lenders that do not discriminate

The Association, pursuant to such criteria as the Board of Directors may prescribe, shall make advances on security or purchase student loans pursuant to subsection (d) of this section only after the Association is assured that the lender (1) does not discriminate by pattern or practice against any particular class or category of students by requiring that, as a condition to the receipt of a loan, the student or his family maintain a business relationship with the lender, except that this clause shall not apply in the case of a loan made by a credit union, savings and loan association, mutual savings bank, institution of higher education, or any other lender with less than $75,000,000 in deposits, and (2) does not discriminate on the basis of race, sex, color, creed, or national origin.

(f) Stock of the Association

(1) Voting common stock

The Association shall have voting common stock having such par value as may be fixed by its Board of Directors from time to time. Each share of voting common stock shall be entitled to one vote with rights of cumulative voting at all elections of directors.

(2) Number of shares; transferability

The maximum number of shares of voting common stock that the Association may issue and have outstanding at any one time shall be fixed by the Board of Directors from time to time. Any voting common stock issued shall be fully transferable, except that, as to the Association, it shall be transferred only on the books of the Association.

(3) Dividends

To the extent that net income is earned and realized, subject to subsection (g)(2) of this section, dividends may be declared on voting common stock by the Board of Directors. Such dividends as may be declared by the Board of Directors shall be paid to the holders of outstanding shares of voting common stock, except that no such dividends shall be payable with respect to any share which has been called for redemption past the effective date of such call.

(4) Single class of voting common stock

As of the effective date of the Higher Education Amendments of 1992, all of the previously authorized shares of voting common stock and nonvoting common stock of the Association shall be converted to shares of a single class of voting common stock on a share-for-share basis, without any further action on the part of the Association or any holder. Each outstanding certificate for voting or nonvoting common stock shall evidence ownership of the same number of shares of voting stock into which it is converted. All preexisting rights and obligations with respect to any class of common stock of the Association shall be deemed to be rights and obligations with respect to such converted shares.

(g) Preferred stock

(1) Authority of Board

The Association is authorized to issue nonvoting preferred stock having such par value as may be fixed by its Board of Directors from time to time. Any preferred share issued shall be freely transferable, except that, as to the Association, it shall be transferred only on the books of the Association.

(2) Rights of preferred stock

The holders of the preferred shares shall be entitled to such rate of cumulative dividends and such shares shall be subject to such redemption or other conversion provisions as may be provided for at the time of issuance. No dividends shall be payable on any share of common stock at any time when any dividend is due on any share of preferred stock and has not been paid.

(3) Preference on termination of business

In the event of any liquidation, dissolution, or winding up of the Association's business, the holders of the preferred shares shall be paid in full at par value thereof, plus all accrued dividends, before the holders of the common shares receive any payment.

(h) Debt obligations

(1) Approval by Secretaries of Education and the Treasury

The Association is authorized with the approval of the Secretary of Education and the Secretary of the Treasury to issue and have outstanding obligations having such maturities and bearing such rate or rates of interest as may be determined by the Association. The authority of the Secretary of Education to approve the issuance of such obligations is limited to obligations issued by the Association and guaranteed by the Secretary pursuant to paragraph (2) of this subsection. Such obligations may be redeemable at the option of the Association before maturity in such manner as may be stipulated therein. The Secretary of the Treasury may not direct as a condition of his approval that any such issuance of obligations by the Association be made or sold to the Federal Financing Bank. To the extent that the average outstanding amount of the obligations owned by the Association pursuant to the authority contained in subsection (d)(1)(B) and (C) of this section and as to which the income is exempt from taxation under title 26 does not exceed the average stockholders' equity of the Association, the interest on obligations issued under this paragraph shall not be deemed to be interest on indebtedness incurred or continued to purchase or carry obligations for the purpose of section 265 of title 26.

(2) Guarantee of debt

The Secretary is authorized, prior to October 1, 1984, to guarantee payment when due of principal and interest on obligations issued by the Association in an aggregate amount determined by the Secretary in consultation with the Secretary of the Treasury. Nothing in this section shall be construed so as to authorize the Secretary of Education or the Secretary of the Treasury to limit, control, or constrain programs of the Association or support of the Guaranteed Student Loan Program by the Association.

(3) Borrowing authority to meet guarantee obligations

To enable the Secretary to discharge his responsibilities under guarantees issued by him, he is authorized to issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary with the approval of the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the months preceding the issuance of the notes or other obligations. The Secretary of the Treasury is authorized and directed to purchase any notes and other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, and the purposes for which securities may be issued under that chapter are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States. There is authorized to be appropriated to the Secretary such sums as may be necessary to pay the principal and interest on the notes or obligations issued by him to the Secretary of the Treasury.

(4) Action on request for guarantees

Upon receipt of a request from the Association under this subsection requiring approvals by the Secretary of Education or the Secretary of the Treasury, the Secretary of Education or the Secretary of the Treasury shall act promptly either to grant approval or to advise the Association of the reasons for withholding approval. In no case shall such an approval be withheld for a period longer than 60 days unless, prior to the end of such period, the Secretary of Education and the Secretary of the Treasury submit to the Congress a detailed explanation of reasons for doing so.

(5) Authority of Treasury to purchase debt

The Secretary of the Treasury is authorized to purchase any obligations issued by the Association pursuant to this subsection as now or hereafter in force, and for such purpose the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds of the sale of any securities hereafter issued under chapter 31 of title 31, as now or hereafter in force, and the purposes for which securities may be issued under chapter 31 of title 31, as now or hereafter in force are extended to

include such purchases. The Secretary of the Treasury shall not at any time purchase any obligations under this subsection if such purchase would increase the aggregate principal amount of his then outstanding holdings of such obligations under this subsection to an amount greater than $1,000,000,000. Each purchase of obligations by the Secretary of the Treasury under this subsection shall be upon such terms and conditions as to yield a return at a rate determined by the Secretary of the Treasury, taking into consideration the current average rate on outstanding marketable obligations of the United States of comparable maturities as of the last day of the month preceding the making of such purchase. The Secretary of the Treasury may, at any time, sell, upon such terms and conditions and at such price or prices as he shall determine, any of the obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such obligations under this subsection shall be treated as public debt transactions of the United States.

(6) Sale of debt to Federal Financing Bank

Notwithstanding any other provision of law the Association is authorized to sell or issue obligations on the security of student loans, the payment of interest or principal of which has at any time been guaranteed under section 1078 or 1079 of this title, to the Federal Financing Bank.

(7) Offset fee

(A) The Association shall pay to the Secretary, on a monthly basis, an offset fee calculated on an annual basis in an amount equal to 0.30 percent of the principal amount of each loan made, insured or guaranteed under this part that the Association holds (except for loans made pursuant to section 1078–3 of this title, subsection (*o*) of this section, or subsection (q) of this section) and that was acquired on or after August 10, 1993.

(B) If the Secretary determines that the Association has substantially failed to comply with subsection (q) of this section, subparagraph (A) shall be applied by substituting ''1.0 percent'' for ''0.3 percent''.

(C) The Secretary shall deposit all fees collected pursuant to this paragraph into the insurance fund established in section 1081 of this title.

(i) General corporate powers

The Association shall have power—

(1) to sue and be sued, complain and defend, in its corporate name and through its own counsel;

(2) to adopt, alter, and use the corporate seal, which shall be judicially noticed;

(3) to adopt, amend, and repeal by its Board of Directors, bylaws, rules, and regulations as may be necessary for the conduct of its business;

(4) to conduct its business, carry on its operations, and have officers and exercise the power granted by this section in any State without regard to any qualification or similar statute in any State;

(5) to lease, purchase, or otherwise acquire, own, hold, improve, use, or otherwise deal in and with any property, real, personal, or mixed, or any interest therein, wherever situated;

(6) to accept gifts or donations of services, or of property, real, personal, or mixed, tangible or intangible, in aid of any of the purposes of the Association;

(7) to sell, convey, mortgage, pledge, lease, exchange, and otherwise dispose of its property and assets;

(8) to appoint such officers, attorneys, employees, and agents as may be required, to determine their qualifications, to define their duties, to fix their salaries, require bonds for them, and fix the penalty thereof; and

(9) to enter into contracts, to execute instruments, to incur liabilities, and to do all things as are necessary or incidental to the proper management of its affairs and the proper conduct of its business.

(j) Accounting, auditing, and reporting

The accounts of the Association shall be audited annually. Such audits shall be conducted in accordance with generally accepted auditing standards by independent certified public accountants or by independent licensed public accountants, licensed on or before December 31, 1970, who are certified or licensed by a regulatory authority of a State or other political subdivision of the United States, except that independent public accountants licensed to practice by such regulatory authority after December 31, 1970, and persons who, although not so certified or licensed, meet, in the opinion of the Secretary, standards of education and experience representative of the highest standards prescribed by the licensing authorities of the several States which provide for the continuing licensing of public accountants and which are prescribed by the Secretary in appropriate regulations may perform such audits until December 31, 1975. A report of each such audit shall be furnished to the Secretary of the Treasury. The audit shall be conducted at the place or places where the accounts are normally kept. The representatives of the Secretary shall have access to all books, accounts, financial records, reports, files, and all other papers, things, or property belonging to or in use by the Association and necessary to facilitate the audit, and they shall be afforded full facilities for verifying transactions with the balances or securities held by depositaries, fiscal agents, and custodians.

(k) Report on audits by Treasury

A report of each such audit for a fiscal year shall be made by the Secretary of the Treasury to the President and to the Congress not later than 6 months following the close of such fiscal year. The report shall set forth the scope of the audit and shall include a statement (showing intercorporate relations) of assets and liabilities, capital and surplus or deficit; a statement of surplus or deficit analysis; a statement of income and expense; a statement of sources and application of funds; and such comments and information as may be deemed necessary to keep the President and the Congress informed of the operations and financial condition of the Asso-

ciation, together with such recommendations with respect thereto as the Secretary may deem advisable, including a report of any impairment of capital or lack of sufficient capital noted in the audit. A copy of each report shall be furnished to the Secretary, and to the Association.

(*l*) Lawful investment instruments; effect of and exemptions from other laws

All obligations issued by the Association including those made under subsection (d)(4) of this section shall be lawful investments, and may be accepted as security for all fiduciary, trust, and public funds, the investment or deposit of which shall be under authority or control of the United States or of any officer or officers thereof. All stock and obligations issued by the Association pursuant to this section shall be deemed to be exempt securities within the meaning of laws administered by the Securities and Exchange Commission, to the same extent as securities which are direct obligations of, or obligations guaranteed as to principal or interest by, the United States. The Association shall, for the purposes of section 355(2) of title 12, be deemed to be an agency of the United States. The obligations of the Association shall be deemed to be obligations of the United States for the purpose of section 3124 of title 31. For the purpose of the distribution of its property pursuant to section 726 of title 11, the Association shall be deemed a person within the meaning of such title. The priority established in favor of the United States by section 3713 of title 31 shall not establish a priority over the indebtedness of the Association issued or incurred on or before September 30, 1992. The Federal Reserve Banks are authorized to act as depositaries, custodians, or fiscal agents, or a combination thereof, for the Association in the general performance of its powers under this section.

(m) Preparation of obligations

In order to furnish obligations for delivery by the Association, the Secretary of the Treasury is authorized to prepare such obligations in such form as the Board of Directors may approve, such obligations when prepared to be held in the Treasury subject to delivery upon order by the Association. The engraved plates, dies, bed pieces, and so forth, executed in connection therewith shall remain in the custody of the Secretary of the Treasury. The Association shall reimburse the Secretary of the Treasury for any expenditures made in the preparation, custody, and delivery of such obligations. The Secretary of the Treasury is authorized to promulgate regulations on behalf of the Association so that the Association may utilize the book-entry system of the Federal Reserve Banks.

(n) Report on operations and activities

The Association shall, as soon as practicable after the end of each fiscal year, transmit to the President and the Congress a report of the Association's operations and activities, including a report with respect to all facilities transactions, during each year.

(*o*) Loan consolidations

(1) In general

The Association or its designated agent may, upon request of a borrower, consolidate loans received under this subchapter and part C of subchapter I of chapter 34 of title 42 in accordance with section 1078–3 of this title.

(2) Use of existing agencies as agent

The Association in making loans pursuant to this subsection in any State served by a guaranty agency or an eligible lender in a State described in section 1085(d)(1)(D) or (F) of this title may designate as its agent such agency or lender to perform such functions as the Association determines appropriate. Any agreements made pursuant to this subparagraph shall be on such terms and conditions as agreed upon by the Association and such agency or lender.

(p) Advances for direct loans by guaranty agencies

(1) In general

The Association shall make advances in each fiscal year from amounts available to it to each guaranty agency and eligible lender described in subsection 1078(h)(1) of this title which has an agreement with the Association which sets forth that advances are necessary to enable such agency or lender to make student loans in accordance with section 1078(h) of this title and that such advances will be repaid to the Association in accordance with such terms and conditions as may be set forth in the agreement and agreed to by the Association and such agency or lender. Advances made under this subsection shall not be subject to subsection (d)(2) of this section.

(2) Limitation

No advance may be made under this subsection unless the guaranty agency or lender makes an application to the Association, which shall be accompanied by such information as the Association determines to be reasonably necessary.

(q) Lender-of-last-resort

(1) Action at request of Secretary

(A) Whenever the Secretary determines that eligible borrowers are seeking and are unable to obtain loans under this part, the Association or its designated agent shall, not later than 90 days after August 10, 1993, begin making loans to such eligible borrowers in accordance with this subsection at the request of the Secretary. The Secretary may request that the Association make loans to borrowers within a geographic area or for the benefit of students attending institutions of higher education that certify, in accordance with standards established by the Secretary, that their students are seeking and unable to obtain loans.

(B) Loans made pursuant to this subsection shall be insurable by the Secretary under section 1079 of this title with a certificate of comprehensive insurance coverage provided for under section 1079(b)(1) of this title or by a guaranty agency under paragraph (2)(A) of this subsection.

(2) Issuance and coverage of loans

(A) Whenever the Secretary, after consultation with, and with the agreement of, rep-

resentatives of the guaranty agency in a State, or an eligible lender in a State described in section 1085(d)(1)(D) of this title, determines that a substantial portion of eligible borrowers in such State or within an area of such State are seeking and are unable to obtain loans under this part, the Association or its designated agent shall begin making such loans to borrowers in such State or within an area of such State in accordance with this subsection at the request of the Secretary.

(B) Loans made pursuant to this subsection shall be insurable by the agency identified in subparagraph (A) having an agreement pursuant to section 1078(b) of this title. For loans insured by such agency, the agency shall provide the Association with a certificate of comprehensive insurance coverage, if the Association and the agency have mutually agreed upon a means to determine that the agency has not already guaranteed a loan under this part to a student which would cause a subsequent loan made by the Association to be in violation of any provision under this part.

(3) Termination of lending

The Association or its designated agent shall cease making loans under this subsection at such time as the Secretary determines that the conditions which caused the implementation of this subsection have ceased to exist.

(r) Safety and soundness of Association

(1) Reports by the Association

The Association shall promptly furnish to the Secretary of Education and Secretary of the Treasury copies of all—

(A) periodic financial reports publicly distributed by the Association;

(B) reports concerning the Association that are received by the Association and prepared by nationally recognized statistical rating organizations; and

(C)(i) financial statements of the Association within 45 days of the end of each fiscal quarter; and

(ii) reports setting forth the calculation of the capital ratio of the Association within 45 days of the end of each fiscal quarter.

(2) Audit by Secretary of the Treasury

(A) The Secretary of the Treasury may—

(i) appoint auditors or examiners to conduct audits of the Association from time to time to determine the condition of the Association for the purpose of assessing the Association's financial safety and soundness and to determine whether the requirements of this section and section 1087–3 of this title are being met; and

(ii) obtain the services of such experts as the Secretary of the Treasury determines necessary and appropriate, as authorized by section 3109 of title 5, to assist in determining the condition of the Association for the purpose of assessing the Association's financial safety and soundness, and to determine whether the requirements of this section and section 1087–3 of this title are being met.

(B) Each auditor appointed under this paragraph shall conduct an audit of the Association to the extent requested by the Secretary of the Treasury and shall prepare and submit a report to the Secretary of the Treasury concerning the results of such audit. A copy of such report shall be furnished to the Association and the Secretary of Education on the date on which it is delivered to the Secretary of the Treasury.

(C) The Association shall provide full and prompt access to the Secretary of the Treasury to its books and records and other information requested by the Secretary of the Treasury.

(D) ANNUAL ASSESSMENT.—

(i) IN GENERAL.—For each fiscal year beginning on or after October 1, 1996, the Secretary of the Treasury may establish and collect from the Association an assessment (or assessments) in amounts sufficient to provide for reasonable costs and expenses of carrying out the duties of the Secretary of the Treasury under this section and section 1087–3 of this title during such fiscal year. In no event may the total amount so assessed exceed, for any fiscal year, $800,000, adjusted for each fiscal year ending after September 30, 1997, by the ratio of the Consumer Price Index for All Urban Consumers (issued by the Bureau of Labor Statistics) for the final month of the fiscal year preceding the fiscal year for which the assessment is made to the Consumer Price Index for All Urban Consumers for September 1997.

(ii) DEPOSIT.—Amounts collected from assessments under this subparagraph shall be deposited in an account within the Treasury of the United States as designated by the Secretary of the Treasury for that purpose. The Secretary of the Treasury is authorized and directed to pay out of any funds available in such account the reasonable costs and expenses of carrying out the duties of the Secretary of the Treasury under this section and section 1087–3 of this title. None of the funds deposited into such account shall be available for any purpose other than making payments for such costs and expenses.

(E) OBLIGATION TO OBTAIN, MAINTAIN, AND REPORT INFORMATION.—

(i) IN GENERAL.—The Association shall obtain such information and make and keep such records as the Secretary of the Treasury may from time to time prescribe concerning—

(I) the financial risk to the Association resulting from the activities of any associated person, to the extent such activities are reasonably likely to have a material impact on the financial condition of the Association, including the Association's capital ratio, the Association's liquidity, or the Association's ability to conduct and finance the Association's operations; and

(II) the Association's policies, procedures, and systems for monitoring and controlling any such financial risk.

(ii) SUMMARY REPORTS.—The Secretary of the Treasury may require summary reports of such information to be filed no more fre-

quently than quarterly. If, as a result of adverse market conditions or based on reports provided pursuant to this subparagraph or other available information, the Secretary of the Treasury has concerns regarding the financial or operational condition of the Association, the Secretary of the Treasury may, notwithstanding the preceding sentence and clause (i), require the Association to make reports concerning the activities of any associated person, whose business activities are reasonably likely to have a material impact on the financial or operational condition of the Association.

(iii) DEFINITION.—For purposes of this subparagraph, the term ''associated person'' means any person, other than a natural person, directly or indirectly controlling, controlled by, or under common control with the Association.

(3) Monitoring of safety and soundness

The Secretary of the Treasury shall conduct such studies as may be necessary to monitor the financial safety and soundness of the Association. In the event that the Secretary of the Treasury determines that the financial safety and soundness of the Association is at risk, the Secretary of the Treasury shall inform the Chairman and ranking minority member of the Committee on Labor and Human Resources of the Senate, the Chairman and ranking minority member of the Committee on Education and Labor of the House of Representatives, and the Secretary of Education of such determination and identify any corrective actions that should be taken to ensure the safety and soundness of the Association.

(4) Capital standard

If the capital ratio is less than 2 percent and is greater than or equal to 1.75 percent at the end of the Association's most recent calendar quarter the Association shall, within 60 days of such occurrence, submit to the Secretary of the Treasury a capital restoration plan, in reasonable detail, that the Association believes is adequate to cause the capital ratio to equal or exceed 2 percent within 36 months.

(5) Capital restoration plan

(A) Submission, approval, and implementation

The Secretary of the Treasury and the Association shall consult with respect to any capital restoration plan submitted pursuant to paragraph (4) and the Secretary of the Treasury shall approve such plan (or a modification thereof accepted by the Association) or disapprove such plan within 30 days after such plan is first submitted to the Secretary of the Treasury by the Association, unless the Association and Secretary of the Treasury mutually agree to a longer consideration period. If the Secretary of the Treasury approves a capital restoration plan (including a modification of a plan accepted by the Association), the Association shall forthwith proceed with diligence to implement such plan to the best of its ability.

(B) Disapproval

If the Secretary of the Treasury does not approve a capital restoration plan as provided in subparagraph (A), then not later than the earlier of the date the Secretary of the Treasury disapproves of such plan by written notice to the Association or the expiration of the 30-day consideration period referred to in subparagraph (A) (as such period may have been extended by mutual agreement), the Secretary of the Treasury shall submit the Association's capital restoration plan, in the form most recently proposed to the Secretary of the Treasury by the Association, together with a report on the Secretary of the Treasury's reasons for disapproval of such plan and an alternative capital restoration plan, to the Chairman and ranking minority member of the Senate Committee on Labor and Human Resources and to the Chairman and ranking minority member of the House Committee on Education and Labor. A copy of such submission simultaneously shall be sent to the Association and the Secretary of Education by the Secretary of the Treasury.

(C) Association implementation and response

Upon receipt of the submission by the Association, the Association shall forthwith proceed with diligence to implement the most recently proposed capital restoration plan of the Association. The Association, within 30 days after receipt from the Secretary of the Treasury of such submission, shall submit to such Chairmen and ranking minority members a written response to such submission, setting out fully the nature and extent of the Association's agreement or the disagreement with the Secretary of the Treasury with respect to the capital restoration plan submitted to the Secretary of the Treasury and any findings of the Secretary of the Treasury.

(6) Substantial capital ratio reduction

(A) Additional plan required

If the capital ratio is less than 1.75 percent and is greater than or equal to 1 percent at the end of the Association's most recent calendar quarter, the Association shall submit to the Secretary of the Treasury within 60 days after such occurrence a capital restoration plan (or an appropriate modification of any plan previously submitted or approved under paragraph (4)) to increase promptly its capital ratio to equal or exceed 1.75 percent. The Secretary of the Treasury and the Association shall consult with respect to any plan or modified plan submitted pursuant to this paragraph. The Secretary of the Treasury shall approve such plan or modified plan (or a modification thereof accepted by the Association) or disapprove such plan or modified plan within 30 days after such plan or modified plan is first submitted to the Secretary of the Treasury by the Association, unless the Association and Secretary of the Treasury mutually agree to a longer consideration period. If the Secretary of the Treasury approves a plan or modified plan (including a modification of a plan accepted by the Association), the Association shall forthwith proceed with diligence to imple-

ment such plan or modified plan to the best of the Association's ability.

(B) Disapproval

If the Secretary of the Treasury disapproves a capital restoration plan or modified plan submitted pursuant to subparagraph (A), then, not later than the earlier of the date the Secretary of the Treasury disapproves of such plan or modified plan (by written notice to the Association) or the expiration of the 30-day consideration period described in subparagraph (A) (as such period may have been extended by mutual agreement), the Secretary of the Treasury shall prepare and submit an alternative capital restoration plan, together with a report on his reasons for disapproval of the Association's plan or modified plan, to the Chairman and ranking minority member of the Committee on Labor and Human Resources of the Senate and to the Chairman and ranking minority member of the Committee on Education and Labor of the House of Representatives. A copy of such submission simultaneously shall be sent to the Association and the Secretary of Education by the Secretary of the Treasury. The Association, within 5 days after receipt from the Secretary of the Treasury of such submission, shall submit to the Chairmen and ranking minority members of such Committees, and the Secretary of the Treasury, a written response to such submission, setting out fully the nature and extent of the Association's agreement or disagreement with the Secretary of the Treasury with respect to the disapproved plan and the alternative plan of the Secretary of the Treasury and any findings of the Secretary of the Treasury.

(C) Review by Congress; Association implementation

Congress shall have 60 legislative days after the date on which Congress receives the alternative plan under subparagraph (B) from the Secretary of the Treasury to review such plan. If Congress does not take statutory action with respect to any such plan within such 60-day period, the Association shall immediately proceed with diligence to implement the alternative capital restoration plan of the Secretary of the Treasury under subparagraph (B). If Congress is out of session when any such alternative plan is received, such 60-day period shall begin on the first day of the next session of Congress.

(7) Actions by Secretary of the Treasury

If the capital ratio of the Association does not equal or exceed 1.75 percent at the end of the Association's most recent calendar quarter, the Secretary of the Treasury may, until the capital ratio equals or exceeds 1.75 percent, take any one or more of the following actions:

(A) Limit increase in liabilities

Limit any increase in, or order the reduction of, any liabilities of the Association, except as necessary to fund student loan purchases and warehousing advances.

(B) Restrict growth

Restrict or eliminate growth of the Association's assets, other than student loans purchases and warehousing advances.

(C) Restrict distributions

Restrict the Association from making any capital distribution.

(D) Require issuance of new capital

Require the Association to issue new capital in any form and in any amount sufficient to restore at least a 1.75 percent capital ratio.

(E) Limit executive compensation

Prohibit the Association from increasing for any executive officer any compensation including bonuses at a rate exceeding that officer's average rate of compensation during the previous 12 calendar months and prohibiting the Board from adopting any new employment severance contracts.

(8) Critical capital standard

(A) If the capital ratio is less than 1 percent at the end of the Association's most recent calendar quarter and the Association has already submitted a capital restoration plan to the Secretary of the Treasury pursuant to paragraph (4) or (6)(A), the Association shall forthwith proceed with diligence to implement the most recently proposed plan with such modifications as the Secretary of the Treasury determines are necessary to cause the capital ratio to equal or exceed 2 percent within 60 months.

(B) If the capital ratio is less than 1 percent at the end of the Association's most recent calendar quarter and the Association has not submitted a capital restoration plan to the Secretary of the Treasury pursuant to paragraph (4) or (6)(A), the Association shall—

(i) within 14 days of such occurrence submit a capital restoration plan to the Secretary of the Treasury which the Association believes is adequate to cause the capital ratio to equal or exceed 2 percent within 60 months; and

(ii) forthwith proceed with diligence to implement such plan with such modifications as the Secretary of the Treasury determines are necessary to cause the capital ratio to equal or exceed 2 percent within 60 months.

(C) Immediately upon a determination under subparagraph (A) or (B) to implement a capital restoration plan, the Secretary of the Treasury shall submit the capital restoration plan to be implemented to the Chairman and ranking minority member of the Committee on Labor and Human Resources of the Senate, the Chairman and ranking minority member of the Committee on Education and Labor of the House of Representatives, and the Secretary of Education.

(9) Additional reports to committees

The Association shall submit a copy of its capital restoration plan, modifications proposed to the Secretary of the Treasury, and proposed modifications received from the Secretary of the Treasury to the Congressional

Budget Office and General Accounting Office upon their submission to the Secretary of the Treasury or receipt from the Secretary of the Treasury. Notwithstanding any other provision of law, the Congressional Budget Office and General Accounting Office shall maintain the confidentiality of information received pursuant to the previous sentence. In the event that the Secretary of the Treasury does not approve a capital restoration plan as provided in paragraph (5)(A) or (6)(A), or in the event that a capital restoration plan is modified by the Secretary of the Treasury pursuant to paragraph (6)(B) or (8), the Congressional Budget Office and General Accounting Office shall each submit a report within 30 days of the Secretary of the Treasury's submission to the Chairmen and ranking minority members as required in paragraphs (5)(B), (6)(B), and (8)(C) to such Chairmen and ranking members—

(A) analyzing the financial condition of the Association;

(B) analyzing the capital restoration plan and reasons for disapproval of the plan contained in the Secretary of the Treasury's submission made pursuant to paragraph (5)(B), or the capital restoration plan proposed by the Association and the modifications made by the Secretary of the Treasury pursuant to paragraph (6)(B) or (8);

(C) analyzing the impact of the capital restoration plan and reasons for disapproval of the plan contained in the Secretary of the Treasury's submission made pursuant to paragraph (5)(B), or the impact of the capital restoration plan proposed by the Association and the modifications made by the Secretary of the Treasury pursuant to paragraph (6)(B) or (8), and analyzing the impact of the recommendations made pursuant to subparagraph (D) of this paragraph, on—

(i) the ability of the Association to fulfill its purpose and authorized activities as provided in this section, and

(ii) the operation of the student loan programs; and

(D) recommending steps which the Association should take to increase its capital ratio without impairing its ability to perform its purpose and authorized activities as provided in this section.

(10) Review by Secretary of Education

The Secretary of Education shall review the Secretary of the Treasury's submission required pursuant to paragraph (5)(B), (6)(B), or (8) and shall submit a report within 30 days to the Chairman and ranking minority member of the Senate Committee on Labor and Human Resources and to the Chairman and ranking minority member of the House Committee on Education and Labor—

(A) describing any administrative or legislative provisions governing the student loan programs which contributed to the decline in the Association's capital ratio; and

(B) recommending administrative and legislative changes in the student loan programs to maintain the orderly operation of such programs and to enable the Association to fulfill its purpose and authorized activities consistent with the capital ratio specified in paragraph (4).

(11) Safe harbor

The Association shall be deemed in compliance with the capital ratios described in paragraphs (4) and (6)(A) if the Association is rated in 1 of the 2 highest full rating categories (such categories to be determined without regard to designations within categories) by 2 nationally recognized statistical rating organizations, determined without regard to the Association's status as a federally chartered corporation.

(12) Treatment of confidential information

Notwithstanding any other provision of law, the Secretary of the Treasury, the Secretary of Education, the Congressional Budget Office, and the General Accounting Office shall not disclose any information treated as confidential by the Association or the Association's associated persons and obtained pursuant to this subsection. Nothing in this paragraph shall authorize the Secretary of the Treasury, the Secretary of Education, the Congressional Budget Office, and the General Accounting Office to withhold information from Congress, or prevent the Secretary of Education, the Congressional Budget Office, and the General Accounting Office from complying with a request for information from any other Federal department or agency requesting the information for purposes within the scope of its jurisdiction, or complying with an order of a court of the United States in an action brought by the United States. For purposes of section 552 of title 5, this paragraph shall be considered a statute described in subsection (b)(3) of such section 552.

(13) Enforcement of safety and soundness requirements

The Secretary of Education or the Secretary of the Treasury, as appropriate, may request that the Attorney General bring an action in the United States District Court for the District of Columbia for the enforcement of any provision of this section, or may, under the direction or control of the Attorney General, bring such an action. Such court shall have jurisdiction and power to order and require compliance with this section.

(14) Actions by Secretary

(A) In general

For any fiscal quarter ending after January 1, 2000, the Association shall have a capital ratio of at least 2.25 percent. The Secretary of the Treasury may, whenever such capital ratio is not met, take any one or more of the actions described in paragraph (7), except that—

(i) the capital ratio to be restored pursuant to paragraph (7)(D) shall be 2.25 percent; and

(ii) if the relevant capital ratio is in excess of or equal to 2 percent for such quarter, the Secretary of the Treasury shall defer taking any of the actions set forth in paragraph (7) until the next succeeding

quarter and may then proceed with any such action only if the capital ratio of the Association remains below 2.25 percent.

(B) Applicability

The provisions of paragraphs (4), (5), (6), (8), (9), (10), and (11) shall be of no further application to the Association for any period after January 1, 2000.

(15) Definitions

As used in this subsection:

(A) The term ''nationally recognized statistical rating organization'' means any entity recognized as such by the Securities and Exchange Commission.

(B) The term ''capital ratio'' means the ratio of total stockholders' equity, as shown on the Association's most recent quarterly consolidated balance sheet prepared in the ordinary course of its business, to the sum of—

(i) the total assets of the Association, as shown on the balance sheet prepared in the ordinary course of its business; and

(ii) 50 percent of the credit equivalent amount of the following off-balance sheet items of the Association as of the date of such balance sheet—

(I) all financial standby letters of credit and other irrevocable guarantees of the repayment of financial obligations of others; and

(II) all interest rate contracts and exchange rate contracts, including interest exchange agreements, floor, cap, and collar agreements and similar arrangements.

For purposes of this subparagraph, the calculation of the credit equivalent amount of the items set forth in clause (ii) of this subparagraph, the netting of such items and eliminations for the purpose of avoidance of double-counting of such items shall be made in accordance with the measures for computing credit conversion factors for off-balance sheet items for capital maintenance purposes established for commercial banks from time to time by the Federal Reserve Board, but without regard to any risk weighting provisions in such measures.

(C) The term ''legislative days'' means only days on which either House of Congress is in session.

(16) Dividends

The Association may pay dividends in the form of cash or noncash distributions so long as at the time of the declaration of such dividends, after giving effect to the payment of such dividends as of the date of such declaration by the Board of Directors of the Association, the Association's capital would be in compliance with the capital standards set forth in this section.

(17) Certification prior to payment of dividend

Prior to the payment of any dividend under paragraph (16), the Association shall certify to the Secretary of the Treasury that the payment of the dividend will be made in compliance with paragraph (16) and shall provide copies of all calculations needed to make such certification.

(s) Charter sunset

(1) Application of provisions

This subsection applies beginning 18 months and one day after September 30, 1996, if no reorganization of the Association occurs in accordance with the provisions of section 1087–3 of this title.

(2) Sunset plan

(A) Plan submission by the Association

Not later than July 1, 2007, the Association shall submit to the Secretary of the Treasury and to the Chairman and Ranking Member of the Committee on Labor and Human Resources of the Senate and the Chairman and Ranking Member of the Committee on Economic and Educational Opportunities of the House of Representatives, a detailed plan for the orderly winding up, by July 1, 2013, of business activities conducted pursuant to the charter set forth in this section. Such plan shall—

(i) ensure that the Association will have adequate assets to transfer to a trust, as provided in this subsection, to ensure full payment of remaining obligations of the Association in accordance with the terms of such obligations;

(ii) provide that all assets not used to pay liabilities shall be distributed to shareholders as provided in this subsection; and

(iii) provide that the operations of the Association shall remain separate and distinct from that of any entity to which the assets of the Association are transferred.

(B) Amendment of the plan by the Association

The Association shall from time to time amend such plan to reflect changed circumstances, and submit such amendments to the Secretary of the Treasury and to the Chairman and Ranking Minority Member of the Committee on Labor and Human Resources of the Senate and Chairman and Ranking Minority Member of the Committee on Economic and Educational Opportunities of the House of Representatives. In no case may any amendment extend the date for full implementation of the plan beyond the dissolution date provided in paragraph (3).

(C) Plan monitoring

The Secretary of the Treasury shall monitor the Association's compliance with the plan and shall continue to review the plan (including any amendments thereto).

(D) Amendment of the plan by the Secretary of the Treasury

The Secretary of the Treasury may require the Association to amend the plan (including any amendments to the plan), if the Secretary of the Treasury deems such amendments necessary to ensure full payment of all obligations of the Association.

(E) Implementation by the Association

The Association shall promptly implement the plan (including any amendments to the

plan, whether such amendments are made by the Association or are required to be made by the Secretary of the Treasury).

(3) Dissolution of the Association

The Association shall dissolve and the Association's separate existence shall terminate on July 1, 2013, after discharge of all outstanding debt obligations and liquidation pursuant to this subsection. The Association may dissolve pursuant to this subsection prior to such date by notifying the Secretary of Education and the Secretary of the Treasury of the Association's intention to dissolve, unless within 60 days of receipt of such notice the Secretary of Education notifies the Association that the Association continues to be needed to serve as a lender of last resort pursuant to subsection (q) of this section or continues to be needed to purchase loans under an agreement with the Secretary described in paragraph (4)(A). On the dissolution date, the Association shall take the following actions:

(A) Establishment of a trust

The Association shall, under the terms of an irrevocable trust agreement in form and substance satisfactory to the Secretary of the Treasury, the Association, and the appointed trustee, irrevocably transfer all remaining obligations of the Association to a trust and irrevocably deposit or cause to be deposited into such trust, to be held as trust funds solely for the benefit of holders of the remaining obligations, money or direct noncallable obligations of the United States or any agency thereof for which payment the full faith and credit of the United States is pledged, maturing as to principal and interest in such amounts and at such times as are determined by the Secretary of the Treasury to be sufficient, without consideration of any significant reinvestment of such interest, to pay the principal of, and interest on, the remaining obligations in accordance with their terms.

(B) Use of trust assets

All money, obligations, or financial assets deposited into the trust pursuant to this subsection shall be applied by the trustee to the payment of the remaining obligations assumed by the trust. Upon the fulfillment of the trustee's duties under the trust, any remaining assets of the trust shall be transferred to the persons who, at the time of the dissolution, were the shareholders of the Association, or to the legal successors or assigns of such persons.

(C) Obligations not transferred to the trust

The Association shall make proper provision for all other obligations of the Association, including the repurchase or redemption, or the making of proper provision for the repurchase or redemption, of any preferred stock of the Association outstanding.

(D) Transfer of remaining assets

After compliance with subparagraphs (A) and (C), the Association shall transfer to the shareholders of the Association any remaining assets of the Association.

(4) Restrictions relating to winding up

(A) Restrictions on new business activity or acquisition of assets by the Association

(i) In general

Beginning on July 1, 2009, the Association shall not engage in any new business activities or acquire any additional program assets (including acquiring assets pursuant to contractual commitments) described in subsection (d) of this section other than in connection with the Association—

(I) serving as a lender of last resort pursuant to subsection (q) of this section; and

(II) purchasing loans insured under this part, if the Secretary, with the approval of the Secretary of the Treasury, enters into an agreement with the Association for the continuation or resumption of the Association's secondary market purchase program because the Secretary determines there is inadequate liquidity for loans made under this part.

(ii) Agreement

The Secretary is authorized to enter into an agreement described in subclause (II) of clause (i) with the Association covering such secondary market activities. Any agreement entered into under such subclause shall cover a period of 12 months, but may be renewed if the Secretary determines that liquidity remains inadequate. The fee provided under subsection (h)(7) of this section shall not apply to loans acquired under any such agreement with the Secretary.

(B) Issuance of debt obligations during the wind up period; attributes of debt obligations

The Association shall not issue debt obligations which mature later than July 1, 2013, except in connection with serving as a lender of last resort pursuant to subsection (q) of this section or with purchasing loans under an agreement with the Secretary as described in subparagraph (A). Nothing in this subsection shall modify the attributes accorded the debt obligations of the Association by this section, regardless of whether such debt obligations are transferred to a trust in accordance with paragraph (3).

(C) Use of Association name

The Association may not transfer or permit the use of the name ''Student Loan Marketing Association'', ''Sallie Mae'', or any variation thereof, to or by any entity other than a subsidiary of the Association.

(Pub. L. 89–329, title IV, §439, as added Pub. L. 99–498, title IV, §402(a), Oct. 17, 1986, 100 Stat. 1418; amended Pub. L. 100–50, §10(dd), June 3, 1987, 101 Stat. 347; Pub. L. 100–369, §7(c), July 18, 1988, 102 Stat. 837; Pub. L. 102–325, title IV, §431, July 23, 1992, 106 Stat. 554; Pub. L. 103–66, title IV, §§4041(c), 4104, Aug. 10, 1993, 107 Stat. 356, 367; Pub. L. 103–208, §2(c)(69), Dec. 20, 1993, 107 Stat. 2470; Pub. L. 103–382, title III, §358, Oct. 20, 1994, 108 Stat. 3968; Pub. L. 104–208, div. A, title I,

§ 101(e) [title VI, § 602(b)(2)–(4), (c)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–284 to 3009–286.)

REPEAL OF SECTION

Pub. L. 104–208, div. A, title I, § 101(e) [title VI, § 602(d)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–289, provided that this section is repealed effective one year after date on which all obligations of trust established under section 1087–3(d)(1) of this title have been extinguished, if reorganization occurs in accordance with section 1087–3 of this title; or date on which all obligations of trust established under subsec. (s)(3)(A) of this section have been extinguished, if reorganization does not occur in accordance with section 1087–3 of this title.

REFERENCES IN TEXT

For the effective date of the Higher Education Amendments of 1992, referred to in subsec. (f)(4), see section 2 of Pub. L. 102–325, set out as an Effective Date of 1992 Amendment note under section 1001 of this title.

CODIFICATION

In subsec. (h)(3) and (5), ''chapter 31 of title 31'' substituted for ''the Second Liberty Bond Act, as amended'' and ''the Second Liberty Bond Act'', and ''that chapter'' substituted for ''that Act, as amended'', on authority of Pub. L. 97–258, § 4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

PRIOR PROVISIONS

A prior section 1087–2, Pub. L. 89–329, title IV, § 439, as added Pub. L. 92–318, title I, § 133(a), June 23, 1972, 86 Stat. 265; amended Pub. L. 94–273, § 3(9), Apr. 21, 1976, 90 Stat. 376; Pub. L. 94–482, title I, § 127(a), Oct. 12, 1976, 90 Stat. 2136; Pub. L. 95–43, § 1(a)(38), June 15, 1977, 91 Stat. 217; Pub. L. 96–374, title IV, § 421(a)–(e)(1), title XIII, § 1391(a)(1), (3), Oct. 3, 1980, 94 Stat. 1427–1430, 1503; Pub. L. 97–35, title V, § 538, Aug. 13, 1981, 95 Stat. 457; Pub. L. 97–115, § 18, Dec. 29, 1981, 95 Stat. 1610; Pub. L. 97–301, § 14, Oct. 13, 1982, 96 Stat. 1405; Pub. L. 98–79, §§ 2, 8, Aug. 15, 1983, 97 Stat. 476, 483; Pub. L. 99–272, title XVI, §§ 16017(b)(4), 16018(a)(3), Apr. 7, 1986, 100 Stat. 347, 348, established the Student Loan Marketing Association, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1996—Subsec. (r)(1)(C). Pub. L. 104–208, § 101(e) [title VI, § 602(b)(3)(A)], added subpar. (C).

Subsec. (r)(2)(A)(i), (ii). Pub. L. 104–208, § 101(e) [title VI, § 602(b)(3)(B)(i)], added cls. (i) and (ii) and struck out former cls. (i) and (ii) which read as follows:

''(i) appoint auditors to conduct audits of the Association from time to time to determine the condition of the Association for the purpose of assessing its financial safety and soundness; and

''(ii) enter into contracts to obtain the services of such technical experts as the Secretary of the Treasury determines necessary and appropriate to provide technical assistance to any auditor appointed under this paragraph.''

Subsec. (r)(2)(D). Pub. L. 104–208, § 101(e) [title VI, § 602(b)(3)(B)(ii)], added subpar. (D).

Subsec. (r)(2)(E). Pub. L. 104–208, § 101(e) [title VI, § 602(b)(4)(A)], added subpar. (E).

Subsec. (r)(12). Pub. L. 104–208, § 101(e) [title VI, § 602(b)(2)(A)], inserted ''or the Association's associated persons'' after ''by the Association'' in first sentence.

Subsec. (r)(13). Pub. L. 104–208, § 101(e) [title VI, § 602(b)(2)(B), (C)], added par. (13) and redesignated former par. (13) as (15).

Subsec. (r)(14). Pub. L. 104–208, § 101(e) [title VI, § 602(b)(3)(C)], added par. (14).

Subsec. (r)(15). Pub. L. 104–208, § 101(e) [title VI, § 602(b)(2)(B)], redesignated par. (13) as (15).

Subsec. (r)(16), (17). Pub. L. 104–208, § 101(e), [title VI, § 602(b)(4)(B)], added pars. (16) and (17).

Subsec. (s). Pub. L. 104–208, § 101(e) [title VI, § 602(c)], added subsec. (s).

1994—Subsec. (d)(1)(C). Pub. L. 103–382, § 358(1)(A), (D), inserted ''(including related equipment, instrumentation, and furnishings)'' after ''materials'' in introductory provisions and substituted ''30 percent'' for ''15 percent'' and ''types'' for ''type'' in concluding provisions.

Subsec. (d)(1)(C)(ii). Pub. L. 103–382, § 358(1)(B), substituted '', dining halls, student unions, and facilities specifically designed to promote fitness and health for students, faculty, and staff or for physical education courses; and'' for the semicolon.

Subsec. (d)(1)(C)(iii), (iv). Pub. L. 103–382, § 358(1)(C), (E), struck out ''and'' after the semicolon in cl. (iii) and struck out cl. (iv) which read as follows: ''related equipment, instrumentation, and furnishings for facilities and materials described in clause (i) or (iii);''.

Subsec. (n). Pub. L. 103–382, § 358(2), substituted ''a report of the Association's operations and activities, including a report with respect to all facilities transactions, during each year'' for ''a report of its operations and activities during each year''.

1993—Subsec. (h)(7). Pub. L. 103–66, § 4104, added par. (7).

Subsec. (q). Pub. L. 103–66, § 4041(c), amended subsec. (q) generally, substituting present provisions for substantially similar former provisions.

Subsec. (r)(12). Pub. L. 103–208 substituted ''section 552'' for ''section 522''.

1992—Subsec. (c). Pub. L. 102–325, § 431(a), amended subsec. (c) generally, substituting present provisions consisting of pars. (1) to (4) for former provisions which provided for: in par. (1), Board membership; in par. (2), interim Board; in par. (3), regular Board; in par. (4), succession of regular Board; in par. (5), terms of appointed and elected members; and in par. (6), meetings and functions of Board.

Subsec. (d)(1)(C). Pub. L. 102–325, § 431(b), amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: ''to buy, sell, hold, insure, underwrite, and otherwise deal in obligations issued for the purpose of financing or refinancing the construction, reconstruction, renovation, or purchase of educational and training facilities and housing for students and faculties (including the underlying real property), and related equipment, instrumentation, and furnishings;''.

Subsec. (d)(5). Pub. L. 102–325, § 431(c), substituted ''second highest rating'' for ''third highest rating''.

Subsec. (f). Pub. L. 102–325, § 431(d), amended subsec. (f) generally, substituting present provisions consisting of pars. (1) to (4) for former provisions which provided for: in par. (1), common stock to insured lenders and eligible institutions only; in par. (2), voting rights; in par. (3), number of shares and transferability; in par. (4), dividends; and in par. (5), nonvoting common stock.

Subsec. (r). Pub. L. 102–325, § 431(e), added subsec. (r).

1988—Subsec. (h)(1). Pub. L. 100–369 substituted ''Internal Revenue Code of 1986'' for ''Internal Revenue Code of 1954'' in two places, which for purposes of codification was translated as ''title 26'' thus requiring no change in text.

1987—Subsec. (d)(1)(E)(iii). Pub. L. 100–50 inserted ''Labor and'' before ''Human Resources''.

CHANGE OF NAME

Committee on Education and Labor of House of Representatives treated as referring to Committee on Economic and Educational Opportunities of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Economic and Educational Opportunities of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Fifth Congress, Jan. 7, 1997.

EFFECTIVE DATE OF 1996 AMENDMENT

Section 101(e) [title VI, § 602(d)(2)] of div. A of Pub. L. 104–208 provided that: ''The repeals made by paragraph

(1) [repealing this section and section 1087–3 of this title] shall be effective one year after—

''(A) the date on which all of the obligations of the trust established under section 440(d)(1) of the Higher Education Act of 1965 [20 U.S.C. 1087–3(d)(1)] (as added by subsection (a)) have been extinguished, if a reorganization occurs in accordance with section 440 of such Act; or

''(B) the date on which all of the obligations of the trust established under subsection [sic] 439(s)(3)(A) of such Act [20 U.S.C. 1087–2(s)(3)(A)] (as added by subsection (c)) have been extinguished, if a reorganization does not occur in accordance with section 440 of such Act.''

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1003 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective July 23, 1992, except that changes in subsec. (d)(1), relating to facilities loans, applicable with respect to applications received on or after July 1, 1992, see section 432 of Pub. L. 102–325, set out as a note under section 1078 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

USE OF ASSOCIATION NAMES UPON DISSOLUTION; ENFORCEMENT

Section 101(e) [title VI, §602(e), (f)] of div. A of Pub. L. 104–208 provided that:

''(e) ASSOCIATION NAMES.—Upon dissolution in accordance with section 439(s) of the Higher Education Act of 1965 (20 U.S.C. 1087–2[(s)]), the names 'Student Loan Marketing Association', 'Sallie Mae', and any variations thereof may not be used by any entity engaged in any business similar to the business conducted pursuant to section 439 of such Act (as such section was in effect on the date of enactment of this Act [Sept. 30, 1996]) without the approval of the Secretary of the Treasury.

''(f) RIGHT TO ENFORCE.—The Secretary of Education or the Secretary of the Treasury, as appropriate, may request that the Attorney General bring an action in the United States District Court for the District of Columbia for the enforcement of any provision of subsection (e), or may, under the direction or control of the Attorney General, bring such an action. Such court shall have jurisdiction and power to order and require compliance with subsection (e).''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1078, 1085, 1087–1, 1087–3, 1092a of this title.

§ 1087–3. Reorganization of Student Loan Marketing Association through formation of Holding Company

(a) Actions by Association's Board of Directors

The Board of Directors of the Association shall take or cause to be taken all such action as the Board of Directors deems necessary or appropriate to effect, upon the shareholder approval described in subsection (b) of this section, a restructuring of the common stock ownership of the Association, as set forth in a plan of reorganization adopted by the Board of Directors (the terms of which shall be consistent with this section) so that all of the outstanding common shares of the Association shall be directly owned by a Holding Company. Such actions may include, in the Board of Director's discretion, a merger of a wholly owned subsidiary of the Holding Company with and into the Association, which would have the effect provided in the plan of reorganization and the law of the jurisdiction in which such subsidiary is incorporated. As part of the restructuring, the Board of Directors may cause—

(1) the common shares of the Association to be converted, on the reorganization effective date, to common shares of the Holding Company on a one for one basis, consistent with applicable State or District of Columbia law; and

(2) Holding Company common shares to be registered with the Securities and Exchange Commission.

(b) Shareholder approval

The plan of reorganization adopted by the Board of Directors pursuant to subsection (a) of this section shall be submitted to common shareholders of the Association for their approval. The reorganization shall occur on the reorganization effective date, provided that the plan of reorganization has been approved by the affirmative votes, cast in person or by proxy, of the holders of a majority of the issued and outstanding shares of the Association common stock.

(c) Transition

In the event the shareholders of the Association approve the plan of reorganization under subsection (b) of this section, the following provisions shall apply beginning on the reorganization effective date:

(1) In general

Except as specifically provided in this section, until the dissolution date the Association shall continue to have all of the rights, privileges and obligations set forth in, and shall be subject to all of the limitations and restrictions of, section 1087–2 of this title, and the Association shall continue to carry out the purposes of such section. The Holding Company and any subsidiary of the Holding Company (other than the Association) shall not be entitled to any of the rights, privileges, and obligations, and shall not be subject to the limitations and restrictions, applicable to the Association under section 1087–2 of this title, except as specifically provided in this section. The Holding Company and any subsidiary of the Holding Company (other than the Association or a subsidiary of the Association) shall not purchase loans insured under this chapter until such time as the Association ceases acquiring such loans, except that the Holding Company may purchase such loans if the Association is merely continuing to acquire loans as a lender of last resort pursuant to section 1087–2(q) of this title or under an agreement with the Secretary described in paragraph (6).

(2) Transfer of certain property

(A) In general

Except as provided in this section, on the reorganization effective date or as soon as

practicable thereafter, the Association shall use the Association's best efforts to transfer to the Holding Company or any subsidiary of the Holding Company (or both), as directed by the Holding Company, all real and personal property of the Association (both tangible and intangible) other than the remaining property. Subject to the preceding sentence, such transferred property shall include all right, title, and interest in—

(i) direct or indirect subsidiaries of the Association (excluding special purpose funding companies in existence on September 30, 1996, and any interest in any government-sponsored enterprise);

(ii) contracts, leases, and other agreements of the Association;

(iii) licenses and other intellectual property of the Association; and

(iv) any other property of the Association.

(B) Construction

Nothing in this paragraph shall be construed to prohibit the Association from transferring remaining property from time to time to the Holding Company or any subsidiary of the Holding Company, subject to the provisions of paragraph (4).

(3) Transfer of personnel

On the reorganization effective date, employees of the Association shall become employees of the Holding Company (or any subsidiary of the Holding Company), and the Holding Company (or any subsidiary of the Holding Company) shall provide all necessary and appropriate management and operational support (including loan servicing) to the Association, as requested by the Association. The Association, however, may obtain such management and operational support from persons or entities not associated with the Holding Company.

(4) Dividends

The Association may pay dividends in the form of cash or noncash distributions so long as at the time of the declaration of such dividends, after giving effect to the payment of such dividends as of the date of such declaration by the Board of Directors of the Association, the Association's capital would be in compliance with the capital standards and requirements set forth in section 1087–2(r) of this title. If, at any time after the reorganization effective date, the Association fails to comply with such capital standards, the Holding Company shall transfer with due diligence to the Association additional capital in such amounts as are necessary to ensure that the Association again complies with the capital standards.

(5) Certification prior to dividend

Prior to the payment of any dividend under paragraph (4), the Association shall certify to the Secretary of the Treasury that the payment of the dividend will be made in compliance with paragraph (4) and shall provide copies of all calculations needed to make such certification.

(6) Restrictions on new business activity or acquisition of assets by Association

(A) In general

After the reorganization effective date, the Association shall not engage in any new business activities or acquire any additional program assets described in section 1087–2(d) of this title other than in connection with—

(i) student loan purchases through September 30, 2007;

(ii) contractual commitments for future warehousing advances, or pursuant to letters of credit or standby bond purchase agreements, which are outstanding as of the reorganization effective date;

(iii) the Association serving as a lender-of-last-resort pursuant to section 1087–2(q) of this title; and

(iv) the Association's purchase of loans insured under this part, if the Secretary, with the approval of the Secretary of the Treasury, enters into an agreement with the Association for the continuation or resumption of the Association's secondary market purchase program because the Secretary determines there is inadequate liquidity for loans made under this part.

(B) Agreement

The Secretary is authorized to enter into an agreement described in clause (iv) of subparagraph (A) with the Association covering such secondary market activities. Any agreement entered into under such clause shall cover a period of 12 months, but may be renewed if the Secretary determines that liquidity remains inadequate. The fee provided under section 1087–2(h)(7) of this title shall not apply to loans acquired under any such agreement with the Secretary.

(7) Issuance of debt obligations during the transition period; attributes of debt obligations

After the reorganization effective date, the Association shall not issue debt obligations which mature later than September 30, 2008, except in connection with serving as a lender-of-last-resort pursuant to section 1087–2(q) of this title or with purchasing loans under an agreement with the Secretary as described in paragraph (6). Nothing in this section shall modify the attributes accorded the debt obligations of the Association by section 1087–2 of this title, regardless of whether such debt obligations are incurred prior to, or at any time following, the reorganization effective date or are transferred to a trust in accordance with subsection (d) of this section.

(8) Monitoring of safety and soundness

(A) Obligation to obtain, maintain, and report information

The Association shall obtain such information and make and keep such records as the Secretary of the Treasury may from time to time prescribe concerning—

(i) the financial risk to the Association resulting from the activities of any associated person, to the extent such activities are reasonably likely to have a material

impact on the financial condition of the Association, including the Association's capital ratio, the Association's liquidity, or the Association's ability to conduct and finance the Association's operations; and

(ii) the Association's policies, procedures, and systems for monitoring and controlling any such financial risk.

(B) Summary reports

The Secretary of the Treasury may require summary reports of the information described in subparagraph (A) to be filed no more frequently than quarterly. If, as a result of adverse market conditions or based on reports provided pursuant to this subparagraph or other available information, the Secretary of the Treasury has concerns regarding the financial or operational condition of the Association, the Secretary of the Treasury may, notwithstanding the preceding sentence and subparagraph (A), require the Association to make reports concerning the activities of any associated person whose business activities are reasonably likely to have a material impact on the financial or operational condition of the Association.

(C) Separate operation of corporations

(i) In general

The funds and assets of the Association shall at all times be maintained separately from the funds and assets of the Holding Company or any subsidiary of the Holding Company and may be used by the Association solely to carry out the Association's purposes and to fulfill the Association's obligations.

(ii) Books and records

The Association shall maintain books and records that clearly reflect the assets and liabilities of the Association, separate from the assets and liabilities of the Holding Company or any subsidiary of the Holding Company.

(iii) Corporate office

The Association shall maintain a corporate office that is physically separate from any office of the Holding Company or any subsidiary of the Holding Company.

(iv) Director

No director of the Association who is appointed by the President pursuant to section 1087–2(c)(1)(A) of this title may serve as a director of the Holding Company.

(v) One officer requirement

At least one officer of the Association shall be an officer solely of the Association.

(vi) Transactions

Transactions between the Association and the Holding Company or any subsidiary of the Holding Company, including any loan servicing arrangements, shall be on terms no less favorable to the Association than the Association could obtain from an unrelated third party offering comparable services.

(vii) Credit prohibition

The Association shall not extend credit to the Holding Company or any subsidiary of the Holding Company nor guarantee or provide any credit enhancement to any debt obligations of the Holding Company or any subsidiary of the Holding Company.

(viii) Amounts collected

Any amounts collected on behalf of the Association by the Holding Company or any subsidiary of the Holding Company with respect to the assets of the Association, pursuant to a servicing contract or other arrangement between the Association and the Holding Company or any subsidiary of the Holding Company, shall be collected solely for the benefit of the Association and shall be immediately deposited by the Holding Company or such subsidiary to an account under the sole control of the Association.

(D) Encumbrance of assets

Notwithstanding any Federal or State law, rule, or regulation, or legal or equitable principle, doctrine, or theory to the contrary, under no circumstances shall the assets of the Association be available or used to pay claims or debts of or incurred by the Holding Company. Nothing in this subparagraph shall be construed to limit the right of the Association to pay dividends not otherwise prohibited under this subparagraph or to limit any liability of the Holding Company explicitly provided for in this section.

(E) Holding Company activities

After the reorganization effective date and prior to the dissolution date, all business activities of the Holding Company shall be conducted through subsidiaries of the Holding Company.

(F) Confidentiality

Any information provided by the Association pursuant to this section shall be subject to the same confidentiality obligations contained in section 1087–2(r)(12) of this title.

(G) Definition

For purposes of this paragraph, the term ''associated person'' means any person, other than a natural person, who is directly or indirectly controlling, controlled by, or under common control with, the Association.

(9) Issuance of stock warrants

(A) In general

On the reorganization effective date, the Holding Company shall issue to the District of Columbia Financial Responsibility and Management Assistance Authority a number of stock warrants that is equal to one percent of the outstanding shares of the Association, determined as of the last day of the fiscal quarter preceding September 30, 1996, with each stock warrant entitling the holder of the stock warrant to purchase from the Holding Company one share of the registered common stock of the Holding Company or the Holding Company's successors or as-

signs, at any time on or before September 30, 2008. The exercise price for such warrants shall be an amount equal to the average closing price of the common stock of the Association for the 20 business days prior to September 30, 1996, on the exchange or market which is then the primary exchange or market for the common stock of the Association. The number of shares of Holding Company common stock subject to each stock warrant and the exercise price of each stock warrant shall be adjusted as necessary to reflect—

(i) the conversion of Association common stock into Holding Company common stock as part of the plan of reorganization approved by the Association's shareholders; and

(ii) any issuance or sale of stock (including issuance or sale of treasury stock), stock split, recapitalization, reorganization, or other corporate event, if agreed to by the Secretary of the Treasury and the Association.

(B) Authority to sell or exercise stock warrants; deposit of proceeds

The District of Columbia Financial Responsibility and Management Assistance Authority is authorized to sell or exercise the stock warrants described in subparagraph (A). The District of Columbia Financial Responsibility and Management Assistance Authority shall deposit into the account established under section 1132f–10(e)[1] of this title amounts collected from the sale and proceeds resulting from the exercise of the stock warrants pursuant to this subparagraph.

(10) Restrictions on transfer of Association shares and bankruptcy of Association

After the reorganization effective date, the Holding Company shall not sell, pledge, or otherwise transfer the outstanding shares of the Association, or agree to or cause the liquidation of the Association or cause the Association to file a petition for bankruptcy under title 11, without prior approval of the Secretary of the Treasury and the Secretary of Education.

(d) Termination of Association

In the event the shareholders of the Association approve a plan of reorganization under subsection (b) of this section, the Association shall dissolve, and the Association's separate existence shall terminate on September 30, 2008, after discharge of all outstanding debt obligations and liquidation pursuant to this subsection. The Association may dissolve pursuant to this subsection prior to such date by notifying the Secretary of Education and the Secretary of the Treasury of the Association's intention to dissolve, unless within 60 days after receipt of such notice the Secretary of Education notifies the Association that the Association continues to be needed to serve as a lender of last resort pursuant to section 1087–2(q) of this title or continues to be needed to purchase loans under an agreement with the Secretary described in subsection (c)(6) of this section. On the dissolution date, the Association shall take the following actions:

(1) Establishment of a trust

The Association shall, under the terms of an irrevocable trust agreement that is in form and substance satisfactory to the Secretary of the Treasury, the Association and the appointed trustee, irrevocably transfer all remaining obligations of the Association to the trust and irrevocably deposit or cause to be deposited into such trust, to be held as trust funds solely for the benefit of holders of the remaining obligations, money or direct noncallable obligations of the United States or any agency thereof for which payment the full faith and credit of the United States is pledged, maturing as to principal and interest in such amounts and at such times as are determined by the Secretary of the Treasury to be sufficient, without consideration of any significant reinvestment of such interest, to pay the principal of, and interest on, the remaining obligations in accordance with their terms. To the extent the Association cannot provide money or qualifying obligations in the amount required, the Holding Company shall be required to transfer money or qualifying obligations to the trust in the amount necessary to prevent any deficiency.

(2) Use of trust assets

All money, obligations, or financial assets deposited into the trust pursuant to this subsection shall be applied by the trustee to the payment of the remaining obligations assumed by the trust.

(3) Obligations not transferred to the trust

The Association shall make proper provision for all other obligations of the Association not transferred to the trust, including the repurchase or redemption, or the making of proper provision for the repurchase or redemption, of any preferred stock of the Association outstanding. Any obligations of the Association which cannot be fully satisfied shall become liabilities of the Holding Company as of the date of dissolution.

(4) Transfer of remaining assets

After compliance with paragraphs (1) and (3), any remaining assets of the trust shall be transferred to the Holding Company or any subsidiary of the Holding Company, as directed by the Holding Company.

(e) Operation of Holding Company

In the event the shareholders of the Association approve the plan of reorganization under subsection (b) of this section, the following provisions shall apply beginning on the reorganization effective date:

(1) Holding Company Board of Directors

The number of members and composition of the Board of Directors of the Holding Company shall be determined as set forth in the Holding Company's charter or like instrument (as amended from time to time) or bylaws (as amended from time to time) and as permitted under the laws of the jurisdiction of the Holding Company's incorporation.

[1] See References in Text note below.

(2) Holding Company name

The names of the Holding Company and any subsidiary of the Holding Company (other than the Association)—

(A) may not contain the name ''Student Loan Marketing Association''; and

(B) may contain, to the extent permitted by applicable State or District of Columbia law, ''Sallie Mae'' or variations thereof, or such other names as the Board of Directors of the Association or the Holding Company deems appropriate.

(3) Use of Sallie Mae name

Subject to paragraph (2), the Association may assign to the Holding Company, or any subsidiary of the Holding Company, the ''Sallie Mae'' name as a trademark or service mark, except that neither the Holding Company nor any subsidiary of the Holding Company (other than the Association or any subsidiary of the Association) may use the ''Sallie Mae'' name on, or to identify the issuer of, any debt obligation or other security offered or sold by the Holding Company or any subsidiary of the Holding Company (other than a debt obligation or other security issued to and held by the Holding Company or any subsidiary of the Holding Company). The Association shall remit to the account established under section 1132f–10(e)[2] of this title, $5,000,000, within 60 days of the reorganization effective date as compensation for the right to assign the ''Sallie Mae'' name as a trademark or service mark.

(4) Disclosure required

Until 3 years after the dissolution date, the Holding Company, and any subsidiary of the Holding Company (other than the Association), shall prominently display—

(A) in any document offering the Holding Company's securities, a statement that the obligations of the Holding Company and any subsidiary of the Holding Company are not guaranteed by the full faith and credit of the United States; and

(B) in any advertisement or promotional materials which use the ''Sallie Mae'' name or mark, a statement that neither the Holding Company nor any subsidiary of the Holding Company is a government-sponsored enterprise or instrumentality of the United States.

(f) Strict construction

Except as specifically set forth in this section, nothing in this section shall be construed to limit the authority of the Association as a federally chartered corporation, or of the Holding Company as a State or District of Columbia chartered corporation.

(g) Right to enforce

The Secretary of Education or the Secretary of the Treasury, as appropriate, may request that the Attorney General bring an action in the United States District Court for the District of Columbia for the enforcement of any provision of this section, or may, under the direction or control of the Attorney General, bring such an action. Such court shall have jurisdiction and power to order and require compliance with this section.

(h) Deadline for reorganization effective date

This section shall be of no further force and effect in the event that the reorganization effective date does not occur on or before 18 months after September 30, 1996.

(i) Definitions

For purposes of this section:

(1) Association

The term ''Association'' means the Student Loan Marketing Association.

(2) Dissolution date

The term ''dissolution date'' means September 30, 2008, or such earlier date as the Secretary of Education permits the transfer of remaining obligations in accordance with subsection (d) of this section.

(3) Holding Company

The term ''Holding Company'' means the new business corporation established pursuant to this section by the Association under the laws of any State of the United States or the District of Columbia for the purposes of the reorganization and restructuring described in subsection (a) of this section.

(4) Remaining obligations

The term ''remaining obligations'' means the debt obligations of the Association outstanding as of the dissolution date.

(5) Remaining property

The term ''remaining property'' means the following assets and liabilities of the Association which are outstanding as of the reorganization effective date:

(A) Debt obligations issued by the Association.

(B) Contracts relating to interest rate, currency, or commodity positions or protections.

(C) Investment securities owned by the Association.

(D) Any instruments, assets, or agreements described in section 1087–2(d) of this title (including, without limitation, all student loans and agreements relating to the purchase and sale of student loans, forward purchase and lending commitments, warehousing advances, academic facilities obligations, letters of credit, standby bond purchase agreements, liquidity agreements, and student loan revenue bonds or other loans).

(E) Except as specifically prohibited by this section or section 1087–2 of this title, any other nonmaterial assets or liabilities of the Association which the Association's Board of Directors determines to be necessary or appropriate to the Association's operations.

(6) Reorganization

The term ''reorganization'' means the restructuring event or events (including any merger event) giving effect to the Holding Company structure described in subsection (a) of this section.

[2] See References in Text note below.

(7) Reorganization effective date

The term ''reorganization effective date'' means the effective date of the reorganization as determined by the Board of Directors of the Association, which shall not be earlier than the date that shareholder approval is obtained pursuant to subsection (b) of this section and shall not be later than the date that is 18 months after September 30, 1996.

(8) Subsidiary

The term ''subsidiary'' means one or more direct or indirect subsidiaries.

(Pub. L. 89–329, title IV, § 440, as added Pub. L. 104–208, div. A, title I, § 101(e) [title VI, § 602(a)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–275.)

REPEAL OF SECTION

Pub. L. 104–208, div. A, title I, § 101(e) [title VI, § 602(d)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–289, provided that this section is repealed effective one year after date on which all obligations of trust established under subsec. (d)(1) of this section have been extinguished, if reorganization occurs in accordance with this section, or date on which all obligations of trust established under section 1087–2(s)(3)(A) of this title have been extinguished, if reorganization does not occur in accordance with this section.

REFERENCES IN TEXT

This chapter, referred to in subsec. (c)(1), was in the original ''this Act'', meaning Pub. L. 89–329, as amended, known as the Higher Education Act of 1965. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

Section 1132f–10(e) of this title, referred to in subsecs. (c)(9)(B) and (e)(3), was in the original a reference to section 3(e) of the Student Loan Marketing Association Reorganization Act of 1996, and was translated as reading section 603(e) of that Act, which is Pub. L. 104–208, div. A, title I, § 101(e) [title VI, § 603(e)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–293, to reflect the probable intent of Congress, because that Act does not contain a section 3(e), but does contain a section 603(e) which establishes the account referred to in text.

PRIOR PROVISIONS

A prior section 1087–3, Pub. L. 89–329, title IV, § 439A, as added Pub. L. 94–482, title I, § 127(a), Oct. 12, 1976, 90 Stat. 2141, related to a five-year nondischargeability of certain loan debts, prior to repeal by Pub. L. 95–598, title III, § 317, Nov. 6, 1978, 92 Stat. 2678, eff. Nov. 6, 1978.

A prior section 1087–3a, Pub. L. 89–329, title IV, § 439B, as added Pub. L. 95–566, § 8, Nov. 1, 1978, 92 Stat. 2404, authorized any loan under this part to be counted as part of the expected family contribution in the determination of need, prior to repeal by Pub. L. 97–35, title V, § 532(b)(2), Aug. 13, 1981, 95 Stat. 452, applicable to loans for the statement required by section 1078(a)(2)(A) of this title is completed on or after Oct. 1, 1981.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1078–3, 1085, 1087–2, 1087–4, 1132f–10 of this title.

§ 1087–4. Discrimination in secondary markets prohibited

The Student Loan Marketing Association (and, if the Association is privatized under section 1087–3 of this title, any successor entity functioning as a secondary market for loans under this part, including the Holding Company described in such section) shall not engage directly or indirectly in any pattern or practice that results in a denial of a borrower's access to loans under this part because of the borrower's race, sex, color, religion, national origin, age, disability status, income, attendance at a particular eligible institution, length of the borrower's educational program, or the borrower's academic year at an eligible institution.

(Pub. L. 89–329, title IV, § 440A, as added Pub. L. 104–208, div. A, title I, § 101(e) [title VI, § 604], Sept. 30, 1996, 110 Stat. 3009–233, 3009–293.)

PRIOR PROVISIONS

A prior section 1087–4, Pub. L. 89–329, title IV, § 440, as added Pub. L. 94–482, title I, § 127(a), Oct. 12, 1976, 90 Stat. 2141, provided for criminal penalties, prior to repeal by Pub. L. 96–374, title IV, § 451(b), Oct. 3, 1980, 94 Stat. 1458, eff. Oct. 1, 1980. See section 1097 of this title.

PART C—WILLIAM D. FORD FEDERAL DIRECT LOAN PROGRAM

CODIFICATION

This part was, in the original, part D of title IV of Pub. L. 89–329, the Higher Education Act of 1965. The letter designation was changed from ''D'' to ''C'' for codification purposes. Part C of title IV of Pub. L. 89–329, consisting of sections 441 to 447, as added by Pub. L. 99–498, title IV, § 403(a), Oct. 17, 1986, 100 Stat. 1429, is set out as section 2751 et seq. of Title 42, The Public Health and Welfare, because sections 441 to 446 of Pub. L. 89–329 had originally been enacted as part C of title I of the Economic Opportunity Act of 1964, consisting of sections 121 to 126 of Pub. L. 88–452, Aug. 20, 1964, 78 Stat. 513, prior to the transfer of such sections into Pub. L. 89–329, and had already been classified to section 2751 et seq. of Title 42 at the time of the transfer.

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 1072, 1078, 1078–3, 1090, 1091, 1091a, 1092, 1092b, 1106d of this title; title 2 section 906; title 10 sections 2171, 16301, 16302; title 11 section 525; title 26 section 6103.

§ 1087a. Program authority

(a) In general

There are hereby made available, in accordance with the provisions of this part, such sums as may be necessary to make loans to all eligible students (and the eligible parents of such students) in attendance at participating institutions of higher education selected by the Secretary, to enable such students to pursue their courses of study at such institutions during the period beginning July 1, 1994. Such loans shall be made by participating institutions, or consortia thereof, that have agreements with the Secretary to originate loans, or by alternative originators designated by the Secretary to make loans for students in attendance at participating institutions (and their parents).

(b) Designation

(1) Program

The program established under this part shall be referred to as the ''William D. Ford Federal Direct Loan Program''.

(2) Direct loans

Notwithstanding any other provision of this part, loans made to borrowers under this part

that, except as otherwise specified in this part, have the same terms, conditions, and benefits as loans made to borrowers under section 1078 of this title, shall be known as ''Federal Direct Stafford/Ford Loans''.

(Pub. L. 89–329, title IV, § 451, as added Pub. L. 99–498, title IV, § 404, Oct. 17, 1986, 100 Stat. 1437; amended Pub. L. 102–325, title IV, § 451, July 23, 1992, 106 Stat. 569; Pub. L. 103–66, title IV, § 4021, Aug. 10, 1993, 107 Stat. 341; Pub. L. 103–382, title III, § 358A, Oct. 20, 1994, 108 Stat. 3968.)

PRIOR PROVISIONS

A prior section 1087a, Pub. L. 89–329, title IV, § 451, as added Pub. L. 90–575, title I, § 141, Oct. 16, 1968, 82 Stat. 1031; amended Pub. L. 92–318, title I, § 136(a), (b)(1), June 23, 1972, 86 Stat. 272, authorized appropriations for cooperative education programs from the fiscal year ending June 30, 1969, through the fiscal year ending prior to July 1, 1975, prior to repeal by Pub. L. 94–482, title I, § 129(a), Oct. 12, 1976, 90 Stat. 2144, eff. 30 days after Oct. 12, 1976.

AMENDMENTS

1994—Pub. L. 103–382 designated existing provisions as subsec. (a), added heading, and added subsec. (b).

1993—Pub. L. 103–66 amended section generally, substituting provisions relating to program authority for former provisions relating to program and payment authority.

1992—Pub. L. 102–325 amended section generally, substituting provisions relating to program and payment authority for Federal direct loan demonstration program for former provisions relating to statement of purpose of income contingent direct loan demonstration project.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

INCOME CONTINGENT LOAN DISTRIBUTION OF FUNDS

Section 452 of Pub. L. 102–325 provided that:

''(a) IN GENERAL.—After September 30, 1992, and not later than March 31, 1992, the capital balance of the student loan fund established under part D of title IV of the Higher Education Act of 1965 [20 U.S.C. 1087a et seq.] (as such Act was in effect on the date of enactment of this Act [July 23, 1992]) shall be distributed by allowing institutions to transfer any remaining funds, including future collections and all other funds at the institution's discretion, to such institution's part E [20 U.S.C. 1087aa et seq.] account, part C [42 U.S.C. 2751 et seq.] fund, or subpart 3 of part A [20 U.S.C. 1070b et seq.] fund under the terms and conditions of the appropriate program.

''(b) CONVERSION OF EXISTING LOANS.—Institutions may, after July 1, 1992, convert all outstanding loans made under part D of title IV of the Higher Education Act of 1965 [20 U.S.C. 1087a et seq.] (as such Act was in effect on such date) to part E [20 U.S.C. 1087aa et seq.] loans, provided that such institution—

''(1) notify the borrower of such conversion;

''(2) obtain a signed part E promissory note from the borrower for the remaining amount outstanding; and

''(3) provide the borrower in writing with a description of all terms and conditions of the new loan.''

§ 1087b. Funds for origination of direct student loans

(a) In general

The Secretary shall provide, on the basis of the need and the eligibility of students at each participating institution, and parents of such students, for such loans, funds for student and parent loans under this part—

(1) directly to an institution of higher education that has an agreement with the Secretary under section 1087d(a) of this title to participate in the direct student loan programs under this part and that also has an agreement with the Secretary under section 1087d(b) of this title to originate loans under this part; or

(2) through an alternative originator designated by the Secretary to students (and parents of students) attending institutions of higher education that have an agreement with the Secretary under section 1087d(a) of this title but that do not have an agreement with the Secretary under section 1087d(b) of this title.

(b) No entitlement to participate or originate

No institution of higher education shall have a right to participate in the programs authorized by this part, to originate loans, or to perform any program function under this part. Nothing in this subsection shall be construed so as to limit the entitlement of an eligible student attending a participating institution (or the eligible parent of such student) to borrow under this part.

(c) Delivery of loan funds

Loan funds shall be paid and delivered to an institution by the Secretary prior to the beginning of the payment period established by the Secretary in a manner that is consistent with payment and delivery of basic grants under subpart 1 of part A of this subchapter.

(Pub. L. 89–329, title IV, § 452, as added Pub. L. 99–498, title IV, § 404, Oct. 17, 1986, 100 Stat. 1437; amended Pub. L. 102–325, title IV, § 451, July 23, 1992, 106 Stat. 569; Pub. L. 103–66, title IV, § 4021, Aug. 10, 1993, 107 Stat. 341; Pub. L. 105–33, title VI, § 6102, Aug. 5, 1997, 111 Stat. 652.)

PRIOR PROVISIONS

A prior section 1087b, Pub. L. 89–329, title IV, § 452, as added Pub. L. 90–575, title I, § 141, Oct. 16, 1968, 82 Stat. 1031, authorized grants for programs of cooperative education, prior to repeal by Pub. L. 94–482, title I, § 129(a), Oct. 12, 1976, 90 Stat. 2144, eff. 30 days after Oct. 12, 1976.

AMENDMENTS

1997—Subsecs. (b) to (d). Pub. L. 105–33 redesignated subsecs. (c) and (d) as (b) and (c), respectively, and struck out former subsec. (b) which required the Secretary to pay fees to institutions of higher education and alternative loan originators to assist in meeting the cost of loan origination.

1993—Pub. L. 103–66 amended section generally, substituting provisions relating to funds for origination of direct student loans for former provisions relating to payment rules.

1992—Pub. L. 102–325 amended section generally, substituting provisions relating to payment rules for former provisions authorizing demonstration projects.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

§ 1087c. Selection of institutions for participation and origination

(a) Phase-in of program

(1) General authority

The Secretary shall enter into agreements pursuant to section 1087d(a) of this title with institutions of higher education to participate in the direct student loan program under this part, and agreements pursuant to section 1087d(b) of this title with institutions of higher education, or consortia thereof, to originate loans in such program, for academic years beginning on or after July 1, 1994. Alternative origination services, through which an entity other than the participating institution at which the student is in attendance originates the loan, shall be provided by the Secretary, through 1 or more contracts under section 1087f(b) of this title or such other means as the Secretary may provide, for students attending participating institutions that do not originate direct student loans under this part. Such agreements for the academic year 1994–1995 shall, to the extent feasible, be entered into not later than January 1, 1994.

(2) Transition provisions

In order to ensure an expeditious but orderly transition from the loan programs under part B of this subchapter to the direct student loan program under this part, the Secretary shall, in the exercise of the Secretary's discretion, determine the number of institutions with which the Secretary shall enter into agreements under subsections (a) and (b) of section 1087d of this title for any academic year, except that the Secretary shall exercise such discretion so as to achieve the following goals:

(A) for academic year 1994–1995, loans made under this part shall represent 5 percent of the new student loan volume for such year;

(B) for academic year 1995–1996, loans made under this part shall represent 40 percent of the new student loan volume for such year;

(C) for academic years 1996–1997 and 1997–1998, loans made under this part shall represent 50 percent of the new student loan volume for such years; and

(D) for the academic year that begins in fiscal year 1998, loans made under this part shall represent 60 percent of the new student loan volume for such year.

(3) Exception

The Secretary may exceed the percentage goals described in subparagraphs[1] (C) or (D) of paragraph (2) if the Secretary determines that a higher percentage is warranted by the number of institutions of higher education that desire to participate in the program under this part and that meet the eligibility requirements for such participation.

(4) New student loan volume

For the purpose of this subsection, the term ''new student loan volume'' means the estimated sum of all loans (other than consolidation loans) that will be made, insured or guaranteed under this part and part B of this subchapter in the year for which the determination is made. The Secretary shall base the estimate described in the preceding sentence on the most recent program data available.

(b) Selection criteria

(1) Application

Each institution of higher education desiring to participate in the direct student loan program under this part shall submit an application satisfactory to the Secretary containing such information and assurances as the Secretary may require.

(2) Selection procedure

The Secretary shall select institutions for participation in the direct student loan program under this part, and shall enter into agreements with such institutions under section 1087d(a) of this title, from among those institutions that submit the applications described in paragraph (1), and meet such other eligibility requirements as the Secretary shall prescribe, by, to the extent possible—

(A)(i) categorizing such institutions according to anticipated loan volume, length of academic program, control of the institution, highest degree offered, size of student enrollment, geographic location, annual loan volume, and default experience; and

(ii) beginning in academic year 1995–1996 selecting institutions that are reasonably representative of each of the categories described pursuant to clause (i); and

(B) if the Secretary determines it necessary in order to carry out the purposes of subparagraph (A) and attain such reasonable representation (as required by subparagraph (A)), selecting additional institutions.

(c) Selection criteria for origination

(1) In general

The Secretary may enter into a supplemental agreement with an institution (or a consortium of such institutions) that—

(A) has an agreement under subsection 1087d(a) of this title;

(B) desires to originate loans under this part; and

(C) meets the criteria described in paragraph (2).

(2) Transition selection criteria

For academic year 1994–1995, the Secretary may approve an institution to originate loans only if such institution—

(A) made loans under part D of this subchapter in academic year 1993–1994 and did not exceed the applicable maximum default rate under section 1087bb(g) of this title for the most recent fiscal year for which data are available;

(B) is not on the reimbursement system of payment for any of the programs under subpart 1 or 3 of part A of this subchapter, part C of subchapter I of chapter 34 of title 42, or part D of this subchapter;

(C) is not overdue on program or financial reports or audits required under this subchapter;

(D) is not subject to an emergency action, or a limitation, suspension, or termination

[1] So in original. Probably should be ''subparagraph''.

under section 1078(b)(1)(T), 1082(h), or 1094(c) of this title;

(E) in the opinion of the Secretary, has not had significant deficiencies identified by a State postsecondary review entity under subpart 1 of part G of this subchapter;

(F) in the opinion of the Secretary, has not had severe performance deficiencies for any of the programs under this subchapter, including such deficiencies demonstrated by audits or program reviews submitted or conducted during the 5 calendar years immediately preceding the date of application;

(G) provides an assurance that such institution has no delinquent outstanding debts to the Federal Government, unless such debts are being repaid under or in accordance with a repayment arrangement satisfactory to the Federal Government, or the Secretary in the Secretary's discretion determines that the existence or amount of such debts has not been finally determined by the cognizant Federal agency; and

(H) meets such other criteria as the Secretary may establish to protect the financial interest of the United States and to promote the purposes of this part.

(3) Regulations governing approval after transition

For academic year 1995–1996 and subsequent academic years, the Secretary shall promulgate and publish in the Federal Register regulations governing the approval of institutions to originate loans under this part in accordance with section 1087g(a)(2) of this title.

(d) Eligible institutions

The Secretary may not select an institution of higher education for participation under this section unless such institution is an eligible institution under section 1085(a) of this title.

(e) Consortia

Subject to such requirements as the Secretary may prescribe, eligible institutions of higher education (as determined under subsection (d) of this section) with agreements under section 1087d(a) of this title may apply to the Secretary as consortia to originate loans under this part for students in attendance at such institutions. Each such institution shall be required to meet the requirements of subsection (c) of this section with respect to loan origination.

(Pub. L. 89–329, title IV, § 453, as added Pub. L. 99–498, title IV, § 404, Oct. 17, 1986, 100 Stat. 1438; amended Pub. L. 102–325, title IV, § 451, July 23, 1992, 106 Stat. 569; Pub. L. 103–66, title IV, § 4021, Aug. 10, 1993, 107 Stat. 342; Pub. L. 103–208, § 2(e), Dec. 20, 1993, 107 Stat. 2470.)

CODIFICATION

Amendment by section 2 of Pub. L. 103–208 (which was effective as if included in Pub. L. 102–325) was executed to this section as amended by Pub. L. 102–325 and Pub. L. 103–66, to reflect the probable intent of Congress.

PRIOR PROVISIONS

A prior section 1087c, Pub. L. 89–329, title IV, § 453, as added Pub. L. 90–575, title I, § 141, Oct. 16, 1968, 82 Stat. 1032; amended Pub. L. 92–318, title I, § 136(b)(2), June 23, 1972, 86 Stat. 272, authorized grants and contracts for training and research in cooperative education programs, prior to repeal by Pub. L. 94–482, title I, § 129(a), Oct. 12, 1976, 90 Stat. 2144, eff. 30 days after Oct. 12, 1976.

AMENDMENTS

1993—Pub. L. 103–66 amended section generally, substituting provisions relating to selection of institutions for participation and origination for former provisions relating to selection by Secretary.

Subsec. (b)(2)(B). Pub. L. 103–208 amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: ''if the Secretary determines it necessary to carry out the purposes of this part, selecting additional institutions.'' See Codification note above.

1992—Pub. L. 102–325 amended section generally, substituting provisions relating to selection by the Secretary for former provisions relating to agreements with institutions of higher education.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1003 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1091a of this title.

§ 1087d. Agreements with institutions

(a) Participation agreements

An agreement with any institution of higher education for participation in the direct student loan program under this part shall—

(1) provide for the establishment and maintenance of a direct student loan program at the institution under which the institution will—

(A) identify eligible students who seek student financial assistance at such institution in accordance with section 1091 of this title;

(B) estimate the need of each such student as required by part E of this subchapter for an academic year, except that, any loan obtained by a student under this part with the same terms as loans made under section 1078–8 of this title (except as otherwise provided in this part), or a loan obtained by a parent under this part with the same terms as loans made under section 1078–2 of this title (except as otherwise provided in this part), or obtained under any State-sponsored or private loan program, may be used to offset the expected family contribution of the student for that year;

(C) provide a statement that certifies the eligibility of any student to receive a loan under this part that is not in excess of the annual or aggregate limit applicable to such loan, except that the institution may, in exceptional circumstances identified by the Secretary, refuse to certify a statement that permits a student to receive a loan under this part, or certify a loan amount that is less than the student's determination of need (as determined under part E of this subchapter), if the reason for such action is doc-

umented and provided in written form to such student;

(D) set forth a schedule for disbursement of the proceeds of the loan in installments, consistent with the requirements of section 1078–7 of this title; and

(E) provide timely and accurate information—

(i) concerning the status of student borrowers (and students on whose behalf parents borrow under this part) while such students are in attendance at the institution and concerning any new information of which the institution becomes aware for such students (or their parents) after such borrowers leave the institution, to the Secretary for the servicing and collecting of loans made under this part; and

(ii) if the institution does not have an agreement with the Secretary under subsection (b) of this section, concerning student eligibility and need, as determined under subparagraphs (A) and (B), to the Secretary as needed for the alternative origination of loans to eligible students and parents in accordance with this part;

(2) provide assurances that the institution will comply with requirements established by the Secretary relating to student loan information with respect to loans made under this part;

(3) provide that the institution accepts responsibility and financial liability stemming from its failure to perform its functions pursuant to the agreement;

(4) provide that students at the institution and their parents (with respect to such students) will be eligible to participate in the programs under part B of this subchapter at the discretion of the Secretary for the period during which such institution participates in the direct student loan program under this part, except that a student or parent may not receive loans under both this part and part B of this subchapter for the same period of enrollment;

(5) provide for the implementation of a quality assurance system, as established by the Secretary and developed in consultation with institutions of higher education, to ensure that the institution is complying with program requirements and meeting program objectives;

(6) provide that the institution will not charge any fees of any kind, however described, to student or parent borrowers for origination activities or the provision of any information necessary for a student or parent to receive a loan under this part, or any benefits associated with such loan; and

(7) include such other provisions as the Secretary determines are necessary to protect the interests of the United States and to promote the purposes of this part.

(b) Origination

An agreement with any institution of higher education, or consortia thereof, for the origination of loans under this part shall—

(1) supplement the agreement entered into in accordance with subsection (a) of this section;

(2) include provisions established by the Secretary that are similar to the participation agreement provisions described in paragraphs (1)(E)(ii), (2), (3), (4), (5), (6), and (7) of subsection (a) of this section, as modified to relate to the origination of loans by the institution or consortium;

(3) provide that the institution or consortium will originate loans to eligible students and parents in accordance with this part; and

(4) provide that the note or evidence of obligation on the loan shall be the property of the Secretary.

(c) Withdrawal and termination procedures

The Secretary shall establish procedures by which institutions or consortia may withdraw or be terminated from the program under this part.

(Pub. L. 89–329, title IV, § 454, as added Pub. L. 99–498, title IV, § 404, Oct. 17, 1986, 100 Stat. 1438; amended Pub. L. 100–50, § 12, June 3, 1987, 101 Stat. 348; Pub. L. 102–325, title IV, § 451, July 23, 1992, 106 Stat. 571; Pub. L. 103–66, title IV, § 4021, Aug. 10, 1993, 107 Stat. 345.)

AMENDMENTS

1993—Pub. L. 103–66 amended section generally, substituting provisions relating to agreements with institutions, consisting of subsecs. (a) to (c), for former provisions relating to requirements of agreements, consisting of pars. (1) to (7).

1992—Pub. L. 102–325 amended section generally, substituting provisions relating to requirements of agreements for former provisions relating to terms of loans under pilot program.

1987—Subsec. (a)(4). Pub. L. 100–50 amended par. (4) generally. Prior to amendment, par. (4) read as follows: ''The interest rate on all such loans shall be the rate equal to the rate obtained for each calendar year (A) by computing the average of the bond equivalent rates of 91-day Treasury bills auctioned for such 3-month period preceding such year, and (B) by adding 3 percent to the resulting percent.''

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1087b, 1087c, 1087g of this title.

§ 1087e. Terms and conditions of loans

(a) In general

(1) Parallel terms, conditions, benefits, and amounts

Unless otherwise specified in this part, loans made to borrowers under this part shall have the same terms, conditions, and benefits, and be available in the same amounts, as loans made to borrowers under sections 1078, 1078–2, and 1078–8 of this title.

(2) Designation of loans

Loans made to borrowers under this part that, except as otherwise specified in this

part, have the same terms, conditions, and benefits as loans made to borrowers under—

(A) section 1078 of this title shall be known as ''Federal Direct Stafford Loans'';

(B) section 1078–2 of this title shall be known as ''Federal Direct PLUS Loans''; and

(C) section 1078–8 of this title shall be known as ''Federal Direct Unsubsidized Stafford Loans''.

(b) Interest rate

(1) Rates for FDSL and FDUSL

For Federal Direct Stafford Loans and Federal Direct Unsubsidized Stafford Loans for which the first disbursement is made on or after July 1, 1994, the applicable rate of interest shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to—

(A) the bond equivalent rate of 91-day Treasury bills auctioned at the final auction held prior to such June 1; plus

(B) 3.1 percent,

except that such rate shall not exceed 8.25 percent.

(2) In school and grace period rules

(A) Notwithstanding the provisions of paragraph (1), but subject to paragraph (3), with respect to any Federal Direct Stafford Loan or Federal Direct Unsubsidized Stafford Loan for which the first disbursement is made on or after July 1, 1995, the applicable rate of interest for interest which accrues—

(i) prior to the beginning of the repayment period of the loan; or

(ii) during the period in which principal need not be paid (whether or not such principal is in fact paid) by reason of a provision described in section 1078(b)(1)(M) or 1077(a)(2)(C) of this title,

shall not exceed the rate determined under subparagraph (B).

(B) For the purpose of subparagraph (A), the rate determined under this subparagraph shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to—

(i) the bond equivalent rate of 91-day Treasury bills auctioned at the final auction prior to such June 1; plus

(ii) 2.5 percent,

except that such rate shall not exceed 8.25 percent.

(3) Out-year rule

Notwithstanding paragraphs (1) and (2), for Federal Direct Stafford Loans and Federal Direct Unsubsidized Stafford Loans made on or after July 1, 1998, the applicable rate of interest shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to—

(A) the bond equivalent rate of the security with a comparable maturity as established by the Secretary; plus

(B) 1.0 percent,

except that such rate shall not exceed 8.25 percent.

(4) Rates for FDPLUS

(A) For Federal Direct PLUS Loans for which the first disbursement is made on or after July 1, 1994, the applicable rate of interest shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to—

(i) the bond equivalent rate of 52-week Treasury bills auctioned at final auction held prior to such June 1; plus

(ii) 3.1 percent,

except that such rate shall not exceed 9 percent.

(B) For Federal Direct PLUS loans made on or after July 1, 1998, the applicable rate of interest shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to—

(i) the bond equivalent rate of the security with a comparable maturity as established by the Secretary; plus

(ii) 2.1 percent,

except that such rate shall not exceed 9 percent.

(5) Publication

The Secretary shall determine the applicable rates of interest under this subsection after consultation with the Secretary of the Treasury and shall publish such rate in the Federal Register as soon as practicable after the date of determination.

(c) Loan fee

The Secretary shall charge the borrower of a loan made under this part an origination fee of 4.0 percent of the principal amount of loan.

(d) Repayment plans

(1) Design and selection

Consistent with criteria established by the Secretary, the Secretary shall offer a borrower of a loan made under this part a variety of plans for repayment of such loan, including principal and interest on the loan. The borrower shall be entitled to accelerate, without penalty, repayment on the borrower's loans under this part. The borrower may choose—

(A) a standard repayment plan, with a fixed annual repayment amount paid over a fixed period of time, consistent with subsection (a)(1) of this section;

(B) an extended repayment plan, with a fixed annual repayment amount paid over an extended period of time, except that the borrower shall annually repay a minimum amount determined by the Secretary in accordance with section 1078(b)(1)(L) of this title;

(C) a graduated repayment plan, with annual repayment amounts established at 2 or more graduated levels and paid over a fixed or extended period of time, except that the borrower's scheduled payments shall not be less than 50 percent, nor more than 150 percent, of what the amortized payment on the

amount owed would be if the loan were repaid under the standard repayment plan; and

(D) an income contingent repayment plan, with varying annual repayment amounts based on the income of the borrower, paid over an extended period of time prescribed by the Secretary, not to exceed 25 years, except that the plan described in this subparagraph shall not be available to the borrower of a Federal Direct PLUS loan.

(2) Selection by Secretary

If a borrower of a loan made under this part does not select a repayment plan described in paragraph (1), the Secretary may provide the borrower with a repayment plan described in subparagraph (A), (B), or (C) of paragraph (1).

(3) Changes in selections

The borrower of a loan made under this part may change the borrower's selection of a repayment plan under paragraph (1), or the Secretary's selection of a plan for the borrower under paragraph (2), as the case may be, under such terms and conditions as may be established by the Secretary.

(4) Alternative repayment plans

The Secretary may provide, on a case by case basis, an alternative repayment plan to a borrower of a loan made under this part who demonstrates to the satisfaction of the Secretary that the terms and conditions of the repayment plans available under paragraph (1) are not adequate to accommodate the borrower's exceptional circumstances. In designing such alternative repayment plans, the Secretary shall ensure that such plans do not exceed the cost to the Federal Government, as determined on the basis of the present value of future payments by such borrowers, of loans made using the plans available under paragraph (1).

(5) Repayment after default

The Secretary may require any borrower who has defaulted on a loan made under this part to—

(A) pay all reasonable collection costs associated with such loan; and

(B) repay the loan pursuant to an income contingent repayment plan.

(e) Income contingent repayment

(1) Information and procedures

The Secretary may obtain such information as is reasonably necessary regarding the income of a borrower (and the borrower's spouse, if applicable) of a loan made under this part that is, or may be, repaid pursuant to income contingent repayment, for the purpose of determining the annual repayment obligation of the borrower. Returns and return information (as defined in section 6103 of title 26) may be obtained under the preceding sentence only to the extent authorized by section 6103(*l*)(13) of title 26. The Secretary shall establish procedures for determining the borrower's repayment obligation on that loan for such year, and such other procedures as are necessary to implement effectively income contingent repayment.

(2) Repayment based on adjusted gross income

A repayment schedule for a loan made under this part and repaid pursuant to income contingent repayment shall be based on the adjusted gross income (as defined in section 62 of title 26) of the borrower or, if the borrower is married and files a Federal income tax return jointly with the borrower's spouse, on the adjusted gross income of the borrower and the borrower's spouse.

(3) Additional documents

A borrower who chooses, or is required, to repay a loan made under this part pursuant to income contingent repayment, and for whom adjusted gross income is unavailable or does not reasonably reflect the borrower's current income, shall provide to the Secretary other documentation of income satisfactory to the Secretary, which documentation the Secretary may use to determine an appropriate repayment schedule.

(4) Repayment schedules

Income contingent repayment schedules shall be established by regulations promulgated by the Secretary and shall require payments that vary in relation to the appropriate portion of the annual income of the borrower (and the borrower's spouse, if applicable) as determined by the Secretary.

(5) Calculation of balance due

The balance due on a loan made under this part that is repaid pursuant to income contingent repayment shall equal the unpaid principal amount of the loan, any accrued interest, and any fees, such as late charges, assessed on such loan. The Secretary may promulgate regulations limiting the amount of interest that may be capitalized on such loan, and the timing of any such capitalization.

(6) Notification to borrowers

The Secretary shall establish procedures under which a borrower of a loan made under this part who chooses or is required to repay such loan pursuant to income contingent repayment is notified of the terms and conditions of such plan, including notification of such borrower—

(A) that the Internal Revenue Service will disclose to the Secretary tax return information as authorized under section 6103(*l*)(13) of title 26; and

(B) that if a borrower considers that special circumstances, such as a loss of employment by the borrower or the borrower's spouse, warrant an adjustment in the borrower's loan repayment as determined using the information described in subparagraph (A), or the alternative documentation described in paragraph (3), the borrower may contact the Secretary, who shall determine whether such adjustment is appropriate, in accordance with criteria established by the Secretary.

(f) Deferment

(1) Effect on principal and interest

A borrower of a loan made under this part who meets the requirements described in para-

graph (2) shall be eligible for a deferment, during which periodic installments of principal need not be paid, and interest—

(A) shall not accrue, in the case of a—

(i) Federal Direct Stafford Loan; or

(ii) a Federal Direct Consolidation Loan that consolidated only Federal Direct Stafford Loans, or a combination of such loans and Federal Stafford Loans for which the student borrower received an interest subsidy under section 1078 of this title; or

(B) shall accrue and be capitalized or paid by the borrower, in the case of a Federal Direct PLUS Loan, a Federal Direct Unsubsidized Stafford Loan, or a Federal Direct Consolidation Loan not described in subparagraph (A)(ii).

(2) Eligibility

A borrower of a loan made under this part shall be eligible for a deferment during any period—

(A) during which the borrower—

(i) is carrying at least one-half the normal full-time work load for the course of study that the borrower is pursuing, as determined by the eligible institution (as such term is defined in section 1085(a) of this title) the borrower is attending; or

(ii) is pursuing a course of study pursuant to a graduate fellowship program approved by the Secretary, or pursuant to a rehabilitation training program for individuals with disabilities approved by the Secretary,

except that no borrower shall be eligible for a deferment under this subparagraph, or a loan made under this part (other than a Federal Direct PLUS Loan or a Federal Direct Consolidation Loan), while serving in a medical internship or residency program;

(B) not in excess of 3 years during which the borrower is seeking and unable to find full-time employment;

(C) not in excess of 3 years during which the Secretary determines, in accordance with regulations prescribed under section 1085(*o*) of this title, that the borrower has experienced or will experience an economic hardship.

(3) "Borrower" defined

For the purpose of this subsection, the term ''borrower'' means an individual who is a new borrower on the date such individual applies for a loan under this part for which the first disbursement is made on or after July 1, 1993.

(4) Deferments for previous part B loan borrowers

A borrower of a loan made under this part, who at the time such individual applies for such loan, has an outstanding balance of principal or interest owing on any loan made, insured, or guaranteed under part B of this subchapter prior to July 1, 1993, shall be eligible for a deferment under section 1077(a)(2)(C) of this title or section 1078(b)(1)(M) of this title as such sections were in effect on July 22, 1992.

(g) Federal Direct Consolidation Loans

A borrower of a loan made under this part may consolidate such loan with the loans described in section 1078–3(a)(4) of this title only under such terms and conditions as the Secretary shall establish pursuant to section 1087g(a)(1) of this title or regulations promulgated under this part. Loans made under this subsection shall be known as ''Federal Direct Consolidation Loans''.

(h) Borrower defenses

Notwithstanding any other provision of State or Federal law, the Secretary shall specify in regulations (except as authorized under section 1087g(a)(1) of this title) which acts or omissions of an institution of higher education a borrower may assert as a defense to repayment of a loan made under this part, except that in no event may a borrower recover from the Secretary, in any action arising from or relating to a loan made under this part, an amount in excess of the amount such borrower has repaid on such loan.

(i) Loan application and promissory note

The common financial reporting form required in section 1090(a)(1) of this title shall constitute the application for loans made under this part (other than a Federal Direct PLUS loan). The Secretary shall develop, print, and distribute to participating institutions a standard promissory note and loan disclosure form.

(j) Loan disbursement

(1) In general

Proceeds of loans to students under this part shall be applied to the student's account for tuition and fees, and, in the case of institutionally owned housing, to room and board. Loan proceeds that remain after the application of the previous sentence shall be delivered to the borrower by check or other means that is payable to and requires the endorsement or other certification by such borrower.

(2) Payment periods

The Secretary shall establish periods for the payments described in paragraph (1) in a manner consistent with payment of basic grants under subpart 1 of part A of this subchapter.

(k) Fiscal control and fund accountability

(1) In general

(A) An institution shall maintain financial records in a manner consistent with records maintained for other programs under this subchapter.

(B) Except as otherwise required by regulations of the Secretary, or in a notice under section 1087g(a)(1) of this title, an institution may maintain loan funds under this part in the same account as other Federal student financial assistance.

(2) Payments and refunds

Payments and refunds shall be reconciled in a manner consistent with the manner set forth for the submission of a payment summary report required of institutions participating in the program under subpart 1 of part A of this subchapter, except that nothing in this paragraph shall prevent such reconciliations on a monthly basis.

(3) Transaction histories

All transaction histories under this part shall be maintained using the same system

designated by the Secretary for the provision of basic grants under subpart 1 of part A of this subchapter.

(Pub. L. 89–329, title IV, § 455, as added Pub. L. 99–498, title IV, § 404, Oct. 17, 1986, 100 Stat. 1439; amended Pub. L. 102–325, title IV, § 451, July 23, 1992, 106 Stat. 572; Pub. L. 103–66, title IV, § 4021, Aug. 10, 1993, 107 Stat. 346; Pub. L. 103–382, title III, § 359, Oct. 20, 1994, 108 Stat. 3968.)

REFERENCES IN TEXT

Sections 1077(a)(2)(C) and 1078(b)(1)(M) of this title as such sections were in effect on July 22, 1992, referred to in subsec. (f)(4), means sections 1077(a)(2)(C) and 1078(b)(1)(M) of this title prior to being amended generally by sections 414(b) and 416(e)(1), respectively, of Pub. L. 102–325, title IV, July 23, 1992, 106 Stat. 513, 519.

AMENDMENTS

1994—Subsec. (f)(3), (4). Pub. L. 103–382 added pars. (3) and (4).

1993—Pub. L. 103–66 amended section generally, substituting provisions relating to terms and conditions of loans for former provisions relating to withdrawal and termination procedures.

1992—Pub. L. 102–325 amended section generally, substituting provisions relating to withdrawal and termination procedures for former provisions relating to feasibility study.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1078–3 of this title; title 2 section 906.

§ 1087f. Contracts

(a) Contracts for supplies and services

(1) In general

The Secretary shall, to the extent practicable, award contracts for origination, servicing, and collection described in subsection (b) of this section. In awarding such contracts, the Secretary shall ensure that such services and supplies are provided at competitive prices.

(2) Entities

The entities with which the Secretary may enter into contracts shall include only entities which the Secretary determines are qualified to provide such services and supplies and will comply with the procedures applicable to the award of such contracts. In the case of awarding contracts for the origination, servicing, and collection of loans under this part, the Secretary shall enter into contracts only with entities that have extensive and relevant experience and demonstrated effectiveness. The entities with which the Secretary may enter into such contracts shall include, where practicable, agencies with agreements with the Secretary under sections 1078(b) and (c) of this title, if such agencies meet the qualifications as determined by the Secretary under this subsection and if those agencies have such experience and demonstrated effectiveness. In awarding contracts to such State agencies, the Secretary shall, to the extent practicable and consistent with the purposes of this part, give special consideration to State agencies with a history of high quality performance to perform services for institutions of higher education within their State.

(3) Rule of construction

Nothing in this section shall be construed as a limitation of the authority of any State agency to enter into an agreement for the purposes of this section as a member of a consortium of State agencies.

(b) Contracts for origination, servicing, and data systems

The Secretary may enter into contracts for—

(1) the alternative origination of loans to students attending institutions of higher education with agreements to participate in the program under this part (or their parents), if such institutions do not have agreements with the Secretary under section 1087d(b) of this title;

(2) the servicing and collection of loans made under this part;

(3) the establishment and operation of 1 or more data systems for the maintenance of records on all loans made under this part;

(4) services to assist in the orderly transition from the loan programs under part B of this subchapter to the direct student loan program under this part; and

(5) such other aspects of the direct student loan program as the Secretary determines are necessary to ensure the successful operation of the program.

(Pub. L. 89–329, title IV, § 456, as added Pub. L. 102–325, title IV, § 451, July 23, 1992, 106 Stat. 572; amended Pub. L. 103–66, title IV, § 4021, Aug. 10, 1993, 107 Stat. 352.)

AMENDMENTS

1993—Pub. L. 103–66 amended section generally, substituting provisions relating to contracts for former provisions relating to terms and conditions.

EFFECTIVE DATE

Section effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as an Effective Date of 1992 Amendment note under section 1001 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1087c of this title.

§ 1087g. Regulatory activities

(a) Notice in lieu of regulations for first year of program

(1) Notice in lieu of regulations for first year of program

The Secretary shall publish in the Federal Register whatever standards, criteria, and procedures, consistent with the provisions of this part, the Secretary, in consultation with members of the higher education community, determines are reasonable and necessary to the successful implementation of the first year of the direct student loan program authorized by this part. Section 1232[1] of this

[1] See References in Text note below.

title shall not apply to the publication of such standards, criteria, and procedures.

(2) Negotiated rulemaking

Beginning with academic year 1995–1996, all standards, criteria, procedures, and regulations implementing this part as amended by the Student Loan Reform Act of 1993 shall, to the extent practicable, be subject to negotiated rulemaking, including all such standards, criteria, procedures, and regulations promulgated from August 10, 1993.

(b) Closing date for applications from institutions

The Secretary shall establish a date not later than October 1, 1993, as the closing date for receiving applications from institutions of higher education desiring to participate in the first year of the direct loan program under this part.

(c) Publication of list of participating institutions

Not later than January 1, 1994, the Secretary shall publish in the Federal Register a list of the institutions of higher education selected to participate in the first year of the direct loan program under this part.

(Pub. L. 89–329, title IV, § 457, as added Pub. L. 102–325, title IV, § 451, July 23, 1992, 106 Stat. 572; amended Pub. L. 103–66, title IV, § 4021, Aug. 10, 1993, 107 Stat. 352.)

REFERENCES IN TEXT

Section 1232 of this title, referred to in subsec. (a)(1), was in the original a reference to section 431 of the General Education Provisions Act. Sections 422 and 431 of that Act were renumbered as sections 431 and 437, respectively, by Pub. L. 103–382, title II, § 212(b)(1), Oct. 20, 1994, 108 Stat. 3913, and are classified to sections 1231a and 1232, respectively, of this title.

The Student Loan Reform Act of 1993, referred to in subsec. (a)(2), is subtitle A (§§ 4011–4047) of title IV of Pub. L. 103–66, Aug. 10, 1993, 106 Stat. 341. For complete classification of this Act to the Code, see Short Title of 1993 Amendments note set out under section 1001 of this title and Tables.

AMENDMENTS

1993—Pub. L. 103–66 amended section generally, substituting provisions relating to regulatory activities for former provisions relating to loan collection functions under competitive procurement contracts.

EFFECTIVE DATE

Section effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as an Effective Date of 1992 Amendment note under section 1001 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1087c, 1087e of this title.

§ 1087h. Funds for administrative expenses

(a) Administrative expenses

(1) In general

Each fiscal year, there shall be available to the Secretary from funds not otherwise appropriated, funds to be obligated for—

(A) administrative costs under this part and part B of this subchapter, including the costs of the direct student loan programs under this part, and

(B) administrative cost allowances payable to guaranty agencies under part B of this subchapter and calculated in accordance with paragraph (2),

not to exceed (from such funds not otherwise appropriated) $507,000,000 in fiscal year 1998, $610,000,000 in fiscal year 1999, $705,000,000 in fiscal year 2000, $750,000,000 in fiscal year 2001, and $750,000,000 in fiscal year 2002. Administrative cost allowances under subparagraph (B) of this paragraph shall be paid quarterly and used in accordance with section 1078(f) of this title. The Secretary may carry over funds available under this section to a subsequent fiscal year.

(2) Calculation basis

Administrative cost allowances payable to guaranty agencies under paragraph (1)(B) shall be calculated on the basis of 0.85 percent of the total principal amount of loans upon which insurance was issued in excess of $8,200,000,000 in fiscal year 1997 and upon which insurance is issued on or after October 1, 1997, except that such allowances shall not exceed—

(A) $170,000,000 for each of the fiscal years 1998 and 1999; or

(B) $150,000,000 for each of the fiscal years 2000, 2001, and 2002.

(b) Availability

Funds made available under subsection (a) of this section shall remain available until expended.

(c) Budget justification

No funds may be expended under this section unless the Secretary includes in the Department of Education's annual budget justification to Congress a detailed description of the specific activities for which the funds made available by this section have been used in the prior and current years (if applicable), the activities and costs planned for the budget year, and the projection of activities and costs for each remaining year for which administrative expenses under this section are made available.

(d) Notification

In the event the Secretary finds it necessary to use the authority provided to the Secretary under subsection (a) of this section to draw funds for administrative expenses from a future year's funds, no funds may be expended under this section unless the Secretary immediately notifies the Committees on Appropriations of the Senate and of the House of Representatives, and the Labor and Human Resources Committee of the Senate and the Education and Labor Committee of the House of Representatives, of such action and explain the reasons for such action.

(Pub. L. 89–329, title IV, § 458, as added Pub. L. 102–325, title IV, § 451, July 23, 1992, 106 Stat. 573; amended Pub. L. 103–66, title IV, § 4021, Aug. 10, 1993, 107 Stat. 353; Pub. L. 104–19, title I, § 601, July 27, 1995, 109 Stat. 219; Pub. L. 105–33, title VI, § 6103, Aug. 5, 1997, 111 Stat. 652; Pub. L. 105–78, title VI, § 609(*l*), Nov. 13, 1997, 111 Stat. 1524.)

PRIOR PROVISIONS

Prior sections 1087i and 1087j were omitted in the general revision of this part by Pub. L. 103–66.

Section 1087i, Pub. L. 89–329, title IV, § 459, as added Pub. L. 102–325, title IV, § 451, July 23, 1992, 106 Stat. 575, related to schedule of regulatory activities by Secretary under Federal direct loan demonstration program.

Section 1087j, Pub. L. 89–329, title IV, § 459A, as added Pub. L. 102–325, title IV, § 451, July 23, 1992, 106 Stat. 575, related to funds for administrative expenses under Federal direct loan demonstration program.

AMENDMENTS

1997—Subsec. (a). Pub. L. 105–33 amended heading and text of subsec. (a) generally. Prior to amendment, text read as follows: ''Each fiscal year, there shall be available to the Secretary of Education from funds available pursuant to section 1072(g) of this title and from funds not otherwise appropriated, funds to be obligated for administrative costs under this part, including the costs of the transition from the loan programs under part B of this subchapter to the direct student loan programs under this part (including the costs of annually assessing the program under this part and the progress of the transition) and transition support (including administrative costs) for the expenses of guaranty agencies in servicing outstanding loans in their portfolios and in guaranteeing new loans, not to exceed (from such funds not otherwise appropriated) $260,000,000 in fiscal year 1994, $284,000,000 in fiscal year 1995, $550,000,000 in fiscal year 1996, $595,000,000 in fiscal year 1997, and $750,000,000 in fiscal year 1998. If in any fiscal year the Secretary determines that additional funds for administrative expenses are needed as a result of such transition or the expansion of the direct student loan programs under this part, the Secretary is authorized to use funds available under this section for a subsequent fiscal year for such expenses, except that the total expenditures by the Secretary (from such funds not otherwise appropriated) shall not exceed $2,439,000,000 in fiscal years 1994 through 1998. The Secretary is also authorized to carry over funds available under this section to a subsequent fiscal year.''

Subsec. (a)(1). Pub. L. 105–78 substituted ''$507,000,000'' for ''$532,000,000'' in closing provisions.

1995—Subsec. (a). Pub. L. 104–19 substituted ''$284,000,000 in fiscal year 1995'' for ''$345,000,000 in fiscal year 1995'' and ''$2,439,000,000 in fiscal years 1994 through 1998'' for ''$2,500,000,000 in fiscal years 1994 through 1998''.

1993—Pub. L. 103–66 amended section generally, substituting provisions relating to funds for administrative expenses for former provisions relating to reports.

CHANGE OF NAME

Committee on Education and Labor of House of Representatives treated as referring to Committee on Economic and Educational Opportunities of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Economic and Educational Opportunities of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Fifth Congress, Jan. 7, 1997.

EFFECTIVE DATE

Section effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as an Effective Date of 1992 Amendment note under section 1001 of this title.

CONSTRUCTION

Section 609(m) of Pub. L. 105–78 provided that: ''Nothing in this Act [see Tables for classification] or an amendment made by this Act shall be construed to prohibit the Secretary of Education from using funds that are returned or otherwise recovered by the Secretary under section 422(g) of the Higher Education Act of 1965 (20 U.S.C. 1072(g)) including the balances of returned reserve funds, formerly held by the Higher Education Assistance Foundation, that are currently held in Higher Education Assistance Foundation Claims Reserves, Treasury account number 91X6192, for expenditure for expenses pursuant to section 458 of such Act (20 U.S.C. 1087h).''

USE OF FUNDS FOR ADMINISTRATIVE EXPENSES OF WILLIAM D. FORD DIRECT LOAN PROGRAM PROHIBITED

Pub. L. 104–208, div. A, title I, § 101(e) [title III, § 304], Sept. 30, 1996, 110 Stat. 3009–233, 3009–261, provided in part that: ''Notwithstanding section 458 of the Higher Education Act [of 1965] [20 U.S.C. 1087b], the Secretary may not use funds available under that section or any other section for subsequent fiscal years for administrative expenses of the William D. Ford Direct Loan Program.''

Similar provisions were contained in the following prior appropriation act:

Pub. L. 104–134, title I, § 101(d) [title III, § 305], Apr. 26, 1996, 110 Stat. 1321–211, 1321–236; renumbered title I, Pub. L. 104–140, § 1(a), May 2, 1996, 110 Stat. 1327.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1072, 1078 of this title.

PART D—FEDERAL PERKINS LOANS

CODIFICATION

This part was added as part E of title IV of Pub. L. 89–329 by Pub. L. 92–318, title I, § 137(b), June 23, 1972, 86 Stat. 273, and amended by Pub. L. 94–482, Oct. 12, 1976, 90 Stat. 2081; Pub. L. 95–43, June 15, 1977, 91 Stat. 213; Pub. L. 95–561, Nov. 1, 1978, 92 Stat. 2143; Pub. L. 96–49, Aug. 13, 1979, 93 Stat. 351; Pub. L. 96–374, Oct. 3, 1980, 94 Stat. 1367; Pub. L. 97–35, Aug. 13, 1981, 95 Stat. 357; Pub. L. 97–301, Oct. 13, 1982, 96 Stat. 1400; Pub. L. 98–79, Aug. 15, 1983, 97 Stat. 476; Pub. L. 99–272, Apr. 7, 1986, 100 Stat. 82. Such part is shown herein, however, as having been added by Pub. L. 99–498, title IV, § 405(a), Oct. 17, 1986, 100 Stat. 1439, without reference to such intervening amendments because of the extensive revision of this part by Pub. L. 99–498. The letter designation of this part was changed from ''E'' to ''D'' for codification purposes. See Codification note preceding section 1087a of this title.

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 1078, 1078–3, 1085, 1087c, 1089, 1090, 1091, 1091a, 1092, 1092b, 1094, 1096, 1099a–3, 1106d of this title; title 5 section 5379; title 10 sections 2171, 16301, 16302; title 11 section 525; title 26 section 6103; title 42 sections 2756b, 4953.

§ 1087aa. Appropriations authorized

(a) Program authority

The Secretary shall carry out a program of stimulating and assisting in the establishment and maintenance of funds at institutions of higher education for the making of low-interest loans to students in need thereof to pursue their courses of study in such institutions or while engaged in programs of study abroad approved for credit by such institutions. Loans made under this part shall be known as ''Federal Perkins Loans''.

(b) Authorization of appropriations

(1) For the purpose of enabling the Secretary to make contributions to student loan funds established under this part, there are authorized to be appropriated $250,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(2) In addition to the funds authorized under paragraph (1), there are hereby authorized to be appropriated such sums for fiscal year 1997 and

each of the 5 succeeding fiscal years as may be necessary to enable students who have received loans for academic years ending prior to October 1, 1997, to continue or complete courses of study.

(c) Use of appropriations

Any sums appropriated pursuant to subsection (b) of this section for any fiscal year shall be available for apportionment pursuant to section 1087bb of this title and for payments of Federal capital contributions therefrom to institutions of higher education which have agreements with the Secretary under section 1087cc of this title. Such Federal capital contributions and all contributions from such institutions shall be used for the establishment, expansion, and maintenance of student loan funds.

(Pub. L. 89–329, title IV, § 461, as added Pub. L. 99–498, title IV, § 405(a), Oct. 17, 1986, 100 Stat. 1439; amended Pub. L. 102–325, title IV, § 461(a)(2)–(c), July 23, 1992, 106 Stat. 576.)

PRIOR PROVISIONS

A prior section 1087aa, Pub. L. 89–329, title IV, § 461, as added Pub. L. 92–318, title I, § 137(b), June 23, 1972, 86 Stat. 273; amended Pub. L. 94–482, title I, § 130(a), (b), Oct. 12, 1976, 90 Stat. 2146; Pub. L. 96–49, § 5(d)(1), (2), Aug. 13, 1979, 93 Stat. 352; Pub. L. 96–374, title IV, § 441, title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1436, 1503, authorized a program to establish and maintain funds at institutions of higher education for making low-interest loans to students, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1992—Subsec. (a). Pub. L. 102–325, § 461(a)(2), (b), inserted ''or while engaged in programs of study abroad approved for credit by such institutions'' after ''in such institutions'' and substituted ''Federal Perkins Loans'' for ''Perkins Loans''.

Subsec. (b). Pub. L. 102–325, § 461(c), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows:

''(1) For the purpose of enabling the Secretary to make contributions to student loan funds established under this part, there are authorized to be appropriated $268,000,000 for fiscal year 1987 and such sums as may be necessary for each of the 4 succeeding fiscal years.

''(2) In addition there are hereby authorized to be appropriated such sums for fiscal year 1991 and each of the five succeeding fiscal years as may be necessary to enable students who have received loans for academic years ending prior to October 1, 1991, to continue or complete courses of study.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1087bb, 1087cc, 1087ee of this title.

§ 1087bb. Allocation of funds

(a) Allocation based on previous allocation

(1) From the amount appropriated pursuant to section 1087aa(b) of this title for each fiscal year, the Secretary shall first allocate to each eligible institution an amount equal to—

(A) 100 percent of the amount of Federal capital contribution allocated to such institution under this part for fiscal year 1985, multiplied by

(B) the institution's default penalty, as determined under subsection (f) of this section,

except that if the institution has a default rate in excess of the applicable maximum default rate under subsection (g) of this section, the institution may not receive an allocation under this paragraph.

(2)(A) From the amount so appropriated, the Secretary shall next allocate to each eligible institution that began participation in the program under this part after fiscal year 1985 but is not a first or second time participant, an amount equal to the greater of—

(i) $5,000; or

(ii) 100 percent of the amount received and expended under this part for the first year it participated in the program.

(B) From the amount so appropriated, the Secretary shall next allocate to each eligible institution that began participation in the program under this part after fiscal year 1985 and is a first or second time participant, an amount equal to the greatest of—

(i) $5,000;

(ii) an amount equal to (I) 90 percent of the amount received and used under this part in the second preceding fiscal year by eligible institutions offering comparable programs of instruction, divided by (II) the number of students enrolled at such comparable institutions in such fiscal year, multiplied by (III) the number of students enrolled at the applicant institution in such fiscal year; or

(iii) 90 percent of the institution's allocation under this part for the preceding fiscal year.

(C) Notwithstanding subparagraphs (A) and (B) of this paragraph, the Secretary shall allocate to each eligible institution which—

(i) was a first-time participant in the program in fiscal year 1986 or any subsequent fiscal year, and

(ii) received a larger amount under this subsection in the second year of participation,

an amount equal to 90 percent of the amount it received under this subsection in its second year of participation.

(D) For any fiscal year after a fiscal year in which an institution receives an allocation under subparagraph (A), (B), or (C), the Secretary shall allocate to such institution an amount equal to the product of—

(i) the amount determined under subparagraph (A), (B), or (C), multiplied by

(ii) the institution's default penalty, as determined under subsection (f) of this section,

except that if the institution has a default rate in excess of the applicable maximum default rate under subsection (g) of this section, the institution may not receive an allocation under this paragraph.

(3)(A) If the amount appropriated for any fiscal year is less than the amount required to be allocated to all institutions under paragraph (1) of this subsection, then the amount of the allocation to each such institution shall be ratably reduced.

(B) If the amount appropriated for any fiscal year is more than the amount required to be allocated to all institutions under paragraph (1) but less than the amount required to be allocated to all institutions under paragraph (2), then—

(i) the Secretary shall allot the amount required to be allocated to all institutions under paragraph (1), and

(ii) the amount of the allocation to each institution under paragraph (2) shall be ratably reduced.

(C) If additional amounts are appropriated for any such fiscal year, such reduced amounts shall be increased on the same basis as they were reduced (until the amount allocated equals the amount required to be allocated under paragraphs (1) and (2) of this subsection).

(b) Allocation of excess based on pro rata share

From one-quarter of the remainder of the amount appropriated pursuant to section 1087aa(b) of this title for any fiscal year (after making the allocations required by subsection (a) of this section), the Secretary shall allocate to each eligible institution an amount which bears the same ratio to such one-quarter as—

(1) the amount the eligible institution receives for such fiscal year under subsection (a) of this section, bears to

(2) the amount all such institutions receive under such subsection (a) of this section.

(c) Allocation of excess based on share of excess eligible amounts

(1) From three-quarters of the remainder of the amount appropriated pursuant to section 1087aa(b) of this title after making the allocations required by subsection (a) of this section, the Secretary shall allocate to each eligible institution which has an excess eligible amount an amount which bears the same ratio to such remainder as such excess eligible amount bears to the sum of the excess eligible amounts of all such eligible institutions (having such excess eligible amounts).

(2) For any eligible institution, the excess eligible amount is the amount, if any, by which—

(A)(i) that institution's eligible amount (as determined under paragraph (3)), divided by (ii) the sum of the eligible amounts of all institutions (as so determined), multiplied by (iii) the amount appropriated pursuant to section 1087aa(b) of this title for the fiscal year; exceeds

(B) the amount required to be allocated to that institution under subsection (a) of this section,

except that an eligible institution which has a default rate in excess of the applicable maximum default rate under subsection (g) of this section may not receive an allocation under this paragraph.

(3) For any eligible institution, the eligible amount of that institution is equal to—

(A) the amount of the institution's self-help need, as determined under subsection (d) of this section; minus

(B) the institution's anticipated collections; multiplied by

(C) the institution's default penalty, as determined under subsection (f) of this section;

except that, if the institution has a default rate in excess of the applicable maximum default rate under subsection (g) of this section, the eligible amount of that institution is zero.

(d) Determination of institution's self-help need

(1) The amount of an institution's self-help need is equal to the sum of the self-help need of the institution's eligible undergraduate students and the self-help need of the institution's eligible graduate and professional students.

(2) To determine the self-help need of an institution's eligible undergraduate students, the Secretary shall—

(A) establish various income categories for dependent and independent undergraduate students;

(B) establish an expected family contribution for each income category of dependent and independent undergraduate students, determined on the basis of the average expected family contribution (computed in accordance with part E of this subchapter) of a representative sample within each income category for the second preceding fiscal year;

(C) compute 25 percent of the average cost of attendance for all undergraduate students;

(D) multiply the number of eligible dependent students in each income category by the lesser of—

(i) 25 percent of the average cost of attendance for all undergraduate students determined under subparagraph (C); or

(ii) the average cost of attendance for all undergraduate students minus the expected family contribution determined under subparagraph (B) for that income category, except that the amount computed by such subtraction shall not be less than zero;

(E) add the amounts determined under subparagraph (D) for each income category of dependent students;

(F) multiply the number of eligible independent students in each income category by the lesser of—

(i) 25 percent of the average cost of attendance for all undergraduate students determined under subparagraph (C); or

(ii) the average cost of attendance for all undergraduate students minus the expected family contribution determined under subparagraph (B) for that income category, except that the amount computed by such subtraction for any income category shall not be less than zero;

(G) add the amounts determined under subparagraph (F) for each income category of independent students; and

(H) add the amounts determined under subparagraphs (E) and (G).

(3) To determine the self-help need of an institution's eligible graduate and professional students, the Secretary, for academic year 1988–1989, shall use the procedures employed for academic year 1986–1987, and, for any subsequent academic years, the Secretary shall—

(A) establish various income categories for graduate and professional students;

(B) establish an expected family contribution for each income category of graduate and professional students, determined on the basis of the average expected family contribution (computed in accordance with part E of this subchapter) of a representative sample within each income category for the second preceding fiscal year;

(C) determine the average cost of attendance for all graduate and professional students;

(D) subtract from the average cost of attendance for all graduate and professional students (determined under subparagraph (C)), the expected family contribution (determined under subparagraph (B)) for each income category, except that the amount computed by such subtraction for any income category shall not be less than zero;

(E) multiply the amounts determined under subparagraph (D) by the number of eligible students in each category;

(F) add the amounts determined under subparagraph (E) for each income category.

(4)(A) For purposes of paragraphs (2) and (3), the term ''average cost of attendance'' means the average of the attendance costs for undergraduate students and for graduate and professional students, which shall include (i) tuition and fees determined in accordance with subparagraph (B), (ii) standard living expenses determined in accordance with subparagraph (C), and (iii) books and supplies determined in accordance with subparagraph (D).

(B) The average undergraduate and graduate and professional tuition and fees described in subparagraph (A)(i) shall be computed on the basis of information reported by the institution to the Secretary, which shall include (i) total revenue received by the institution from undergraduate and graduate tuition and fees for the second year preceding the year for which it is applying for an allocation, and (ii) the institution's enrollment for such second preceding year.

(C) The standard living expense described in subparagraph (A)(ii) is equal to 150 percent of the difference between the income protection allowance for a family of five with one in college and the income protection allowance for a family of six with one in college for a single independent student.

(D) The allowance for books and supplies described in subparagraph (A)(iii) is equal to $450.

(e) Anticipated collections

(1) An institution's anticipated collections are equal to the amount which was collected during the second year preceding the beginning of the award period, multiplied by 1.21.

(2) The Secretary shall establish an appeals process by which the anticipated collections required in paragraph (1) may be waived for institutions with low default rates in the program assisted under this part.

(f) Default reduction and default penalties

(1) For any fiscal year prior to fiscal year 1994, any institution which has a default rate which equals or exceeds 7.5 percent but does not exceed the maximum default rate applicable to the award year under subsection (g) of this section, the institution's default penalty is a percentage equal to the complement of such default rate. For any institution which has a default rate that does not exceed 7.5 percent, the institution's default penalty is equal to one.

(2) For fiscal year 1994 and any succeeding fiscal year, any institution with a cohort default rate (as defined under subsection (h) of this section) which—

(A) equals or exceeds 15 percent, shall establish a default reduction plan pursuant to regulations issued by the Secretary;

(B) equals or exceeds 20 percent, but is less than 25 percent, shall have a default penalty of 0.9;

(C) equals or exceeds 25 percent, but is less than 30 percent, shall have a default penalty of 0.7; and

(D) equals or exceeds 30 percent shall have a default penalty of zero.

(g) Applicable maximum default rate

(1) For award years 1992 and 1993, the applicable maximum default rate is 15 percent.

(2) For award year 1994 and subsequent years, the maximum cohort default rate is 30 percent.

(h) Definitions of default rate and cohort default rate

(1) For any award year prior to award year 1994, for the purpose of this section, the default rate is computed by dividing—

(A) the total principal amount of defaulted loans; by

(B) the total principal amount of loans made under this part, less the principal amount of all loans made to borrowers who are eligible for deferment under section 1087dd(c)(2)(A)(i) of this title or are in a grace period preceding repayment.

(2) For the purpose of paragraph (1)(A), the total principal amount of defaulted loans is equal to the total amount borrowed under loans that have reached repayment status and that are in default, minus—

(A) amounts that have been repaid or cancelled on such loans;

(B) loans discharged in bankruptcy;

(C) loans referred or assigned to the Secretary for collection under paragraph (5)(A), (5)(B)(i), or (6) of section 1087cc(a) of this title; and

(D) loans that are in default but on which the borrowers have made satisfactory arrangements to resume payment.

(3)(A) For award year 1994 and any succeeding year, the term ''cohort default rate'' means, for any award year in which 30 or more current and former students at the institution enter repayment on loans under this part (received for attendance at the institution), the percentage of those current and former students who enter repayment on such loans (received for attendance at that institution) in that award year who default before the end of the following award year.

(B) In determining the number of students who default before the end of such award year, the Secretary shall, in calculating the cohort default rate, exclude any loans which, due to improper servicing or collection, would result in an inaccurate or incomplete calculation of the cohort default rate.

(C) For any award year in which less than 30 of the institution's current and former students enter repayment, the term ''cohort default rate'' means the percentage of such current and former students who entered repayment on such loans in any of the three most recent award years and who default before the end of the award year immediately following the year in which they entered repayment.

(D) A loan on which a payment is made by the institution of higher education, its owner, agen-

cy, contractor, employee, or any other entity or individual affiliated with such institution, in order to avoid default by the borrower, is considered as in default for the purposes of this subsection.

(E) Any loan that is in default but on which the borrower has made satisfactory arrangements to resume payment or any loan which has been rehabilitated before the end of such following award year is not considered as in default for purposes of this subsection.

(F) In the case of a student who has attended and borrowed at more than one school, the student (and his or her subsequent repayment or default) is attributed to the school for attendance at which the student received the loan that entered repayment in the award year.

(G) The Secretary shall prescribe regulations designed to prevent an institution from evading the application to that institution of a default rate determination under this subsection through the use of such measures as branching, consolidation, change of ownership or control or other means as determined by the Secretary.

(4) A loan shall be considered to be in default—

(A) 240 days (in the case of a loan repayable monthly), or

(B) 270 days (in the case of a loan repayable quarterly), after the borrower fails to make an installment payment when due or to comply with other terms of the promissory note,

after the borrower fails to make an installment payment when due or to comply with other terms of the promissory note.

(i) Filing deadlines

The Secretary shall, from time to time, set dates before which institutions must file applications for allocations under this part.

(j) Reallocation of excess allocations

(1) In general

(A) If an institution of higher education returns to the Secretary any portion of the sums allocated to such institution under this section for any fiscal year, the Secretary shall reallocate 80 percent of such returned portions to participating institutions in an amount not to exceed such participating institution's excess eligible amounts as determined under paragraph (2).

(B) For the purpose of this subsection, the term ''participating institution'' means an institution of higher education that—

(i) was a participant in the program assisted under this part in fiscal year 1985; and

(ii) did not receive an allocation under subsection (a) of this section in the fiscal year for which the reallocation determination is made.

(2) Excess eligible amount

For any participating institution, the excess eligible amount is the amount, if any, by which—

(A)(i) that institution's eligible amount (as determined under paragraph (3) of subsection (c) of this section), divided by (ii) the sum of the eligible amounts of all participating institutions (as determined under paragraph (3)), multiplied by (iii) the amount of funds available for reallocation under this subsection; exceeds

(B) the amount required to be allocated to that institution under subsection (c) of this section.

(3) Remainder

The Secretary shall reallocate the remainder of such returned portions in accordance with regulations of the Secretary.

(4) Allocation reductions

If under paragraph (1) of this subsection an institution returns more than 10 percent of its allocation, the institution's allocation for the next fiscal year shall be reduced by the amount returned. The Secretary may waive this paragraph for a specific institution if the Secretary finds that enforcing it is contrary to the interest of the program.

(Pub. L. 89–329, title IV, § 462, as added Pub. L. 99–498, title IV, § 405(a), Oct. 17, 1986, 100 Stat. 1440; amended Pub. L. 100–50, § 13(a)–(d), June 3, 1987, 101 Stat. 348; Pub. L. 102–325, title IV, § 462, July 23, 1992, 106 Stat. 576; Pub. L. 103–208, § 2(f)(1)–(4), Dec. 20, 1993, 107 Stat. 2470, 2471.)

PRIOR PROVISIONS

A prior section 1087bb, Pub. L. 89–329, title IV, § 462, as added Pub. L. 92–318, title I, § 137(b), June 23, 1972, 86 Stat. 273; amended Pub. L. 96–374, title IV, § 448(a), title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1443, 1503, provided for apportionment of appropriations among States, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1993—Subsec. (a)(1), (2)(D). Pub. L. 103–208, § 2(f)(1), substituted ''if the institution has'' for ''if the institution which has'' in closing provisions.

Subsec. (d)(4)(C). Pub. L. 103–208, § 2(f)(2), substituted ''150 percent of the difference between the income protection allowance for a family of five with one in college and the income protection allowance for a family of six with one in college'' for ''three-fourths in the Pell Grant family size offset''.

Subsecs. (e)(2), (h)(4)(B). Pub. L. 103–208, § 2(f)(3), (4), realigned margins.

1992—Subsec. (a)(1)(A). Pub. L. 102–325, § 462(a), substituted ''allocated to such institution'' for ''such institution received''.

Subsec. (e). Pub. L. 102–325, § 462(b), designated existing provisions as par. (1) and added par. (2).

Subsec. (f). Pub. L. 102–325, § 462(c), substituted ''default reduction and default penalties'' for ''Default penalty'' in heading and amended text generally. Prior to amendment, text read as follows: ''For any institution which has a default rate which equals or exceeds 7.5 percent but does not exceed the maximum default rate applicable to the award year under subsection (g) of this section, the institution's default penalty is a percentage equal to the complement of such default rate. For any institution which has a default rate that does not exceed 7.5 percent, the institution's default penalty is equal to one.''

Subsec. (g). Pub. L. 102–325, § 462(d), amended subsec. (g) generally. Prior to amendment, subsec. (g) read as follows:

''(1) For award years 1988, 1989, and 1990, the applicable maximum default rate is 20 percent.

''(2) For award year 1991 and subsequent years, the applicable maximum default rate is 15 percent.''

Subsec. (h). Pub. L. 102–325, § 462(e), substituted ''Definitions of default rate and cohort default rate'' for ''Definition of default rate'' in heading, in par. (1) substituted ''For any award year prior to award year 1994,

for the purpose'' for ''For the purpose'', added par. (3), redesignated former par. (3) as (4), substituted ''240'' for ''120'' in par. (4)(A), and amended par. (4)(B) generally. Prior to amendment, par. (4)(B) read as follows: ''180 days (in the case of a loan repayable quarterly),''.

Subsec. (j). Pub. L. 102–325, § 462(f), amended subsec. (j) generally. Prior to amendment, subsec. (j) read as follows: ''If an institution returns to the Secretary any portion of the sums allocated to such institution under this section for any fiscal year the Secretary shall, in accordance with regulations, reallocate such excess to other institutions.''

1987—Subsec. (a)(1)(A). Pub. L. 100–50, § 13(a), amended subpar. (A) generally, substituting ''of Federal capital contribution such institution received'' for ''such institution expended''.

Subsec. (d)(3), (4). Pub. L. 100–50, § 13(b), redesignated par. (3), defining ''average cost of attendance'' and calculating average undergraduate and graduate and professional tuition and fees, standard living expenses, and allowance for books and supplies, as (4).

Subsec. (e). Pub. L. 100–50, § 13(c), struck out ''; cash on hand'' after ''collections'' in heading.

Subsec. (f). Pub. L. 100–50, § 13(d), substituted ''subsection (g) of this section'' for ''paragraph (2)''.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1003 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

EFFECTIVE DATE

Section applicable with respect to academic year 1988-1989 and succeeding academic years, see section 405(b) of Pub. L. 99–498, as amended, set out as a note under section 1087dd of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1087c, 1087aa, 1087cc, 1087dd, 1087ff, 1087gg, 1089, 1095 of this title.

§ 1087cc. Agreements with institutions of higher education

(a) Contents of agreements

An agreement with any institution of higher education for the payment of Federal capital contributions under this part shall—

(1) provide for the establishment and maintenance of a student loan fund for the purpose of this part;

(2) provide for the deposit in such fund of—

(A) Federal capital contributions from funds appropriated under section 1087aa of this title;

(B) a capital contribution—

(i) by an institution that—

(I) is granted permission by the Secretary to participate in an Expanded Lending Option under the program, and

(II) has a default rate which does not exceed 7.5 percent for award year 1993–1994 and has a cohort default rate which does not exceed 15 percent for award year 1994–1995 or for any succeeding award year,

in an amount not less than the amount of the Federal capital contributions described in subparagraph (A); or

(ii) by any other institution, in an amount not less than three-seventeenths of such Federal capital contribution in fiscal year 1993, and one-third of such Federal capital contribution in each of the succeeding fiscal years, of the amount of the Federal capital contributions described in subparagraph (A);

(C) collections of principal and interest on student loans made from deposited funds;

(D) charges collected pursuant to regulations under section 1087dd(c)(1)(H) of this title; and

(E) any other earnings of the funds;

(3) provide that such student loan fund shall be used only for—

(A) loans to students, in accordance with the provisions of this part;

(B) administrative expenses, as provided in subsection (b) of this section;

(C) capital distributions, as provided in section 1087ff of this title; and

(D) costs of litigation, and other collection costs agreed to by the Secretary in connection with the collection of a loan from the fund (and interest thereon) or a charge assessed pursuant to regulations under section 1087dd(c)(1)(H) of this title;

(4) provide that where a note or written agreement evidencing a note has been in default for (A) 120 days, in the case of a loan which is repayable in monthly installments, or (B) 180 days, in the case of a loan which is repayable in less frequent installments, notice of such default shall be given to the Secretary in an annual report describing the total number of loans from such fund which are in such default;

(5) provide that where a note or written agreement evidencing a loan has been in default despite due diligence on the part of the institution in attempting collection thereon—

(A) if the institution has knowingly failed to maintain an acceptable collection record with respect to such loan, as determined by the Secretary in accordance with criteria established by regulation, the Secretary may—

(i) require the institution to assign such note or agreement to the Secretary, without recompense; and

(ii) apportion any sums collected on such a loan, less an amount not to exceed 30 percent of any sums collected to cover the Secretary's collection costs, among other institutions in accordance with section 1087bb of this title; or

(B) if the institution is not one described in subparagraph (A), the Secretary may—

(i) allow such institution to transfer its interest in such loan to the Secretary, for collection, and the Secretary may use any collections thereon (less an amount not to exceed 30 percent of any such sums collected to cover the Secretary's collection costs) to make allocations to institutions of additional capital contributions in accordance with section 1087bb of this title; or

(ii) allow such institution to refer such note or agreement to the Secretary, without recompense, except that any sums collected on such a loan (less an amount not to exceed 30 percent of any such sums collected to cover the Secretary's collection costs) shall be repaid to such institution no later than 180 days after collection by the Secretary and treated as an additional capital contribution;

(6) provide that, if an institution of higher education determines not to service and collect student loans made available from funds under this part, the institution will assign, at the beginning of the repayment period, notes or evidence of obligations of student loans made from such funds to the Secretary and the Secretary shall apportion any sums collected on such notes or obligations (less an amount not to exceed 30 percent of any such sums collected to cover that Secretary's collection costs) among other institutions in accordance with section 1087bb of this title;

(7) provide that, notwithstanding any other provision of law, the Secretary will provide to the institution any information with respect to the names and addresses of borrowers or other relevant information which is available to the Secretary, from whatever source such information may be derived;

(8) provide assurances that the institution will comply with the provisions of section 1087cc–1 of this title;

(9) provide that the institution of higher education will make loans first to students with exceptional need; and

(10) include such other reasonable provisions as may be necessary to protect the United States from unreasonable risk of loss and as are agreed to by the Secretary and the institution.

(b) Administrative expenses

An institution which has entered into an agreement under subsection (a) of this section shall be entitled, for each fiscal year during which it makes student loans from a student loan fund established under such agreement, to a payment in lieu of reimbursement for its expenses in administering its student loan program under this part during such year. Such payment shall be made in accordance with section 1096 of this title.

(c) Cooperative agreements with credit bureau organizations

(1) For the purpose of promoting responsible repayment of loans made pursuant to this part, the Secretary shall enter into cooperative agreements with credit bureau organizations to provide for the exchange of information concerning student borrowers concerning whom the Secretary has received a referral pursuant to section 1087gg of this title.

(2) Each cooperative agreement made pursuant to paragraph (1) shall be made in accordance with the requirements of section 1080a of this title except that such agreement shall provide for the disclosure by the Secretary to such organizations, with respect to any loan for which the Secretary is responsible, of—

(A) the date of disbursement and the amount of any such loan;

(B) information concerning collection of any such loan, including information concerning the status of any defaulted loan; and

(C) the date of cancellation of the note upon completion of repayment by the borrower of any such loan.

(3) Notwithstanding paragraphs (4) and (6) of subsection (a) of section 1681c of title 15, a consumer reporting agency may make a report containing information received from the Secretary regarding the status of a borrower's account on a loan made under this part until—

(A) 7 years from the date on which the Secretary accepted an assignment or referral of a loan, or

(B) 7 years from the date the Secretary first reports the account to a consumer reporting agency.

(4) Each institution of higher education, after consultation with the Secretary and pursuant to the agreements entered into under paragraph (1), shall disclose at least annually to any credit bureau organization with which the Secretary has such an agreement—

(A) the amount of loans made to any borrower under this part at the time of the disbursement of the loan; and

(B) the information set forth in section 1080a(a) of this title.

(d) Limitation on use of interest bearing accounts

In carrying out the provisions of subsection (a)(10) of this section, the Secretary may not require that any collection agency, collection attorney, or loan servicer collecting loans made under this part deposit amounts collected on such loans in interest bearing accounts, unless such agency, attorney, or servicer holds such amounts for more than 45 days.

(e) Special due diligence rule

In carrying out the provisions of subsection (a)(5) of this section relating to due diligence, the Secretary shall make every effort to ensure that institutions of higher education may use Internal Revenue Service skip-tracing collection procedures on loans made under this part.

(Pub. L. 89–329, title IV, § 463, as added Pub. L. 99–498, title IV, § 405(a), Oct. 17, 1986, 100 Stat. 1444; amended Pub. L. 100–50, § 13(e), (f), June 3, 1987, 101 Stat. 349; Pub. L. 102–325, title IV, § 463(a), (b), July 23, 1992, 106 Stat. 579; Pub. L. 103–208, § 2(f)(5)–(7), Dec. 20, 1993, 107 Stat. 2471.)

PRIOR PROVISIONS

A prior section 1087cc, Pub. L. 89–329, title IV, § 463, as added Pub. L. 92–318, title I, § 137(b), June 23, 1972, 86 Stat. 274; amended Pub. L. 94–482, title I, § 130(c), Oct. 12, 1976, 90 Stat. 2146; Pub. L. 96–374, title IV, §§ 442(b)(1)–(4), 445(a), (b)(1), 447(a), 448(b), title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1439, 1440, 1442, 1443, 1503; Pub. L. 99–272, title XVI, §§ 16025, 16026, Apr. 7, 1986, 100 Stat. 352, 353, related to agreements with institutions of higher education, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1993—Subsec. (a)(2)(B)(i)(II). Pub. L. 103–208, § 2(f)(5), substituted ''7.5 percent for award year 1993–1994 and

has a cohort default rate which does not exceed 15 percent for award year 1994–1995 or for any succeeding award year'' for ''7.5 percent''.

Subsec. (c)(4). Pub. L. 103–208, § 2(f)(6), substituted ''shall disclose at least annually'' for ''shall disclose'' in introductory provisions.

Subsecs. (d), (e). Pub. L. 103–208, § 2(f)(7), added subsecs. (d) and (e).

1992—Subsec. (a)(2)(B). Pub. L. 102–325, § 463(a), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: ''a capital contribution by such institution in an amount equal to not less than one-ninth of the amount of the Federal capital contributions described in subparagraph (A);''.

Subsec. (c)(3)(B). Pub. L. 102–325, § 463(b)(1), struck out '', if that account has not been previously reported by any other holder of the note'' after ''agency''.

Subsec. (c)(4). Pub. L. 102–325, § 463(b)(2), added par. (4).

1987—Subsec. (a)(4). Pub. L. 100–50, § 13(e), substituted ''in an annual report'' for ''in a report'' and struck out '', and made to the Secretary at least semiannually'' after ''in such default''.

Subsec. (b). Pub. L. 100–50, § 13(f), substituted ''section 1096 of this title'' for ''section 1092 of this title''.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1003 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective July 23, 1992, except that changes made in subsec. (a)(2)(B), relating to the matching of Federal capital contributions, applicable to funds provided for such program for award years beginning on or after July 1, 1993, see section 468 of Pub. L. 102–325, set out as a note under section 1087dd of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

EFFECTIVE DATE

Section effective Oct. 17, 1986, except as otherwise provided, see section 2 of Pub. L. 99–498, set out as a note under section 1001 of this title.

Subsection (a)(9) of this section applicable only to loans made for periods of enrollment beginning on or after July 1, 1987, see section 405(b) of Pub. L. 99–498, set out as a note under section 1087dd of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1087aa, 1087bb, 1087cc–1, 1087dd, 1087gg, 1091a, 1096 of this title.

§ 1087cc–1. Student loan information by eligible institutions

(a) Disclosure required prior to disbursement

Each institution of higher education, in order to carry out the provisions of section 1087cc(a)(8) of this title, shall, at or prior to the time such institution makes a loan to a student borrower which is made under this part, provide thorough and adequate loan information on such loan to the student borrower. Any disclosure required by this subsection may be made by an institution of higher education as part of the written application material provided to the borrower, or as part of the promissory note evidencing the loan, or on a separate written form provided to the borrower. The disclosures shall include—

(1) the name of the institution of higher education, and the address to which communications and payments should be sent;

(2) the principal amount of the loan;

(3) the amount of any charges collected by the institution at or prior to the disbursal of the loan and whether such charges are deducted from the proceeds of the loan or paid separately by the borrower;

(4) the stated interest rate on the loan;

(5) the yearly and cumulative maximum amounts that may be borrowed;

(6) an explanation of when repayment of the loan will be required and when the borrower will be obligated to pay interest that accrues on the loan;

(7) a statement as to the minimum and maximum repayment term which the institution may impose, and the minimum monthly payment required by law and a description of any penalty imposed as a consequence of default, such as liability for expenses reasonably incurred in attempts by the Secretary or institutions to collect on a loan;

(8) a statement of the total cumulative balance, including the loan applied for, owed by the student to that lender, and an estimate of the projected monthly payment, given such cumulative balance;

(9) an explanation of any special options the borrower may have for loan consolidation or other refinancing of the loan;

(10) a statement that the borrower has the right to prepay all or part of the loan, at any time, without penalty, a statement summarizing circumstances in which repayment of the loan or interest that accrues on the loan may be deferred, and a brief notice of the program for repayment of loans, on the basis of military service, pursuant to the Department of Defense educational loan repayment program (10 U.S.C. 16302);

(11) a definition of default and the consequences to the borrower if the borrower defaults, together with a statement that the disbursement of, and the default on, a loan under this part, shall be reported to a credit bureau or credit reporting agency;

(12) to the extent practicable, the effect of accepting the loan on the eligibility of the borrower for other forms of student assistance; and

(13) an explanation of any cost the borrower may incur in the making or collection of the loan.

(b) Disclosure required prior to repayment

Each institution of higher education shall enter into an agreement with the Secretary under which the institution will, prior to the start of the repayment period of the student borrower on loans made under this part, disclose to the student borrower the information required under this subsection. Any disclosure required by this subsection may be made by an institution of higher education either in a promissory note evidencing the loan or loans or in a written statement provided to the borrower. The disclosures shall include—

(1) the name of the institution of higher education, and the address to which communications and payments should be sent;

(2) the scheduled date upon which the repayment period is to begin;

(3) the estimated balance owed by the borrower on the loan or loans covered by the disclosure as of the scheduled date on which the repayment period is to begin (including, if applicable, the estimated amount of interest to be capitalized);

(4) the stated interest rate on the loan or loans, or the combined interest rate of loans with different stated interest rates;

(5) the nature of any fees which may accrue or be charged to the borrower during the repayment period;

(6) the repayment schedule for all loans covered by the disclosure including the date the first installment is due, and the number, amount, and frequency of required payments;

(7) an explanation of any special options the borrower may have for loan consolidation or other refinancing of the loan;

(8) the projected total of interest charges which the borrower will pay on the loan or loans, assuming that the borrower makes payments exactly in accordance with the repayment schedule; and

(9) a statement that the borrower has the right to prepay all or part of the loan or loans covered by the disclosure at any time without penalty.

(c) Costs and effects of disclosures

Such information shall be available without cost to the borrower. The failure of an eligible institution to provide information as required by this section shall not (1) relieve a borrower of the obligation to repay a loan in accordance with its terms, (2) provide a basis for a claim for civil damages, or (3) be deemed to abrogate the obligation of the Secretary to make payments with respect to such loan.

(Pub. L. 89–329, title IV, § 463A, as added Pub. L. 99–498, title IV, § 405(a), Oct. 17, 1986, 100 Stat. 1446; amended Pub. L. 100–50, § 13(g), (h), June 3, 1987, 101 Stat. 349; Pub. L. 102–325, title IV, § 463(c), July 23, 1992, 106 Stat. 579; Pub. L. 103–208, § 2(f)(8), Dec. 20, 1993, 107 Stat. 2471; Pub. L. 104–106, div. A, title XV, § 1501(e)(4), Feb. 10, 1996, 110 Stat. 501.)

PRIOR PROVISIONS

A prior section 1087cc–1, Pub. L. 89–329, title IV, § 463A, as added Pub. L. 96–374, title IV, § 447(b), Oct. 3, 1980, 94 Stat. 1443; amended Pub. L. 97–301, § 13, Oct. 13, 1982, 96 Stat. 1405; Pub. L. 98–79, § 3(b), Aug. 15, 1983, 97 Stat. 478; Pub. L. 99–272, title XVI, § 16027, Apr. 7, 1986, 100 Stat. 353, related to student loan information to be provided by institutions, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1996—Subsec. (a)(10). Pub. L. 104–106 substituted ''(10 U.S.C. 16302)'' for ''(10 U.S.C. 2172)''.

1993—Subsecs. (d), (e). Pub. L. 103–208 struck out subsecs. (d) and (e), which read as follows:

''(d) LIMITATION ON USE OF INTEREST BEARING ACCOUNTS.—In carrying out the provisions of subsection (a)(10) of this section, the Secretary may not require that any collection agency, collection attorney, or loan servicer collecting loans made under this part deposit amounts collected on such loans in interest bearing accounts, unless such agency, attorney, or servicer holds such amounts for more than 45 days.

''(e) SPECIAL DUE DILIGENCE RULE.—In carrying out the provisions of subsection (a)(5) of this section relating to due diligence, the Secretary shall make every effort to ensure that institutions of higher education may use Internal Revenue Service skip-tracing collection procedures on loans made under this part.''

1992—Subsec. (a)(11). Pub. L. 102–325, § 463(c)(1), substituted ''together with a statement that the disbursement of, and the default on, a loan under this part, shall be'' for ''including a statement that the default may be''.

Subsecs. (d), (e). Pub. L. 102–325, § 463(c)(2), added subsecs. (d) and (e).

1987—Subsec. (a)(8). Pub. L. 100–50, § 13(g), added par. (8) and struck out former par. (8) which read as follows: ''a statement of the total cumulative balance owed by the student to that institution, the projected level of indebtedness of the student based on a 2- or 4-year college career, and an estimate of the projected monthly repayment given the level of indebtedness over a 2-, 4-, or 5-year college career;''.

Subsec. (a)(10). Pub. L. 100–50, § 13(h), substituted ''the Department of Defense educational loan repayment program (10 U.S.C. 2172)'' for ''section 902 of the Department of Defense Authorization Act, 1981 (10 U.S.C. 2141, note)''.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–106 effective as if included in the Reserve Officer Personnel Management Act, title XVI of Pub. L. 103–337, as enacted on Oct. 5, 1994, see section 1501(f)(3) of Pub. L. 104–106, set out as a note under section 113 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1003 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

EFFECTIVE DATE

Section applicable only to loans made for periods of enrollment beginning on or after July 1, 1987, see section 405(b) of Pub. L. 99–498, as amended, set out as a note under section 1087dd of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1087cc of this title.

§ 1087dd. Terms of loans

(a) Terms and conditions

(1) Loans from any student loan fund established pursuant to an agreement under section 1087cc of this title to any student by any institution shall, subject to such conditions, limitations, and requirements as the Secretary shall prescribe by regulation, be made on such terms and conditions as the institution may determine.

(2)(A) Except as provided in paragraph (4), the total of loans made to a student in any academic year or its equivalent by an institution of higher education from a loan fund established pursuant to an agreement under this part shall not exceed—

(i) for institutions that have an agreement with the Secretary to participate in the Ex-

panded Lending Option under section 1087cc(a)(2)(B)(i) of this title—

(I) $4,000, in the case of a student who has not successfully completed a program of undergraduate education; or

(II) $6,000, in the case of a graduate or professional student (as defined in regulations issued by the Secretary).

(ii) for all other institutions—

(I) $3,000, in the case of a student who has not successfully completed a program of undergraduate education; or

(II) $5,000, in the case of a graduate or professional student (as defined in regulations issued by the Secretary).

(B) Except as provided in paragraph (4), the aggregate of the loans for all years made to a student by institutions of higher education from loan funds established pursuant to agreements under this part may not exceed—

(i) for institutions that have an agreement with the Secretary to participate in the Expanded Lending Option under section 1087cc(a)(2)(B)(i) of this title—

(I) $40,000 in the case of any graduate or professional student (as defined by regulations of the Secretary, and including any loans from such funds made to such person before he became a graduate or professional student);

(II) $20,000 in the case of a student who has successfully completed 2 years of a program of education leading to a bachelor's degree but who has not completed the work necessary for such a degree (determined under regulations of the Secretary, and including any loans from such funds made to such person before he became such a student); and

(III) $8,000 in the case of any other student; or

(ii) for all other institutions—

(I) $15,000, in the case of any student who has not successfully completed a program of undergraduate education; or

(II) $30,000, in the case of any graduate or professional student (as defined by regulations issued by the Secretary) and including any loans from such funds made to such student before the student became a graduate or professional student.

(3) Regulations of the Secretary under paragraph (1) shall be designed to prevent the impairment of the capital student loan funds to the maximum extent practicable and with a view toward the objective of enabling the student to complete his course of study.

(4) In the case of a program of study abroad that is approved for credit by the home institution at which a student is enrolled and that has reasonable costs in excess of the home institution's budget, the annual and aggregate loan limits for the student may exceed the amounts described in paragraphs (2)(A) and (2)(B) by 20 percent.

(b) Demonstration of need and eligibility required

(1) A loan from a student loan fund assisted under this part may be made only to a student who demonstrates financial need in accordance with part E of this subchapter, who meets the requirements of section 1091 of this title, and who provides the institution with the student's drivers license number, if any, at the time of application for the loan.

(2) If the institution's capital contribution under section 1087bb of this title is directly or indirectly based in part on the financial need demonstrated by students who are (A) attending the institution less than full time, or (B) independent students, and if the total financial need of all such less than full-time and independent students at the institution exceeds 5 percent of the total financial need of all students at such institution, then at least 5 percent of such loans shall be made available to such less than full-time and independent students.

(c) Contents of loan agreement

(1) Any agreement between an institution and a student for a loan from a student loan fund assisted under this part—

(A) shall be evidenced by note or other written instrument which, except as provided in paragraph (2), provides for repayment of the principal amount of the loan, together with interest thereon, in equal installments (or, if the borrower so requests, in graduated periodic installments determined in accordance with such schedules as may be approved by the Secretary) payable quarterly, bimonthly, or monthly, at the option of the institution, over a period beginning nine months after the date on which the student ceases to carry, at an institution of higher education or a comparable institution outside the United States approved for this purpose by the Secretary, at least one-half the normal full-time academic workload, and ending 10 years and 9 months after such date except that such period may begin earlier than 9 months after such date upon the request of the borrower;

(B) shall include provision for acceleration of repayment of the whole, or any part, of such loan, at the option of the borrower;

(C)(i) may provide, at the option of the institution, in accordance with regulations of the Secretary, that during the repayment period of the loan, payments of principal and interest by the borrower with respect to all outstanding loans made to the student from a student loan fund assisted under this part shall be at a rate equal to not less than $40 per month, except that the institution may, subject to such regulations, permit a borrower to pay less than $40 per month for a period of not more than one year where necessary to avoid hardship to the borrower, but without extending the 10-year maximum repayment period provided for in subparagraph (A) of this paragraph; and

(ii) may provide that the total payments by a borrower for a monthly or similar payment period with respect to the aggregate of all loans held by the institution may, when the amount of a monthly or other similar payment is not a multiple of $5, be rounded to the next highest whole dollar amount that is a multiple of $5;

(D) shall provide that the loan shall bear interest, on the unpaid balance of the loan, at

the rate of (i) 3 percent per year, (ii) 4 percent per year in the case of any loan made on or after July 1, 1981, or (iii) 5 percent per year in the case of any loan made on or after October 1, 1981, except that no interest shall accrue (I) prior to the beginning date of repayment determined under subparagraph (A)(i), or (II) during any period in which repayment is suspended by reason of paragraph (2);

(E) shall provide that the loan shall be made without security and without endorsement;

(F) shall provide that the liability to repay the loan shall be canceled upon the death of the borrower, or if he becomes permanently and totally disabled as determined in accordance with regulations of the Secretary;

(G) shall provide that no note or evidence of obligation may be assigned by the lender, except upon the transfer of the borrower to another institution participating under this part (or, if not so participating, is eligible to do so and is approved by the Secretary for such purpose), to such institution, and except as necessary to carry out section 1087cc(a)(6) of this title;

(H) pursuant to regulations of the Secretary, shall provide for an assessment of a charge with respect to the loan for failure of the borrower to pay all or part of an installment when due, which shall include the expenses reasonably incurred in attempting collection of the loan, to the extent permitted by the Secretary, except that no charge imposed under this subparagraph shall exceed 20 percent of the amount of the monthly payment of the borrower; and

(I) shall contain a notice of the system of disclosure of information concerning default on such loan to credit bureau organizations under section 1087cc(c) of this title.

(2)(A) No repayment of principal of, or interest on, any loan from a student loan fund assisted under this part shall be required during any period—

(i) during which the borrower—

(I) is pursuing at least a half-time course of study as determined by an eligible institution; or

(II) is pursuing a course of study pursuant to a graduate fellowship program approved by the Secretary, or pursuant to a rehabilitation training program for disabled individuals approved by the Secretary,

except that no borrower shall be eligible for a deferment under this clause, or loan made under this part while serving in a medical internship or residency program;

(ii) not in excess of 3 years during which the borrower is seeking and unable to find full-time employment;

(iii) not in excess of 3 years for any reason which the lender determines, in accordance with regulations prescribed by the Secretary under section 1085(*o*) of this title, has caused or will cause the borrower to have an economic hardship; or

(iv) during which the borrower is engaged in service described in section 1087ee(a)(2) of this title;

and provides that any such period shall not be included in determining the 10-year period described in subparagraph (B).

(B) No repayment of principal of, or interest on, any loan for any period described in subparagraph (A) shall begin until 6 months after the completion of such period.

(3)(A) The Secretary is authorized, when good cause is shown, to extend, in accordance with regulations, the 10-year maximum repayment period provided for in subparagraph (A) of paragraph (1) with respect to individual loans.

(B) Pursuant to uniform criteria established by the Secretary, the repayment period for any student borrower who during the repayment period is a low-income individual may be extended for a period not to exceed 10 years and the repayment schedule may be adjusted to reflect the income of that individual.

(4) The repayment period for a loan made under this part shall begin on the day immediately following the expiration of the period, specified in paragraph (1)(A), after the student ceases to carry the required academic workload, unless the borrower requests and is granted a repayment schedule that provides for repayment to commence at an earlier point in time, and shall exclude any period of authorized deferment, forbearance, or cancellation.

(5) The institution may elect—

(A) to add the amount of any charge imposed under paragraph (1)(H) to the principal amount of the loan as of the first day after the day on which the installment was due and to notify the borrower of the assessment of the charge; or

(B) to make the amount of the charge payable to the institution not later than the due date of the next installment.

(6) Requests for deferment of repayment of loans under this part by students engaged in graduate or post-graduate fellowship-supported study (such as pursuant to a Fulbright grant) outside the United States shall be approved until completion of the period of the fellowship.

(d) Availability of loan fund to all eligible students

An agreement under this part for payment of Federal capital contributions shall include provisions designed to make loans from the student loan fund established pursuant to such agreement reasonably available (to the extent of the available funds in such fund) to all eligible students in such institutions in need thereof.

(e) Forbearance

The Secretary shall ensure that, upon written request, an institution of higher education shall grant a borrower forbearance of principal and interest or principal only, renewable at 12-month intervals for a period not to exceed 3 years, on such terms as are otherwise consistent with the regulations issued by the Secretary and agreed upon in writing by the parties to the loan, if—

(1) the borrower's debt burden equals or exceeds 20 percent of such borrower's gross income; or

(2) the institution determines that the borrower should qualify for forbearance for other reasons.

(f) Special repayment rule authority

(1) Subject to such restrictions as the Secretary may prescribe to protect the interest of the United States, in order to encourage repayment of loans made under this part which are in default, the Secretary may, in the agreement entered into under this part, authorize an institution of higher education to compromise on the repayment of such defaulted loans in accordance with paragraph (2). The Federal share of the compromise repayment shall bear the same relation to the institution's share of such compromise repayment as the Federal capital contribution to the institution's loan fund under this part bears to the institution's capital contribution to such fund.

(2) No compromise repayment of a defaulted loan as authorized by paragraph (1) may be made unless the student borrower pays—

(A) 90 percent of the loan under this part;

(B) the interest due on such loan; and

(C) any collection fees due on such loan;

in a lump sum payment.

(Pub. L. 89–329, title IV, §464, as added Pub. L. 99–498, title IV, §405(a), Oct. 17, 1986, 100 Stat. 1448; amended Pub. L. 100–50, §13(i), June 3, 1987, 101 Stat. 349; Pub. L. 100–369, §7(c), July 18, 1988, 102 Stat. 837; Pub. L. 101–239, title II, §2002(a)(3), Dec. 19, 1989, 103 Stat. 2111; Pub. L. 102–325, title IV, §464, July 23, 1992, 106 Stat. 580; Pub. L. 103–208, §2(f)(9)–(11), Dec. 20, 1993, 107 Stat. 2471.)

PRIOR PROVISIONS

A prior section 1087dd, Pub. L. 89–329, title IV, §464, as added Pub. L. 92–318, title I, §137(b), June 23, 1972, 86 Stat. 275; amended Pub. L. 94–482, title I, §130(d)–(g)(1), Oct. 12, 1976, 90 Stat. 2147; Pub. L. 95–43, §1(a)(39), June 15, 1977, 91 Stat. 217; Pub. L. 96–374, title IV, §§442(b)(5), 443, 444, 445(b)(2), 446, 448(c), title XIII, §1391(a)(1), Oct. 3, 1980, 94 Stat. 1440–1443, 1503; Pub. L. 97–35, title V, §539, Aug. 13, 1981, 95 Stat. 458; Pub. L. 99–272, title XVI, §16028, Apr. 7, 1986, 100 Stat. 353, related to terms and conditions of loans, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1993—Subsec. (c)(2)(B). Pub. L. 103–208, §2(f)(9), substituted ''repayment of'' for ''repayment or''.

Subsec. (c)(6). Pub. L. 103–208, §2(f)(10), substituted ''Fulbright'' for ''Fullbright''.

Subsec. (e). Pub. L. 103–208, §2(f)(11), substituted ''principal'' for ''principle'' before ''only''.

1992—Subsec. (a)(2). Pub. L. 102–325, §464(a), amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''The aggregate of the loans for all years made by institutions of higher education from loan funds established pursuant to agreements under this part may not exceed—

''(A) $18,000 in the case of any graduate or professional student (as defined by regulations of the Secretary, and including any loans from such funds made to such person before he became a graduate or professional student);

''(B) $9,000 in the case of a student who has successfully completed 2 years of a program of education leading to a bachelor's degree, but who has not completed the work necessary for such a degree (determined under regulations of the Secretary, and including any loans from such funds made to such person before he became such a student); and

''(C) $4,500 in the case of any other student.''

Subsec. (a)(4). Pub. L. 102–325, §464(b), added par. (4).

Subsec. (b)(1). Pub. L. 102–325, §464(c)(1), substituted ''this subchapter, who meets the requirements of section 1091 of this title, and who provides the institution with the student's drivers license number, if any, at the time of application for the loan'' for ''this subchapter and who meets the requirements of section 1091 of this title''.

Subsec. (b)(2). Pub. L. 102–325, §464(c)(2), amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''If the institution's Federal capital contribution under section 1087bb of this title is directly or indirectly based in part on the financial need demonstrated by students attending the institution less than full time, a reasonable proportion of the loans under this part shall be made available to such students.''

Subsec. (c)(1)(C)(i). Pub. L. 102–325, §464(d), substituted ''$40'' for ''$30'' in two places.

Subsec. (c)(1)(E). Pub. L. 102–325, §464(e), struck out ''unless the borrower is a minor and the note or other evidence of obligation executed by him would not, under applicable law, create a binding obligation,'' before ''shall provide''.

Subsec. (c)(2)(A). Pub. L. 102–325, §464(f), amended subpar. (A) generally, revising and restating as cls. (i) to (iv) provisions formerly contained in cls. (i) to (ix).

Subsec. (c)(2)(B), (C). Pub. L. 102–325, §464(g)(1), added subpar. (B) and struck out former subpars. (B) and (C) which read as follows:

''(B) Any period during which repayment is deferred under subparagraph (A) shall not be included in computing the 10-year maximum period provided for in subparagraph (A) of paragraph (1).

''(C) No repayment of principal of, or interest on, any loan for any period of study, service, or disability described in subparagraph (A) or any combination thereof shall begin until 6 months after the completion of such period of study, service, disability, or combination thereof.''

Subsec. (c)(4) to (6). Pub. L. 102–325, §464(g)(2)–(4), added par. (4), redesignated former par. (4) as (5), and added par. (6).

Subsecs. (e), (f). Pub. L. 102–325, §464(h), added subsecs. (e) and (f).

1989—Subsec. (c)(2)(A)(i). Pub. L. 101–239 inserted before semicolon at end '', except that no borrower shall be eligible for a deferment under this clause, or a loan made under this part (other than a loan made under section 1078–2 or 1078–3 of this title), while serving in a medical internship or residency program''.

1988—Subsec. (c)(2)(A)(v). Pub. L. 100–369 substituted ''Internal Revenue Code of 1986'' for ''Internal Revenue Code of 1954'', which for purposes of codification was translated as ''title 26'' thus requiring no change in text.

1987—Subsec. (c)(2)(A)(vi). Pub. L. 100–50 inserted ''or serving in an internship or residency program leading to a degree or certificate awarded by an institution of higher education, a hospital, or a health care facility that offers postgraduate training'' before semicolon at end.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1003 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Section 468 of Pub. L. 102–325, as amended by Pub. L. 102–394, title III, §307(a), Oct. 6, 1992, 106 Stat. 1820, provided that: ''The changes made in part E of title IV of the Act [20 U.S.C. 1087aa et seq.] by the amendments made by this part [part E (§§461–468) of title IV of Pub. L. 102–325, enacting section 1087ii of this title and amending sections 1087aa to 1087gg of this title] shall take effect on the date of enactment of this Act [July 23, 1992], except that—

''(1) the changes in section 463(a)(2)(B) [20 U.S.C. 1087cc(a)(2)(B)], relating to the matching of Federal capital contributions, shall apply to funds provided

for such program for the award years beginning on or after July 1, 1993;

''(2) the changes made in section 464(c)(1)(C) [20 U.S.C. 1087dd(c)(1)(C)], relating to minimum monthly payments shall apply with respect to loans for which the first disbursement is made on or after October 1, 1992, to an individual who, on the date the loan is made, has no outstanding balance of principal or interest owing on any loan made under part E of title IV of the Act;

''(3) the changes made in section 464(c)(2)(A), relating to deferments, shall apply with respect to loans for which the first disbursement is made on or after July 1, 1993;

''(4) the changes made in section 467 [20 U.S.C. 1087gg], relating to the creation of a Perkins Loan Revolving Fund, shall take effect on September 15, 1997; and

''(5) the changes in section 464(a)(2)(A), (B) and (C) shall not apply to any loan made for the award year beginning July 1, 1992 provided that the loan does not result in a violation of section 464(a)(2)(A), (B) and (C) as in effect prior to such date of enactment.''

[Pub. L. 102–394, title III, § 307(b), Oct. 6, 1992, 106 Stat. 1820, provided that: ''The amendments made by subsection (a) [amending section 468 of Pub. L. 102–325, set out above] shall take effect as if enacted on July 23, 1992.'']

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101–239 applicable to any loan made, insured, or guaranteed under this part or part B of this subchapter, including a loan made before Dec. 19, 1989, and amendment effective Jan. 1, 1990, but inapplicable with respect to any portion of a period of deferment granted to a borrower under section 1077(a)(2)(C)(i), 1078(b)(1)(M)(i), or 1087dd(c)(2)(A)(i) of this title for service in a medical internship or residency program completed prior to Dec. 19, 1989, see section 2002(a)(4) of Pub. L. 101–239, set out as a note under section 1077 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

EFFECTIVE DATE

Section effective Oct. 17, 1986, except as otherwise provided, see section 2 of Pub. L. 99–498, set out as a note under section 1001 of this title.

Section 405(b) of Pub. L. 99–498, as amended by Pub. L. 100–50, § 22(d), June 3, 1987, 101 Stat. 361, provided that:

''(1) Section 462 of the Act [20 U.S.C. 1087bb] shall apply with respect to academic year 1988-1989 and succeeding academic years.

''(2) The changes made in sections 464(c)(1)(A), 464(c)(2), and 465(a)(2)(E) of the Act [20 U.S.C. 1087dd(c)(1)(A), (2), 1087ee(a)(2)(E)] shall apply only to loans made to cover the costs of instruction for periods of enrollment beginning on or after July 1, 1987, to individuals who are new borrowers on that date.

''(3) Section 463(a)(9) and section 463A of the Act [20 U.S.C. 1087cc(a)(9), 1087cc–1] as amended by this section shall apply only to loans made for periods of enrollment beginning on or after July 1, 1987.

''(4) For the purpose of this subsection, the term 'new borrower' means, with respect to any date, an individual who on that date has no outstanding balance of principal or interest owing on any loan made under part E of title IV of the Act [this part].''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1078–3, 1087bb, 1087cc, 1092 of this title.

§ 1087ee. Cancellation of loans for certain public service

(a) Cancellation of percentage of debt based on years of qualifying service

(1) The percent specified in paragraph (3) of this subsection of the total amount of any loan made after June 30, 1972, from a student loan fund assisted under this part shall be canceled for each complete year of service after such date by the borrower under circumstances described in paragraph (2).

(2) Loans shall be canceled under paragraph (1) for service—

(A) as a full-time teacher for service in an academic year in a public or other nonprofit private elementary or secondary school which is in the school district of a local educational agency which is eligible in such year for assistance pursuant to title I of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6301 et seq.], and which for the purpose of this paragraph and for that year has been determined by the Secretary (pursuant to regulations and after consultation with the State educational agency of the State in which the school is located) to be a school in which the enrollment of children counted under section 111(c) of the Elementary and Secondary Education Act of 1965[1] exceeds 30 percent of the total enrollment of that school;

(B) as a full-time staff member in a preschool program carried on under the Head Start Act [42 U.S.C. 9831 et seq.] which is operated for a period which is comparable to a full school year in the locality if the salary of such staff member is not more than the salary of a comparable employee of the local educational agency;

(C) as a full-time special education teacher, including teachers of infants, toddlers, children, or youth with disabilities in a public or other nonprofit elementary or secondary school system, or as a full-time qualified professional provider of early intervention services in a public or other nonprofit program under public supervision by the lead agency as authorized in section 1476(b)(9)[1] of this title;

(D) as a member of the Armed Forces of the United States, for service that qualifies for special pay under section 310 of title 37 as an area of hostilities;

(E) as a volunteer under the Peace Corps Act [22 U.S.C. 2501 et seq.] or a volunteer under the Domestic Volunteer Service Act of 1973 [42 U.S.C. 4950 et seq.];

(F) as a full-time law enforcement officer or corrections officer for service to local, State, or Federal law enforcement or corrections agencies;

(G) as a full-time teacher of mathematics, science, foreign languages, bilingual education, or any other field of expertise where the State educational agency determines there is a shortage of qualified teachers;

(H) as a full-time nurse or medical technician providing health care services; or

(I) as a full-time employee of a public or private nonprofit child or family service agency

[1] See References in Text note below.

who is providing, or supervising the provision of, services to high-risk children who are from low-income communities and the families of such children.

For the purpose of this paragraph, the term ''children with disabilities'' has the meaning set forth in section 1401(a)(1)[1] of this title.

(3)(A) The percent of a loan which shall be canceled under paragraph (1) of this subsection is—

(i) in the case of service described in subparagraph (A), (C), (F), (G), (H), or (I) of paragraph (2), at the rate of 15 percent for the first or second year of such service, 20 percent for the third or fourth year of such service, and 30 percent for the fifth year of such service;

(ii) in the case of service described in subparagraph (B) of paragraph (2), at the rate of 15 percent for each year of such service;

(iii) in the case of service described in subparagraph (D) of paragraph (2), not to exceed a total of 50 percent of such loan at the rate of 12½ percent for each year of qualifying service; or

(iv) in the case of service described in subparagraph (E) of paragraph (2) at the rate of 15 percent for the first or second year of such service and 20 percent for the third or fourth year of such service.

(B) If a portion of a loan is canceled under this subsection for any year, the entire amount of interest on such loan which accrues for such year shall be canceled.

(C) Nothing in this subsection shall be construed to authorize refunding of any repayment of a loan.

(4) For the purpose of this subsection, the term ''year'' where applied to service as a teacher means academic year as defined by the Secretary.

(5) The amount of a loan, and interest on a loan, which is canceled under this section shall not be considered income for purposes of title 26.

(6) No borrower may, for the same volunteer service, receive a benefit under both this section and subtitle D of title I of the National and Community Service Act of 1990 [42 U.S.C. 12601 et seq.].

(b) Reimbursement for cancellation

The Secretary shall pay to each institution for each fiscal year an amount equal to the aggregate of the amounts of loans from its student loan fund which are canceled pursuant to this section for such year, minus an amount equal to the aggregate of the amounts of any such loans so canceled which were made from Federal capital contributions to its student loan fund provided by the Secretary under section 1087hh of this title. None of the funds appropriated pursuant to section 1087aa(b) of this title shall be available for payments pursuant to this subsection.

(c) Special rules

(1) List

If the list of schools in which a teacher may perform service pursuant to subsection (a)(2)(A) of this section is not available before May 1 of any year, the Secretary may use the list for the year preceding the year for which the determination is made to make such service determination.

(2) Continuing eligibility

Any teacher who performs service in a school which—

(A) meets the requirements of subsection (a)(2)(A) of this section in any year; and

(B) in a subsequent year fails to meet the requirements of such subsection,

may continue to teach in such school and shall be eligible for loan cancellation pursuant to subsection (a)(1) of this section such subsequent years.

(Pub. L. 89–329, title IV, §465, as added Pub. L. 99–498, title IV, §405(a), Oct. 17, 1986, 100 Stat. 1451; amended Pub. L. 100–50, §13(j), June 3, 1987, 101 Stat. 349; Pub. L. 100–369, §7(c), July 18, 1988, 102 Stat. 837; Pub. L. 101–476, title IX, §901(e), Oct. 30, 1990, 104 Stat. 1151; Pub. L. 101–647, title XXI, §2101(a), (b), Nov. 29, 1990, 104 Stat. 4856; Pub. L. 102–119, §26(h), Oct. 7, 1991, 105 Stat. 607; Pub. L. 102–325, title IV, §465(a)–(c), July 23, 1992, 106 Stat. 582, 583; Pub. L. 103–82, title I, §102(c)(3), Sept. 21, 1993, 107 Stat. 824; Pub. L. 103–208, §2(f)(12)–(14), (k)(7), Dec. 20, 1993, 107 Stat. 2471, 2486; Pub. L. 103–382, title III, §391(e)(3), Oct. 20, 1994, 108 Stat. 4022.)

REFERENCES IN TEXT

Section 1401(a)(1) of this title, referred to in subsec. (a)(2), was in the original a reference to section 602(a)(1) of the Individuals with Disabilities Education Act, Pub. L. 91–230, title VI. Section 602 of Pub. L. 91–230 was omitted in the general amendment of subchapter I of chapter 33 of this title by Pub. L. 105–17, title I, §101, June 4, 1997, 111 Stat. 37. Pub. L. 105–17 enacted a new section 602 of Pub. L. 91–230, which is classified to section 1401 of this title, and which contains provisions defining ''child with a disability''.

The Elementary and Secondary Education Act of 1965, referred to in subsec. (a)(2)(A), is Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, as amended generally by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519. Title I of the Act is classified generally to subchapter I (§6301 et seq.) of chapter 70 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

Section 111(c) of the Elementary and Secondary Education Act of 1965, referred to in subsec. (a)(2)(A), was classified to section 2711(c) of this title, prior to its omission in the general revision of the Elementary and Secondary Education Act of 1965 by Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 140.

The Head Start Act, referred to in subsec. (a)(2)(B), is subchapter B (§§635 to 657) of chapter 8 of subtitle A of title VI of Pub. L. 97–35, Aug. 13, 1981, 95 Stat. 499, as amended, which is classified generally to subchapter II (§9831 et seq.) of chapter 105 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 9801 of Title 42 and Tables.

Section 1476 of this title, referred to in subsec. (a)(2)(C), was repealed by Pub. L. 105–17, title II, §203(b), June 4, 1997, 111 Stat. 157.

The Peace Corps Act, referred to in subsec. (a)(2)(E), is Pub. L. 87–293, Sept. 22, 1961, 75 Stat. 612, as amended, which is classified principally to chapter 34 (§2501 et seq.) of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 2501 of Title 22 and Tables.

The Domestic Volunteer Service Act of 1973, referred to in subsec. (a)(2)(E), is Pub. L. 93–113, Oct. 1, 1973, 87

Stat. 394, as amended, which is classified principally to chapter 66 (§ 4950 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4950 of Title 42 and Tables.

The National and Community Service Act of 1990, referred to in subsec. (a)(6), is Pub. L. 101–610, Nov. 16, 1990, 104 Stat. 3127, as amended. Subtitle D of title I of the Act is classified generally to division D of subchapter I (§ 12601 et seq.) of chapter 129 of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 12501 of Title 42 and Tables.

CODIFICATION

Amendment by section 2(f)(14) of Pub. L. 103–208 (which was effective as if included in Pub. L. 102–325) was executed to this section as amended by Pub. L. 102–325 and Pub. L. 103–82, to reflect the probable intent of Congress.

PRIOR PROVISIONS

A prior section 1087ee, Pub. L. 89–329, title IV, § 465, as added Pub. L. 92–318, title I, § 137(b), June 23, 1972, 86 Stat. 277; amended Pub. L. 95–561, title XIII, § 1323, Nov. 1, 1978, 92 Stat. 2363; Pub. L. 96–374, title IV, §§ 442(b)(6), 448(d), (e), title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1440, 1443, 1503, related to cancellation of loans for certain public service, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1994—Subsec. (a)(2)(A). Pub. L. 103–382 substituted ''title I of the Elementary and Secondary Education Act of 1965'' for ''chapter 1 of the Education Consolidation and Improvement Act of 1981''.

1993—Subsec. (a)(2)(A). Pub. L. 103–208, § 2(k)(7), amended Pub. L. 102–325, § 465(a)(1). See 1992 Amendment note below.

Subsec. (a)(2)(D). Pub. L. 103–208, § 2(f)(12), substituted ''service'' for ''services''.

Subsec. (a)(2)(F). Pub. L. 103–208, § 2(f)(13), struck out ''or'' after semicolon at end.

Subsec. (a)(6). Pub. L. 103–208, § 2(f)(14), realigned margin. See Codification note above.

Pub. L. 103–82 added par. (6).

1992—Subsec. (a)(2)(A). Pub. L. 102–325, § 465(a)(1), as amended by Pub. L. 103–208, § 2(k)(7), struck out before semicolon at end ''and such determination shall not be made with respect to more than 50 percent of the total number of schools in the State receiving assistance under such chapter 1''.

Subsec. (a)(2)(C). Pub. L. 102–325, § 465(a)(2), amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: ''as a full-time teacher of children with disabilities in a public or other nonprofit elementary or secondary school system;''.

Subsec. (a)(2)(G) to (I). Pub. L. 102–325, § 465(a)(3)–(5), added subpars. (G) to (I).

Subsec. (a)(3)(A)(i). Pub. L. 102–325, § 465(b), substituted ''(A), (C), (F), (G), (H), or (I)'' for ''(A), (C), or (F)''.

Subsec. (c). Pub. L. 102–325, § 465(c), added subsec. (c).

1991—Subsec. (a)(2). Pub. L. 102–119 substituted ''1401(a)(1)'' for ''1401(1)'' in last sentence. The references to section 1401 include the substitution of ''Individuals with Disabilities Education Act'' for ''Education of the Handicapped Act'' in the original.

1990—Subsec. (a)(2). Pub. L. 101–476, § 901(e), substituted ''children with disabilities'' for ''handicapped children'' in two places.

Subsec. (a)(2)(F). Pub. L. 101–647, § 2101(a), which directed amendment of subsec. (a)(2) by adding at the end a new subpar. (F), was executed by adding subpar. (F) after subpar. (E) and before last sentence to reflect the probable intent of Congress.

Subsec. (a)(3)(A)(i). Pub. L. 101–647, § 2101(b), which directed amendment of subsec. (a)(3)(i) by substituting ''(A), (C), or (F)'' for ''(A) or (C)'', was executed by making the substitution in subsec. (a)(3)(A)(i) to reflect the probable intent of Congress.

1988—Subsec. (a)(5). Pub. L. 100–369 substituted ''Internal Revenue Code of 1986'' for ''Internal Revenue Code of 1954'', which for purposes of codification was translated as ''title 26'' thus requiring no change in text.

1987—Subsec. (a)(2)(A). Pub. L. 100–50, § 13(j)(1), (2), substituted ''chapter 1 of the Education Consolidation and Improvement Act of 1981'' for ''title I of the Elementary and Secondary Education Act of 1965'' and ''such chapter 1'' for ''such title I''.

Subsec. (a)(2)(B). Pub. L. 100–50, § 13(j)(3), substituted ''the Head Start Act'' for ''section 2809(a)(1) of title 42''.

EFFECTIVE DATE OF 1993 AMENDMENTS

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1003 of this title.

Amendment by Pub. L. 103–82 effective Oct. 1, 1993, see section 123 of Pub. L. 103–82, set out as a note under section 1701 of Title 16, Conservation.

EFFECTIVE DATE OF 1990 AMENDMENTS

Section 2101(c) of Pub. L. 101–647 provided that: ''The amendments made by this section [amending this section] shall apply only to loans made on or after the date of enactment of this Act [Nov. 29, 1990] under part E of title IV of the Higher Education Act of 1965 [this part].''

Section 1001 of Pub. L. 101–476 provided that: ''The amendments made by this Act [see Short Title of 1990 Amendment note set out under section 1400 of this title] shall take effect October 1, 1990.''

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

EFFECTIVE DATE

Section effective Oct. 17, 1986, except as otherwise provided, see section 2 of Pub. L. 99–498, set out as a note under section 1001 of this title.

Subsection (a)(2)(E) of this section applicable only to loans made to cover the costs of instruction for periods of enrollment beginning on or after July 1, 1987, to individuals who are new borrowers on that date, see section 405(b) of Pub. L. 99–498, set out as a note under section 1087dd of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1078–10, 1087, 1087dd, 1087gg, 1092 of this title.

§ 1087ff. Distribution of assets from student loan funds

(a) In general

After September 30, 1996, and not later than March 31, 1997, there shall be a capital distribution of the balance of the student loan fund established under this part by each institution of higher education as follows:

(1) The Secretary shall first be paid an amount which bears the same ratio to the balance in such fund at the close of September 30, 1996, as the total amount of the Federal capital contributions to such fund by the Secretary under this part bears to the sum of such Federal contributions and the institution's capital contributions to such fund.

(2) The remainder of such balance shall be paid to the institution.

(b) Distribution of late collections

After March 31, 2005, each institution with which the Secretary has made an agreement under this part, shall pay to the Secretary the same proportionate share of amounts received by this institution after September 30, 1996, in payment of principal and interest on student loans made from the student loan fund established pursuant to such agreement (which amount shall be determined after deduction of any costs of litigation incurred in collection of the principal or interest on loans from the fund and not already reimbursed from the fund or from such payments of principal or interest), as was determined for the Secretary under subsection (a) of this section.

(c) Distribution of excess capital

(1) Upon a finding by the institution or the Secretary prior to October 1, 1997, that the liquid assets of a student loan fund established pursuant to an agreement under this part exceed the amount required for loans or otherwise in the foreseeable future, and upon notice to such institution or to the Secretary, as the case may be, there shall be, subject to such limitations as may be included in regulations of the Secretary or in such agreement, a capital distribution from such fund. Such capital distribution shall be made as follows:

(A) The Secretary shall first be paid an amount which bears the same ratio to the total to be distributed as the Federal capital contributions by the Secretary to the student loan fund prior to such distribution bear to the sum of such Federal capital contributions and the capital contributions to the fund made by the institution.

(B) The remainder of the capital distribution shall be paid to the institution.

(2) No finding that the liquid assets of a student loan fund established under this part exceed the amount required under paragraph (1) may be made prior to a date which is 2 years after the date on which the institution of higher education received the funds from such institution's allocation under section 1087bb of this title.

(Pub. L. 89–329, title IV, § 466, as added Pub. L. 99–498, title IV, § 405(a), Oct. 17, 1986, 100 Stat. 1453; amended Pub. L. 102–325, title IV, § 466, July 23, 1992, 106 Stat. 584; Pub. L. 103–208, § 2(f)(15), Dec. 20, 1993, 107 Stat. 2471.)

PRIOR PROVISIONS

A prior section 1087ff, Pub. L. 89–329, title IV, § 466, as added Pub. L. 92–318, title I, § 137(b), June 23, 1972, 86 Stat. 278; amended Pub. L. 94–482, title I, § 130(h), Oct. 12, 1976, 90 Stat. 2147; Pub. L. 96–374, title IV, § 442(c), title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1440, 1503, related to distribution of assets from student loan funds, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1993—Subsec. (c)(2). Pub. L. 103–208 realigned margin.

1992—Subsec. (b). Pub. L. 102–325, § 466(1), substituted ''2005'' for ''1997''.

Subsec. (c). Pub. L. 102–325, § 466(2), designated existing provisions as par. (1), redesignated former pars. (1) and (2) as subpars. (A) and (B), respectively, and added par. (2).

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1003 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1087cc, 1087gg of this title.

§ 1087gg. Collection of defaulted loans: Perkins Loan Revolving Fund

(a) Authority of Secretary to collect referred, transferred, or assigned loans

With respect to any loan—

(1) which was made under this part, and

(2) which is referred, transferred, or assigned to the Secretary by an institution with an agreement under section 1087cc(a) of this title,

the Secretary is authorized to attempt to collect such loan by any means authorized by law for collecting claims of the United States (including referral to the Attorney General for litigation) and under such terms and conditions as the Secretary may prescribe, including reimbursement for expenses reasonably incurred in attempting such collection.

(b) Collection of referred, transferred, or assigned loans

The Secretary shall continue to attempt to collect any loan referred, transferred, or assigned under paragraph (5)(A), (5)(B)(i), or (6) of section 1087cc(a) of this title until all appropriate collection efforts, as determined by the Secretary, have been expended.

(c) Perkins Loan Revolving Fund

(1) There is established a Perkins Loan Revolving Fund which shall be available without fiscal year limitation to the Secretary to make payments under this part, in accordance with paragraph (2) of this subsection. There shall be deposited in the Perkins Revolving Loan[1] Fund—

(A) all funds collected by the Secretary on any loan referred, transferred, or assigned under paragraph (5)(A), (5)(B)(i), or (6) of section 1087cc(a) of this title;

(B) all funds collected by the Secretary on any loan referred under paragraph (5)(B)(ii) of section 1087cc(a) of this title;

(C) all funds paid to the Secretary under section 1087ff(c)(1)(A) of this title;

(D) all funds from a student loan fund under this part received by the Secretary as the result of the closure of an institution of higher education;

(E) all funds received by the Secretary as a result of an audit of a student loan fund established under this part; and

(F) all funds which have been appropriated and which the Secretary determines are not necessary for carrying out section 1087ee of this title, relating to the cancellation of certain loans under this part for qualifying service.

(2) Notwithstanding any other provision of law, the Secretary shall, from the Perkins Loan

[1] So in original. Probably should be ''Loan Revolving''.

Revolving Fund established under paragraph (1), pay allocations of additional capital contributions to eligible institutions of higher education in accordance with section 1087bb of this title, except that funds described in subparagraph (B) of paragraph (1) shall be repaid to the institution of higher education which referred the loan, as specified in section 1087cc(a)(5)(B)(ii) of this title. The Secretary shall make the payments required by this paragraph in a manner designed to maximize the availability of capital loan funds under this part.

(Pub. L. 89–329, title IV, § 467, as added Pub. L. 99–498, title IV, § 405(a), Oct. 17, 1986, 100 Stat. 1453; amended Pub. L. 102–325, title IV, § 467, July 23, 1992, 106 Stat. 584.)

PRIOR PROVISIONS

A prior section 1087gg, Pub. L. 89–329, title IV, § 467, as added Pub. L. 96–49, § 5(d)(3)(A), Aug. 13, 1979, 93 Stat. 352; amended Pub. L. 96–374, title IV, § 445(c), title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1442, 1503; Pub. L. 99–272, title XVI, § 16029, Apr. 7, 1986, 100 Stat. 354, related to collection of defaulted loans, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1992—Pub. L. 102–325 amended section catchline generally, inserting ": Perkins Loan Revolving Fund" after "loans" and added subsec. (c).

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 to this section, relating to creation of Perkins Loan Revolving Fund, effective Sept. 15, 1997, see section 468(4) of Pub. L. 102–325, set out as a note under section 1087dd of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1087cc of this title.

§ 1087hh. General authority of Secretary

In carrying out the provisions of this part, the Secretary is authorized—

(1) to consent to modification, with respect to rate of interest, time of payment of any installment of principal and interest or any portion thereof, or any other provision of any note evidencing a loan which has been made under this part;

(2) to enforce, pay, compromise, waive, or release any right, title, claim, lien, or demand, however acquired, including any equity or any right of redemption;

(3) to conduct litigation in accordance with the provisions of section 1082(a)(2) of this title; and

(4) to enter into a contract or other arrangement with State or nonprofit agencies and, on a competitive basis, with collection agencies for servicing and collection of loans under this part.

(Pub. L. 89–329, title IV, § 468, as added Pub. L. 99–498, title IV, § 405(a), Oct. 17, 1986, 100 Stat. 1454.)

PRIOR PROVISIONS

A prior section 1087hh, Pub. L. 89–329, title IV, § 468, as added Pub. L. 96–374, title IV, § 442(a), Oct. 3, 1980, 94 Stat. 1437, related to alternative source of funds, prior to the general revision of this part by Pub. L. 99–498.

A prior section 1087ii, Pub. L. 89–329, title IV, § 469, as added Pub. L. 96–374, title IV, § 442(a), Oct. 3, 1980, 94 Stat. 1439, related to recapture of current balance of student loan funds, prior to the general revision of this part by Pub. L. 99–498.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1087ee of this title.

§ 1087ii. Definitions

(a) Low-income communities

For the purpose of this part, the term "low-income communities" means communities in which there is a high concentration of children eligible to be counted under title I of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6301 et seq.].

(b) High-risk children

For the purposes of this part, the term "high-risk children" means individuals under the age of 21 who are low-income or at risk of abuse or neglect, have been abused or neglected, have serious emotional, mental, or behavioral disturbances, reside in placements outside their homes, or are involved in the juvenile justice system.

(c) Infants, toddlers, children, and youth with disabilities

For purposes of this part, the term "infants, toddlers, children, and youth with disabilities" means children with disabilities and infants and toddlers with disabilities as defined in sections 1401(a)(1)[1] and 1472(1)[1] of this title, respectively, and the term "qualified professional provider of early intervention services" has the meaning specified in section 1472(2)[1] of this title.

(Pub. L. 89–329, title IV, § 469, as added Pub. L. 102–325, title IV, § 465(d), July 23, 1992, 106 Stat. 583; amended Pub. L. 103–382, title III, § 391(e)(4), Oct. 20, 1994, 108 Stat. 4022.)

REFERENCES IN TEXT

The Elementary and Secondary Education Act of 1965, referred to in subsec. (a), is Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, as amended generally by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519. Title I of the Act is classified generally to subchapter I (§ 6301 et seq.) of chapter 70 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

Section 1401(a)(1) of this title, referred to in subsec. (c), was in the original a reference to section 602(a)(1) of the Individuals with Disabilities Education Act, Pub. L. 91–230, title VI. Section 602 of Pub. L. 91–230 was omitted in the general amendment of subchapter I of chapter 33 of this title by Pub. L. 105–17, title I, § 101, June 4, 1997, 111 Stat. 37. Pub. L. 105–17 enacted a new section 602 of Pub. L. 91–230, which is classified to section 1401 of this title, and which contains provisions defining "child with a disability" and "infant or toddler with a disability".

Section 1472 of this title, referred to in subsec. (c), was in the original a reference to section 672 of the Individuals with Disabilities Education Act, Pub. L. 91–230, title VI. Section 672 of Pub. L. 91–230 was repealed by Pub. L. 105–17, title II, § 203(b), June 4, 1997, 111 Stat. 157. Pub. L. 105–17 enacted a new section 672 of Pub. L. 91–230, which is classified to section 1472 of this title, and which no longer defines "infants and toddlers with disabilities" or "qualified professional provider of early intervention services".

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–382 substituted "title I" for "chapter 1 of title I".

[1] See References in Text note below.

PART E—NEED ANALYSIS

CODIFICATION

This part was added as part F of title IV of Pub. L. 89–329 by Pub. L. 99–498, title IV, § 406(a), Oct. 17, 1986, 100 Stat. 1454. The letter designation of this part was changed from ''F'' to ''E'' for codification purposes. See Codification note preceding section 1087a of this title.

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 1070b, 1070b–1, 1070b–3, 1078, 1087d, 1087bb, 1087dd, 1092, 1098 of this title; title 42 sections 2752, 2753, 2756b.

§ 1087kk. Amount of need

Except as otherwise provided therein, the amount of need of any student for financial assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 (except subparts[1] 1 or 4 of part A of this subchapter) is equal to—

(1) the cost of attendance of such student, minus

(2) the expected family contribution for such student, minus

(3) estimated financial assistance not received under this subchapter and part C of subchapter I of chapter 34 of title 42 (as defined in section 1087vv(j) of this title).

(Pub. L. 89–329, title IV, § 471, as added Pub. L. 99–498, title IV, § 406(a), Oct. 17, 1986, 100 Stat. 1454; amended Pub. L. 102–325, title IV, § 471(a), July 23, 1992, 106 Stat. 585.)

AMENDMENTS

1992—Pub. L. 102–325 amended section generally. Prior to amendment, section read as follows: ''Except as otherwise provided therein, the amount of need of any student for financial assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 (except subparts 1 and 3 of part A of this subchapter) is equal to the cost of attendance of such student minus the expected family contribution for such student.''

EFFECTIVE DATE OF 1992 AMENDMENT

Section 471(b) of Pub. L. 102–325 provided that: ''The changes made in part F of title IV of the Act [this part] by the amendment made by this section [amending sections 1087kk to 1087vv of this title] shall apply with respect to determinations of need under such part F for award years beginning on or after July 1, 1993.''

EFFECTIVE DATE

Section 406(b)(1)–(3) of Pub. L. 99–498, as amended by Pub. L. 100–50, § 22(e)(1), (3), June 3, 1987, 101 Stat. 361, provided that:

''(1) Except as provided in paragraphs (2) through (4)—

''(A) part F of title IV of the Act [this part] shall apply with respect to determinations of need under such title for academic years beginning with academic year 1988–1989 and succeeding academic years; and

''(B) for any preceding academic year, determinations of need shall be made in accordance with regulations prescribed by the Secretary of Education in accordance with the Student Financial Assistance Technical Amendments Act of 1982 [Pub. L. 97–301, see Short Title of 1982 Amendment note set out under section 1001 of this title].

''(2) With respect to an application filed after the date of enactment of this Act [Oct. 17, 1986] for a loan under part B of such title [part B of this subchapter] for any academic year preceding academic year 1988–1989, any determination of expected family contribution shall be made using the system of financial need analysis approved by the Secretary of Education for use under subpart 2 of part A and parts C and E of such title [subpart 2 of part A of this subchapter and part C of subchapter I of chapter 34 of Title 42, The Public Health and Welfare, and part D of this subchapter].

''(3) For purposes of sections 413D(d)(2)(B), 442(d)(2)(B) and 462(d)(2)(B) [20 U.S.C. 1070b–3(d)(2)(B), 42 U.S.C. 2752(d)(2)(B), 20 U.S.C. 1087bb(d)(2)(B)] for any academic year preceding academic year 1988–1989, the Secretary shall, in lieu of average expected family contribution, use the procedures for sampling expected family contribution within income categories that was employed for academic year 1986–1987, adjusted to reflect changes in data.

''(4) Section 479B of the Act [20 U.S.C. 1087uu] (as so added) shall apply with respect to financial assistance provided for any academic year beginning after such date of enactment [Oct. 17, 1986].''

[References to subpart 2 of part A of title IV of Pub. L. 89–329 deemed, after July 23, 1992, to refer to subpart 3 of such part, see section 402(b) of Pub. L. 102–325, set out as a note under section 1070a–11 of this title.]

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1070d–40, 1087vv of this title.

§ 1087*ll*. Cost of attendance

For the purpose of this subchapter and part C of subchapter I of chapter 34 of title 42, the term ''cost of attendance'' means—

(1) tuition and fees normally assessed a student carrying the same academic workload as determined by the institution, and including costs for rental or purchase of any equipment, materials, or supplies required of all students in the same course of study;

(2) an allowance for books, supplies, transportation, and miscellaneous personal expenses for a student attending the institution on at least a half-time basis, as determined by the institution;

(3) an allowance (as determined by the institution) for room and board costs incurred by the student which—

(A) shall be an allowance of not less than $1,500 for a student without dependents residing at home with parents;

(B) for students without dependents residing in institutionally owned or operated housing, shall be a standard allowance determined by the institution based on the amount normally assessed most of its residents for room and board; and

(C) for all other students shall be an allowance based on the expenses reasonably incurred by such students for room and board, except that the amount may not be less than $2,500;

(4) for less than half-time students (as determined by the institution) tuition and fees and an allowance for only books, supplies, and transportation (as determined by the institution) and dependent care expenses (in accordance with paragraph (8));

(5) for a student engaged in a program of study by correspondence, only tuition and fees and, if required, books and supplies, travel, and room and board costs incurred specifically

[1] So in original. Probably should be ''subpart''.

in fulfilling a required period of residential training;

(6) for incarcerated students only tuition and fees and, if required, books and supplies;

(7) for a student enrolled in an academic program in a program of study abroad approved for credit by the student's home institution, reasonable costs associated with such study (as determined by the institution at which such student is enrolled);

(8) for a student with one or more dependents, an allowance based on the estimated actual expenses incurred for such dependent care, based on the number and age of such dependents, except that—

(A) such allowance shall not exceed the reasonable cost in the community in which such student resides for the kind of care provided; and

(B) the period for which dependent care is required includes, but is not limited to, class-time, study-time, field work, internships, and commuting time;

(9) for a student with a disability, an allowance (as determined by the institution) for those expenses related to the student's disability, including special services, personal assistance, transportation, equipment, and supplies that are reasonably incurred and not provided for by other assisting agencies;

(10) for a student receiving all or part of the student's instruction by means of telecommunications technology, no distinction shall be made with respect to the mode of instruction in determining costs, but this paragraph shall not be construed to permit including the cost of rental or purchase of equipment;

(11) for a student placed in a work experience under a cooperative education program, an allowance for reasonable costs associated with such employment (as determined by the institution); and

(12) for a student who receives a loan under this or any other Federal law, or, at the option of the institution, a conventional student loan incurred by the student to cover a student's cost of attendance at the institution, an allowance for the actual cost of any loan fee, origination fee, or insurance premium charged to such student or such parent on such loan, or the average cost of any such fee or premium charged by the Secretary, lender, or guaranty agency making or insuring such loan, as the case may be.

(Pub. L. 89–329, title IV, § 472, as added Pub. L. 99–498, title IV, § 406(a), Oct. 17, 1986, 100 Stat. 1454; amended Pub. L. 102–325, title IV, § 471(a), July 23, 1992, 106 Stat. 585; Pub. L. 103–208, § 2(g)(1), Dec. 20, 1993, 107 Stat. 2471.)

AMENDMENTS

1993—Par. (12). Pub. L. 103–208 added par. (12).

1992—Pub. L. 102–325 amended section generally, revising and restating as pars. (1) to (11) provisions formerly contained in pars. (1) to (9).

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1003 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 applicable with respect to determinations of need under this part for award years beginning on or after July 1, 1993, see section 471(b) of Pub. L. 102–325, set out as a note under section 1087kk of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1070a, 1070a–32, 1070a–61, 1078, 1078–8, 1087vv, 1104c, 1106d, 1111d, 1111f of this title; title 10 sections 1151, 1598, 2145, 2193, 2410c; title 42 section 12604.

§ 1087mm. Family contribution

For the purpose of this subchapter and part C of subchapter I of chapter 34 of title 42, except subpart 4 of part A of this subchapter, the term ''family contribution'' with respect to any student means the amount which the student and the student's family may be reasonably expected to contribute toward the student's postsecondary education for the academic year for which the determination is made, as determined in accordance with this part.

(Pub. L. 89–329, title IV, § 473, as added Pub. L. 99–498, title IV, § 406(a), Oct. 17, 1986, 100 Stat. 1455; amended Pub. L. 102–325, title IV, § 471(a), July 23, 1992, 106 Stat. 586.)

AMENDMENTS

1992—Pub. L. 102–325 amended section generally. Prior to amendment, section read as follows: ''For the purpose of this subchapter and part C of subchapter I of chapter 34 of title 42, except subparts 1 and 3 of part A of this subchapter, the term 'family contribution' with respect to any student means the amount which the student and his or her family may be reasonably expected to contribute toward his or her postsecondary education for the academic year for which the determination is made, as determined in accordance with this part.''

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 applicable with respect to determinations of need under this part for award years beginning on or after July 1, 1993, see section 471(b) of Pub. L. 102–325, set out as a note under section 1087kk of this title.

§ 1087nn. Determination of expected family contribution; data elements

(a) General rule for determination of expected family contribution

The expected family contribution—

(1) for a dependent student shall be determined in accordance with section 1087*oo* of this title;

(2) for a single independent student or a married independent student without dependents (other than a spouse) shall be determined in accordance with section 1087pp of this title; and

(3) for an independent student with dependents other than a spouse shall be determined in accordance with section 1087qq of this title.

(b) Data elements

The following data elements are considered in determining the expected family contribution:

(1) the available income of (A) the student and the student's spouse, or (B) the student

and the student's parents, in the case of a dependent student;

(2) the number of dependents in the family of the student;

(3) the number of dependents in the family of the student who are enrolled or accepted for enrollment, on at least a half-time basis, in a degree, certificate, or other program leading to a recognized educational credential at an institution of higher education that is an eligible institution in accordance with the provisions of section 1094 of this title and for whom the family may reasonably be expected to contribute to their postsecondary education;

(4) the net assets of (A) the student and the student's spouse, and (B) the student and the student's parents, in the case of a dependent student;

(5) the marital status of the student;

(6) the age of the older parent, in the case of a dependent student, and the student; and

(7) the additional expenses incurred (A) in the case of a dependent student, when both parents of the student are employed or when the family is headed by a single parent who is employed, or (B) in the case of an independent student, when the student is married and the student's spouse is employed, or when the employed student qualifies as a surviving spouse or as a head of a household under section 2 of title 26.

(Pub. L. 89–329, title IV, § 474, as added Pub. L. 99–498, title IV, § 406(a), Oct. 17, 1986, 100 Stat. 1456; amended Pub. L. 100–369, § 7(c), July 18, 1988, 102 Stat. 837; Pub. L. 102–325, title IV, § 471(a), July 23, 1992, 106 Stat. 587.)

AMENDMENTS

1992—Pub. L. 102–325 substituted ''Determination of expected family contribution; data elements'' for ''Data elements used in determining expected family contribution'' in section catchline and amended text generally, adding subsec. (a), designating existing provisions as subsec. (b) and inserting heading, adding the age of the older parent, in the case of a dependent student, and the student as a data element and striking out consideration of any unusual medical and dental expenses and consideration of the number of dependent children other than the student enrolled in a private elementary or secondary institution and the unreimbursed tuition paid as data elements.

1988—Par. (8). Pub. L. 100–369 substituted ''Internal Revenue Code of 1986'' for ''Internal Revenue Code of 1954'', which for purposes of codification was translated as ''title 26'' thus requiring no change in text.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 applicable with respect to determinations of need under this part for award years beginning on or after July 1, 1993, see section 471(b) of Pub. L. 102–325, set out as a note under section 1087kk of this title.

§ 1087*oo*. Family contribution for dependent students

(a) Computation of expected family contribution

For each dependent student, the expected family contribution is equal to the sum of—

(1) the parents' contribution from adjusted available income (determined in accordance with subsection (b) of this section);

(2) the student contribution from available income (determined in accordance with subsection (g) of this section); and

(3) the student contribution from assets (determined in accordance with subsection (h) of this section).

(b) Parents' contribution from adjusted available income

The parents' contribution from adjusted available income is equal to the amount determined by—

(1) computing adjusted available income by adding—

(A) the parents' available income (determined in accordance with subsection (c) of this section); and

(B) the parents' contribution from assets (determined in accordance with subsection (d) of this section);

(2) assessing such adjusted available income in accordance with the assessment schedule set forth in subsection (e) of this section; and

(3) dividing the assessment resulting under paragraph (2) by the number of the family members who are enrolled or accepted for enrollment, on at least a half-time basis, in a degree, certificate, or other program leading to a recognized educational credential at an institution of higher education that is an eligible institution in accordance with the provisions of section 1094 of this title during the award period for which assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 is requested;

except that the amount determined under this subsection shall not be less than zero.

(c) Parents' available income

(1) In general

The parents' available income is determined by deducting from total income (as defined in section 1087vv of this title)—

(A) Federal income taxes;

(B) an allowance for State and other taxes, determined in accordance with paragraph (2);

(C) an allowance for social security taxes, determined in accordance with paragraph (3);

(D) an income protection allowance, determined in accordance with paragraph (4);

(E) an employment expense allowance, determined in accordance with paragraph (5); and

(F) the amount of any tax credit taken by the parents under section 25A of title 26.

(2) Allowance for State and other taxes

The allowance for State and other taxes is equal to an amount determined by multiplying total income (as defined in section 1087vv of this title) by a percentage determined according to the following table (or a successor table prescribed by the Secretary under section 1087rr of this title):

Percentages for Computation of State and Other Tax Allowance

If parents' State or territory of residence is—	And parents' total income is—	
	less than $15,000 or	$15,000 or more
	then the percentage is—	
Alaska, Puerto Rico, Wyoming	3	2
American Samoa, Guam, Louisiana, Nevada, Texas, Trust Territory, Virgin Islands	4	3
Florida, South Dakota, Tennessee, New Mexico	5	4
North Dakota, Washington	6	5
Alabama, Arizona, Arkansas, Indiana, Mississippi, Missouri, Montana, New Hampshire, Oklahoma, West Virginia	7	6
Colorado, Connecticut, Georgia, Illinois, Kansas, Kentucky	8	7
California, Delaware, Idaho, Iowa, Nebraska, North Carolina, Ohio, Pennsylvania, South Carolina, Utah, Vermont, Virginia, Canada, Mexico	9	8
Maine, New Jersey	10	9
District of Columbia, Hawaii, Maryland, Massachusetts, Oregon, Rhode Island	11	10
Michigan, Minnesota	12	11
Wisconsin	13	12
New York	14	13
Other	9	8

(3) Allowance for social security taxes

The allowance for social security taxes is equal to the amount earned by each parent multiplied by the social security withholding rate appropriate to the tax year of the earnings, up to the maximum statutory social security tax withholding amount for that same tax year.

(4) Income protection allowance

The income protection allowance is determined by the following table (or a successor table prescribed by the Secretary under section 1087rr of this title):

Income Protection Allowance

Family Size	Number in College					
(including student)	1	2	3	4	5	For each additional subtract:
2	$10,520	$8,720				$1,790
3	13,100	11,310	$9,510			
4	16,180	14,380	12,590	$10,790		
5	19,090	17,290	15,500	13,700	$11,910	
6	22,330	20,530	18,740	16,940	15,150	
For each additional add:	2,520	2,520	2,520	2,520	2,520	

(5) Employment expense allowance

The employment expense allowance is determined as follows (or using a successor provision prescribed by the Secretary under section 1087rr of this title):

(A) If both parents were employed in the year for which their income is reported and both have their incomes reported in determining the expected family contribution, such allowance is equal to the lesser of $2,500 or 35 percent of the earned income of the parent with the lesser earned income.

(B) If a parent qualifies as a surviving spouse or as a head of household as defined in section 2 of title 26, such allowance is equal to the lesser of $2,500 or 35 percent of such parent's earned income.

(d) Parents' contribution from assets

(1) In general

The parents' contribution from assets is equal to—

(A) the parental net worth (determined in accordance with paragraph (2)); minus

(B) the education savings and asset protection allowance (determined in accordance with paragraph (3)); multiplied by

(C) the asset conversion rate (determined in accordance with paragraph (4)), except that the result shall not be less than zero.

(2) Parental net worth

The parental net worth is calculated by adding—

(A) the current balance of checking and savings accounts and cash on hand;

(B) the net value of investments and real estate, excluding the net value of the principal place of residence; and

(C) the adjusted net worth of a business or farm, computed on the basis of the net worth of such business or farm (hereafter in this subsection referred to as ''NW''), determined in accordance with the following table (or a successor table prescribed by the Secretary under section 1087rr of this title), except as provided under section 1087vv(f) of this title:

Adjusted Net Worth of a Business or Farm

If the net worth of a business or farm is—	Then the adjusted net worth is:
Less than $1	$0
$1–$75,000	40 percent of NW
$75,001–$225,000	$30,000 plus 50 percent of NW over $75,000
$225,001–$375,000	$105,000 plus 60 percent of NW over $225,000
$375,001 or more	$195,000 plus 100 percent of NW over $375,000

(3) Education savings and asset protection allowance

The education savings and asset protection allowance is calculated according to the following table (or a successor table prescribed by the Secretary under section 1087rr of this title):

Education Savings and Asset Protection Allowances for Families and Students

If the age of the oldest parent is—	And there are	
	two parents	one parent
	then the allowance is—	
25 or less	$ 0	$0
26	2,200	1,600
27	4,300	3,200
28	6,500	4,700
29	8,600	6,300
30	10,800	7,900
31	13,000	9,500
32	15,100	11,100
33	17,300	12,600
34	19,400	14,200
35	21,600	15,800
36	23,800	17,400
37	25,900	19,000
38	28,100	20,500
39	30,200	22,100
40	32,400	23,700
41	33,300	24,100
42	34,100	24,700
43	35,000	25,200
44	35,700	25,800
45	36,600	26,300
46	37,600	26,900
47	38,800	27,600
48	39,800	28,200
49	40,800	28,800
50	41,800	29,500
51	43,200	30,200
52	44,300	31,100
53	45,700	31,800
54	47,100	32,600
55	48,300	33,400
56	49,800	34,400
57	51,300	35,200
58	52,900	36,200
59	54,800	37,200
60	56,500	38,100
61	58,500	39,200
62	60,300	40,300
63	62,400	41,500

Education Savings and Asset Protection Allowances for Families and Students—Continued

If the age of the oldest parent is—	And there are	
	two parents	one parent
	then the allowance is—	
64	64,600	42,800
65 or more	66,800	44,000

(4) Asset conversion rate

The asset conversion rate is 12 percent.

(e) Assessment schedule

The adjusted available income (as determined under subsection (b)(1) of this section and hereafter in this subsection referred to as ''AAI'') is assessed according to the following table (or a successor table prescribed by the Secretary under section 1087rr of this title):

Parents' Assessment From Adjusted Available Income (AAI)

If AAI is—	Then the assessment is—
Less than −$3,409	−$750
−$3,409 to $9,400	22% of AAI
$9,401 to $11,800	$2,068 + 25% of AAI over $9,400
$11,801 to $14,200	$2,668 + 29% of AAI over $11,800
$14,201 to $16,600	$3,364 + 34% of AAI over $14,200
$16,601 to $19,000	$4,180 + 40% of AAI over $16,600
$19,001 or more	$5,140 + 47% of AAI over $19,000

(f) Computations in case of separation, divorce, remarriage, or death

(1) Divorced or separated parents

Parental income and assets for a student whose parents are divorced or separated is determined under the following procedures:

(A) Include only the income and assets of the parent with whom the student resided for the greater portion of the 12-month period preceding the date of the application.

(B) If the preceding criterion does not apply, include only the income and assets of the parent who provided the greater portion of the student's support for the 12-month period preceding the date of application.

(C) If neither of the preceding criteria apply, include only the income and assets of the parent who provided the greater support during the most recent calendar year for which parental support was provided.

(2) Death of a parent

Parental income and assets in the case of the death of any parent is determined as follows:

(A) If either of the parents has died, the student shall include only the income and assets of the surviving parent.

(B) If both parents have died, the student shall not report any parental income or assets.

(3) Remarried parents

If a parent whose income and assets are taken into account under paragraph (1) of this subsection, or if a parent who is a widow or widower and whose income is taken into account under paragraph (2) of this subsection,

has remarried, the income of that parent's spouse shall be included in determining the parent's adjusted available income only if—

(A) the student's parent and the stepparent are married as of the date of application for the award year concerned; and

(B) the student is not an independent student.

(g) Student contribution from available income

(1) In general

The student contribution from available income is equal to—

(A) the student's total income (determined in accordance with section 1087vv of this title); minus

(B) the adjustment to student income (determined in accordance with paragraph (2)); multiplied by

(C) the assessment rate as determined in paragraph (5);

except that the amount determined under this subsection shall not be less than zero.

(2) Adjustment to student income

The adjustment to student income is equal to the sum of—

(A) Federal income taxes of the student;

(B) an allowance for State and other income taxes (determined in accordance with paragraph (3));

(C) an allowance for social security taxes determined in accordance with paragraph (4);

(D) an income protection allowance of $1,750; and

(E) the amount of any tax credit taken by the student under section 25A of title 26.

(3) Allowance for State and other income taxes

The allowance for State and other income taxes is equal to an amount determined by multiplying total income (as defined in section 1087vv of this title) by a percentage determined according to the following table (or a successor table prescribed by the Secretary under section 1087rr of this title):

Percentages for Computation of State and Other Tax Allowance

If the students' State or territory of residence is—	The percentage is—
Alaska, American Samoa, Florida, Guam, Nevada, South Dakota, Tennessee, Texas, Trust Territory, Virgin Islands, Washington, Wyoming	0
Connecticut, Louisiana, Puerto Rico	1
Arizona, New Hampshire, New Mexico, North Dakota	2
Alabama, Colorado, Illinois, Indiana, Kansas, Mississippi, Missouri, Montana, Nebraska, New Jersey, Oklahoma	3
Arkansas, Georgia, Iowa, Kentucky, Maine, Pennsylvania, Utah, Vermont, Virginia, West Virginia, Canada, Mexico	4
California, Idaho, Massachusetts, North Carolina, Ohio, Rhode Island, South Carolina	5
Hawaii, Maryland, Michigan, Wisconsin	6
Delaware, District of Columbia, Minnesota, Oregon	7
New York	8
Other	4

(4) Allowance for social security taxes

The allowance for social security taxes is equal to the amount earned by the student multiplied by the social security withholding rate appropriate to the tax year of the earnings, up to the maximum statutory social security tax withholding amount for that same tax year.

(5) Assessment of available income

The student's available income (determined in accordance with paragraph (1) of this subsection) is assessed at 50 percent.

(h) Student contribution from assets

The student contribution from assets is determined by calculating the net assets of the student and multiplying such amount by 35 percent, except that the result shall not be less than zero.

(i) Adjustments to parents' contribution for enrollment periods other than 9 months for purposes other than subpart 2 of part A of this subchapter

For periods of enrollment other than 9 months, the parents' contribution from adjusted available income (as determined under subsection (b) of this section) is determined as follows for purposes other than subpart 2 of part A of this subchapter:

(1) For periods of enrollment less than 9 months, the parents' contribution from adjusted available income is divided by 9 and the result multiplied by the number of months enrolled.

(2) For periods of enrollment greater than 9 months—

(A) the parents' adjusted available income (determined in accordance with subsection (b)(1) of this section) is increased by the difference between the income protection allowance (determined in accordance with subsection (c)(4) of this section) for a family of four and a family of five, each with one child in college;

(B) the resulting revised parents' adjusted available income is assessed according to subsection (e) of this section and adjusted according to subsection (b)(3) of this section to determine a revised parents' contribution from adjusted available income;

(C) the original parents' contribution from adjusted available income is subtracted from the revised parents' contribution from adjusted available income, and the result is divided by 12 to determine the monthly adjustment amount; and

(D) the original parents' contribution from adjusted available income is increased by the product of the monthly adjustment amount multiplied by the number of months greater than 9 for which the student will be enrolled.

(Pub. L. 89–329, title IV, § 475, as added Pub. L. 99–498, title IV, § 406(a), Oct. 17, 1986, 100 Stat. 1456; amended Pub. L. 100–50, § 14(1)–(12), June 3, 1987, 101 Stat. 349, 350; Pub. L. 102–325, title IV, § 471(a), July 23, 1992, 106 Stat. 587; Pub. L. 103–208, § 2(g)(2)–(5), Dec. 20, 1993, 107 Stat. 2472; Pub. L. 105–78, title VI, § 609(g), Nov. 13, 1997, 111 Stat. 1523.)

AMENDMENTS

1997—Subsec. (c)(1)(F). Pub. L. 105–78, § 609(g)(1), added subpar. (F).

Subsec. (g)(2)(E). Pub. L. 105–78, § 609(g)(2), added subpar. (E).

1993—Subsec. (c)(4). Pub. L. 103–208, § 2(g)(2), substituted ''$9,510'' for ''9,510'' in table.

Subsec. (f)(3). Pub. L. 103–208, § 2(g)(3), in introductory provisions, substituted ''If a parent'' for ''Income in the case of a parent'', ''(1) of this subsection, or if a parent'' for ''(1) of this subsection, or a parent'', and ''the income'' for ''is determined as follows: The income''.

Subsec. (g)(1)(B). Pub. L. 103–208, § 2(g)(4), inserted closing parenthesis after ''paragraph (2)''.

Subsec. (g)(3). Pub. L. 103–208, § 2(g)(5), in table added last item relating to Other.

1992—Pub. L. 102–325 amended section generally, making minor changes in subsecs. (a) to (c) and (e) to (g), in subsec. (d) substituting provisions relating to parents' contribution from assets for provisions relating to parents' income supplemental amount from assets, in subsec. (h) substituting provisions relating to student contribution from assets for provisions relating to student and spouse income supplemental amount from assets, and in subsec. (i) substituting provisions relating to adjustments to parents' contribution for enrollment periods other than 9 months for purposes other than subpart 2 of part A of this subchapter for provisions relating to adjustments for enrollment periods other than 9 months.

1987—Subsec. (c)(2), (4). Pub. L. 100–50, § 14(1), substituted ''section 1087rr of this title'' for ''section 1087ss of this title''.

Subsec. (c)(7). Pub. L. 100–50, § 14(2), struck out ''National'' before ''Center''.

Subsec. (d)(2)(B). Pub. L. 100–50, § 14(3), substituted ''displaced homemaker'' for ''dislocated homemaker''.

Subsec. (d)(2)(C). Pub. L. 100–50, § 14(1), substituted ''section 1087rr of this title'' for ''section 1087ss of this title''.

Pub. L. 100–50, § 14(4), added table after subpar. (C) and struck out former table which read as follows:

''Adjusted Net Worth of a Business or Farm

If the net worth of a business or farm is—	Then the adjusted net worth is:
Less than $1	$0
$1–$65,000	40 percent of NW
$65,001–$195,000	$26,000 plus 50 percent of NW over $65,000
$195,001–$325,000	$91,000 plus 60 percent of NW over $195,000
$325,001 or more	$169,000 plus 100 percent of NW over $325,000''.

Subsec. (d)(4)(B). Pub. L. 100–50, § 14(5), substituted ''$15,999'' for ''$15,000''.

Subsec. (d)(4)(C). Pub. L. 100–50, § 14(6), substituted ''$16,000'' for ''$15,000'' in three places.

Subsec. (d)(4)(D). Pub. L. 100–50, § 14(7), substituted ''income is less than zero'' for ''income is equal to or less than zero''.

Subsec. (e). Pub. L. 100–50, § 14(8), inserted a minus sign before ''$3,409'' in two places in table.

Subsec. (g)(1)(C). Pub. L. 100–50, § 14(9), substituted ''paragraph (2)'' for ''paragraph (3)''.

Subsec. (g)(3). Pub. L. 100–50, § 14(10), inserted ''(or a successor table prescribed by the Secretary under section 1087rr of this title)'' after ''following table''.

Subsec. (h). Pub. L. 100–50, § 14(11), added subsec. (h) and struck out former subsec. (h) which read as follows: ''The student (and spouse) supplemental income amount from assets is determined by multiplying by 35 percent the sum of—

''(1) the current balance of checking and savings accounts and cash on hand; and

''(2) the net value of investments and real estate, including the net value in the principal place of residence except in the case of a dislocated worker (certified in accordance with title III of the Job Training Partnership Act) or a dislocated homemaker (as defined in section 1087vv(e) of this title).''

Subsec. (i). Pub. L. 100–50, § 14(12), added subsec. (i).

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1003 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 applicable with respect to determinations of need under this part for award years beginning on or after July 1, 1993, see section 471(b) of Pub. L. 102–325, set out as a note under section 1087kk of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1087nn, 1087rr, 1087ss of this title.

§ 1087pp. Family contribution for independent students without dependents other than a spouse

(a) Computation of expected family contribution

For each independent student without dependents other than a spouse, the expected family contribution is determined by—

(1) adding—

(A) the family's contribution from available income (determined in accordance with subsection (b) of this section); and

(B) the family's contribution from assets (determined in accordance with subsection (c) of this section); and

(2) dividing the sum resulting under paragraph (1) by the number of students who are enrolled or accepted for enrollment, on at least a half-time basis, in a degree, certificate, or other program leading to a recognized educational credential at an institution of higher education that is an eligible institution in accordance with the provisions of section 1094 of this title during the award period for which assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 is requested;

except that the amount determined under this subsection shall not be less than zero.

(b) Family's contribution from available income

(1) In general

The family's contribution from income is determined by—

(A) deducting from total income (as defined in section 1087vv of this title)—

(i) Federal income taxes;

(ii) an allowance for State and other taxes, determined in accordance with paragraph (2);

(iii) an allowance for social security taxes, determined in accordance with paragraph (3);

(iv) an income protection allowance of—

(I) $3,000 for single students;

(II) $3,000 for married students where both are enrolled pursuant to subsection (a)(2) of this section; and

(III) $6,000 for married students where one is enrolled pursuant to subsection (a)(2) of this section;

(v) in the case where a spouse is present, an employment expense allowance, as determined in accordance with paragraph (4); and

(vi) the amount of any tax credit taken under section 25A of title 26; and

(B) assessing such available income in accordance with paragraph (5).

(2) Allowance for State and other taxes

The allowance for State and other taxes is equal to an amount determined by multiplying total income (as defined in section 1087vv of this title) by a percentage determined according to the following table (or a successor table prescribed by the Secretary under section 1087rr of this title):

Percentages for Computation of State and Other Tax Allowance

If the students' State or territory of residence is—	The percentage is—
Alaska, American Samoa, Florida, Guam, Nevada, South Dakota, Tennessee, Texas, Trust Territory, Virgin Islands, Washington, Wyoming	0
Connecticut, Louisiana, Puerto Rico	1
Arizona, New Hampshire, New Mexico, North Dakota	2
Alabama, Colorado, Illinois, Indiana, Kansas, Mississippi, Missouri, Montana, Nebraska, New Jersey, Oklahoma	3
Arkansas, Georgia, Iowa, Kentucky, Maine, Pennsylvania, Utah, Vermont, Virginia, West Virginia, Canada, Mexico	4
California, Idaho, Massachusetts, North Carolina, Ohio, Rhode Island, South Carolina	5
Hawaii, Maryland, Michigan, Wisconsin	6
Delaware, District of Columbia, Minnesota, Oregon	7
New York	8
Other	4

(3) Allowance for social security taxes

The allowance for social security taxes is equal to the amount earned by the student (and spouse, if appropriate), multiplied by the social security withholding rate appropriate to the tax year preceding the award year, up to the maximum statutory social security tax withholding amount for that same tax year.

(4) Employment expenses allowance

The employment expense allowance is determined as follows (or using a successor provision prescribed by the Secretary under section 1087rr of this title):

(A) If the student is married and the student's spouse is employed in the year for which income is reported, such allowance is equal to the lesser of $2,500 or 35 percent of the earned income of the student or spouse with the lesser earned income.

(B) If a student is not married, the employment expense allowance is zero.

(5) Assessment of available income

The family's available income (determined in accordance with paragraph (1)(A) of this subsection) is assessed at 50 percent.

(c) Family contribution from assets

(1) In general

The family's contribution from assets is equal to—

(A) the family's net worth (determined in accordance with paragraph (2)); minus

(B) the asset protection allowance (determined in accordance with paragraph (3)); multiplied by

(C) the asset conversion rate (determined in accordance with paragraph (4));

except that the family's contribution from assets shall not be less than zero.

(2) Family's net worth

The family's net worth is calculated by adding—

(A) the current balance of checking and savings accounts and cash on hand;

(B) the net value of investments and real estate, excluding the net value in the principal place of residence; and

(C) the adjusted net worth of a business or farm, computed on the basis of the net worth of such business or farm (hereafter referred to as ''NW''), determined in accordance with the following table (or a successor table prescribed by the Secretary under section 1087rr of this title), except as provided under section 1087vv(f) of this title:

Adjusted Net Worth of a Business or Farm

If the net worth of a business or farm is—	Then the adjusted net worth is—
Less than $1	$0
$1–$75,000	40 percent of NW
$75,001–$225,000	$30,000 plus 50 percent of NW over $75,000
$225,001–$375,000	$105,000 plus 60 percent of NW over $225,000
$375,001 or more	$195,000 plus 100 percent of NW over $375,000

(3) Asset protection allowance

The asset protection allowance is calculated according to the following table (or a successor table prescribed by the Secretary under section 1087rr of this title):

Asset Protection Allowances for Families and Students

If the age of the student is—	And the student is	
	married	single
	then the allowance is—	
25 or less	$ 0	$0

Asset Protection Allowances for Families and Students—Continued

If the age of the student is—	And the student is	
	married	single
	then the allowance is—	
26	2,200	1,600
27	4,300	3,200
28	6,500	4,700
29	8,600	6,300
30	10,800	7,900
31	13,000	9,500
32	15,100	11,100
33	17,300	12,600
34	19,400	14,200
35	21,600	15,800
36	23,800	17,400
37	25,900	19,000
38	28,100	20,500
39	30,200	22,100
40	32,400	23,700
41	33,300	24,100
42	34,100	24,700
43	35,000	25,200
44	35,700	25,800
45	36,600	26,300
46	37,600	26,900
47	38,800	27,600
48	39,800	28,200
49	40,800	28,800
50	41,800	29,500
51	43,200	30,200
52	44,300	31,100
53	45,700	31,800
54	47,100	32,600
55	48,300	33,400
56	49,800	34,400
57	51,300	35,200
58	52,900	36,200
59	54,800	37,200
60	56,500	38,100
61	58,500	39,200
62	60,300	40,300
63	62,400	41,500
64	64,600	42,800
65 or more	66,800	44,000

(4) Asset conversion rate

The asset conversion rate is 35 percent.

(d) Computations in case of separation, divorce, or death

In the case of a student who is divorced or separated, or whose spouse has died, the spouse's income and assets shall not be considered in determining the family's contribution from income or assets.

(Pub. L. 89–329, title IV, §476, as added Pub. L. 99–498, title IV, §406(a), Oct. 17, 1986, 100 Stat. 1463; amended Pub. L. 100–50, §14(1), (3), (4), (13)–(17), June 3, 1987, 101 Stat. 349, 351; Pub. L. 102–325, title IV, §471(a), July 23, 1992, 106 Stat. 594; Pub. L. 103–208, §2(g)(6), Dec. 20, 1993, 107 Stat. 2472; Pub. L. 105–78, title VI, §609(h), Nov. 13, 1997, 111 Stat. 1524.)

AMENDMENTS

1997—Subsec. (b)(1)(A)(vi). Pub. L. 105–78 added cl. (vi).

1993—Subsec. (d). Pub. L. 103–208 added subsec. (d).

1992—Pub. L. 102–325 amended section generally, substituting provisions relating to family contribution for independent students without dependents other than a spouse for provisions relating to family contribution for independent students without dependents (including a spouse).

1987—Subsec. (b)(1)(A), (B). Pub. L. 100–50, §14(13)(B), (C), substituted subpar. (A) and introductory provisions of subpar. (B) for introductory provisions of former subpar. (A) which read as follows: ''computing the student's available taxable income by deducting from the student's adjusted gross income—''. Former subpar. (B) redesignated (C).

Subsec. (b)(1)(C). Pub. L. 100–50, §14(13)(B), redesignated subpar. (B) as (C). Former subpar. (C) redesignated (D).

Subsec. (b)(1)(D). Pub. L. 100–50, §14(15), which directed that subsec. (b)(1)(C) be amended by inserting ''plus the amount of veterans' benefits paid during the award period under chapters 32, 34, and 35 of title 28'', was executed to subpar. (D) to reflect the probable intent of Congress and the intervening redesignation of subpar. (C) as (D) by section 14(13)(B) of Pub. L. 100–50.

Pub. L. 100–50, §14(13)(A), (B), redesignated subpar. (C) as (D) and substituted ''subparagraph (C)'' for ''subparagraph (B)''.

Subsec. (b)(2). Pub. L. 100–50, §14(1), (14), substituted ''total income'' for ''total taxable income'' and ''section 1087rr of this title'' for ''section 1087ss of this title''.

Subsec. (b)(4)(A). Pub. L. 100–50, §14(16)(A), substituted ''$8,600'' for ''$8,900''.

Subsec. (b)(4)(B). Pub. L. 100–50, §14(16), substituted ''$8,600'' for ''$8,900'' in two places and ''$6,020'' for ''$6,230''.

Subsec. (c)(1). Pub. L. 100–50, §14(17), substituted a semicolon for a period at end of subpar. (C) and inserted, after subpar. (C), provision that the student's income supplemental amount from assets not be less than zero.

Subsec. (c)(2)(B). Pub. L. 100–50, §14(3), substituted ''displaced homemaker'' for ''dislocated homemaker''.

Subsec. (c)(2)(C). Pub. L. 100–50, §14(4), added table and struck out former table which read as follows:

''Adjusted Net Worth of a Business or Farm

If the net worth of a business or farm is—	Then the adjusted net worth is—
Less than $1	$0
$1–$65,000	40 percent of NW
$65,001–$195,000	$26,000 plus 50 percent of NW over $65,000
$195,001–$325,000	$91,000 plus 60 percent of NW over $195,000
$325,001 or more	$169,000 plus 100 percent of NW over $325,000''.

Pub. L. 100–50, §14(1), substituted ''section 1087rr of this title'' for ''section 1087ss of this title''.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1003 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 applicable with respect to determinations of need under this part for award years beginning on or after July 1, 1993, see section 471(b) of Pub. L. 102–325, set out as a note under section 1087kk of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986,

Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1087nn, 1087rr, 1087ss of this title.

§ 1087qq. Family contribution for independent students with dependents other than a spouse

(a) Computation of expected family contribution

For each independent student with dependents other than a spouse, the expected family contribution is equal to the amount determined by—

(1) computing adjusted available income by adding—

(A) the family's available income (determined in accordance with subsection (b) of this section); and

(B) the family's contribution from assets (determined in accordance with subsection (c) of this section);

(2) assessing such adjusted available income in accordance with an assessment schedule set forth in subsection (d) of this section; and

(3) dividing the assessment resulting under paragraph (2) by the number of family members who are enrolled or accepted for enrollment, on at least a half-time basis, in a degree, certificate, or other program leading to a recognized educational credential at an institution of higher education that is an eligible institution in accordance with the provisions of section 1094 of this title during the award period for which assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 is requested;

except that the amount determined under this subsection shall not be less than zero.

(b) Family's available income

(1) In general

The family's available income is determined by deducting from total income (as defined in section 1087vv of this title)—

(A) Federal income taxes;

(B) an allowance for State and other taxes, determined in accordance with paragraph (2);

(C) an allowance for social security taxes, determined in accordance with paragraph (3);

(D) an income protection allowance, determined in accordance with paragraph (4);

(E) an employment expense allowance, determined in accordance with paragraph (5); and

(F) the amount of any tax credit taken under section 25A of title 26.

(2) Allowance for State and other taxes

The allowance for State and other taxes is equal to an amount determined by multiplying total income (as defined in section 1087vv of this title) by a percentage determined according to the following table (or a successor table prescribed by the Secretary under section 1087rr of this title):

Percentages for Computation of State and Other Tax Allowance

If student's State or territory of residence is—	And family's total income is—	
	less than $15,000	$15,000 or more
	then the percentage is—	
Alaska, Puerto Rico, Wyoming	3	2
American Samoa, Guam, Louisiana, Nevada, Texas, Trust Territory, Virgin Islands	4	3
Florida, South Dakota, Tennessee, New Mexico	5	4
North Dakota, Washington	6	5
Alabama, Arizona, Arkansas, Indiana, Mississippi, Missouri, Montana, New Hampshire, Oklahoma, West Virginia	7	6
Colorado, Connecticut, Georgia, Illinois, Kansas, Kentucky	8	7
California, Delaware, Idaho, Iowa, Nebraska, North Carolina, Ohio, Pennsylvania, South Carolina, Utah, Vermont, Virginia, Canada, Mexico	9	8
Maine, New Jersey	10	9
District of Columbia, Hawaii, Maryland, Massachusetts, Oregon, Rhode Island	11	10
Michigan, Minnesota	12	11
Wisconsin	13	12
New York	14	13
Other	9	8

(3) Allowance for social security taxes

The allowance for social security taxes is equal to the amount estimated to be earned by the student (and spouse, if appropriate) multiplied by the social security withholding rate appropriate to the tax year preceding the award year, up to the maximum statutory social security tax withholding amount for that same tax year.

(4) Income protection allowance

The income protection allowance is determined by the following table (or a successor table prescribed by the Secretary under section 1087rr of this title):

Income Protection Allowance

Family Size (including student)	Number in College 1	2	3	4	5	For each additional subtract:
2	$10,520	$8,720				$1,790
3	13,100	11,310	$9,510			
4	16,180	14,380	12,590	$10,790		
5	19,090	17,290	15,500	13,700	$11,910	
6	22,330	20,530	18,740	16,940	15,150	
For each additional add:	2,520	2,520	2,520	2,520	2,520	

(5) Employment expense allowance

The employment expense allowance is determined as follows (or a successor table prescribed by the Secretary under section 1087rr of this title):

(A) If the student is married and the student's spouse is employed in the year for which their income is reported, such allowance is equal to the lesser of $2,500 or 35 percent of the earned income of the student or spouse with the lesser earned income.

(B) If a student qualifies as a surviving spouse or as a head of household as defined in section 2 of title 26, such allowance is equal to the lesser of $2,500 or 35 percent of the student's earned income.

(c) Family's contribution from assets

(1) In general

The family's contribution from assets is equal to—

(A) the family net worth (determined in accordance with paragraph (2)); minus

(B) the asset protection allowance (determined in accordance with paragraph (3)); multiplied by

(C) the asset conversion rate (determined in accordance with paragraph (4)), except that the result shall not be less than zero.

(2) Family net worth

The family net worth is calculated by adding—

(A) the current balance of checking and savings accounts and cash on hand;

(B) the net value of investments and real estate, excluding the net value in the principal place of residence; and

(C) the adjusted net worth of a business or farm, computed on the basis of the net worth of such business or farm (hereafter referred to as ''NW''), determined in accordance with the following table (or a successor table prescribed by the Secretary under section 1087rr of this title), except as provided under section 1087vv(f) of this title:

Adjusted Net Worth of a Business or Farm

If the net worth of a business or farm is—	Then the adjusted net worth is—
Less than $1	$0
$1–$75,000	40 percent of NW
$75,001–$225,000	$30,000 plus 50 percent of NW over $75,000
$225,001–$375,000	$105,000 plus 60 percent of NW over $225,000
$375,001 or more	$195,000 plus 100 percent of NW over $375,000

(3) Asset protection allowance

The asset protection allowance is calculated according to the following table (or a successor table prescribed by the Secretary under section 1087rr of this title):

Asset Protection Allowances for Families and Students

If the age of the student is—	And the student is married	single
	then the allowance is—	
25 or less	$ 0	$0
26	2,200	1,600
27	4,300	3,200
28	6,500	4,700
29	8,600	6,300
30	10,800	7,900
31	13,000	9,500
32	15,100	11,100
33	17,300	12,600
34	19,400	14,200
35	21,600	15,800
36	23,800	17,400
37	25,900	19,000
38	28,100	20,500
39	30,200	22,100
40	32,400	23,700
41	33,300	24,100
42	34,100	24,700
43	35,000	25,200
44	35,700	25,800
45	36,600	26,300
46	37,600	26,900
47	38,800	27,600
48	39,800	28,200
49	40,800	28,800
50	41,800	29,500
51	43,200	30,200
52	44,300	31,100
53	45,700	31,800
54	47,100	32,600
55	48,300	33,400
56	49,800	34,400
57	51,300	35,200
58	52,900	36,200
59	54,800	37,200
60	56,500	38,100
61	58,500	39,200
62	60,300	40,300
63	62,400	41,500
64	64,600	42,800
65 or more	66,800	44,000

(4) Asset conversion rate

The asset conversion rate is 12 percent.

(d) Assessment schedule

The adjusted available income (as determined under subsection (a)(1) of this section and hereafter referred to as ''AAI'') is assessed according to the following table (or a successor table prescribed by the Secretary under section 1087rr of this title):

Assessment From Adjusted Available Income (AAI)

If AAI is—	Then the assessment is—
Less than −$3,409	−$750
−$3,409 to $9,400	22% of AAI
$9,401 to $11,800	$2,068 + 25% of AAI over $9,400
$11,801 to $14,200	$2,668 + 29% of AAI over $11,800
$14,201 to $16,600	$3,364 + 34% of AAI over $14,200
$16,601 to $19,000	$4,180 + 40% of AAI over $16,600
$19,001 or more	$5,140 + 47% of AAI over $19,000

(e) Computations in case of separation, divorce, or death

In the case of a student who is divorced or separated, or whose spouse has died, the spouse's income and assets shall not be considered in determining the family's available income or assets.

(Pub. L. 89–329, title IV, § 477, as added Pub. L. 99–498, title IV, § 406(a), Oct. 17, 1986, 100 Stat. 1465; amended Pub. L. 100–50, § 14(1)–(6), (8), (18), (19), June 3, 1987, 101 Stat. 349–351; Pub. L. 102–325, title IV, § 471(a), July 23, 1992, 106 Stat. 597; Pub. L. 103–208, § 2(g)(2), (7), Dec. 20, 1993, 107 Stat. 2472; Pub. L. 105–78, title VI, § 609(i), Nov. 13, 1997, 111 Stat. 1524.)

AMENDMENTS

1997—Subsec. (b)(1)(F). Pub. L. 105–78 added subpar. (F).

1993—Subsec. (b)(4). Pub. L. 103–208, § 2(g)(2), substituted ''$9,510'' for ''9,510'' in table.

Subsec. (e). Pub. L. 103–208, § 2(g)(7), added subsec. (e).

1992—Pub. L. 102–325 amended section generally, substituting provisions relating to family contribution for independent students with dependents other than a spouse for provisions relating to family contribution for independent students with dependents (including a spouse).

1987—Subsec. (a)(1)(C). Pub. L. 100–50, § 14(18), added subpar. (C).

Subsec. (b)(2). Pub. L. 100–50, § 14(1), substituted ''section 1087rr of this title'' for ''section 1087ss of this title''.

Subsec. (b)(5)(A). Pub. L. 100–50, § 14(19), substituted ''$2,100'' for ''$2,000''.

Subsec. (b)(7). Pub. L. 100–50, § 14(2), struck out ''National'' before ''Center''.

Subsec. (c)(2)(B). Pub. L. 100–50, § 14(3), substituted ''displaced homemaker'' for ''dislocated homemaker''.

Subsec. (c)(2)(C). Pub. L. 100–50, § 14(1), (4), substituted ''section 1087rr of this title'' for ''section 1087ss of this title'' in text, added table, and struck out former table which read as follows:

''Adjusted Net Worth of a Business or Farm

If the net worth of a business or farm is—	Then the adjusted net worth is:
Less than $1	$0
$1–$65,000	40 percent of NW
$65,001–$195,000	$26,000 plus 50 percent of NW over $65,000
$195,001–$325,000	$91,000 plus 60 percent of NW over $195,000

''Adjusted Net Worth of a Business or Farm—Continued

If the net worth of a business or farm is—	Then the adjusted net worth is:
$325,001 or more	$169,000 plus 100 percent of NW over $325,000''.

Subsec. (c)(4)(B). Pub. L. 100–50, § 14(5), substituted ''$15,999'' for ''$15,000''.

Subsec. (c)(4)(C). Pub. L. 100–50, § 14(6), substituted ''$16,000'' for ''$15,000'' in three places.

Subsec. (d). Pub. L. 100–50, § 14(1), (8), substituted ''section 1087rr of this title'' for ''section 1087ss of this title'' in text and inserted a minus sign before ''$3,409'' in two places in table.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1003 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 applicable with respect to determinations of need under this part for award years beginning on or after July 1, 1993, see section 471(b) of Pub. L. 102–325, set out as a note under section 1087kk of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1087nn, 1087rr, 1087ss of this title.

§ 1087rr. Regulations; updated tables

(a) Authority to prescribe regulations restricted

(1) Notwithstanding any other provision of law, the Secretary shall not have the authority to prescribe regulations to carry out this part except—

(A) to prescribe updated tables in accordance with subsections (b) through (h) of this section; or

(B) to propose modifications in the need analysis methodology required by this part.

(2) Any regulation proposed by the Secretary that (A) updates tables in a manner that does not comply with subsections (b) through (h) of this section, or (B) that proposes modifications under paragraph (1)(B) of this subsection, shall not be effective unless approved by joint resolution of the Congress by May 1 following the date such regulations are published in the Federal Register in accordance with section 1089 of this title. If the Congress fails to approve such regulations by such May 1, the Secretary shall publish in the Federal Register in accordance with section 1089 of this title updated tables for the applicable award year that are prescribed in accordance with subsections (b) through (h) of this section.

(b) Income protection allowance

For each academic year after academic year 1993–1994, the Secretary shall publish in the Federal Register a revised table of income protection allowances for the purpose of sections 1087*oo*(c)(4) and 1087qq(b)(4) of this title. Such re-

vised table shall be developed by increasing each of the dollar amounts contained in the table in each such section by a percentage equal to the estimated percentage increase in the Consumer Price Index (as determined by the Secretary) between December 1992 and the December next preceding the beginning of such academic year, and rounding the result to the nearest $10.

(c) Adjusted net worth of a farm or business

For each award year after award year 1993–1994, the Secretary shall publish in the Federal Register a revised table of adjusted net worth of a farm or business for purposes of sections 1087*oo*(d)(2)(C), 1087pp(c)(2)(C), and 1087qq(c)(2)(C) of this title. Such revised table shall be developed—

(1) by increasing each dollar amount that refers to net worth of a farm or business by a percentage equal to the estimated percentage increase in the Consumer Price Index (as determined by the Secretary) between December 1992 and the December next preceding the beginning of such award year, and rounding the result to the nearest $5,000; and

(2) by adjusting the dollar amounts ''$30,000'', ''$105,000'', and ''$195,000'' to reflect the changes made pursuant to paragraph (1).

(d) Education savings and asset protection allowance

For each award year after award year 1993–1994, the Secretary shall publish in the Federal Register a revised table of allowances for the purpose of sections 1087*oo*(d)(3), 1087pp(c)(3), and 1087qq(c)(3) of this title. Such revised table shall be developed by determining the present value cost, rounded to the nearest $100, of an annuity that would provide, for each age cohort of 40 and above, a supplemental income at age 65 (adjusted for inflation) equal to the difference between the moderate family income (as most recently determined by the Bureau of Labor Statistics), and the current average social security retirement benefits. For each age cohort below 40, the allowance shall be computed by decreasing the allowance for age 40, as updated, by one-fifteenth for each year of age below age 40 and rounding the result to the nearest $100. In making such determinations—

(1) inflation shall be presumed to be 6 percent per year;

(2) the rate of return of an annuity shall be presumed to be 8 percent; and

(3) the sales commission on an annuity shall be presumed to be 6 percent.

(e) Assessment schedules and rates

For each award year after award year 1993–1994, the Secretary shall publish in the Federal Register a revised table of assessments from adjusted available income for the purpose of sections 1087*oo*(e) and 1087qq(d) of this title. Such revised table shall be developed—

(1) by increasing each dollar amount that refers to adjusted available income by a percentage equal to the estimated percentage increase in the Consumer Price Index (as determined by the Secretary) between December 1992 and the December next preceding the beginning of such academic year, rounded to the nearest $100; and

(2) by adjusting the other dollar amounts to reflect the changes made pursuant to paragraph (1).

(f) "Consumer Price Index" defined

As used in this section, the term ''Consumer Price Index'' means the Consumer Price Index for All Urban Consumers published by the Department of Labor. Each annual update of tables to reflect changes in the Consumer Price Index shall be corrected for misestimation of actual changes in such Index in previous years.

(g) State and other tax allowance

For each award year after award year 1993–1994, the Secretary shall publish in the Federal Register a revised table of State and other tax allowances for the purpose of sections 1087*oo*(c)(2), 1087*oo*(g)(3), 1087pp(b)(2), and 1087qq(b)(2) of this title. The Secretary shall develop such revised table after review of the Department of the Treasury's Statistics of Income file and determination of the percentage of income that each State's taxes represent.

(h) Employment expense allowance

For each award year after award year 1993–1994, the Secretary shall publish in the Federal Register a revised table of employment expense allowances for the purpose of sections 1087*oo*(c)(5), 1087pp(b)(4), and 1087qq(b)(5) of this title. Such revised table shall be developed by increasing the dollar amount specified in sections 1087*oo*(c)(5)(A), 1087*oo*(c)(5)(B), 1087pp(b)(4)(A), 1087pp(b)(4)(B), 1087qq (b)(5)(A), and 1087qq(b)(5)(B) of this title to reflect increases in the amount and percent of the Bureau of Labor Statistics budget of the marginal costs for meals away from home, apparel and upkeep, transportation, and housekeeping services for a two-worker versus one-worker family.

(Pub. L. 89–329, title IV, §478, as added Pub. L. 99–498, title IV, §406(a), Oct. 17, 1986, 100 Stat. 1470; amended Pub. L. 100–50, §14(20)–(22), June 3, 1987, 101 Stat. 351, 352; Pub. L. 102–325, title IV, §471(a), July 23, 1992, 106 Stat. 602; Pub. L. 103–208, §2(g)(8), (9), Dec. 20, 1993, 107 Stat. 2472.)

AMENDMENTS

1993—Subsec. (b). Pub. L. 103–208, §2(g)(8)(A), substituted ''1993–1994'' for ''1992–1993''.

Subsec. (c). Pub. L. 103–208, §2(g)(8), substituted ''1993–1994'' for ''1992–1993'' in introductory provisions and inserted ''December'' before ''1992'' in par. (1).

Subsecs. (d), (e), (g). Pub. L. 103–208, §2(g)(8)(A), substituted ''1993–1994'' for ''1992–1993''.

Subsec. (h). Pub. L. 103–208, §2(g)(8)(A), (9), substituted ''1993–1994'' for ''1992–1993'' and ''Bureau of Labor Statistics'' for ''Bureau of Labor Standards''.

1992—Pub. L. 102–325 amended section generally, revising and restating as subsecs. (a) to (h) provisions formerly contained in subsecs. (a) to (f).

1987—Subsec. (c)(2). Pub. L. 100–50, §14(21), substituted '' '$24,000', '$84,000', and '$156,000' '' for '' '$26,000', '$91,000', and '$169,000' ''.

Subsec. (d). Pub. L. 100–50, §14(20), inserted '', rounded to the nearest $100,'' after ''present value cost'' and ''of 40 and above'' after ''each age cohort'' in second sentence and, after second sentence, inserted ''For each age cohort below 40, the asset protection allowance shall be computed by decreasing the asset protection allowance for age 40, as updated, by one-fifteenth for each year of age below age 40 and rounding the result to the nearest $100.''

Subsec. (f). Pub. L. 100–50, §14(22), substituted ''Consumer Price Index for All Urban Consumers'' for ''Consumer Price Index for Wage Earners and Clerical Workers''.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1003 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 applicable with respect to determinations of need under this part for award years beginning on or after July 1, 1993, see section 471(b) of Pub. L. 102–325, set out as a note under section 1087kk of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1087*oo*, 1087pp, 1087qq, 1089 of this title.

§ 1087ss. Simplified needs test

(a) Simplified application section

(1) In general

The Secretary shall develop and use an easily identifiable simplified application section as part of the common financial reporting form prescribed under section 1090(a) of this title for families described in subsections (b) and (c) of this section.

(2) Reduced data requirements

The simplified application form shall—

(A) in the case of a family meeting the requirements of subsection (b)(1) of this section, permit such family to submit only the data elements required under subsection (b)(2) of this section for the purposes of establishing eligibility for student financial aid under this part; and

(B) in the case of a family meeting the requirements of subsection (c) of this section, permit such family to be treated as having an expected family contribution equal to zero for purposes of establishing such eligibility and to submit only the data elements required to make a determination under subsection (c) of this section.

(b) Simplified needs test

(1) Eligibility

An applicant is eligible to file a simplified form containing the elements required by paragraph (2) if—

(A) in the case of an applicant who is a dependent student—

(i) the student's parents file or are eligible to file a form described in paragraph (3) or certify that they are not required to file an income tax return and the student files or is eligible to file such a form or certifies that the student is not required to file an income tax return; and

(ii) the total adjusted gross income of the parents (excluding any income of the dependent student) is less than $50,000; or

(B) in the case of an applicant who is an independent student—

(i) the student (and the student's spouse, if any) files or is eligible to file a form described in paragraph (3) or certifies that the student (and the student's spouse, if any) is not required to file an income tax return; and

(ii) the adjusted gross income of the student (and the student's spouse, if any) is less than $50,000.

(2) Simplified test elements

The six elements to be used for the simplified needs analysis are—

(A) adjusted gross income,

(B) Federal taxes paid,

(C) untaxed income and benefits,

(D) the number of family members,

(E) the number of family members in postsecondary education, and

(F) an allowance (A) for State and other taxes, as defined in section 1087*oo*(c)(2) of this title for dependent students and in section 1087qq(b)(2) of this title for independent students with dependents other than a spouse, or (B) for State and other income taxes, as defined in section 1087pp(b)(2) of this title for independent students without dependents other than a spouse.

(3) Qualifying forms

A student or family files a form described in this paragraph if the student or family, respectively, files—

(A) a form 1040A or 1040EZ (including any prepared or electronic version of such form) required pursuant to title 26; or

(B) an income tax return (including any prepared or electronic version of such return) required pursuant to the tax code of the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, or Palau.

(c) Zero expected family contribution

The Secretary shall consider an applicant to have an expected family contribution equal to zero if—

(1) in the case of a dependent student—

(A) the student's parents were not required to file an income tax return under section 6012(a)(1) of title 26; and

(B) the sum of the adjusted gross income of the parents is less than or equal to the maximum amount of income (rounded annually to the nearest thousand dollars) that may be earned in 1992 or the current year, whichever is higher, in order to claim the maximum Federal earned income credit; or

(2) in the case of an independent student with dependents other than a spouse—

(A) the student (and the student's spouse, if any) was not required to file an income tax return under section 6012(a)(1) of title 26; and

(B) the sum of the adjusted gross income of the student and spouse (if appropriate) is less than or equal to the maximum amount of income (rounded annually to the nearest thousand dollars) that may be earned in 1992

or the current year, whichever is higher, in order to claim the maximum Federal earned income credit.

An individual is not required to qualify or file for the earned income credit in order to be eligible under this subsection.

(Pub. L. 89–329, title IV, § 479, as added Pub. L. 99–498, title IV, § 406(a), Oct. 17, 1986, 100 Stat. 1472; amended Pub. L. 100–50, § 14(23)–(25), June 3, 1987, 101 Stat. 352; Pub. L. 100–369, § 7(c), July 18, 1988, 102 Stat. 837; Pub. L. 102–26, § 11, Apr. 9, 1991, 105 Stat. 129; Pub. L. 102–325, title IV, § 471(a), July 23, 1992, 106 Stat. 604; Pub. L. 103–208, § 2(g)(10)–(15), Dec. 20, 1993, 107 Stat. 2472.)

AMENDMENTS

1993—Subsec. (a)(1). Pub. L. 103–208, § 2(g)(10), inserted ''of'' after ''(c)''.

Subsec. (b)(1)(B)(i). Pub. L. 103–208, § 2(g)(11), inserted ''(and the student's spouse, if any)'' after ''student'' in two places and struck out ''such'' before ''an income tax return''.

Subsec. (b)(2). Pub. L. 103–208, § 2(g)(12), (13), substituted ''six elements'' for ''five elements'' in introductory provisions and a comma for semicolon in subpar. (E).

Subsec. (b)(3)(A). Pub. L. 103–208, § 2(g)(14)(A), inserted ''(including any prepared or electronic version of such form)'' before ''required''.

Subsec. (b)(3)(B). Pub. L. 103–208, § 2(g)(14)(B), inserted ''(including any prepared or electronic version of such return)'' before ''required''.

Subsec. (c)(1)(A). Pub. L. 103–208, § 2(g)(15)(A), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: ''the student's parents did not file, and were not required to file, a form 1040 required pursuant to title 26; and''.

Subsec. (c)(1)(B). Pub. L. 103–208, § 2(g)(15)(C), inserted ''in 1992 or the current year, whichever is higher,'' after ''that may be earned''.

Subsec. (c)(2)(A). Pub. L. 103–208, § 2(g)(15)(B), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: ''the student (and the student's spouse, if any) did not file, and was not required to file, a form 1040 required pursuant to title 26; and''.

Subsec. (c)(2)(B). Pub. L. 103–208, § 2(g)(15)(C), inserted ''in 1992 or the current year, whichever is higher,'' after ''that may be earned''.

1992—Pub. L. 102–325 amended section generally, substituting present provisions for provisions which related to: in subsec. (a), analysis applicable to all title IV programs; in subsec. (b), elements in tests; and in subsec. (c), simplified application form.

1991—Subsec. (a). Pub. L. 102–26 inserted before period at end '', or who file an income tax return pursuant to the tax code of the Commonwealth of Puerto Rico or who are not required to file pursuant to that tax code''.

1988—Subsec. (a). Pub. L. 100–369 substituted ''Internal Revenue Code of 1986'' for ''Internal Revenue Code of 1954'', which for purposes of codification was translated as ''title 26'' thus requiring no change in text.

1987—Subsec. (a). Pub. L. 100–50, § 14(23), substituted ''subsection (b) of this section'' for ''paragraph (2)'', ''families (1) who'' for ''families which'', and ''and (2) who file a form 1040A or 1040EZ pursuant to title 26, or are not required to file pursuant to such title'' for ''and which file a form 1040A pursuant to title 26''.

Subsec. (b)(2). Pub. L. 100–50, § 14(24)(A), struck out ''and State'' after ''Federal''.

Subsec. (b)(6). Pub. L. 100–50, § 14(24)(B)–(D), added par. (6).

Subsec. (c). Pub. L. 100–50, § 14(25), added subsec. (c).

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1003 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 applicable with respect to determinations of need under this part for award years beginning on or after July 1, 1993, see section 471(b) of Pub. L. 102–325, set out as a note under section 1087kk of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1090 of this title.

§ 1087tt. Discretion of student financial aid administrators

(a) In general

Nothing in this part shall be interpreted as limiting the authority of the financial aid administrator, on the basis of adequate documentation, to make adjustments on a case-by-case basis to the cost of attendance or the values of the data items required to calculate the expected student or parent contribution (or both) to allow for treatment of an individual eligible applicant with special circumstances. However, this authority shall not be construed to permit aid administrators to deviate from the contributions expected in the absence of special circumstances. Special circumstances shall be conditions that differentiate an individual student from a class of students rather than conditions that exist across a class of students. Adequate documentation for such adjustments shall substantiate such special circumstances of individual students. In addition, nothing in this subchapter and part C of subchapter I of chapter 34 of title 42 shall be interpreted as limiting the authority of the student financial aid administrator in such cases to request and use supplementary information about the financial status or personal circumstances of eligible applicants in selecting recipients and determining the amount of awards under this subchapter and part C of subchapter I of chapter 34 of title 42. No student or parent shall be charged a fee for collecting, processing, or delivering such supplementary information.

(b) Adjustments to assets taken into account

A student financial aid administrator shall be considered to be making a necessary adjustment in accordance with subsection (a) of this section if—

(1) the administrator makes adjustments excluding from family income any proceeds of a sale of farm or business assets of a family if such sale results from a voluntary or involuntary foreclosure, forfeiture, or bankruptcy or an involuntary liquidation; or

(2) the administrator makes adjustments in the award level of a student with a disability so as to take into consideration the additional costs such student incurs as a result of such student's disability.

(c) Adjustments for special circumstances

(1) In general

A student financial aid administrator shall be considered to be making an adjustment for special circumstances in accordance with subsection (a) of this section if—

(A) in the case of a dependent student—

(i) such student received a Federal Pell Grant as a dependent student in academic year 1992–1993 and the amount of such student's Federal Pell Grant for academic year 1993–1994 is at least $500 less than the amount of such student's Federal Pell Grant for academic year 1992–1993; and

(ii) the decrease described in clause (i) is the direct result of a change in the determination of such student's need for assistance in accordance with this part that is attributable to the enactment of the Higher Education Amendments of 1992; and

(B) in the case of a single independent student—

(i) such student received a Federal Pell Grant as a single independent student in academic year 1992–1993 and qualified as an independent student in accordance with section 1087vv(d) of this title for academic year 1993–1994, and the amount of such student's Federal Pell Grant for academic year 1993–1994 is at least $500 less than the amount of such student's Federal Pell Grant for academic year 1992–1993; and

(ii) the decrease described in clause (i) is the direct result of a change in the determination of such student's need for assistance in accordance with this part that is attributable to the enactment of the Higher Education Amendments of 1992.

(2) Amount

A financial aid administrator shall not make an adjustment for special circumstances pursuant to this subsection in an amount that exceeds one-half of the difference between the amount of a student's Federal Pell Grant for academic year 1992–1993 and the amount of such student's Federal Pell Grant for academic year 1993–1994.

(3) Academic year limitation

A financial aid administrator shall make adjustments under this subsection only for Federal Pell Grants awarded for academic years 1993–1994, 1994–1995, and 1995–1996.

(4) Special rule

Adjustments under this subsection shall be made in any fiscal year only if an Act that contains an appropriation for such fiscal year to carry out this subsection is enacted on or after December 20, 1993.

(5) Limitation

Adjustments under this subsection shall not be available for any academic year to any student who, on the basis of the financial circumstances of the student for the current academic year, would not have been eligible for a grant under this section in academic year 1992–1993.

(Pub. L. 89–329, title IV, § 479A, as added Pub. L. 100–50, § 14(26), June 3, 1987, 101 Stat. 352; amended Pub. L. 101–239, title II, § 2009, Dec. 19, 1989, 103 Stat. 2122; Pub. L. 102–325, title IV, § 471(a), July 23, 1992, 106 Stat. 605; Pub. L. 103–208, § 2(g)(16), Dec. 20, 1993, 107 Stat. 2473.)

REFERENCES IN TEXT

The Higher Education Amendments of 1992, referred to in subsec. (c)(1)(A)(ii), (B)(ii), is Pub. L. 102–325, July 23, 1992, 106 Stat. 448, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

PRIOR PROVISIONS

A prior section 1087tt, Pub. L. 89–329, title IV, § 479A, as added Pub. L. 99–498, title IV, § 406(a), Oct. 17, 1986, 100 Stat. 1472, related to discretion of student financial aid administrators under this part, prior to repeal by section 14(26) of Pub. L. 100–50.

AMENDMENTS

1993—Subsec. (c). Pub. L. 103–208 added subsec. (c).

1992—Pub. L. 102–325 amended section generally, revising and restating provisions of subsecs. (a) and (b) and striking out former subsec. (c) which related to asset adjustment as example.

1989—Subsec. (a). Pub. L. 101–239 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: ''Nothing in this subchapter and part C of subchapter I of chapter 34 of title 42 shall be interpreted as limiting the authority of the student financial aid administrator, on the basis of adequate documentation, to make necessary adjustments to the cost of attendance and expected student or parent contribution (or both) to allow for treatment of individual students with special circumstances. In addition, nothing in this subchapter and part C of subchapter I of chapter 34 of title 42 shall be interpreted as limiting the authority of the student financial aid administrator to use supplementary information about the financial status or personal circumstance of eligible applicants in selecting recipients and determining the amount of awards under subparts 1 and 2 of part A and parts B and D of this subchapter and part C of subchapter I of chapter 34 of title 42.''

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1003 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 applicable with respect to determinations of need under this part for award years beginning on or after July 1, 1993, see section 471(a) of Pub. L. 102–325, set out as a note under section 1087kk of this title.

EFFECTIVE DATE

Section effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as an Effective Date of 1987 Amendment note under section 1001 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1091 of this title.

§ 1087uu. Disregard of student aid in other Federal programs

Notwithstanding any other provision of law, student financial assistance received under this subchapter and part C of subchapter I of chapter 34 of title 42, or under Bureau of Indian Affairs student assistance programs, shall not be taken into account in determining the need or eligi-

bility of any person for benefits or assistance, or the amount of such benefits or assistance, under any Federal, State, or local program financed in whole or in part with Federal funds.

(Pub. L. 89–329, title IV, § 479B, as added Pub. L. 100–50, § 14(27), June 3, 1987, 101 Stat. 353; amended Pub. L. 102–325, title IV, § 471(a), July 23, 1992, 106 Stat. 606.)

PRIOR PROVISIONS

A prior section 1087uu, Pub. L. 89–329, title IV, § 479B, as added Pub. L. 99–498, title IV, § 406(a), Oct. 17, 1986, 100 Stat. 1472, related to exclusion of student financial assistance for attendance costs in determining student eligibility for assistance under any other program funded in whole or part with Federal funds, prior to repeal by section 14(27) of Pub. L. 100–50.

AMENDMENTS

1992—Pub. L. 102–325 amended section generally, revising and restating as a single paragraph provisions formerly contained in subsec. (a) which proscribed consideration of aid for attendance costs as income or resources, and in subsec. (b) which delineated elements of attendance costs.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 applicable with respect to determinations of need under this part for award years beginning on or after July 1, 1993, see section 471(b) of Pub. L. 102–325, set out as a note under section 1087kk of this title.

EFFECTIVE DATE

Section effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as an Effective Date of 1987 Amendment note under section 1001 of this title.

Section applicable with respect to financial assistance provided for any academic year beginning after Oct. 17, 1986, see section 406(b)(4) of Pub. L. 99–498, as amended, set out as a note under section 1087kk of this title.

§ 1087uu–1. Native American students

In determining family contributions for Native American students, computations performed pursuant to this part shall exclude—

(1) any income and assets of $2,000 or less per individual payment received by the student (and spouse) and student's parents under the Per Capita Act or the Distribution of Judgment Funds Act [25 U.S.C. 1401 et seq.]; and

(2) any income received by the student (and spouse) and student's parents under the Alaskan Native Claims Settlement Act [43 U.S.C. 1601 et seq.] or the Maine Indian Claims Settlement Act [25 U.S.C. 1721 et seq.].

(Pub. L. 89–329, title IV, § 479C, as added Pub. L. 100–50, § 14(27), June 3, 1987, 101 Stat. 353; amended Pub. L. 102–325, title IV, § 471(a), July 23, 1992, 106 Stat. 606.)

REFERENCES IN TEXT

The Per Capita Act, referred to in par. (1), probably means Pub. L. 98–64, Aug. 2, 1983, 97 Stat. 365, which enacted sections 117a to 117c of Title 25, Indians, and repealed section 117 of Title 25. For complete classification of this Act to the Code, see Tables.

The Distribution of Judgment Funds Act, referred to in par. (1), is Pub. L. 93–134, Oct. 19, 1973, 87 Stat. 466, as amended, also known as the Indian Tribal Judgment Funds Use or Distribution Act, which is classified generally to chapter 16 (§ 1401 et seq.) of Title 25. For complete classification of this Act to the Code, see Tables.

The Alaskan Native Claims Settlement Act, referred to in par. (2), probably means the Alaska Native Claims Settlement Act, Pub. L. 92–203, Dec. 18, 1971, 85 Stat. 688, as amended, which is classified generally to chapter 33 (§ 1601 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 43 and Tables.

The Maine Indian Claims Settlement Act, referred to in par. (2), probably means the Maine Indian Claims Settlement Act of 1980, Pub. L. 96–420, Oct. 10, 1980, 94 Stat. 1785, which is classified generally to subchapter II (§ 1721 et seq.) of chapter 19 of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 1721 of Title 25 and Tables.

AMENDMENTS

1992—Pub. L. 102–325 amended section generally, reenacting provisions without change.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 applicable with respect to determinations of need under this part for award years beginning on or after July 1, 1993, see section 471(b) of Pub. L. 102–325, set out as a note under section 1087kk of this title.

EFFECTIVE DATE

Section effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as an Effective Date of 1987 Amendment note under section 1001 of this title.

§ 1087vv. Definitions

As used in this part:

(a) Total income

(1) Except as provided in paragraph (2), the term ''total income'' is equal to adjusted gross income plus untaxed income and benefits for the preceding tax year minus excludable income (as defined in subsection (e) of this section).

(2) No portion of any student financial assistance received from any program by an individual, no portion of a national service educational award or post-service benefit received by an individual under title I of the National and Community Service Act of 1990 [42 U.S.C. 12511 et seq.], and no portion of any tax credit taken under section 25A of title 26, shall be included as income or assets in the computation of expected family contribution for any program funded in whole or in part under this chapter.

(b) Untaxed income and benefits

The term ''untaxed income and benefits'' means—

(1) child support received;

(2) welfare benefits, including assistance under a State program funded under part A of title IV of the Social Security Act [42 U.S.C. 601 et seq.] and aid to dependent children;

(3) workman's compensation;

(4) veterans' benefits such as death pension, dependency, and indemnity compensation, but excluding veterans' education benefits as defined in subsection (c) of this section;

(5) interest on tax-free bonds;

(6) housing, food, and other allowances (excluding rent subsidies for low-income housing) for military, clergy, and others (including cash payments and cash value of benefits);

(7) cash support or any money paid on the student's behalf, except, for dependent students, funds provided by the student's parents;

(8) the amount of earned income credit claimed for Federal income tax purposes;

(9) untaxed portion of pensions;

(10) credit for Federal tax on special fuels;

(11) the amount of foreign income excluded for purposes of Federal income taxes;

(12) untaxed social security benefits;

(13) payments to individual retirement accounts and Keogh accounts excluded from income for Federal income tax purposes; and

(14) any other untaxed income and benefits, such as Black Lung Benefits, Refugee Assistance, railroad retirement benefits, or Job Training Partnership Act [29 U.S.C. 1501 et seq.] noneducational benefits.

(c) Veteran and veterans' education benefits

(1) The term ''veteran'' means any individual who—

(A) has engaged in the active duty in the United States Army, Navy, Air Force, Marines, or Coast Guard; and

(B) was released under a condition other than dishonorable.

(2) The term ''veterans' education benefits'' means veterans' benefits the student will receive during the award year, including but not limited to the following:

(A) Title 10, chapter 2: Reserve Officer Training Corps scholarship.

(B) Title 10, chapter 106: Selective Reserve.

(C) Title 10, chapter 107: Selective Reserve Educational Assistance Program.

(D) Title 37, chapter 2: Reserve Officer Training Corps Program.

(E) Title 38, chapter 30: Montgomery GI Bill—active duty.

(F) Title 38, chapter 31: vocational rehabilitation.

(G) Title 38, chapter 32: Post-Vietnam Era Veterans' Educational Assistance Program.

(H) Title 38, chapter 35: Dependents Educational Assistance Program.

(I) Public Law 97–376, section 156: Restored Entitlement Program for Survivors (or Quayle benefits).

(J) Public Law 96–342, section 903: Educational Assistance Pilot Program.

(d) Independent student

The term ''independent'', when used with respect to a student, means any individual who—

(1) is 24 years of age or older by December 31 of the award year;

(2) is an orphan or ward of the court or was a ward of the court until the individual reached the age of 18;

(3) is a veteran of the Armed Forces of the United States (as defined in subsection (c)(1) of this section);

(4) is a graduate or professional student;

(5) is a married individual;

(6) has legal dependents other than a spouse; or

(7) is a student for whom a financial aid administrator makes a documented determination of independence by reason of other unusual circumstances.

(e) Excludable income

The term ''excludable income'' means—

(1) any student financial assistance awarded based on need as determined in accordance with the provisions of this part, including any income earned from work under part C of subchapter I of chapter 34 of title 42;

(2) any living allowance received by a participant in a program established under the National and Community Service Act of 1990 [42 U.S.C. 12501 et seq.];

(3) child support payments made by the student or parent; and

(4) payments made and services provided under part E of title IV of the Social Security Act [42 U.S.C. 670 et seq.].

(f) Assets

(1) The term ''assets'' means cash on hand, including the amount in checking and savings accounts, time deposits, money market funds, trusts, stocks, bonds, other securities, mutual funds, tax shelters, and the net value of real estate, income producing property, and business and farm assets.

(2) With respect to determinations of need under this subchapter and part C of subchapter I of chapter 34 of title 42, other than for subpart 4 of part A of this subchapter, the term ''assets'' shall not include the net value of—

(A) the family's principal place of residence; or

(B) a family farm on which the family resides.

(g) Net assets

The term ''net assets'' means the current market value at the time of application of the assets (as defined in subsection (f) of this section), minus the outstanding liabilities or indebtedness against the assets.

(h) Treatment of income taxes paid to other jurisdictions

(1) The tax on income paid to the Governments of the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, or the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, or Palau under the laws applicable to those jurisdictions, or the comparable tax paid to the central government of a foreign country, shall be treated as Federal income taxes.

(2) References in this part to title 26, Federal income tax forms, and the Internal Revenue Service shall, for purposes of the tax described in paragraph (1), be treated as references to the corresponding laws, tax forms, and tax collection agencies of those jurisdictions, respectively, subject to such adjustments as the Secretary may provide by regulation.

(i) Current balance

The term ''current balance of checking and savings accounts'' does not include any funds over which an individual is barred from exercising discretion and control because of the actions of any State in declaring a bank emergency due to the insolvency of a private deposit insurance fund.

(j) Other financial assistance; tuition prepayment plans

(1) For purposes of determining a student's eligibility for funds under this subchapter and part C of subchapter I of chapter 34 of title 42, esti-

mated financial assistance not received under this subchapter and part C of subchapter I of chapter 34 of title 42 shall include all scholarships, grants, loans, or other assistance known to the institution at the time the determination of the student's need is made, including veterans' education benefits as defined in subsection (c) of this section.

(2)(A) Except as provided in subparagraph (B), for purposes of determining a student's eligibility for funds under this subchapter and part C of subchapter I of chapter 34 of title 42, tuition prepayment plans shall reduce the cost of attendance (as determined under section 1087*ll* of this title) by the amount of the prepayment, and shall not be considered estimated financial assistance.

(B) If the institutional expense covered by the prepayment must be part of the student's cost of attendance for accounting purposes, the prepayment shall be considered estimated financial assistance.

(3) Notwithstanding paragraph (1), a national service educational award or post-service benefit under title I of the National and Community Service Act of 1990 [42 U.S.C. 12511 et seq.] shall not be treated as financial assistance for purposes of section 1087kk(3) of this title.

(4) Notwithstanding paragraph (1), a tax credit taken under section 25A of title 26 shall not be treated as estimated financial assistance for purposes of section 1087kk(3) of this title.

(k) Dependents

(1) Except as otherwise provided, the term ''dependent of the parent'' means the student, dependent children of the student's parents, including those children who are deemed to be dependent students when applying for aid under this subchapter and part C of subchapter I of chapter 34 of title 42, and other persons who live with and receive more than one-half of their support from the parent and will continue to receive more than half of their support from the parent during the award year.

(2) Except as otherwise provided, the term ''dependent of the student'' means the student's dependent children and other persons (except the student's spouse) who live with and receive more than one-half of their support from the student and will continue to receive more than half of their support from the student during the award year.

(*l*) Family size

(1) In determining family size in the case of a dependent student—

(A) if the parents are not divorced or separated, family members include the student's parents, and the dependents of the student's parents including the student;

(B) if the parents are divorced or separated, family members include the parent whose income is included in computing available income and that parent's dependents, including the student; and

(C) if the parents are divorced and the parent whose income is so included is remarried, or if the parent was a widow or widower who has remarried, family members also include, in addition to those individuals referred to in subparagraph (B), the new spouse and any dependents of the new spouse if that spouse's income is included in determining the parents' adjusted available income.

(2) In determining family size in the case of an independent student—

(A) family members include the student, the student's spouse, and the dependents of the student; and

(B) if the student is divorced or separated, family members do not include the spouse (or ex-spouse), but do include the student and the student's dependents.

(m) Business assets

The term ''business assets'' means property that is used in the operation of a trade or business, including real estate, inventories, buildings, machinery, and other equipment, patents, franchise rights, and copyrights.

(Pub. L. 89–329, title IV, §480, as added Pub. L. 99–498, title IV, §406(a), Oct. 17, 1986, 100 Stat. 1472; amended Pub. L. 100–50, §14(28), June 3, 1987, 101 Stat. 353; Pub. L. 100–369, §7(b), July 18, 1988, 102 Stat. 837; Pub. L. 101–610, title I, §185(3), (4), Nov. 16, 1990, 104 Stat. 3168; Pub. L. 102–325, title IV, §471(a), July 23, 1992, 106 Stat. 606; Pub. L. 103–82, title I, §102(c)(4), (5), Sept. 21, 1993, 107 Stat. 824; Pub. L. 103–208, §2(g)(17)–(20), Dec. 20, 1993, 107 Stat. 2474; Pub. L. 104–193, title I, §110(h)(2), Aug. 22, 1996, 110 Stat. 2172; Pub. L. 105–78, title VI, §609(j), (k), Nov. 13, 1997, 111 Stat. 1524.)

REFERENCES IN TEXT

The National and Community Service Act of 1990, referred to in subsecs. (a)(2), (e)(2), and (j)(3), is Pub. L. 101–610, Nov. 16, 1990, 104 Stat. 3127, as amended, which is classified principally to chapter 129 (§12501 et seq.) of Title 42, The Public Health and Welfare. Title I of the Act enacted subchapter I (§12511 et seq.) of chapter 129 of Title 42 and amended sections 1070a–6 and 1087vv of this title. For complete classification of this Act to the Code, see Short Title note set out under section 12501 of Title 42 and Tables.

This chapter, referred to in subsec. (a)(2), was in the original ''this Act'', meaning Pub. L. 89–329, as amended, known as the Higher Education Act of 1965. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

The Social Security Act, referred to in subsecs. (b)(2) and (e)(4), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Parts A and E of title IV of the Act are classified generally to parts A (§601 et seq.) and E (§670 et seq.) of subchapter IV of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

The Job Training Partnership Act, referred to in subsec. (b)(14), is Pub. L. 97–300, Oct. 13, 1982, 96 Stat. 1322, as amended, which is classified generally to chapter 19 (§1501 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 1501 of Title 29 and Tables.

Title 10, chapter 2, referred to in subsec. (c)(2)(A), relates to the organization of the Department of Defense. For provisions relating to the Reserve Officer Training Corps, see chapters 102 and 103 of Title 10, Armed Forces.

Title 10, chapter 107, referred to in subsec. (c)(2)(C), relates to educational assistance for active duty enlistees. For provisions relating to the Selective Reserve educational assistance program, see chapter 106 of Title 10.

Title 37, chapter 2, referred to in subsec. (c)(2)(D), has never been enacted. For provisions relating to the Re-

serve Officer Training Corps, see chapters 102 and 103 of Title 10.

Public Law 97–376, section 156, referred to in subsec. (c)(2)(I), probably means Pub. L. 97–377, title I, § 156, Dec. 21, 1982, 96 Stat. 1920, as amended, which is set out as a note under section 402 of Title 42, The Public Health and Welfare. Pub. L. 97–376 does not contain a section 156.

Public Law 96–342, section 903, referred to in subsec. (c)(2)(J), is set out as a note under section 2141 of Title 10, Armed Forces.

CODIFICATION

Amendment by section 2(g)(19) of Pub. L. 103–208 (which was effective as if included in Pub. L. 102–325) was executed to this section as amended by Pub. L. 102–325 and Pub. L. 103–82, to reflect the probable intent of Congress.

AMENDMENTS

1997—Subsec. (a)(2). Pub. L. 105–78, § 609(j), substituted ''program by an individual, no'' for ''program by an individual, and no'' and inserted ''and no portion of any tax credit taken under section 25A of title 26,'' before ''shall be included''.

Subsec. (j)(4). Pub. L. 105–78, § 609(k), added par. (4).

1996—Subsec. (b)(2). Pub. L. 104–193 substituted ''assistance under a State program funded'' for ''aid to families with dependent children under a State plan approved''.

1993—Subsec. (a)(2). Pub. L. 103–82, § 102(c)(4), inserted '', and no portion of a national service educational award or post-service benefit received by an individual under title I of the National and Community Service Act of 1990,'' after ''by an individual''.

Subsec. (c)(2). Pub. L. 103–208, § 2(g)(17), made technical amendment to references to titles of the United States Code in subpars. (A) to (H).

Subsec. (d)(2). Pub. L. 103–208, § 2(g)(18), inserted before semicolon ''or was a ward of the court until the individual reached the age of 18''.

Subsec. (j)(3). Pub. L. 103–208, § 2(g)(19), realigned margin. See Codification note above.

Pub. L. 103–82, § 102(c)(5), added par. (3).

Subsecs. (k) to (m). Pub. L. 103–208, § 2(g)(20), added subsecs. (k) to (m).

1992—Pub. L. 102–325 amended section generally, substituting subsecs. (a) to (j) for former subsecs. (a) to (i).

1990—Subsec. (d)(2)(F). Pub. L. 101–610, § 185(4), inserted ''and living allowances as a result of participation in a program established under the National and Community Service Act of 1990)'' after ''other than parents''.

Subsec. (f)(3). Pub. L. 101–610, § 185(3), added par. (3).

1988—Subsec. (i). Pub. L. 100–369 added subsec. (i).

1987—Subsec. (a)(1). Pub. L. 100–50, § 14(28)(A), (B), substituted ''paragraphs (2) through (4)'' for ''paragraphs (2) and (3)'' and inserted ''minus excludable income (as defined in subsection (f) of this section)'' before period at end.

Subsec. (a)(2). Pub. L. 100–50, § 14(28)(C), added par. (2) and struck out former par. (2) which read as follows: ''The Secretary shall promulgate special regulations to permit, in the computation of family contributions for the programs under subpart 2 of part A and parts B and D of this subchapter and part C of subchapter I of chapter 34 of title 42 for any academic year the exclusion from family income of any proceeds of a sale of farm or business assets of that family if such sale results from a voluntary or involuntary foreclosure, forfeiture, liquidation, or bankruptcy.''

Subsec. (a)(4). Pub. L. 100–50, § 14(28)(D), added par. (4).

Subsecs. (b), (c). Pub. L. 100–50, § 14(28)(E), substituted subsec. (b) consisting of pars. (1) to (14) for former subsec. (b) consisting of pars. (1) to (19), and substituted subsec. (c) consisting of pars. (1) to (14) for former subsec. (c) consisting of pars. (1) to (16).

Subsec. (d)(2)(F). Pub. L. 100–50, § 14(28)(F), substituted ''annual total resources (including all sources of resources other than parents)'' for ''an annual total income''.

Subsecs. (f) to (h). Pub. L. 100–50, § 14(28)(G), added subsecs. (f) to (h).

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–193 effective July 1, 1997, with transition rules relating to State options to accelerate such date, rules relating to claims, actions, and proceedings commenced before such date, rules relating to closing out of accounts for terminated or substantially modified programs and continuance in office of Assistant Secretary for Family Support, and provisions relating to termination of entitlement under AFDC program, see section 116 of Pub. L. 104–193, as amended, set out as an Effective Date note under section 601 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1993 AMENDMENTS

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1003 of this title.

Amendment by Pub. L. 103–82 effective Oct. 1, 1993, see section 123 of Pub. L. 103–82, set out as a note under section 1701 of Title 16, Conservation.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 applicable with respect to determinations of need under this part for award years beginning on or after July 1, 1993, see section 471(b) of Pub. L. 102–325, set out as a note under section 1087kk of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

DEFINITION OF ''INDEPENDENT STUDENT''; APPLICATION TO SPECIFIED PERIODS OF ENROLLMENT

Section 406(b)(5), formerly section 406(b)(4), of Pub. L. 99–498, renumbered Pub. L. 100–50, § 22(e)(2), June 3, 1987, 101 Stat. 361, provided that: ''The definition of independent student contained in section 480(d) of the Act [20 U.S.C. 1087vv(d)] as amended by subsection (a) of this section shall apply with respect to the determination of such need for periods of enrollment beginning on or after January 1, 1987, in the case of programs operated under part B of title IV of the Act [part B of this subchapter], or for periods of enrollment beginning on or after July 1, 1987, in the case of programs operated under subpart 2 of part A and parts C and E of such title [subpart 2 of part A of this subchapter and part C of subchapter I of chapter 34 of Title 42, The Public Health and Welfare, and part D of this subchapter].''

[References to subpart 2 of part A of title IV of Pub. L. 89–329 deemed, after July 23, 1992, to refer to subpart 3 of such part, see section 402(b) of Pub. L. 102–325, set out as a note under section 1070a–11 of this title.]

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1070a–11, 1078, 1087kk, 1087*oo*, 1087pp, 1087qq, 1087tt of this title; title 42 sections 12604, 12651d.

PART F—GENERAL PROVISIONS RELATING TO STUDENT ASSISTANCE PROGRAMS

CODIFICATION

This part was originally added as part E of title IV of Pub. L. 89–329 by Pub. L. 90–575, title I, § 151, Oct. 16, 1968, 82 Stat. 1032, and subsequently redesignated part F of said title IV by Pub. L. 92–318, title I, § 137(b), June 23, 1972, 86 Stat. 273, and then part G of said title IV by Pub. L. 99–498, title IV, § 406(a), Oct. 17, 1986, 100 Stat.

1454. For codification purposes, the letter designation of this part was originally changed from ''E'' to ''D.'' It was subsequently rechanged to ''E'' when this part was redesignated ''F'', and then to ''F'' when this part was redesignated ''G''. See Codification notes preceding sections 1087a and 1087aa of this title.

Part G of title IV of the Higher Education Act of 1965, comprising this part which was editorially designated as part F of this subchapter, see Codification note above, was originally enacted by Pub. L. 89–329, title IV, §§ 461 to 464 and 469, as added by Pub. L. 90–575, title I, §§ 151, 152, Oct. 16, 1968, 82 Stat. 1032, 1033; amended Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 121; Pub. L. 92–318, June 23, 1972, 86 Stat. 235; Pub. L. 94–482, Oct. 12, 1976, 90 Stat. 2081; Pub. L. 95–43, June 15, 1977, 91 Stat. 213; Pub. L. 95–180, Nov. 15, 1977, 91 Stat. 1372; Pub. L. 95–566, Nov. 1, 1978, 92 Stat. 2402; S. Res. 30, Mar. 7, 1979; Pub. L. 96–49, Aug. 13, 1979, 93 Stat. 351; Pub. L. 96–374, Oct. 3, 1980, 94 Stat. 1367; Pub. L. 97–35, Aug. 13, 1981, 95 Stat. 357; Pub. L. 98–79, Aug. 15, 1983, 97 Stat. 476; Pub. L. 99–272, Apr. 7, 1986, 100 Stat. 82. Such part is shown herein, however, as having been added by Pub. L. 99–498, title IV, § 407(a), Oct. 17, 1986, 100 Stat. 1475, without reference to such intervening amendments because of the extensive revision of the part's provisions by Pub. L. 99–498.

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 1098a of this title.

§ 1088. Definitions

(a) Institution of higher education

(1) Subject to paragraphs (2) through (4) of this subsection, the term ''institution of higher education'' for purposes of this subchapter and part C of subchapter I of chapter 34 of title 42 includes, in addition to the institutions covered by the definition in section 1141(a) of this title—

(A) a proprietary institution of higher education;

(B) a postsecondary vocational institution; and

(C) only for the purposes of part B of this subchapter, an institution outside the United States which is comparable to an institution of higher education as defined in section 1141(a) of this title and which has been approved by the Secretary for the purpose of part B of this subchapter.

(2)(A) For the purpose of qualifying as an institution under paragraph (1)(C) of this subsection, the Secretary shall establish criteria by regulation for the approval of institutions outside the United States and for the determination that such institutions are comparable to an institution of higher education as defined in section 1141(a) of this title. In the case of a graduate medical school outside the United States, such criteria shall include a requirement that a student attending a graduate medical school outside the United States is ineligible for loans made, insured, or guaranteed under part B of this subchapter unless—

(i)(I) at least 60 percent of those enrolled and at least 60 percent of the graduates of the graduate medical school outside the United States were not persons described in section 1091(a)(5) of this title in the year preceding the year for which a student is seeking a loan under part B of this subchapter; and

(II) at least 60 percent of the individuals who were students or graduates of the graduate medical school outside the United States (both nationals of the United States and others) taking the examinations administered by the Educational Commission for Foreign Medical Graduates received a passing score in the year preceding the year for which a student is seeking a loan under part B of this subchapter; or

(ii) the institution's clinical training program was approved by a State as of January 1, 1992.

(B) For the purpose of qualifying as an institution under paragraph (1)(C), the Secretary shall establish an advisory panel of medical experts which shall—

(i) evaluate the standards of accreditation applied to applicant foreign medical schools; and

(ii) determine the comparability of those standards to standards for accreditation applied to United States medical schools.

If such accreditation standards are determined not to be comparable, the foreign medical school shall be required to meet the requirements of section 1141(a) of this title.

(C) The failure of an institution outside the United States to provide, release, or authorize release to the Secretary of such information as may be required by subparagraph (A) of this paragraph shall render such institution ineligible for the purpose of part B of this subchapter.

(D) The Secretary shall, not later than one year after July 23, 1992, prepare and submit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report on the implementation of the regulations required by subparagraph (A) of this paragraph.

(E) If, pursuant to this paragraph, an institution loses eligibility to participate in the programs under this subchapter and part C of subchapter I of chapter 34 of title 42, then a student enrolled at such institution may, notwithstanding such loss of eligibility, continue to be eligible to receive a loan under part B of this subchapter while attending such institution for the academic year succeeding the academic year in which such loss of eligibility occurred.

(3) An institution shall not be considered to meet the definition of an institution of higher education in paragraph (1), if such institution—

(A) offers more than 50 percent of such institution's courses by correspondence, unless the institution is an institution that meets the definition in section 2471(4)(C) of this title;

(B) enrolls 50 percent or more of its students in correspondence courses, unless the institution is an institution that meets the definition in such section, except that the Secretary, at the request of such institution, may waive the applicability of this subparagraph to such institution for good cause, as determined by the Secretary in the case of an institution of higher education that provides a 2-year or 4-year program of instruction for which the institution awards an associate or baccalaureate degree;

(C) has a student enrollment in which more than 25 percent of the students are incarcerated, except that the Secretary may waive the prohibition of this subparagraph for a non-

profit institution that provides a 4-year or a 2-year program of instruction (or both) for which it awards a bachelor's or associate's degree, respectively; or

(D) has a student enrollment in which more than 50 percent of the students do not have a high school diploma or its recognized equivalent and does not provide a 4-year or a 2-year program of instruction (or both) for which it awards a bachelor's or associate's degree, respectively, except that the Secretary may waive the limitation contained in this subparagraph if a nonprofit institution demonstrates to the satisfaction of the Secretary that it exceeds such limitation because it serves, through contracts with Federal, State, or local government agencies, significant numbers of students who do not have a high school diploma or its recognized equivalent.

(4) An institution shall not be considered to meet the definition of an institution of higher education in paragraph (1) if—

(A) the institution, or an affiliate of the institution that has the power, by contract or ownership interest, to direct or cause the direction of the management or policies of the institution, has filed for bankruptcy; or

(B) the institution, its owner, or its chief executive officer has been convicted of, or has pled nolo contendere or guilty to, a crime involving the acquisition, use, or expenditure of funds under this subchapter and part C of subchapter I of chapter 34 of title 42, or has been judicially determined to have committed fraud involving funds under this subchapter and part C of subchapter I of chapter 34 of title 42.

(5) The Secretary shall certify an institution's qualification as an institution of higher education in accordance with the requirements of subpart 3 of part G of this subchapter.

(6) An institution of higher education shall not be considered to meet the definition of an institution of higher education in paragraph (1) if such institution is removed from eligibility for funds under this subchapter and part C of subchapter I of chapter 34 of title 42 as a result of an action pursuant to part G of this subchapter.

(b) Proprietary institution of higher education

For the purpose of this section, the term ''proprietary institution of higher education'' means a school (1) which provides an eligible program of training to prepare students for gainful employment in a recognized occupation, (2) which meets the requirements of clauses (1) and (2) of section 1141(a) of this title, (3) which does not meet the requirement of clause (4) of section 1141(a) of this title, (4) which is accredited by a nationally recognized accrediting agency or association approved by the Secretary pursuant to part G of this subchapter, (5) which has been in existence for at least 2 years, and (6) which has at least 15 percent of its revenues from sources that are not derived from funds provided under this subchapter and part C of subchapter I of chapter 34 of title 42, as determined in accordance with regulations prescribed by the Secretary. Such term also includes a proprietary educational institution in any State which, in lieu of the requirement in clause (1) of section 1141(a) of this title, admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located.

(c) Postsecondary vocational institution

For the purpose of this section, the term ''postsecondary vocational institution'' means a school (1) which provides an eligible program of training to prepare students for gainful employment in a recognized occupation, (2) which meets the requirements of clauses (1), (2), (4), and (5) of section 1141(a) of this title, and (3) which has been in existence for at least 2 years. Such term also includes an educational institution in any State which, in lieu of the requirement in clause (1) of section 1141(a) of this title, admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located.

(d) Academic and award year

(1) For the purpose of any program under this subchapter and part C of subchapter I of chapter 34 of title 42, the term ''award year'' shall be defined as the period beginning July 1 and ending June 30 of the following year.

(2) For the purpose of any program under this subchapter and part C of subchapter I of chapter 34 of title 42, the term ''academic year'' shall require a minimum of 30 weeks of instructional time, and, with respect to an undergraduate course of study, shall require that during such minimum period of instructional time a full-time student is expected to complete at least 24 semester or trimester hours or 36 quarter hours at an institution that measures program length in credit hours, or at least 900 clock hours at an institution that measures program length in clock hours. The Secretary may reduce such minimum of 30 weeks to not less than 26 weeks for good cause, as determined by the Secretary on a case-by-case basis, in the case of an institution of higher education that provides a 2-year or 4-year program of instruction for which the institution awards an associate or baccalaureate degree.

(e) Eligible program

(1) For purposes of this subchapter and part C of subchapter I of chapter 34 of title 42, the term ''eligible program'' means a program of at least—

(A) 600 clock hours of instruction, 16 semester hours, or 24 quarter hours, offered during a minimum of 15 weeks, in the case of a program that—

(i) provides a program of training to prepare students for gainful employment in a recognized profession; and

(ii) admits students who have not completed the equivalent of an associate degree; or

(B) 300 clock hours of instruction, 8 semester hours, or 12 hours, offered during a minimum of 10 weeks, in the case of—

(i) an undergraduate program that requires the equivalent of an associate degree for admissions; or

(ii) a graduate or professional program.

(2)(A) A program is an eligible program for purposes of part B of this subchapter if it is a

program of at least 300 clock hours of instruction, but less than 600 clock hours of instruction, offered during a minimum of 10 weeks, that—

(i) has a verified completion rate of at least 70 percent, as determined in accordance with the regulations of the Secretary;

(ii) has a verified placement rate of at least 70 percent, as determined in accordance with the regulations of the Secretary; and

(iii) satisfies such further criteria as the Secretary may prescribe by regulation.

(B) In the case of a program being determined eligible for the first time under this paragraph, such determination shall be made by the Secretary before such program is considered to have satisfied the requirements of this paragraph.

(f) Third party servicer

For purposes of this subchapter and part C of subchapter I of chapter 34 of title 42, the term ''third party servicer'' means any individual, or any State, or private, profit or nonprofit organization which enters into a contract with—

(1) any eligible institution of higher education to administer, through either manual or automated processing, any aspect of such institution's student assistance programs under this subchapter and part C of subchapter I of chapter 34 of title 42; or

(2) any guaranty agency, or any eligible lender, to administer, through either manual or automated processing, any aspect of such guaranty agency's or lender's student loan programs under part B of this subchapter, including originating, guaranteeing, monitoring, processing, servicing, or collecting loans.

(Pub. L. 89–329, title IV, §481, as added Pub. L. 99–498, title IV, §407(a), Oct. 17, 1986, 100 Stat. 1476; amended Pub. L. 100–50, §15(1), June 3, 1987, 101 Stat. 355; Pub. L. 101–239, title II, §2007(b), (c), Dec. 19, 1989, 103 Stat. 2120, 2121; Pub. L. 101–508, title III, §3005(b), Nov. 5, 1990, 104 Stat. 1388–28; Pub. L. 102–26, §2(a)(2), (3), (d)(2)(A), Apr. 9, 1991, 105 Stat. 123, 124; Pub. L. 102–325, title IV, §481, July 23, 1992, 106 Stat. 609; Pub. L. 103–208, §2(h)(1)–(6), Dec. 20, 1993, 107 Stat. 2475, 2476.)

PRIOR PROVISIONS

A prior section 1088, Pub. L. 89–329, title IV, §481, as added Pub. L. 96–374, title IV, §451(a), Oct. 3, 1980, 94 Stat. 1443, defined ''institution of higher education'' for this subchapter and part C of subchapter I of chapter 34 of Title 42, The Public Health and Welfare, prior to the general revision of this part by Pub. L. 99–498.

Another prior section 1088, Pub. L. 89–329, title IV, §491, formerly §461, as added Pub. L. 90–575, title I, §151, Oct. 16, 1968, 82 Stat. 1032, renumbered §491 and amended Pub. L. 92–318, title I, §§131(c), 137(b), title X, §1001(c)(3), June 23, 1972, 86 Stat. 259, 272, 381; amended Pub. L. 95–180, §1(b), Nov. 15, 1977, 91 Stat. 1372; Pub. L. 95–566, §6, Nov. 1, 1978, 92 Stat. 2403; Pub. L. 96–49, §5(e), Aug. 13, 1979, 93 Stat. 352, defined terms for this subchapter and part C of subchapter I of chapter 34 of title 42, prior to the general revision of this part by Pub. L. 96–374.

Prior sections 1088a to 1088g were omitted in the general revision of this part by Pub. L. 96–374.

Section 1088a, Pub. L. 89–329, title IV, §492, formerly §462, as added Pub. L. 90–575, title I, §151, Oct. 16, 1968, 82 Stat. 1032; renumbered §492, Pub. L. 92–318, title I, §137(b), June 23, 1972, 86 Stat. 272, related to the eligibility of residents of the Trust Territory of the Pacific Islands. See section 1091(b) of this title.

Section 1088b, Pub. L. 89–329, title IV, §493, formerly §463, as added Pub. L. 90–575, title I, §152, Oct. 16, 1968, 82 Stat. 1033; renumbered §493, Pub. L. 92–318, title I, §137(b), June 23, 1972, 86 Stat. 272; amended Pub. L. 94–482, title I, §131(a), Oct. 12, 1976, 90 Stat. 2147; Pub. L. 95–43, §1(a)(40), June 15, 1977, 91 Stat. 217, related to administration expenses. See section 1096 of this title.

Section 1088b–1, Pub. L. 89–329, title IV, §493A, as added Pub. L. 94–482, title I, §131(b), Oct. 12, 1976, 90 Stat. 2148, related to institutional and financial assistance information for students. See section 1092 of this title.

Section 1088b–2, Pub. L. 89–329, title IV, §493B, as added Pub. L. 94–482, title I, §131(b), Oct. 12, 1976, 90 Stat. 2149, related to student aid information services.

Section 1088b–3, Pub. L. 89–329, title IV, §493C, as added Pub. L. 94–482, title I, §131(b), Oct. 12, 1976, 90 Stat. 2149, related to the student financial assistance training program.

Section 1088c, Pub. L. 89–329, title IV, §494, formerly §464, as added Pub. L. 90–575, title I, §152, Oct. 16, 1968, 82 Stat. 1033; renumbered §494 and amended Pub. L. 92–318, title I, §§137(b), 138(a), June 23, 1972, 86 Stat. 272, 280, related to maintenance of effort requirement.

Section 1088d, Pub. L. 89–329, title IV, §495, as added Pub. L. 92–318, title I, §139, June 23, 1972, 86 Stat. 280; amended S. Res. 4, Feb. 4, 1977; S. Res. 30, Mar. 7, 1979, related to requirement that copies of rules, regulations, instructions, and application forms be supplied to Congressional committees. See section 1090(b) of this title.

Section 1088e, Pub. L. 89–329, title IV, §496, as added Pub. L. 92–318, title I, §139A(a), June 23, 1972, 86 Stat. 281, related to transfer of funds between programs. See section 1095 of this title.

Section 1088f, Pub. L. 89–329, title IV, §497, as added Pub. L. 92–318, title I, §139B(a), June 23, 1972, 86 Stat. 281; amended Pub. L. 94–482, title I, §132, Oct. 12, 1976, 90 Stat. 2150; Pub. L. 95–566, §7, Nov. 1, 1978, 92 Stat. 2404, related to eligibility for student assistance. See section 1091 of this title.

Section 1088f–1, Pub. L. 89–329, title IV, §497A, as added Pub. L. 94–482, title I, §133(a), Oct. 12, 1976, 90 Stat. 2150; amended Pub. L. 95–43, §1(a)(41), June 15, 1977, 91 Stat. 217; Pub. L. 95–561, title XII, §1231(b), Nov. 1, 1978, 92 Stat. 2346, related to fiscal eligibility of institutions.

Section 1088g, Pub. L. 89–329, title IV, §498, as added Pub. L. 92–318, title I, §139C(a), June 23, 1972, 86 Stat. 282, related to requirement of an affidavit of educational purpose.

AMENDMENTS

1993—Subsec. (a)(3)(B). Pub. L. 103–208, §2(h)(1), inserted before semicolon at end '', except that the Secretary, at the request of such institution, may waive the applicability of this subparagraph to such institution for good cause, as determined by the Secretary in the case of an institution of higher education that provides a 2-year or 4-year program of instruction for which the institution awards an associate or baccalaureate degree''.

Subsec. (a)(3)(D). Pub. L. 103–208, §2(h)(2), substituted ''do not have a high school diploma or its recognized equivalent'' for ''are admitted pursuant to section 1091(d) of this title'' and inserted before period at end '', except that the Secretary may waive the limitation contained in this subparagraph if a nonprofit institution demonstrates to the satisfaction of the Secretary that it exceeds such limitation because it serves, through contracts with Federal, State, or local government agencies, significant numbers of students who do not have a high school diploma or its recognized equivalent''.

Subsec. (a)(4)(A). Pub. L. 103–208, §2(h)(3), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: ''such institution has filed for bankruptcy; or''.

Subsec. (d)(2). Pub. L. 103–208, §2(h)(4), amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''For the purpose of any program under this sub-

chapter and part C of subchapter I of chapter 34 of title 42, the term 'academic year' shall require a minimum of 30 weeks of instructional time in which a full-time student is expected to complete at least 24 semester or trimester hours or 36 quarter hours at an institution which measures program length in credit hours or at least 900 clock hours at an institution which measures program length in clock hours.''

Subsec. (e)(2). Pub. L. 103–208, § 2(h)(5), amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''The Secretary shall develop regulations to determine the quality of programs of less than 600 clock hours in length. Such regulations shall require, at a minimum, that the programs have a verified rate of completion of at least 70 percent and a verified rate of placement of at least 70 percent. Pursuant to these regulations and notwithstanding paragraph (1), the Secretary shall allow programs of less than 600 clock hours, but greater than 300 clock hours, in length to be eligible to participate in the programs authorized under part B of this subchapter.''

Subsec. (f). Pub. L. 103–208, § 2(h)(6), substituted ''individual, or any State,'' for ''State'' in introductory provisions.

1992—Pub. L. 102–325, § 481(a), amended section catchline.

Subsec. (a). Pub. L. 102–325, § 481(a), added subsec. (a) and struck out former subsec. (a) which contained pars. (1) and (2) defining ''institution of higher education'' and ''accredited'' and par. (3) which related to recognition of accreditation of eligible institutions of higher education.

Subsec. (b). Pub. L. 102–325, § 481(b)(4), struck out at end ''For the purpose of this subsection, the Secretary shall publish a list of nationally recognized accrediting agencies or associations which he determines to be reliable authority as to the quality of training offered.''

Subsec. (b)(1). Pub. L. 102–325, § 481(b)(1), substituted ''an eligible program'' for ''not less than a 6-month program''.

Subsec. (b)(4). Pub. L. 102–325, § 481(b)(2), substituted ''pursuant to part G of this subchapter,'' for ''for this purpose, and''.

Subsec. (b)(5), (6). Pub. L. 102–325, § 481(b)(3), substituted ''years, and'' for ''years.'' in cl. (5) and added cl. (6).

Subsec. (c)(1). Pub. L. 102–325, § 481(c), substituted ''an eligible program'' for ''not less than a six-month program''.

Subsec. (d). Pub. L. 102–325, § 481(d), inserted ''and award'' after ''Academic'' in heading and amended text generally. Prior to amendment, text read as follows: ''For the purpose of any program under this subchapter and part C of subchapter I of chapter 34 of title 42, the term 'academic year' shall be defined by the Secretary by regulation.''

Subsec. (e). Pub. L. 102–325, § 481(e), amended subsec. (e) generally, substituting provisions relating to eligible program for provisions relating to impact of loss of accreditation.

Subsec. (f). Pub. L. 102–325, § 481(f), added subsec. (f).

1991—Subsec. (b). Pub. L. 102–26, § 2(d)(2)(A), repealed Pub. L. 101–508, § 3005(b). See 1990 Amendment note below.

Pub. L. 102–26, § 2(a)(2), struck out ''and who have the ability to benefit (as determined by the institution under section 1091(d) of this title) from the training offered by the institution'' before period at end of second sentence, and struck out at end ''The Secretary shall not promulgate regulations defining the admissions procedures or remediation programs that must be used by an institution in admitting students on the basis of their ability to benefit from the training offered and shall not, as a condition of recognition under section 413(e) of this Act, impose upon any accrediting body or bodies standards which are different or more restrictive than the standards provided in this subsection.''

Subsec. (c). Pub. L. 102–26, § 2(a)(3), struck out before period at end ''and who have the ability to benefit (as determined by the institution under section 1091(d) of this title) from the training offered by the institution''.

1990—Subsec. (b). Pub. L. 101–508, which inserted '', except in accordance with section 1091(d) of this title,'' after ''shall not'' in fourth sentence, was repealed by Pub. L. 102–26, § 2(d)(2)(A). See Construction of 1991 Amendment note below.

1989—Subsec. (a)(1). Pub. L. 101–239, § 2007(b)(1), substituted ''Subject to subsection (e) of this section, for the purpose'' for ''For the purpose''.

Subsec. (a)(3). Pub. L. 101–239, § 2007(c), added par. (3).

Subsec. (e). Pub. L. 101–239, § 2007(b)(2), added subsec. (e).

1987—Subsec. (c). Pub. L. 100–50 substituted ''section 1091(d) of this title'' for ''subsection (d) of this section''.

CHANGE OF NAME

Committee on Education and Labor of House of Representatives treated as referring to Committee on Economic and Educational Opportunities of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Economic and Educational Opportunities of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Fifth Congress, Jan. 7, 1997.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1003 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Section 498 of Pub. L. 102–325 provided that: ''The changes made in part G of title IV of the Act [20 U.S.C. 1088 et seq.] by the amendments made by this part [part G (§§ 481–498) of title IV of Pub. L. 102–325, enacting sections 1091b, 1092c, 1094a, 1094b, 1098a, and 1098b of this title, amending sections 1088 to 1091, 1092, 1092b, 1093, 1094, 1095, 1096, 1097, and 1098 of this title, and repealing section 1096a of this title] shall take effect on the date of enactment of this Act [July 23, 1992], except that—

''(1) as otherwise provided in such part G;

''(2) the changes in section 481(a) [20 U.S.C. 1088(a)], relating to the definition of institution of higher education, other than paragraph (4) of such section, shall be effective on and after October 1, 1992;

''(3) section 481(e) as added by such amendments, relating to the definition of eligible program, shall be effective on and after July 1, 1993;

''(4) section 484(m)(1) [20 U.S.C. 1091(m)(1)], relating to proportion of courses permitted to be correspondence courses, as added by such amendments shall be effective on and after October 1, 1992;

''(5) the changes in section 485 [20 U.S.C. 1092], relating to disclosures, shall be effective with respect to periods of enrollment beginning on or after July 1, 1993;

''(6) the changes in section 488 [20 U.S.C. 1095], relating to transfers of allotments, shall apply with respect to funds provided for award years beginning on or after July 1, 1993; and

''(7) the changes in section 489 [20 U.S.C. 1096], relating to payments for administrative expenses, shall apply with respect to funds provided for award years beginning on or after July 1, 1993.''

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102–26 applicable to any grant, loan, or work assistance to cover the cost of instruction for periods of enrollment beginning on or after July 1, 1991, see section 2(d)(1) of Pub. L. 102–26, set out as a note under section 1085 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Section 3005(c) of Pub. L. 101–508, which provided that the amendments made by section 3005 (amending this section and section 1091 of this title) were to apply to

any grant, loan, or work assistance to cover the cost of instruction for periods of enrollment beginning on or after Jan. 1, 1991, was repealed by section 2(d)(2)(A) of Pub. L. 102–26. See Construction of 1991 Amendment note below.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

CONSTRUCTION OF 1991 AMENDMENT

Section 2(d)(2)(A) of Pub. L. 102–26 provided that: ''Section 3005 of the Omnibus Reconciliation Act of 1990 [Pub. L. 101–508, amending this section and section 1091 of this title and enacting provisions set out as a note above] is repealed. Sections 484(d) and 481(b) of the Act [20 U.S.C. 1091(d), 1088(b)] shall be applied as if such section 3005 had not been enacted.''

NEED-BASED AID

Section 1544 of Pub. L. 102–325 authorized institutions of higher education to voluntarily agree with other such institutions to award financial aid not awarded under this chapter to students attending such institutions only on basis of demonstrated financial need for such aid, and to discuss and adopt principles of professional judgment for determining student financial need for such aid, with exceptions for cases pending on July 23, 1992, and for discussions or agreements on prospective financial aid awards to specific common applicants, and provided that such authorization was to expire on Sept. 30, 1994, prior to repeal by Pub. L. 103–382, title V, § 568(e)(2), Oct. 20, 1994, 108 Stat. 4061. See section 568(a)–(d) of Pub. L. 103–382, set out as a note under section 1 of Title 15, Commerce and Trade.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1011a, 1070a–61, 1075, 1078, 1078–8, 1085, 1094, 1099a, 1099a–1, 1099b, 1099c, 1145, 1201a, 2394a, 5938, 6103 of this title; title 26 section 135; title 29 sections 1503, 1551, 2204; title 42 sections 292d, 604, 3796d–6, 12604.

§ 1088a. Clock and credit hour treatment of diploma nursing schools

Notwithstanding any other provision of this chapter, any regulations promulgated by the Secretary concerning the relationship between clock hours and semester, trimester, or quarter hours in calculating student grant, loan, or work assistance under this subchapter and part C of subchapter I of chapter 34 of title 42, shall not apply to a public or private nonprofit hospital-based school of nursing that awards a diploma at the completion of the school's program of education.

(Pub. L. 89–329, title IV, § 481A, as added Pub. L. 103–382, title III, § 360(a), Oct. 20, 1994, 108 Stat. 3969.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this Act'', meaning Pub. L. 89–329, as amended, known as the Higher Education Act of 1965. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

EFFECTIVE DATE

Section 360(b) of Pub. L. 103–382 provided that: ''Subsection (a) [enacting this section] and the amendment made by subsection (a) shall take effect on July 1, 1994.''

§ 1089. Master calendar

(a) Secretary required to comply with schedule

To assure adequate notification and timely delivery of student aid funds under this subchapter and part C of subchapter I of chapter 34 of title 42, the Secretary shall adhere to the following calendar dates in the year preceding the award year:

(1) Development and distribution of Federal and multiple data entry forms—

(A) by February 1: first meeting of the technical committee on forms design of the Department;

(B) by March 1: proposed modifications and updates pursuant to section 1087rr of this title published in the Federal Register;

(C) by June 1: final modifications and updates pursuant to section 1087rr of this title published in the Federal Register;

(D) by August 15: application for Federal student assistance and multiple data entry data elements and instructions approved;

(E) by August 30: final approved forms delivered to servicers and printers;

(F) by October 1: Federal and multiple data entry forms and instructions printed; and

(G) by November 1: Federal and multiple data entry forms, instructions, and training materials distributed.

(2) Allocations of campus-based and Pell Grant funds—

(A) by August 1: distribution of institutional application for campus-based funds (FISAP) to institutions;

(B) by October 1: final date for submission of FISAP by institutions to the Department;

(C) by November 15: edited FISAP and computer printout received by institutions;

(D) by December 1: appeals procedures received by institutions;

(E) by December 15: edits returned by institutions to the Department;

(F) by February 1: tentative award levels received by institutions and final Pell Grant payment schedule;

(G) by February 15: closing date for receipt of institutional appeals by the Department;

(H) by March 1: appeals process completed;

(I) by April 1: final award notifications sent to institutions; and

(J) by June 1: Pell Grant authorization levels sent to institutions.

(b) Timing for reallocations

With respect to any funds reallocated under section 1070b–3(e) of this title, section 2752(e) of title 42, or section 1087bb(j) of this title, the Secretary shall reallocate such funds at any time during the course of the year that will best meet the purpose of the programs under subpart 3 of part A of this subchapter, part C of subchapter I of chapter 34 of title 42, and part D of this subchapter, respectively. However, such reallocation shall occur at least once each year, not later than September 30 of that year.

(c) Delay of effective date of late publications

Any regulatory changes initiated by the Secretary affecting the programs pursuant to this

subchapter and part C of subchapter I of chapter 34 of title 42 that have not been published in final form by December 1 prior to the start of the award year shall not become effective until the beginning of the second award year after such December 1 date. For award year 1994–95, this subsection shall not require a delay in the effectiveness of regulatory changes affecting this part and parts B and G of this subchapter that are published in final form by May 1, 1994.

(d) Notice to Congress

The Secretary shall notify the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives when a deadline included in the calendar described in subsection (a) of this section is not met. Nothing in this section shall be interpreted to penalize institutions or deny them the specified times allotted to enable them to return information to the Secretary based on the failure of the Secretary to adhere to the dates specified in this section.

(Pub. L. 89–329, title IV, § 482, as added Pub. L. 99–498, title IV, § 407(a), Oct. 17, 1986, 100 Stat. 1477; amended Pub. L. 100–50, § 15(2), June 3, 1987, 101 Stat. 355; Pub. L. 102–325, title IV, § 482, July 23, 1992, 106 Stat. 612; Pub. L. 103–208, § 2(h)(7), Dec. 20, 1993, 107 Stat. 2476; Pub. L. 104–66, title I, § 1042(b), Dec. 21, 1995, 109 Stat. 715.)

PRIOR PROVISIONS

A prior section 1089, Pub. L. 89–329, title IV, § 482, as added Pub. L. 96–374, title IV, § 451(a), Oct. 3, 1980, 94 Stat. 1445; amended Pub. L. 97–35, title V, § 533(a)(1), (2), (b), Aug. 13, 1981, 95 Stat. 453; Pub. L. 99–272, title XVI, § 16031, Apr. 7, 1986, 100 Stat. 354, related to analysis of student's need for financial assistance, prior to the general revision of this part by Pub. L. 99–498.

Another prior section 1089, Pub. L. 89–329, title IV, § 499, formerly § 469, as added Pub. L. 90–575, title I, § 151, Oct. 16, 1968, 82 Stat. 1032; amended Pub. L. 91–230, title IV, § 401(h)(4), Apr. 13, 1970, 84 Stat. 174; renumbered Pub. L. 92–318, title I, § 137(b), June 23, 1972, 86 Stat. 272, related to the Advisory Council on Financial Aid to Students, prior to the general revision of this part by Pub. L. 96–374.

AMENDMENTS

1995—Subsec. (d). Pub. L. 104–66, in first sentence substituted ''a deadline included in the calendar described in subsection (a) of this section is not met'' for ''the items specified in the calendar have been completed and provide all relevant forms, rules, and instructions with such notice'' and after first sentence struck out ''When a deadline included in the calendar is not met, the Secretary, within 7 days, shall submit to the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives a written report, including proper documentation, as to why the deadline was not adhered to and a detailed plan for ensuring that subsequent dates are met.''

1993—Subsec. (c). Pub. L. 103–208 inserted at end ''For award year 1994–95, this subsection shall not require a delay in the effectiveness of regulatory changes affecting this part and parts B and G of this subchapter that are published in final form by May 1, 1994.''

1992—Subsec. (a)(1)(B), (C). Pub. L. 102–325, § 482(b)(1), substituted ''section 1087rr'' for ''sections 1070a–5 and 1087rr''.

Subsec. (b). Pub. L. 102–325, § 482(b)(2), substituted ''subpart 3'' for ''subpart 2''.

Subsec. (c). Pub. L. 102–325, § 482(a), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: ''Any additional regulatory changes initiated by the Secretary affecting the general administration of the programs pursuant to this subchapter and part C of subchapter I of chapter 34 of title 42 that have not been published in final form by December 1 prior to the start of the award year shall not become effective until the beginning of the second award year after the December 1 date.''

1987—Subsec. (b). Pub. L. 100–50 inserted reference to section 1087bb(j) of this title and part D of this subchapter.

CHANGE OF NAME

Committee on Education and Labor of House of Representatives treated as referring to Committee on Economic and Educational Opportunities of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Economic and Educational Opportunities of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Fifth Congress, Jan. 7, 1997.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1003 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

ESTABLISHMENT OF SEPARATE SYSTEMS OF NEED ANALYSIS FOR ACADEMIC YEARS 1983–1984 THROUGH 1987–1988

Pub. L. 97–301, § 4, Oct. 13, 1982, 96 Stat. 1400, as amended by Pub. L. 98–79, § 4(a), Aug. 15, 1983, 97 Stat. 480; Pub. L. 98–511, title VII, § 707(3), Oct. 19, 1984, 98 Stat. 2407; Pub. L. 99–498, title IV, § 408(a)(1), Oct. 17, 1986, 100 Stat. 1495, which required Secretary of Education to establish or approve separate systems of need analysis for the academic years 1983–1984, 1984–1985, 1985–1986, 1986–1987, and 1987–1988 for the programs authorized under subpart 2 [now 3] of part A [20 U.S.C. 1070b et seq.], part C [42 U.S.C. 2751 et seq.], and part E [20 U.S.C. 1087aa et seq.] of title IV of the Higher Education Act of 1965, was repealed by Pub. L. 99–498, title IV, § 408(b), Oct. 17, 1986, 100 Stat. 1495, eff. with respect to any academic year beginning on or after July 1, 1988.

DETERMINATION OF INDEPENDENT STUDENT STATUS FOR ACADEMIC YEARS 1982–1983 THROUGH 1987–1988

Pub. L. 97–301, § 6, Oct. 13, 1982, 96 Stat. 1400, as amended by Pub. L. 98–79, § 4(a), Aug. 15, 1983, 97 Stat. 481; Pub. L. 98–516, title VII, § 707(3), Oct. 19, 1984, 98 Stat. 2407; Pub. L. 99–498, title IV, § 408(a)(1), Oct. 17, 1986, 100 Stat. 1495, which provided that notwithstanding any rule or regulation, the criteria for the determination of independent student status, prescribed under subsec. (c)(2) of this section, in effect for academic year 1982–1983, was to be the criteria for such determinations for each of the academic years 1983–1984, 1984–1985, 1985–1986, 1986–1987, and 1987–1988, was repealed by Pub. L. 99–498, title IV, § 408(b), Oct. 17, 1986, 100 Stat. 1495, eff. with respect to any academic year beginning on or after July 1, 1988.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1070a, 1087rr of this title; title 42 section 2753.

§ 1090. Forms and regulations

(a) Common financial aid form and processing

(1) Single form required

The Secretary, in cooperation with representatives of agencies and organizations involved in student financial assistance, shall produce, distribute, and process free of charge a common financial reporting form to be used to determine the need and eligibility of a student for financial assistance under parts A, C, and D of this subchapter and part C of subchapter I of chapter 34 of title 42 (other than under subpart 4 of part A of this subchapter) and to determine the need of a student for the purpose of part B of this subchapter. The Secretary may include on the form developed pursuant to this paragraph not more than eight nonfinancial data items selected in consultation with the States to assist the States in awarding State student financial assistance. Such form shall satisfy the requirements of section 1070a(d) of this title. For the purpose of collecting eligibility and other data for the purpose of part B of this subchapter, the Secretary shall develop a separate, identifiable loan application document (pursuant to section 1082(m) of this title) that applicants or institutions in which the students are enrolled or accepted for enrollment shall submit directly to eligible lenders and on which the applicant shall clearly indicate a choice of a lender.

(2) Charges to students and parents for use of form prohibited

The common financial reporting form prescribed by the Secretary under paragraph (1) shall be produced, distributed, and processed by the Secretary and no parent or student shall be charged a fee for the collection, processing, or delivery of financial aid through the use of such form. The need and eligibility of a student for financial assistance under parts A, C, and D of this subchapter and part C of subchapter I of chapter 34 of title 42 (other than under subpart 4 of part A of this subchapter) and the need of a student for the purpose of part B of this subchapter, may only be determined by using the form developed by the Secretary pursuant to paragraph (1) of this subsection. No student may receive assistance under parts A, C, and D of this subchapter and part C of subchapter I of chapter 34 of title 42 (other than under subpart 4 of part A of this subchapter) or have the student's need established for the purpose of part B of this subchapter, except by use of the form developed by the Secretary pursuant to this section. No data collected on a form for which a fee is charged shall be used to complete the form prescribed under paragraph (1).

(3) Distribution of data

Institutions of higher education and States shall receive, without charge, the data collected by the Secretary using the form developed pursuant to this section for the purposes of determining need and eligibility for institutional and State financial aid awards. Entities designated by institutions of higher education or States to receive such data shall be subject to all requirements of this section, unless such requirements are waived by the Secretary.

(4) Contracts for collection and processing

(A) The Secretary shall, to the extent practicable, enter into not less than 5 contracts with States, institutions of higher education, or private organizations for the purposes of the timely collection and processing of the form developed pursuant to paragraph (1) and the timely delivery of the data submitted on such form. The Secretary shall use such contracts to assist States and institutions of higher education with the collection of additional data required to award State or institutional financial assistance, except that the Secretary shall not include these additional data items on the common financial reporting form developed pursuant to this section. The Secretary shall include in each such contract a requirement that—

(i) any charges by the contractor to the student or parent for additional data items required by a State or institution for any purpose (regardless of the method of collection) shall be reasonable and shall not exceed the marginal cost of collecting, processing, and delivering such additional data, taking into account any payment received by the contractor to produce, distribute, and process the common financial reporting form prescribed by the Secretary pursuant to paragraph (1); and

(ii) the contractor will require any person or entity to whom the contractor provides such additional data to agree not to collect from any student or parent any charge that would not be permitted under this subparagraph for any such additional data.

(B) To the extent practicable, the Secretary shall ensure that at least one contractor, or a portion of one contract, under this paragraph will serve graduate and professional students.

(C) As part of the procurement process for the 1993–1994 award year, and for all procurements thereafter pertaining to the contracts under this paragraph, the Secretary shall require all entities competing for such contracts to comply with all requirements of this subsection and to—

(i) use the common financial reporting form as prescribed in paragraph (1), which shall be clearly identified as the ''Free Application for Federal Student Aid''; and

(ii) use a common, simplified reapplication form as the Secretary shall prescribe pursuant to subsection (b) of this section, in each award year.

(D) The Secretary shall reimburse all approved contractors at a reasonable predetermined rate for processing such applications, for issuing eligibility reports, and for carrying out other services or requirements that may be prescribed by the Secretary.

(E) All approved contractors shall be required to adhere to all editing, processing, and reporting requirements established by the Secretary to ensure consistency.

(F) No approved contractor shall enter into exclusive arrangements with guarantors, lend-

ers, secondary markets, or institutions of higher education for the purpose of reselling or sharing of data collected for the multiple data entry process. All data collected under a contract issued by the Secretary pursuant to this paragraph for the multiple data entry process is the exclusive property of the Secretary and may not be transferred to a third party by an approved contractor without the Secretary's express written approval.

(b) Streamlined reapplication process

(1) The Secretary shall, within 240 days after July 23, 1992, develop a streamlined reapplication form and process, including electronic reapplication process, consistent with the requirements of subsection (a) of this section, for those recipients who apply for financial aid funds under this subchapter and part C of subchapter I of chapter 34 of title 42 in the next succeeding academic year subsequent to the initial year in which such recipients apply.

(2) The Secretary shall develop appropriate mechanisms to support reapplication.

(3) The Secretary shall determine, in cooperation with States, institutions of higher education, agencies and organizations involved in student financial assistance, the data elements that can be updated from the previous academic year's application.

(4) Nothing in this subchapter and part C of subchapter I of chapter 34 of title 42 shall be interpreted as limiting the authority of the Secretary to reduce the number of data elements required of reapplicants.

(5) Individuals determined to have a zero family contribution pursuant to section 1087ss of this title shall not be required to provide any financial data, except that which is necessary to determine eligibility under that section.

(c) Information to committees of Congress

Copies of all rules, regulations, guidelines, instructions, and application forms published or promulgated pursuant to this subchapter and part C of subchapter I of chapter 34 of title 42 shall be provided to the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives at least 45 days prior to their effective date.

(d) Toll-free information

The Secretary shall contract for, or establish, and publicize a toll-free telephone service to provide timely and accurate information to the general public. The information provided shall include specific instructions on completing the application form for assistance under this subchapter and part C of subchapter I of chapter 34 of title 42. Such service shall also include a service accessible by telecommunications devices for the deaf (TDD's) and shall, in addition to the services provided for in the previous sentence, refer such students to the national clearinghouse on postsecondary education that is authorized under section 1433(c)[1] of this title.

(e) Preparer

Any financial aid application required to be made under this subchapter and part C of subchapter I of chapter 34 of title 42 shall include the name, signature, address or employer's address, social security number or employer identification number, and organizational affiliation of the preparer of such financial aid application.

(f) Special rule

Nothing in section 1544[1] of the Higher Education Amendments of 1992 shall relieve processors or institutions of higher education of any or all obligations under this section.

(Pub. L. 89–329, title IV, § 483, as added Pub. L. 99–498, title IV, § 407(a), Oct. 17, 1986, 100 Stat. 1478; amended Pub. L. 100–50, § 15(3)–(6), June 3, 1987, 101 Stat. 356; Pub. L. 102–325, title IV, § 483, July 23, 1992, 106 Stat. 612; Pub. L. 103–208, § 2(h)(8)–(12), Dec. 20, 1993, 107 Stat. 2476.)

REFERENCES IN TEXT

Section 1433(c) of this title, referred to in subsec. (d), was in the original a reference to section 633(c) of the Individuals with Disabilities Education Act, Pub. L. 91–230, title VI. Section 633 of Pub. L. 91–230 was omitted in the general amendment of subchapters III and IV of chapter 33 of this title by Pub. L. 105–17, title I, § 101, June 4, 1997, 111 Stat. 37. Pub. L. 105–17 enacted a new section 633 of Pub. L. 91–230, which is classified to section 1433 of this title, and which no longer contains a subsec. (c) and no longer relates to clearinghouses.

Section 1544 of the Higher Education Amendments of 1992, referred to in subsec. (f), is section 1544 of Pub. L. 102–325, which was set out as a note under section 1088 of this title, prior to repeal by Pub. L. 103–382, title V, § 568(e)(2), Oct. 20, 1994, 108 Stat. 4061.

PRIOR PROVISIONS

A prior section 1090, Pub. L. 89–329, title IV, § 483, as added Pub. L. 96–374, title IV, § 451(a), Oct. 3, 1980, 94 Stat. 1448, related to forms and regulations for student assistance programs, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1993—Subsec. (a)(1). Pub. L. 103–208, § 2(h)(8), made technical amendment to reference to section 1070a(d) of this title to correct reference to corresponding section of original act.

Subsec. (a)(2). Pub. L. 103–208, § 2(h)(9), inserted at end ''No data collected on a form for which a fee is charged shall be used to complete the form prescribed under paragraph (1).''

Subsec. (a)(3). Pub. L. 103–208, § 2(h)(10), inserted at end ''Entities designated by institutions of higher education or States to receive such data shall be subject to all requirements of this section, unless such requirements are waived by the Secretary.''

Subsecs. (d), (e). Pub. L. 103–208, § 2(h)(12), redesignated subsecs. (e) and (f) as (d) and (e), respectively.

Subsec. (f). Pub. L. 103–208, § 2(h)(12), redesignated subsec. (g) as (f). Former subsec. (f) redesignated (e).

Pub. L. 103–208, § 2(h)(11), substituted ''address or employer's address, social security number or employer identification number,'' for ''address, social security number,''.

Subsec. (g). Pub. L. 103–208, § 2(h)(12), redesignated subsec. (g) as (f).

1992—Subsec. (a). Pub. L. 102–325, § 483(a), added subsec. (a) and struck out former subsec. (a) which contained pars. (1) to (5) relating to a common financial aid form and processing of financial aid applications.

Subsec. (b). Pub. L. 102–325, § 483(a), added subsec. (b) and struck out former subsec. (b) which related to certifications of capability of systems for determining expected family contributions.

Subsec. (d). Pub. L. 102–325, § 483(b)(1), struck out subsec. (d) which related to provision of early notice to students of their potential eligibility for financial aid.

[1] See References in Text note below.

Subsec. (e). Pub. L. 102–325, § 483(b)(2), amended subsec. (e) generally. Prior to amendment, subsec. (e) read as follows: ''The Secretary shall contract for, or establish, and publicize a toll-free telephone number to provide timely and accurate information to the general public. The information provided shall include specific instructions on completing application forms for assistance under this subchapter and part C of subchapter I of chapter 34 of title 42.''

Subsecs. (f), (g). Pub. L. 102–325, § 483(b)(1), (3), added subsecs. (f) and (g) and struck out former subsec. (f) which related to notice of student aid receipt.

1987—Subsec. (a)(1). Pub. L. 100–50, § 15(3), (4), inserted in second sentence ''or institutions in which the students are enrolled or accepted for enrollment'' after ''that applicants'' and ''and on which the applicant shall clearly indicate a choice of lender'' before period at end.

Subsec. (a)(2). Pub. L. 100–50, § 15(5), substituted ''not less than 5'' for ''not less than 3'' and inserted sentence at end providing that the Secretary not select new multiple data entry processors until certain examinations and recommendations are made by the Advisory Commission on Student Financial Assistance.

Subsecs. (b) to (f). Pub. L. 100–50, § 15(6), added subsec. (b) and redesignated former subsecs. (b) to (e) as (c) to (f), respectively.

CHANGE OF NAME

Committee on Education and Labor of House of Representatives treated as referring to Committee on Economic and Educational Opportunities of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Economic and Educational Opportunities of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Fifth Congress, Jan. 7, 1997.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1003 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

EFFECTIVE DATE

Section effective Oct. 17, 1986, except as otherwise provided, see section 2 of Pub. L. 99–498, set out as a note under section 1001 of this title.

Subsec. (e) of this section applicable to student assistance awarded for periods of enrollment beginning on or after July 1, 1987, see section 407(b) of Pub. L. 99–498, set out as a note under section 1091 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1070a–71, 1087e, 1087ss, 1098 of this title.

§ 1091. Student eligibility

(a) In general

In order to receive any grant, loan, or work assistance under this subchapter and part C of subchapter I of chapter 34 of title 42, a student must—

(1) be enrolled or accepted for enrollment in a degree, certificate, or other program (including a program of study abroad approved for credit by the eligible institution at which such student is enrolled) leading to a recognized educational credential at an institution of higher education that is an eligible institution in accordance with the provisions of section 1094 of this title, except as provided in subsections (b)(3) and (b)(4) of this section, and not be enrolled in an elementary or secondary school;

(2) if the student is presently enrolled at an institution, be maintaining satisfactory progress in the course of study the student is pursuing in accordance with the provisions of subsection (c) of this section;

(3) not owe a refund on grants previously received at any institution under this subchapter and part C of subchapter I of chapter 34 of title 42, or be in default on any loan from a student loan fund at any institution provided for in part D of this subchapter, or a loan made, insured, or guaranteed by the Secretary under this subchapter and part C of subchapter I of chapter 34 of title 42 for attendance at any institution;

(4) file with the institution of higher education which the student intends to attend, or is attending (or in the case of a loan or loan guarantee with the lender), a document, which need not be notarized, but which shall include—

(A) a statement of educational purpose stating that the money attributable to such grant, loan, or loan guarantee will be used solely for expenses related to attendance or continued attendance at such institution; and

(B) such student's social security number, except that the provisions of this subparagraph shall not apply to a student from the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau;[1]

(5) be a citizen or national of the United States, a permanent resident of the United States, able to provide evidence from the Immigration and Naturalization Service that he or she is in the United States for other than a temporary purpose with the intention of becoming a citizen or permanent resident, or a permanent resident of the Trust Territory of the Pacific Islands, Guam, or the Northern Mariana Islands.

(b) Eligibility for student loans

(1) In order to be eligible to receive any loan under this subchapter and part C of subchapter I of chapter 34 of title 42 (other than a loan under section 1078–2 or 1078–3 of this title) for any period of enrollment, a student who is not a graduate or professional student (as defined in regulations of the Secretary), and who is enrolled in a program at an institution which has a participation agreement with the Secretary to make awards under subpart 1 of part A of this subchapter, shall—

(A)(i) have received a determination of eligibility or ineligibility for a Pell Grant under such subpart 1 for such period of enrollment; and (ii) if determined to be eligible, have filed an application for a Pell Grant for such enrollment period; or

[1] So in original. Probably should be followed by ''and''.

(B) have (A) filed an application with the Pell Grant processor for such institution for such enrollment period, and (B) received from the financial aid administrator of the institution a preliminary determination of the student's eligibility or ineligibility for a grant under such subpart 1.

(2) In order to be eligible to receive any loan under section 1078–1[2] of this title for any period of enrollment, a student shall—

(A) have received a determination of need for a loan under section 1078(a)(2)(B) of this title;

(B) if determined to have need for a loan under section 1078 of this title, have applied for such a loan; and

(C) has applied for a loan under section 1078–8 of this title, if such student is eligible to apply for such a loan.

(3) A student who—

(A) is carrying at least one-half the normal full-time work load for the course of study that the student is pursuing, as determined by an eligible institution, and

(B) is enrolled in a course of study necessary for enrollment in a program leading to a degree or certificate,

shall be, notwithstanding paragraph (1) of subsection (a) of this section, eligible to apply for loans under part B or C of this subchapter. The eligibility described in this paragraph shall be restricted to one 12-month period.

(4) A student who—

(A) is carrying at least one-half the normal full-time work load for the course of study the student is pursuing, as determined by the institution, and

(B) is enrolled or accepted for enrollment in a program at an eligible institution necessary for a professional credential or certification from a State that is required for employment as a teacher in an elementary or secondary school in that State,

shall be, notwithstanding paragraph (1) of subsection (a) of this section, eligible to apply for loans under part B, C, or D of this subchapter or work-study assistance under part C of subchapter I of chapter 34 of title 42.

(5) Notwithstanding any other provision of this subsection, no incarcerated student is eligible to receive a loan under this subchapter and part C of subchapter I of chapter 34 of title 42.

(c) Satisfactory progress

(1) For the purpose of subsection (a)(2) of this section, a student is maintaining satisfactory progress if—

(A) the institution at which the student is in attendance, reviews the progress of the student at the end of each academic year, or its equivalent, as determined by the institution, and

(B) the student has a cumulative C average, or its equivalent or academic standing consistent with the requirements for graduation, as determined by the institution, at the end of the second such academic year.

(2) Whenever a student fails to meet the eligibility requirements of subsection (a)(2) of this section as a result of the application of this subsection and subsequent to that failure the student has academic standing consistent with the requirements for graduation, as determined by the institution, for any grading period, the student may, subject to this subsection, again be eligible under subsection (a)(2) of this section for a grant, loan, or work assistance under this subchapter and part C of subchapter I of chapter 34 of title 42.

(3) Any institution of higher education at which the student is in attendance may waive the provisions of paragraph (1) or paragraph (2) of this subsection for undue hardship based on—

(A) the death of a relative of the student,

(B) the personal injury or illness of the student, or

(C) special circumstances as determined by the institution.

(d) Students who are not high school graduates

In order for a student who does not have a certificate of graduation from a school providing secondary education, or the recognized equivalent of such certificate, to be eligible for any assistance under subparts 1, 3, and 4 of part A and parts B, C, and D of this subchapter and part C of subchapter I of chapter 34 of title 42, the student shall meet either one of the following standards:

(1) The student shall take an independently administered examination and shall achieve a score, specified by the Secretary, demonstrating that such student can benefit from the education or training being offered. Such examination shall be approved by the Secretary on the basis of compliance with such standards for development, administration, and scoring as the Secretary may prescribe in regulations.

(2) The student shall be determined as having the ability to benefit from the education or training in accordance with such process as the State shall prescribe. Any such process described or approved by a State for the purposes of this section shall be effective 6 months after the date of submission to the Secretary unless the Secretary disapproves such process. In determining whether to approve or disapprove such process, the Secretary shall take into account the effectiveness of such process in enabling students without high school diplomas or the equivalent thereof to benefit from the instruction offered by institutions utilizing such process, and shall also take into account the cultural diversity, economic circumstances, and educational preparation of the populations served by the institutions.

(e) Certification for GSL eligibility

Each eligible institution may certify student eligibility for a loan by an eligible lender under part B of this subchapter prior to completing the review for accuracy of the information submitted by the applicant required by regulations issued under this subchapter and part C of subchapter I of chapter 34 of title 42, if—

(1) checks for the loans are mailed to the eligible institution prior to disbursements;

(2) the disbursement is not made until the review is complete; and

[2] See References in Text note below.

(3) the eligible institution has no evidence or documentation on which the institution may base a determination that the information submitted by the applicant is incorrect.

(f) Loss of eligibility for violation of loan limits

(1) No student shall be eligible to receive any grant, loan, or work assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 if the eligible institution determines that the student fraudulently borrowed in violation of the annual loan limits under part B, part C, or part D of this subchapter in the same academic year, or if the student fraudulently borrowed in excess of the aggregate maximum loan limits under such part B, part C, or part D.

(2) If the institution determines that the student inadvertently borrowed amounts in excess of such annual or aggregate maximum loan limits, such institution shall allow the student to repay any amount borrowed in excess of such limits prior to certifying the student's eligibility for further assistance under this subchapter and part C of subchapter I of chapter 34 of title 42.

(g) Verification of immigration status

(1) In general

The Secretary shall implement a system under which the statements and supporting documentation, if required, of an individual declaring that such individual is in compliance with the requirements of subsection (a)(5) of this section shall be verified prior to the individual's receipt of a grant, loan, or work assistance under this subchapter and part C of subchapter I of chapter 34 of title 42.

(2) Special rule

The documents collected and maintained by an eligible institution in the admission of a student to the institution may be used by the student in lieu of the documents used to establish both employment authorization and identity under section 1324a(b)(1)(B) of title 8 to verify eligibility to participate in work-study programs under part C of subchapter I of chapter 34 of title 42.

(3) Verification mechanisms

The Secretary is authorized to verify such statements and supporting documentation through a data match, using an automated or other system, with other Federal agencies that may be in possession of information relevant to such statements and supporting documentation.

(4) Review

In the case of such an individual who is not a citizen or national of the United States, if the statement described in paragraph (1) is submitted but the documentation required under paragraph (2) is not presented or if the documentation required under paragraph (2)(A) is presented but such documentation is not verified under paragraph (3)—

(A) the institution—

(i) shall provide a reasonable opportunity to submit to the institution evidence indicating a satisfactory immigration status, and

(ii) may not delay, deny, reduce, or terminate the individual's eligibility for the grant, loan, or work assistance on the basis of the individual's immigration status until such a reasonable opportunity has been provided; and

(B) if there are submitted documents which the institution determines constitute reasonable evidence indicating such status—

(i) the institution shall transmit to the Immigration and Naturalization Service either photostatic or other similar copies of such documents, or information from such documents, as specified by the Immigration and Naturalization Service, for official verification,

(ii) pending such verification, the institution may not delay, deny, reduce, or terminate the individual's eligibility for the grant, loan, or work assistance on the basis of the individual's immigration status, and

(iii) the institution shall not be liable for the consequences of any action, delay, or failure of the Service to conduct such verification.

(h) Limitations of enforcement actions against institutions

The Secretary shall not take any compliance, disallowance, penalty, or other regulatory action against an institution of higher education with respect to any error in the institution's determination to make a student eligible for a grant, loan, or work assistance based on citizenship or immigration status—

(1) if the institution has provided such eligibility based on a verification of satisfactory immigration status by the Immigration and Naturalization Service,

(2) because the institution, under subsection (h)(4)(A)(i)[3] of this section, was required to provide a reasonable opportunity to submit documentation, or

(3) because the institution, under subsection (h)(4)(B)(i)[3] of this section, was required to wait for the response of the Immigration and Naturalization Service to the institution's request for official verification of the immigration status of the student.

(i) Validity of loan guarantees for loan payments made before immigration status verification completed

Notwithstanding subsection (h)[3] of this section, if—

(1) a guaranty is made under this subchapter and part C of subchapter I of chapter 34 of title 42 for a loan made with respect to an individual,

(2) at the time the guaranty is entered into, the provisions of subsection (h)[3] of this section had been complied with,

(3) amounts are paid under the loan subject to such guaranty, and

(4) there is a subsequent determination that, because of an unsatisfactory immigration status, the individual is not eligible for the loan,

[3] See References in Text note below.

the official of the institution making the determination shall notify and instruct the entity making the loan to cease further payments under the loan, but such guaranty shall not be voided or otherwise nullified with respect to such payments made before the date the entity receives the notice.

(j) Assistance under subparts 1, 3, and 6, and division 1 of subpart 2, of part A, and part C

Notwithstanding any other provision of law, a student shall be eligible, if otherwise qualified, for assistance under subparts 1, 3, and 6, and division 1 of subpart 2, of part A of this subchapter, and part C of subchapter I of chapter 34 of title 42, if the student is otherwise qualified and—

(1) is a citizen of the Federated States of Micronesia, the Republic of the Marshall Islands, or the Republic of Palau, and attends an institution of higher education in a State or a public or nonprofit private institution of higher education in the Federated States of Micronesia, the Republic of the Marshall Islands, or the Republic of Palau; or

(2) meets the requirements of subsection (a)(5) of this section and attends a public or nonprofit private institution of higher education in the Federated States of Micronesia, the Republic of the Marshall Islands, or the Republic of Palau.

(k) Special rule for correspondence courses

A student shall not be eligible to receive grant, loan, or work assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 for a correspondence course unless such course is part of a program leading to an associate, bachelor or graduate degree.

(*l*) Courses offered through telecommunications

(1) Relation to correspondence courses

A student enrolled in a course of instruction at an eligible institution of higher education (other than an institution that meets the definition in section 2471(4)(C) of this title) that is offered in whole or in part through telecommunications and leads to a recognized associate, bachelor, or graduate degree conferred by such institution shall not be considered to be enrolled in correspondence courses unless the total amount of telecommunications and correspondence courses at such institution equals or exceeds 50 percent of such courses.

(2) Restriction or reductions of financial aid

A student's eligibility to receive grants, loans, or work assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 shall be reduced if a financial aid officer determines under the discretionary authority provided in section 1087tt of this title that telecommunications instruction results in a substantially reduced cost of attendance to such student.

(3) Special rule

For award years prior to July 23, 1992, the Secretary shall not take any compliance, disallowance, penalty, or other action against a student or an eligible institution when such action arises out of such institution's prior award of student assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 if the institution demonstrates to the satisfaction of the Secretary that its course of instruction would have been in conformance with the requirements of this subsection.

(4) "Telecommunications" defined

For the purposes of this subsection, the term ''telecommunications'' means the use of television, audio, or computer transmission, including open broadcast, closed circuit, cable, microwave, or satellite, audio conferencing, computer conferencing, or video cassettes or discs, except that such term does not include a course that is delivered using video cassette or disc recordings at such institution and that is not delivered in person to other students of that institution.

(m) Students with a first baccalaureate or professional degree

A student shall not be ineligible for assistance under parts B, C, and D of this subchapter and part C of subchapter I of chapter 34 of title 42 because such student has previously received a baccalaureate or professional degree.

(n) Data base matching

To enforce the Selective Service registration provisions of section 1113 of Public Law 97–252, the Secretary shall conduct data base matches with the Selective Service, using common demographic data elements. Appropriate confirmation, through an application output document or through other means, of any person's registration shall fulfill the requirement to file a separate statement of compliance. In the absence of a confirmation from such data matches, an institution may also use data or documents that support either the student's registration, or the absence of a registration requirement for the student, to fulfill the requirement to file a separate statement of compliance. The mechanism for reporting the resolution of nonconfirmed matches shall be prescribed by the Secretary in regulations.

(*o*) Study abroad

Nothing in this chapter shall be construed to limit or otherwise prohibit access to study abroad programs approved by the home institution at which a student is enrolled. An otherwise eligible student who is engaged in a program of study abroad approved for academic credit by the home institution at which the student is enrolled shall be eligible to receive grant, loan, or work assistance under this subchapter and part C of subchapter I of chapter 34 of title 42, without regard to whether such study abroad program is required as part of the student's degree program.

(p) Verification of social security number

The Secretary of Education, in cooperation with the Commissioner of the Social Security Administration, shall verify any social security number provided by a student to an eligible institution under subsection (a)(4) of this section and shall enforce the following conditions:

(1) Except as provided in paragraphs (2) and (3), an institution shall not deny, reduce,

delay, or terminate a student's eligibility for assistance under this part because social security number verification is pending.

(2) If there is a determination by the Secretary that the social security number provided to an eligible institution by a student is incorrect, the institution shall deny or terminate the student's eligibility for any grant, loan, or work assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 until such time as the student provides documented evidence of a social security number that is determined by the institution to be correct.

(3) If there is a determination by the Secretary that the social security number provided to an eligible institution by a student is incorrect, and a correct social security number cannot be provided by such student, and a loan has been guaranteed for such student under part B of this subchapter, the institution shall notify and instruct the lender and guaranty agency making and guaranteeing the loan, respectively, to cease further disbursements of the loan, but such guaranty shall not be voided or otherwise nullified with respect to such disbursements made before the date that the lender and the guaranty agency receives such notice.

(4) Nothing in this subsection shall permit the Secretary to take any compliance, disallowance, penalty, or other regulatory action against—

(A) any institution of higher education with respect to any error in a social security number, unless such error was a result of fraud on the part of the institution; or

(B) any student with respect to any error in a social security number, unless such error was a result of fraud on the part of the student.

(Pub. L. 89–329, title IV, §484, as added Pub. L. 99–498, title IV, §407(a), Oct. 17, 1986, 100 Stat. 1479; amended Pub. L. 99–603, title I, §121(a)(3), Nov. 6, 1986, 100 Stat. 3388; Pub. L. 100–50, §15(7)–(9), June 3, 1987, 101 Stat. 356, 357; Pub. L. 100–369, §§1, 2, 6, July 18, 1988, 102 Stat. 835, 836; Pub. L. 100–525, §2(g), Oct. 24, 1988, 102 Stat. 2611; Pub. L. 101–508, title III, §3005(a), Nov. 5, 1990, 104 Stat. 1388–27; Pub. L. 102–26, §2(b), (c)(2), (d)(2)(A), Apr. 9, 1991, 105 Stat. 123, 124; Pub. L. 102–73, title VIII, §801(a), July 25, 1991, 105 Stat. 359; Pub. L. 102–325, title IV, §484(a), (b)(1), (c)–(h), July 23, 1992, 106 Stat. 615–619; Pub. L. 103–208, §2(h)(13)–(25), Dec. 20, 1993, 107 Stat. 2476, 2477; Pub. L. 103–382, title III, §360A, Oct. 20, 1994, 108 Stat. 3969; Pub. L. 104–208, div. C, title V, §507(b), Sept. 30, 1996, 110 Stat. 3009–673.)

REFERENCES IN TEXT

Section 1078–1 of this title, referred to in subsec. (b)(2), was repealed by Pub. L. 103–66, title IV, §4047(b)–(d), Aug. 10, 1993, 107 Stat. 364, eff. July 1, 1994, except with respect to loans provided under that section as it existed prior to Aug. 10, 1993.

Subsection (h) of this section, referred to in subsecs. (h)(2), (3) and (i), was redesignated subsec. (g) of this section by Pub. L. 103–208, §2(h)(25), Dec. 20, 1993, 107 Stat. 2477.

Section 1113 of Public Law 97–252, referred to in subsec. (n), amended section 462 of Title 50, Appendix, War and National Defense, and enacted provisions set out as a note under section 462 of Title 50, Appendix.

This chapter, referred to in subsec. (*o*), was in the original ''this Act'', meaning Pub. L. 89–329, as amended, known as the Higher Education Act of 1965. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

PRIOR PROVISIONS

A prior section 1091, Pub. L. 89–329, title IV, §484, as added Pub. L. 96–374, title IV, §451(a), Oct. 3, 1980, 94 Stat. 1448; Pub. L. 99–272, title XVI, §16032(a), (b), Apr. 7, 1986, 100 Stat. 354, related to student eligibility for assistance, prior to the general revision of this part by Pub. L. 99–498.

Another prior section 1091, Pub. L. 89–329, title V, §501, Nov. 8, 1965, 79 Stat. 1254; Pub. L. 90–35, §2(c), June 29, 1967, 81 Stat. 82; Pub. L. 92–318, title I, §141(b)(1), June 23, 1972, 86 Stat. 285, set forth statement of purpose and authorization of appropriations for education professions development program, prior to repeal effective Sept. 30, 1976, by Pub. L. 94–482, title I, §151(a)(2), (b), Oct. 12, 1976, 90 Stat. 2151.

AMENDMENTS

1996—Subsec. (g)(4)(B)(i). Pub. L. 104–208 amended cl. (i) generally. Prior to amendment, cl. (i) read as follows: ''the institution shall transmit to the Immigration and Naturalization Service photostatic or other similar copies of such documents for official verification,''.

1994—Subsec. (j). Pub. L. 103–382 amended heading and text of subsec. (j) generally. Prior to amendment, text read as follows: ''Notwithstanding any other provision of law, a student who meets the requirements of paragraph (a)(5) of this section or who is a resident of the freely associated states, and who attends a public or nonprofit institution of higher education located in any of the freely associated states rather than a State, shall be eligible, if otherwise qualified, for assistance under subpart 1, 2, or 4 of part A of this subchapter or part C of subchapter I of chapter 34 of title 42.''

1993—Subsec. (a)(4)(B). Pub. L. 103–208, §2(h)(13), inserted '', except that the provisions of this subparagraph shall not apply to a student from the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau'' after ''number''.

Subsec. (a)(5). Pub. L. 103–208, §2(h)(14), substituted ''able to provide evidence from the Immigration and Naturalization Service that he or she is in the United States for other than a temporary purpose with the intention of becoming a citizen or permanent resident'' for ''in the United States for other than a temporary purpose and able to provide evidence from the Immigration and Naturalization Service of his or her intent to become a permanent resident''.

Subsec. (b)(2)(C). Pub. L. 103–208, §2(h)(15), added subpar. (C).

Subsec. (b)(3). Pub. L. 103–208, §2(h)(16), substituted ''part B or C of this subchapter'' for ''part B of this subchapter'' in closing provisions.

Subsec. (f). Pub. L. 103–208, §2(h)(17), (25), redesignated subsec. (g) as (f) and struck out heading and text of former subsec. (f). Text read as follows: ''Notwithstanding any other provision of law, the Secretary may not require, or prescribe regulations that require, institutions to verify the accuracy of data used to determine the eligibility for any program under this subchapter and part C of subchapter I of chapter 34 of title 42 for more than 30 percent of the applicants in any award year. In carrying out the provisions of this subsection no eligible institution shall be required to verify more than 30 percent of such applicants in any award year. Nothing in this subsection shall preclude the Secretary from verifying all applications for aid through the use of any means available, including through the exchange of information with any other Federal agency.''

Subsec. (g). Pub. L. 103–208, §2(h)(25), redesignated subsec. (h) as (g). Former subsec. (g) redesignated (f).

Pub. L. 103–208, §2(h)(18), which directed insertion of a comma after '', Part C'' wherever appearing, was executed by inserting a comma after '', part C'' wherever appearing, to reflect the probable intent of Congress.

Subsec. (h). Pub. L. 103–208, §2(h)(25), redesignated subsec. (i) as (h). Former subsec. (h) redesignated (g).

Pub. L. 103–208, §2(h)(19), substituted ''constitute'' for ''constitutes'' in introductory provisions of par. (4)(B).

Subsec. (i). Pub. L. 103–208, §2(h)(25), redesignated subsec. (j) as (i). Former subsec. (i) redesignated (h).

Pub. L. 103–208, §2(h)(22), struck out par. (4) which read as follows: ''because of a fair hearing process described in subsection (h)(5)(B) of this section.''

Pub. L. 103–208, §2(h)(21), substituted ''(h)(4)(B)(i)'' for ''(h)(4)(B)(ii)'' and ''student.'' for ''student, or'' in par. (3).

Pub. L. 103–208, §2(h)(20), inserted ''or'' after ''documentation,'' and substituted ''(h)(4)(A)(i)'' for ''(h)(4)(A)(ii)'' in par. (2).

Subsecs. (j) to (m). Pub. L. 103–208, §2(h)(25), redesignated subsecs. (k) to (n) as (j) to (m), respectively. Former subsec. (j) redesignated (i).

Subsec. (n). Pub. L. 103–208, §2(h)(25), redesignated subsec. (*o*) as (n). Former subsec. (n) redesignated (m).

Pub. L. 103–208, §2(h)(23), substituted ''parts B, C,'' for ''part B, C,''.

Subsecs. (*o*), (p). Pub. L. 103–208, §2(h)(25), redesignated subsecs. (p) and (q) as (*o*) and (p), respectively. Former subsec. (*o*) redesignated (n).

Subsec. (q). Pub. L. 103–208, §2(h)(25), redesignated subsec. (q) as (p).

Pub. L. 103–208, §2(h)(24), substituted ''documented evidence of a social security number that is determined by the institution to be correct'' for ''a correct social security number'' in par. (2).

1992—Subsec. (a)(1). Pub. L. 102–325, §484(a)(1), inserted ''(including a program of study abroad approved for credit by the eligible institution at which such student is enrolled)'' after ''or other program''.

Subsec. (a)(4). Pub. L. 102–325, §484(a)(2), added par. (4) and struck out former par. (4) which read as follows: ''file with the institution of higher education which the student intends to attend, or is attending (or in the case of a loan or loan guarantee with the lender), a statement of educational purpose (which need not be notarized but which shall include such student's social security number or, if the student does not have a social security number, such student's student identification number) stating that the money attributable to such grant, loan, or loan guarantee will be used solely for expenses related to attendance or continued attendance at such institution; and''.

Subsec. (b)(4)(B). Pub. L. 102–325, §484(b)(1)(A), substituted ''part B, C, or D of this subchapter or work-study assistance under part C of subchapter I of chapter 34 of title 42'' for ''part B of this subchapter'' in concluding provisions.

Subsec. (b)(5). Pub. L. 102–325, §484(b)(1)(B), added par. (5).

Subsec. (d). Pub. L. 102–325, §484(c), amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: ''In order for a student who does not have a certificate of graduation from a school providing secondary education, or the recognized equivalent of such certificate, to be eligible for any assistance under subparts 1, 2, and 3 of part A and parts B, C, and D of this subchapter and part C of subchapter I of chapter 34 of title 42, the student shall pass an independently administered examination approved by the Secretary.''

Subsec. (f). Pub. L. 102–325, §484(d), inserted at end ''Nothing in this subsection shall preclude the Secretary from verifying all applications for aid through the use of any means available, including through the exchange of information with any other Federal agency.''

Subsec. (g). Pub. L. 102–325, §484(e), designated existing provisions as par. (1), inserted '', part C'' after ''part B'' in two places and ''fraudulently'' before ''borrowed'' in two places, and added par. (2).

Subsec. (h). Pub. L. 102–325, §484(f), amended subsec. (h) generally. Prior to amendment, subsec. (h) contained pars. (1) to (6) relating to requirements for verification of student immigration status.

Subsec. (k). Pub. L. 102–325, §484(h), made technical amendment to directory language of Pub. L. 102–73, §801(a). See 1991 Amendment note below.

Subsecs. (*l*) to (q). Pub. L. 102–325, §484(g), added subsecs. (*l*) to (q).

1991—Subsec. (a)(1). Pub. L. 102–26, §2(c)(2), inserted before semicolon at end '', and not be enrolled in an elementary or secondary school''.

Subsec. (d). Pub. L. 102–26, §2(d)(2)(A), repealed Pub. L. 101–508, §3005(a). See 1990 Amendment note below.

Pub. L. 102–26, §2(b), amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: ''A student who is admitted on the basis of the ability to benefit from the education or training in order to remain eligible for any grant, loan, or work assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 shall—

''(1) receive the general education diploma prior to the student's certification or graduation from the program of study, or by the end of the first year of the course of study, whichever is earlier;

''(2) be counseled prior to admission and be enrolled in and successfully complete the institutionally prescribed program of remedial or developmental education not to exceed one academic year or its equivalent; or

''(3)(A) be administered a nationally recognized, standardized, or industry developed test, subject to criteria developed by the appropriate accrediting association, measuring the applicant's aptitude to complete successfully the program to which the applicant has applied; and

''(B) with respect to applicants who are unable to satisfy the institutions' admissions testing requirements specified in subparagraph (A), be enrolled in and successfully complete an institutionally prescribed program or course of remedial or developmental education not to exceed one academic year or its equivalent.

In order to be eligible for assistance a student cannot be enrolled in either an elementary or a secondary school.''

Subsec. (k). Pub. L. 102–73, as amended by Pub. L. 102–325, §484(h), added subsec. (k).

1990—Subsec. (d). Pub. L. 101–508, which amended subsec. (d) generally to read: ''In order for a student who is admitted on the basis of ability to benefit from the education or training offered to be eligible for any grant, loan, or work assistance under this subchapter and part C of subchapter I of chapter 34 of title 42, the student shall, prior to enrollment, pass an independently administered examination approved by the Secretary.'', was repealed by Pub. L. 102–26, §2(d)(2)(A). See Construction of 1991 Amendment note below.

1988—Subsec. (a)(1). Pub. L. 100–369, §6(1), substituted ''subsections (b)(3) and (b)(4)'' for ''subsection (b)(2)''.

Subsec. (b)(1). Pub. L. 100–369, §1(1), substituted ''section 1078–2 or 1078–3'' for ''section 1078–1, 1078–2, or 1078–3''.

Subsec. (b)(1)(A). Pub. L. 100–369, §1(2), added subpar. (A) and struck out former subpar. (A) which read as follows: ''have received a determination of eligibility or ineligibility for a grant under such subpart 1 for such period of enrollment; or''.

Subsec. (b)(2), (3). Pub. L. 100–369, §2, added par. (2) and redesignated former par. (2) as (3).

Subsec. (b)(4). Pub. L. 100–369, §6(2), added par. (4).

Subsecs. (c) to (e), (h) to (j). Pub. L. 100–525 redesignated subsecs. (c) to (e) enacted by Pub. L. 99–603 as (h) to (j), respectively, and inserted headings, substituted references to subsec. (h) for references to subsec. (c) wherever appearing, and in closing provisions of subsec. (j) substituted ''date'' for ''date of''.

1987—Subsec. (a)(1). Pub. L. 100–50, §15(7)(A), inserted '', except as provided in subsection (b)(2) of this section'' before semicolon at end.

Subsec. (b). Pub. L. 100–50, §15(7)(B)–(D), designated existing provision as par. (1), redesignated former pars.

(1) and (2) as subpars. (A) and (B), respectively, and added par. (2).

Subsec. (d). Pub. L. 100–50, §15(8), added pars. (2) and (3) and last sentence relating to ineligibility for assistance if a student is enrolled in either an elementary or a secondary school, and struck out former par. (2) which read as follows:

''(A) be counseled prior to admissions or be administered a nationally recognized standardized or industry developed test, subject to criteria developed by the appropriate accrediting association, measuring the applicant's aptitude to complete successfully the program to which he has applied; and

''(B) with respect to applicants who are unable to satisfy the institution's admissions testing requirements specified in subparagraph (A), be enrolled in an institutionally prescribed program or course of remedial or developmental education, not to exceed one academic year or its equivalent.''

Subsec. (f). Pub. L. 100–50, §15(9), inserted at end ''In carrying out provisions of this subsection no eligible institution shall be required to verify more than 30 percent of such applications in any award year.''

1986—Subsec. (c). Pub. L. 99–603 added subsec. (c) requiring immigration status verification.

Subsec. (d). Pub. L. 99–603 added subsec. (d) limiting enforcement actions against institutions.

Subsec. (e). Pub. L. 99–603 added subsec. (e) relating to validity of loan guarantees for loan payments made before completion of immigration status verification.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1003 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by section 484(a), (b)(1)(B), and (c) to (h) of Pub. L. 102–325 effective July 23, 1992, except that subsec. (m)(1) of this section, relating to proportion of courses permitted to be correspondence courses, as added by such amendment, effective on and after Oct. 1, 1992, see section 498 of Pub. L. 102–325, set out as a note under section 1088 of this title, and subsec. (n) of this section, relating to eligibility of students with first baccalaureate or professional degree for assistance, as added by such amendment, effective on and after Dec. 1, 1987, see section 484(i) of Pub. L. 102–325, set out below.

Section 484(b)(2) of Pub. L. 102–325 provided that: ''The amendments made by paragraph (1)(A) of this subsection [amending this section] shall be effective on and after December 1, 1987.''

Section 484(i) of Pub. L. 102–325, as added by Pub. L. 103–208, §2(k)(8), Dec. 20, 1993, 107 Stat. 2486, provided that: ''The amendments made by subsection (g) [section 484(g) of Pub. L. 102–325] with respect to the addition of subsection (n) [adding subsec. (n) of this section] shall be effective on and after December 1, 1987.''

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102–26 applicable to any grant, loan, or work assistance to cover the cost of instruction for periods of enrollment beginning on or after July 1, 1991, see section 2(d)(1) of Pub. L. 102–26, set out as a note under section 1085 of this title.

EFFECTIVE DATE OF 1988 AMENDMENTS

Amendment by Pub. L. 100–525 effective as if included in enactment of Immigration Reform and Control Act of 1986, Pub. L. 99–603, see section 2(s) of Pub. L. 100–525, set out as a note under section 1101 of Title 8, Aliens and Nationality.

Section 13 of Pub. L. 100–369 provided that:

''(a) GENERAL RULE.—Except as otherwise provided, the amendments made by this Act to title IV of the Higher Education Act of 1965 [amending this section and section 1078–1 of this title] shall be effective for any loan for which the eligibility of the borrower is certified by the institution 30 days after the date of enactment of this Act [July 18, 1988].

''(b) SPECIAL RULES.—(1) The amendments made by section 5 [amending this section and sections 1077 and 1078 of this title] shall be effective with respect to loans made on or after October 1, 1988.

''(2) The amendments made by sections 6, 7, 8, 9, 10, 11, and 12 [amending this section, sections 1058, 1061, 1062, 1070a–1, 1070a–3, 1070a–4, 1070a–6, 1071, 1077, 1078, 1087–2, 1087dd, 1087ee, 1087nn, 1087ss, 1087vv, 1132d–1, 1132g–1, and 1134m of this title, and section 1905 of Title 48, Territories and Insular Possessions] shall take effect on the date of enactment of this Act [July 18, 1988].''

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–603 effective Oct. 1, 1988, with certain exceptions and qualifications, see section 121(c)(3), (4) of Pub. L. 99–603, set out as a note under section 1320b–7 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE

Section effective Oct. 17, 1986, except as otherwise provided, see section 2 of Pub. L. 99–498, set out as a note under section 1001 of this title.

Section 407(b) of Pub. L. 99–498 provided that:

''(1) Sections 483(e) and 484(d) of the Act [20 U.S.C. 1090(e), 1091(d)] as amended by this section shall apply to student assistance awarded for periods of enrollment beginning on or after July 1, 1987.

''(2) The changes made in section 484(a)(1) of the Act [20 U.S.C. 1091(a)(1)] shall apply to student assistance awarded for periods of enrollment beginning on or after July 1, 1987.

''(3) Section 484(c) of the Act [20 U.S.C. 1091(c)] as amended by this section shall apply only to student assistance awarded for periods of enrollment beginning on or after July 1, 1987, to individuals who were not awarded such assistance for any preceding period of enrollment.

''(4) Sections 484(f), 485(b), and 487(a)(10) of the Act [20 U.S.C. 1091(f), 1092(b), 1094(a)(10)] as amended by this section shall apply only to periods of enrollment beginning on or after July 1, 1987.''

CONSTRUCTION OF 1991 AMENDMENT

For repeal of section 3005 of Pub. L. 101–508 and application of subsec. (d) of this section as if such section 3005 had not been enacted, see section 2(d)(2)(A) of Pub. L. 102–26, set out as a note under section 1088 of this title.

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

SATISFACTORY PROGRESS

Section 1301 of Pub. L. 99–498, as amended by Pub. L. 100–50, §23(1), June 3, 1987, 101 Stat. 362, provided that: ''The Secretary, through the Office of Educational Research and Improvement, shall conduct a survey on the impact, if any, on grades of students of the amendments made by this Act to section 484(c) of the Act [20 U.S.C. 1091(c)]. The study required by this subsection shall be conducted over the 5-year period ending September 30, 1991. The Secretary, after the end of each year of the study, shall submit to the Congress a report

of the survey required by this subsection, together with such recommendations as the Secretary deems appropriate.''

DENIAL OF STUDENT ASSISTANCE TO CERTAIN NONCITIZENS

Section 1361 of Pub. L. 99–498 provided that:

''(a) ESTABLISHMENT OF PANEL.—(1) There is established in the Department of Education a panel to be known as the 'Alien Youth Education Opportunity Panel' (hereafter in this section referred to as the 'Panel').

''(2) The Panel shall be composed of 7 members, 3 of whom shall be appointed by the Secretary, 2 of whom shall be appointed by the Speaker of the House of Representatives, and 2 of whom shall be appointed by the Majority Leader of the Senate.

''(b) DUTIES OF PANEL.—The Panel shall study and investigate the extent to which the requirements of section 484(a)(5) of the Act [20 U.S.C. 1091(a)(5)] result in the denial of student assistance to long-term residents of the United States who have graduated from United States high schools and the extent to which that denial deprives those individuals of an equal educational opportunity.

''(c) REPORT AND RECOMMENDATIONS.—The Panel shall submit a report of its findings and recommendations to the Secretary, the President, and the Congress not later than 2 years after the date of enactment of this section [Oct. 17, 1986].

''(d) ADMINISTRATIVE AND CLERICAL SUPPORT.—The Secretary shall provide the Panel with such administrative and clerical support as it may require to carry out its activities under this section.

''(e) COMPENSATION AND EXPENSES.—(1) Members of the Panel who are officers or full-time employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States; but they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

''(2) Members of the Panel who are not officers or full-time employees of the United States may each receive reimbursement for travel expenses incident to attending Panel meetings, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

''(f) ACCESS TO INFORMATION.—The Panel is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality information, suggestions, estimates, and statistics for the purpose of this section and each such department, bureau, agency, board, commission, office, independent establishment, or instrumentality is authorized and directed, to the extent permitted by law, to furnish such information, suggestions, estimates, and statistics directly to the Panel.''

FINANCIAL AID TO STUDENTS NOT DEEMED INCOME OR RESOURCES FOR PURPOSES OF CERTAIN SOCIAL SECURITY ACT PROGRAMS

Pub. L. 90–575, title V, § 507, Oct. 16, 1968, 82 Stat. 1063, as amended by Pub. L. 96–88, title III, § 301(a)(1), Oct. 17, 1979, 93 Stat. 677, provided that: ''For the purpose of any program assisted under title I, IV, X, XIV, XVI, or XIX of the Social Security Act [subchapters I, IV, X, XIV, XVI, or XIX of chapter 7 of Title 42, The Public Health and Welfare], no grant or loan to any undergraduate student for educational purposes made or insured under any program administered by the Secretary of Education shall be considered to be income or resources.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1070, 1070a, 1070a–23, 1070a–33, 1070b–1, 1070b–2, 1077, 1078, 1078–6, 1078–8, 1087d, 1087dd, 1088, 1092, 1094, 1096, 1106d, 1135f, 1141 of this title; title 25 section 3353; title 42 sections 2753, 3796d–4, 12591, 12602.

§ 1091a. Statute of limitations

(a) In general

(1) It is the purpose of this subsection to ensure that obligations to repay loans and grant overpayments are enforced without regard to any Federal or State statutory, regulatory, or administrative limitation on the period within which debts may be enforced.

(2) Notwithstanding any other provision of statute, regulation, or administrative limitation, no limitation shall terminate the period within which suit may be filed, a judgment may be enforced, or an offset, garnishment, or other action initiated or taken by—

(A) an institution that receives funds under this subchapter and part C of subchapter I of chapter 34 of title 42 that is seeking to collect a refund due from a student on a grant made, or work assistance awarded, under this subchapter and part C of subchapter I of chapter 34 of title 42;

(B) a guaranty agency that has an agreement with the Secretary under section 1078(c) of this title that is seeking the repayment of the amount due from a borrower on a loan made under part B of this subchapter after such guaranty agency reimburses the previous holder of the loan for its loss on account of the default of the borrower;

(C) an institution that has an agreement with the Secretary pursuant to section 1087c or 1087cc(a) of this title that is seeking the repayment of the amount due from a borrower on a loan made under part C or D of this subchapter after the default of the borrower on such loan; or

(D) the Secretary, the Attorney General, or the administrative head of another Federal agency, as the case may be, for payment of a refund due from a student on a grant made under this subchapter and part C of subchapter I of chapter 34 of title 42, or for the repayment of the amount due from a borrower on a loan made under this subchapter and part C of subchapter I of chapter 34 of title 42 that has been assigned to the Secretary under this subchapter and part C of subchapter I of chapter 34 of title 42.

(b) Assessment of costs and other charges

Notwithstanding any provision of State law to the contrary—

(1) a borrower who has defaulted on a loan made under this subchapter and part C of subchapter I of chapter 34 of title 42 shall be required to pay, in addition to other charges specified in this subchapter and part C of subchapter I of chapter 34 of title 42 reasonable collection costs; and

(2) in collecting any obligation arising from a loan made under part B of this subchapter, a guaranty agency or the Secretary shall not be subject to a defense raised by any borrower based on a claim of infancy.

(Pub. L. 89–329, title IV, § 484A, as added Pub. L. 99–498, title IV, § 407(a), Oct. 17, 1986, 100 Stat. 1482; amended Pub. L. 102–26, § 3(a), Apr. 9, 1991, 105 Stat. 124.)

PRIOR PROVISIONS

A prior section 1091a, Pub. L. 89–329, title IV, § 484A, as added Pub. L. 99–272, title XVI, § 16033, Apr. 7, 1986, 100 Stat. 355, related to statute of limitations, collection costs, and defense of infancy, prior to the general revision of this part by Pub. L. 99–498.

Prior sections 1091a to 1091f were repealed, effective Sept. 30, 1976, by Pub. L. 94–482, title I, § 151(a)(2), (b), Oct. 12, 1976, 90 Stat. 2151.

Section 1091a, Pub. L. 89–329, title V, § 502, as added Pub. L. 90–35, § 2(c), June 29, 1967, 81 Stat. 82; amended Pub. L. 91–230, title IV, § 401(h)(4), title VIII, § 802, Apr. 13, 1970, 84 Stat. 174, 190; Pub. L. 92–318, title I, § 141(c)(1)(A), June 23, 1972, 86 Stat. 285, established the National Advisory Council on Education Professions Development and set forth functions, composition, etc., of the Council.

Section 1091b, Pub. L. 89–329, title V, § 503, as added Pub. L. 90–35, § 2(c), June 29, 1967, 81 Stat. 83; amended Pub. L. 92–318, title IV, § 451(a), June 23, 1972, 86 Stat. 344, authorized the Commissioner to appraise and annually report on existing and future education personnel needs.

Section 1091c, Pub. L. 89–329, title V, § 504, as added Pub. L. 90–35, § 2(c), June 29, 1967, 81 Stat. 83; amended Pub. L. 90–575, title II, § 231(a), Oct. 16, 1968, 82 Stat. 1039; Pub. L. 92–318, title I, § 141(a)(1)(B), (c)(1)(B), June 23, 1972, 86 Stat. 284, 285, authorized the Commissioner to make grants or contracts with State or local educational agencies for attracting qualified persons to the field of education.

Section 1091d, Pub. L. 89–329, title V, § 505, as added Pub. L. 90–35, § 2(c), June 29, 1967, 81 Stat. 84, required the Commissioner to consult with the National Science Foundation and the National Foundation on the Arts and the Humanities in development and review of programs.

Section 1091e, Pub. L. 89–329, title V, § 506, as added Pub. L. 90–35, § 2(c), June 29, 1967, 81 Stat. 84, authorized transfer of funds for programs for education professions development.

Section 1091f, Pub. L. 89–329, title V, § 507, as added Pub. L. 90–35, § 2(c), June 29, 1967, 81 Stat. 84, authorized employment of experts and consultants and set forth provisions for compensation and travel expenses.

AMENDMENTS

1991—Subsec. (a). Pub. L. 102–26 amended subsec. (a) generally, substituting provisions eliminating statute of limitations for student loan collections for provisions establishing six year limitations period for collection of such loans.

EFFECTIVE DATE OF 1991 AMENDMENT

Section 3(c) of Pub. L. 102–26, as amended by Pub. L. 102–325, title XV, § 1551, July 23, 1992, 105 Stat. 838, provided that: ''The amendments made by this section [amending this section] shall be effective as if enacted by the Consolidated Omnibus Budget Reconciliation Act of 1985 (Public Law 99–272), and shall apply to any actions pending on or after the date of enactment of the Higher Education Technical Amendments of 1991 [Apr. 9, 1991].''

§ 1091b. Institutional refunds

(a) Refund policy required

Each institution of higher education participating in a program under this subchapter and part C of subchapter I of chapter 34 of title 42 shall have in effect a fair and equitable refund policy under which the institution refunds unearned tuition, fees, room and board, and other charges to a student who received grant or loan assistance under this subchapter and part C of subchapter I of chapter 34 of title 42, or whose parent received a loan made under section 1078–2 of this title on behalf of the student, if the student—

(1) does not register for the period of attendance for which the assistance was intended; or

(2) withdraws or otherwise fails to complete the period of enrollment for which the assistance was provided.

(b) Determinations

The institution's refund policy shall be considered to be fair and equitable for purposes of this section if that policy provides for a refund in an amount of at least the largest of the amounts provided under—

(1) the requirements of applicable State law;

(2) the specific refund requirements established by the institution's nationally recognized accrediting agency and approved by the Secretary; or

(3) the pro rata refund calculation described in subsection (c) of this section, except that this paragraph will not apply to the institution's refund policy for any student whose date of withdrawal from the institution is after the 60 percent point (in time) in the period of enrollment for which the student has been charged.

(c) Definitions

(1) As used in this section, the term ''pro rata refund'' means a refund by the institution to a student attending such institution for the first time of not less than that portion of the tuition, fees, room and board, and other charges assessed the student by the institution equal to the portion of the period of enrollment for which the student has been charged that remains on the last day of attendance by the student, rounded downward to the nearest 10 percent of that period, less any unpaid charges owed by the student for the period of enrollment for which the student has been charged, and less a reasonable administrative fee not to exceed the lesser of 5 percent of the tuition, fees, room and board, and other charges assessed the student, or $100.

(2) For purposes of paragraph (1), ''the portion of the period of enrollment for which the student has been charged that remains'', shall be determined—

(A) in the case of a program that is measured in credit hours, by dividing the total number of weeks comprising the period of enrollment for which the student has been charged into the number of weeks remaining in that period as of the last recorded day of attendance by the student;

(B) in the case of a program that is measured in clock hours, by dividing the total number of clock hours comprising the period of enrollment for which the student has been charged into the number of clock hours remaining to be completed by the student in that period as of the last recorded day of attendance by the student; and

(C) in the case of a correspondence program, by dividing the total number of lessons comprising the period of enrollment for which the student has been charged into the total number of such lessons not submitted by the student.

(Pub. L. 89–329, title IV, § 484B, as added Pub. L. 102–325, title IV, § 485(a), July 23, 1992, 106 Stat.

619; amended Pub. L. 103–208, § 2(h)(26), (27), Dec. 20, 1993, 107 Stat. 2477.)

AMENDMENTS

1993—Subsec. (a). Pub. L. 103–208, § 2(h)(26), substituted ''grant or loan assistance'' for ''grant, loan, or work assistance'' in introductory provisions.

Subsec. (b)(3). Pub. L. 103–208, § 2(h)(27), substituted ''subsection (c) of this section'' for ''subsection (d) of this section''.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1003 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1092, 1094 of this title; title 42 section 12604.

§ 1092. Institutional and financial assistance information for students

(a) Information dissemination activities

(1) Each eligible institution participating in any program under this subchapter and part C of subchapter I of chapter 34 of title 42 shall carry out information dissemination activities for prospective and enrolled students (including those attending or planning to attend less than full time) regarding the institution and all financial assistance under this subchapter and part C of subchapter I of chapter 34 of title 42. The information required by this section shall be produced and be made readily available, through appropriate publications and mailings, to all current students, and to any prospective student upon request. The information required by this section shall accurately describe—

(A) the student financial assistance programs available to students who enroll at such institution;

(B) the methods by which such assistance is distributed among student recipients who enroll at such institution;

(C) any means, including forms, by which application for student financial assistance is made and requirements for accurately preparing such application;

(D) the rights and responsibilities of students receiving financial assistance under this subchapter and part C of subchapter I of chapter 34 of title 42;

(E) the cost of attending the institution, including (i) tuition and fees, (ii) books and supplies, (iii) estimates of typical student room and board costs or typical commuting costs, and (iv) any additional cost of the program in which the student is enrolled or expresses a specific interest;

(F) a statement of the refund policy of the institution, as determined under section 1091b of this title, for the return of unearned tuition and fees or other refundable portion of cost, as described in subparagraph (E) of this paragraph, which refunds shall be credited in the following order:

(i) to outstanding balances on loans under part B of this subchapter for the period of enrollment for which a refund is required,

(ii) to outstanding balances on loans under part C of this subchapter for the period of enrollment for which a refund is required,

(iii) to outstanding balances on loans under part D of this subchapter for the period of enrollment for which a refund is required,

(iv) to awards under subpart 1 of part A of this subchapter,

(v) to awards under subpart 3 of part A of this subchapter,

(vi) to other student assistance, and

(vii) to the student;

(G) the academic program of the institution, including (i) the current degree programs and other educational and training programs, (ii) the instructional, laboratory, and other physical plant facilities which relate to the academic program, and (iii) the faculty and other instructional personnel;

(H) each person designated under subsection (c) of this section, and the methods by which and locations in which any person so designated may be contacted by students and prospective students who are seeking information required by this subsection;

(I) special facilities and services available to handicapped students;

(J) the names of associations, agencies, or governmental bodies which accredit, approve, or license the institution and its programs, and the procedures under which any current or prospective student may obtain or review upon request a copy of the documents describing the institution's accreditation, approval, or licensing;

(K) the standards which the student must maintain in order to be considered to be making satisfactory progress, pursuant to section 1091(a)(2) of this title;

(L) the completion or graduation rate of certificate- or degree-seeking, full-time, undergraduate students entering such institutions;

(M) the terms and conditions under which students receiving guaranteed student loans under part B of this subchapter or direct student loans under part D of this subchapter, or both, may—

(i) obtain deferral of the repayment of the principal and interest for service under the Peace Corps Act (as established by the Peace Corps Act (22 U.S.C. 2501 et seq.)) or under the Domestic Volunteer Service Act of 1973 [42 U.S.C. 4950 et seq.], or for comparable full-time service as a volunteer for a tax-exempt organization of demonstrated effectiveness in the field of community service, and

(ii) obtain partial cancellation of the student loan for service under the Peace Corps Act (as established by the Peace Corps Act (22 U.S.C. 2501 et seq.)) under[1] the Domestic Volunteer Service Act of 1973 [42 U.S.C. 4950 et seq.] or, for comparable full-time service as a volunteer for a tax-exempt organization of demonstrated effectiveness in the field of community service; and

(N) that enrollment in a program of study abroad approved for credit by the home institution may be considered enrollment in the

[1] So in original. Probably should be ''or under''.

home institution for purposes of applying for Federal student financial assistance.

(2) For the purpose of this section, the term ''prospective student'' means any individual who has contacted an eligible institution requesting information concerning admission to that institution.

(3) In calculating the completion or graduation rate under subparagraph (L) of paragraph (1) of this subsection or under subsection (e) of this section, a student shall be counted as a completion or graduation if, within 150 percent of the normal time for completion of or graduation from the program, the student has completed or graduated from the program, or enrolled in any program of an eligible institution for which the prior program provides substantial preparation. The information required to be disclosed under such subparagraph—

(A) shall, for any academic year beginning more than 270 days after the Secretary first prescribes final regulations pursuant to such subparagraph (L), be made available to current and prospective students prior to enrolling or entering into any financial obligation; and

(B) shall cover the one-year period ending on August 31 of the preceding year.

(4) For purposes of this section, institutions may exclude from the information disclosed in accordance with subparagraph (L) of paragraph (1) the completion or graduation rates of students who leave school to serve in the armed services, on official church missions, or with a recognized foreign aid service of the Federal Government.

(5) The Secretary shall permit any institution of higher education that is a member of an athletic association or athletic conference that has voluntarily published completion or graduation rate data or has agreed to publish data that, in the opinion of the Secretary, is substantially comparable to the information required under this subsection, to use such data to satisfy the requirements of this subsection.

(b) Exit counseling for borrowers

(1)(A) Each eligible institution shall, through financial aid officers or otherwise, make available counseling to borrowers (individually or in groups) of loans which are made, insured, or guaranteed under part B (other than loans made pursuant to section 1078–2 of this title) of this subchapter or made under part C or D of this subchapter prior to the completion of the course of study for which the borrower enrolled at the institution or at the time of departure from such institution. The counseling required by this subsection shall include—

(i) the average anticipated monthly repayments, a review of the repayment options available, and such debt and management strategies as the institution determines are designed to facilitate the repayment of such indebtedness; and

(ii) the terms and conditions under which the student may obtain partial cancellation or defer repayment of the principal and interest pursuant to sections 1078(b), 1087dd(c)(2), and 1087ee of this title.

(B) In the case of borrower who leaves an institution without the prior knowledge of the institution, the institution shall attempt to provide the information described in subparagraph (A) to the student in writing.

(2)(A) Each eligible institution shall require that the borrower of a loan made under part B, C, or D of this subchapter submit to the institution, during the exit interview required by this subsection—

(i) the borrower's expected permanent address after leaving the institution (regardless of the reason for leaving);

(ii) the name and address of the borrower's expected employer after leaving the institution;

(iii) the address of the borrower's next of kin; and

(iv) any corrections in the institution's records relating the borrower's name, address, social security number, references, and driver's license number.

(B) The institution shall, within 60 days after the interview, forward any corrected or completed information received from the borrower to the guaranty agency indicated on the borrower's student aid records.

(c) Financial assistance information personnel

Each eligible institution shall designate an employee or group of employees who shall be available on a full-time basis to assist students or potential students in obtaining information as specified in subsection (a) of this section. The Secretary may, by regulation, waive the requirement that an employee or employees be available on a full-time basis for carrying out responsibilities required under this section whenever an institution in which the total enrollment, or the portion of the enrollment participating in programs under this subchapter and part C of subchapter I of chapter 34 of title 42 at that institution, is too small to necessitate such employee or employees being available on a full-time basis. No such waiver may include permission to exempt any such institution from designating a specific individual or a group of individuals to carry out the provisions of this section.

(d) Departmental publication of descriptions of assistance programs

The Secretary shall make available to eligible institutions, eligible lenders, and secondary schools descriptions of Federal student assistance programs including the rights and responsibilities of student and institutional participants, in order to (1) assist students in gaining information through institutional sources, and (2) assist institutions in carrying out the provisions of this section, so that individual and institutional participants will be fully aware of their rights and responsibilities under such programs. In particular, such information shall include information to enable students and prospective students to assess the debt burden and monthly and total repayment obligations that will be incurred as a result of receiving loans of varying amounts under this subchapter and part C of subchapter I of chapter 34 of title 42. In addition, such information shall include informa-

tion to enable borrowers to assess the practical consequences of loan consolidation, including differences in deferment eligibility, interest rates, monthly payments, and finance charges, and samples of loan consolidation profiles to illustrate such consequences. The Secretary shall provide information concerning the specific terms and conditions under which students may obtain partial or total cancellation or defer repayment of loans for service, shall indicate (in terms of the Federal minimum wage) the maximum level of compensation and allowances that a student borrower may receive from a tax-exempt organization to qualify for a deferment, and shall explicitly state that students may qualify for such partial cancellations or deferments when they serve as a paid employee of a tax-exempt organization. Such information shall be provided by eligible institutions and eligible lenders at any time that information regarding loan availability is provided to any student.

(e) Disclosures required with respect to athletically related student aid

(1) Each institution of higher education which participates in any program under this subchapter and part C of subchapter I of chapter 34 of title 42 and is attended by students receiving athletically related student aid shall annually submit a report to the Secretary which contains—

(A) the number of students at the institution of higher education who received athletically related student aid broken down by race and sex in the following sports: basketball, football, baseball, cross country/track, and all other sports combined;

(B) the number of students at the institution of higher education, broken down by race and sex;

(C) the completion or graduation rate for students at the institution of higher education who received athletically related student aid broken down by race and sex in the following sports: basketball, football, baseball, cross country/track and all other sports combined;

(D) the completion or graduation rate for students at the institution of higher education, broken down by race and sex;

(E) the average completion or graduation rate for the 4 most recent completing or graduating classes of students at the institution of higher education who received athletically related student aid broken down by race and sex in the following categories: basketball, football, baseball, cross country/track, and all other sports combined; and

(F) the average completion or graduation rate for the 4 most recent completing or graduating classes of students at the institution of higher education broken down by race and sex.

(2) When an institution described in paragraph (1) of this subsection offers a potential student athlete athletically related student aid, such institution shall provide to the student and his parents, his guidance counselor, and coach the information contained in the report submitted by such institution pursuant to paragraph (1).

(3) For purposes of this subsection, institutions may exclude from the reporting requirements under paragraphs (1) and (2) the completion or graduation rates of students and student athletes who leave school to serve in the armed services, on official church missions, or with a recognized foreign aid service of the Federal Government.

(4) Each institution of higher education described in paragraph (1) may provide supplemental information to students and the Secretary showing the completion or graduation rate when such completion or graduation rate includes students transferring into and out of such institution.

(5) The Secretary, using the reports submitted under this subsection, shall compile and publish a report containing the information required under paragraph (1) broken down by—

(A) individual institutions of higher education; and

(B) athletic conferences recognized by the National Collegiate Athletic Association and the National Association of Intercollegiate Athletics.

(6) The Secretary shall waive the requirements of this subsection for any institution of higher education that is a member of an athletic association or athletic conference that has voluntarily published completion or graduation rate data or has agreed to publish data that, in the opinion of the Secretary, is substantially comparable to the information required under this subsection.

(7) The Secretary, in conjunction with the National Junior College Athletic Association, shall develop and obtain data on completion or graduation rates from two-year colleges that award athletically related student aid. Such data shall, to the extent practicable, be consistent with the reporting requirements set forth in this section.

(8) For purposes of this subsection, the term ''athletically related student aid'' means any scholarship, grant, or other form of financial assistance the terms of which require the recipient to participate in a program of intercollegiate athletics at an institution of higher education in order to be eligible to receive such assistance.

(9) This subsection shall not be effective until the first July 1 that follows, by more than 270 days, the date on which the Secretary first prescribes final regulations pursuant to this subsection. The reports required by this subsection shall be due on that July 1 and each succeeding July 1 and shall cover the 1-year period ending August 31 of the preceding year.

(f) Disclosure of campus security policy and campus crime statistics

(1) Each eligible institution participating in any program under this subchapter and part C of subchapter I of chapter 34 of title 42 shall on August 1, 1991, begin to collect the following information with respect to campus crime statistics and campus security policies of that institution, and beginning September 1, 1992, and each year thereafter, prepare, publish, and distribute, through appropriate publications or mailings, to all current students and employees, and to any applicant for enrollment or employment upon request, an annual security report containing at least the following information with respect to the campus security policies and campus crime statistics of that institution:

(A) A statement of current campus policies regarding procedures and facilities for students and others to report criminal actions or other emergencies occurring on campus and policies concerning the institution's response to such reports.

(B) A statement of current policies concerning security and access to campus facilities, including campus residences, and security considerations used in the maintenance of campus facilities.

(C) A statement of current policies concerning campus law enforcement, including—

(i) the enforcement authority of security personnel, including their working relationship with State and local police agencies; and

(ii) policies which encourage accurate and prompt reporting of all crimes to the campus police and the appropriate police agencies.

(D) A description of the type and frequency of programs designed to inform students and employees about campus security procedures and practices and to encourage students and employees to be responsible for their own security and the security of others.

(E) A description of programs designed to inform students and employees about the prevention of crimes.

(F) Statistics concerning the occurrence on campus, during the most recent calendar year, and during the 2 preceding calendar years for which data are available, of the following criminal offenses reported to campus security authorities or local police agencies—

(i) murder;
(ii) sex offenses, forcible or nonforcible;
(iii) robbery;
(iv) aggravated assault;
(v) burglary; and
(vi) motor vehicle theft.

(G) A statement of policy concerning the monitoring and recording through local police agencies of criminal activity at off-campus student organizations which are recognized by the institution and that are engaged in by students attending the institution, including those student organizations with off-campus housing facilities.

(H) Statistics concerning the number of arrests for the following crimes occurring on campus:

(i) liquor law violations;
(ii) drug abuse violations; and
(iii) weapons possessions.

(I) A statement of policy regarding the possession, use, and sale of alcoholic beverages and enforcement of State underage drinking laws and a statement of policy regarding the possession, use, and sale of illegal drugs and enforcement of Federal and State drug laws and a description of any drug or alcohol abuse education programs as required under section 1145g of this title.

(2) Nothing in this subsection shall be construed to authorize the Secretary to require particular policies, procedures, or practices by institutions of higher education with respect to campus crimes or campus security.

(3) Each institution participating in any program under this subchapter and part C of subchapter I of chapter 34 of title 42 shall make timely reports to the campus community on crimes considered to be a threat to other students and employees described in paragraph (1)(F) that are reported to campus security or local law police agencies. Such reports shall be provided to students and employees in a manner that is timely and that will aid in the prevention of similar occurrences.

(4) Upon the request of the Secretary, each institution participating in any program under this subchapter and part C of subchapter I of chapter 34 of title 42 shall submit to the Secretary a copy of the statistics required to be made available under paragraphs (1)(F) and (1)(H). The Secretary shall—

(A) review such statistics and report to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate on campus crime statistics by September 1, 1995; and

(B) in coordination with representatives of institutions of higher education, identify exemplary campus security policies, procedures, and practices and disseminate information concerning those policies, procedures, and practices that have proven effective in the reduction of campus crime.

(5)(A) For purposes of this subsection, the term ''campus'' includes—

(i) any building or property owned or controlled by the institution of higher education within the same reasonably contiguous geographic area and used by the institution in direct support of, or related to its educational purposes; or

(ii) any building or property owned or controlled by student organizations recognized by the institution.

(B) In cases where branch campuses of an institution of higher education, schools within an institution of higher education, or administrative divisions within an institution are not within a reasonably contiguous geographic area, such entities shall be considered separate campuses for purposes of the reporting requirements of this section.

(6) The statistics described in paragraphs (1)(F) and (1)(H) shall be compiled in accordance with the definitions used in the uniform crime reporting system of the Department of Justice, Federal Bureau of Investigation, and the modifications in such definitions as implemented pursuant to the Hate Crime Statistics Act.

(7)(A) Each institution of higher education participating in any program under this subchapter and part C of subchapter I of chapter 34 of title 42 shall develop and distribute as part of the report described in paragraph (1) a statement of policy regarding—

(i) such institution's campus sexual assault programs, which shall be aimed at prevention of sex offenses; and

(ii) the procedures followed once a sex offense has occurred.

(B) The policy described in subparagraph (A) shall address the following areas:

(i) Education programs to promote the awareness of rape, acquaintance rape, and other sex offenses.

(ii) Possible sanctions to be imposed following the final determination of an on-campus disciplinary procedure regarding rape, acquaintance rape, or other sex offenses, forcible or nonforcible.

(iii) Procedures students should follow if a sex offense occurs, including who should be contacted, the importance of preserving evidence as may be necessary to the proof of criminal sexual assault, and to whom the alleged offense should be reported.

(iv) Procedures for on-campus disciplinary action in cases of alleged sexual assault, which shall include a clear statement that—

(I) the accuser and the accused are entitled to the same opportunities to have others present during a campus disciplinary proceeding; and

(II) both the accuser and the accused shall be informed of the outcome of any campus disciplinary proceeding brought alleging a sexual assault.

(v) Informing students of their options to notify proper law enforcement authorities, including on-campus and local police, and the option to be assisted by campus authorities in notifying such authorities, if the student so chooses.

(vi) Notification of students of existing counseling, mental health or student services for victims of sexual assault, both on campus and in the community.

(vii) Notification of students of options for, and available assistance in, changing academic and living situations after an alleged sexual assault incident, if so requested by the victim and if such changes are reasonably available.

(C) Nothing in this paragraph shall be construed to confer a private right of action upon any person to enforce the provisions of this paragraph.

(g) Data required

(1) In general

Each coeducational institution of higher education that participates in any program under this subchapter and part C of subchapter I of chapter 34 of title 42, and has an intercollegiate athletic program, shall annually, for the immediately preceding academic year, prepare a report that contains the following information regarding intercollegiate athletics:

(A) The number of male and female full-time undergraduates that attended the institution.

(B) A listing of the varsity teams that competed in intercollegiate athletic competition and for each such team the following data:

(i) The total number of participants, by team, as of the day of the first scheduled contest for the team.

(ii) Total operating expenses attributable to such teams, except that an institution may also report such expenses on a per capita basis for each team and expenditures attributable to closely related teams such as track and field or swimming and diving, may be reported together, although such combinations shall be reported separately for men's and women's teams.

(iii) Whether the head coach is male or female and whether the head coach is assigned to that team on a full-time or part-time basis. Graduate assistants and volunteers who serve as head coaches shall be considered to be head coaches for the purposes of this clause.

(iv) The number of assistant coaches who are male and the number of assistant coaches who are female for each team and whether a particular coach is assigned to that team on a full-time or part-time basis. Graduate assistants and volunteers who serve as assistant coaches shall be considered to be assistant coaches for the purposes of this clause.

(C) The total amount of money spent on athletically related student aid, including the value of waivers of educational expenses, separately for men's and women's teams overall.

(D) The ratio of athletically related student aid awarded male athletes to athletically related student aid awarded female athletes.

(E) The total amount of expenditures on recruiting, separately for men's and women's teams overall.

(F) The total annual revenues generated across all men's teams and across all women's teams, except that an institution may also report such revenues by individual team.

(G) The average annual institutional salary of the head coaches of men's teams, across all offered sports, and the average annual institutional salary of the head coaches of women's teams, across all offered sports.

(H) The average annual institutional salary of the assistant coaches of men's teams, across all offered sports, and the average annual institutional salary of the assistant coaches of women's teams, across all offered sports.

(2) Special rule

For the purposes of subparagraph (G),[2] if a coach has responsibilities for more than one team and the institution does not allocate such coach's salary by team, the institution should divide the salary by the number of teams for which the coach has responsibility and allocate the salary among the teams on a basis consistent with the coach's responsibilities for the different teams.

(3) Disclosure of information to students and public

An institution of higher education described in paragraph (1) shall make available to students and potential students, upon request, and to the public, the information contained in the report described in paragraph (1), except

[2] So in original. Probably should be ''paragraph (1)(G),''.

that all students shall be informed of their right to request such information.

(4) "Operating expenses" defined

For the purposes of this subsection, the term ''operating expenses'' means expenditures on lodging and meals, transportation, officials, uniforms and equipment.

(5) Regulations and effective date

The Secretary shall issue final regulations to implement the requirements of this subsection not later than 180 days following October 20, 1994. Each institution described in paragraph (1) shall make available its first report pursuant to this section not later than October 1, 1996.

(Pub. L. 89–329, title IV, § 485, as added Pub. L. 99–498, title IV, § 407(a), Oct. 17, 1986, 100 Stat. 1482; amended Pub. L. 100–50, § 15(10), (11), June 3, 1987, 101 Stat. 357; Pub. L. 101–542, title I, §§ 103(a), (b), 104(a), title II, § 204(a), Nov. 8, 1990, 104 Stat. 2381–2385; Pub. L. 101–610, title II, §§ 201–203, Nov. 16, 1990, 104 Stat. 3171, 3172; Pub. L. 102–26, § 10(a)–(d), Apr. 9, 1991, 105 Stat. 128; Pub. L. 102–164, title VI, § 603, Nov. 15, 1991, 105 Stat. 1066; Pub. L. 102–325, title IV, § 486(a)–(c)(2), July 23, 1992, 106 Stat. 620, 621; Pub. L. 103–208, § 2(h)(28)–(37), (k)(9), Dec. 20, 1993, 107 Stat. 2477, 2486; Pub. L. 103–382, title III, § 360B(c), Oct. 20, 1994, 108 Stat. 3970; Pub. L. 104–208, div. A, title I, § 101(e) [title III, § 308], Sept. 30, 1996, 110 Stat. 3009–233, 3009–262; Pub. L. 105–18, title VI, § 60001(a), June 12, 1997, 111 Stat. 214.)

REFERENCES IN TEXT

The Peace Corps Act, referred to in subsec. (a)(1)(M), is Pub. L. 87–293, Sept. 22, 1961, 75 Stat. 612, as amended, which is classified principally to chapter 34 (§ 2501 et seq.) of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 2501 of Title 22 and Tables.

The Domestic Volunteer Service Act of 1973, referred to in subsec. (a)(1)(M), is Pub. L. 93–113, Oct. 1, 1973, 87 Stat. 394, as amended, which is classified principally to chapter 66 (§ 4950 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4950 of Title 42 and Tables.

The Hate Crime Statistics Act, referred to in subsec. (f)(6), is Pub. L. 101–275, Apr. 23, 1990, 104 Stat. 140, which is set out as a note under section 534 of Title 28, Judiciary and Judicial Procedure.

PRIOR PROVISIONS

A prior section 1092, Pub. L. 89–329, title IV, § 485, as added Pub. L. 96–374, title IV, § 451(a), Oct. 3, 1980, 94 Stat. 1449, related to provision of institutional and financial assistance information for students, prior to the general revision of this part by Pub. L. 99–498.

Another prior section 1092, Pub. L. 89–329, title V, § 508, formerly § 502, Nov. 8, 1965, 79 Stat. 1255; renumbered § 508 and amended Pub. L. 90–35, §§ 2(b), 7, June 29, 1967, 81 Stat. 82, 93, prohibited the making of payments for religious purposes for authorized programs, prior to repeal by Pub. L. 94–482, title I, § 151(a)(2), Oct. 12, 1976, 90 Stat. 2151.

AMENDMENTS

1997—Subsec. (a)(3)(B). Pub. L. 105–18, § 60001(a)(1), substituted ''August 31'' for ''June 30''.

Subsec. (e)(9). Pub. L. 105–18, § 60001(a)(2), substituted ''August 31'' for ''August 30''.

1996—Subsec. (e)(9). Pub. L. 104–208 substituted ''August 30'' for ''June 30''.

1994—Subsec. (g). Pub. L. 103–382 added subsec. (g).

1993—Subsec. (a)(1)(F)(i) to (iii). Pub. L. 103–208, § 2(h)(28), inserted before comma at end ''for the period of enrollment for which a refund is required''.

Subsec. (a)(1)(F)(iv). Pub. L. 103–208, § 2(h)(29), inserted ''under'' after ''awards''.

Subsec. (a)(1)(F)(vi). Pub. L. 103–208, § 2(h)(32), redesignated cl. (vii) as (vi) and struck out former cl. (vi) which read as follows: ''to awards under part C of subchapter I of chapter 34 of title 42,''.

Subsec. (a)(1)(F)(vii). Pub. L. 103–208, § 2(h)(32), redesignated cl. (viii) as (vii). Former cl. (vii) redesignated (vi).

Pub. L. 103–208, § 2(h)(30), struck out ''provided under this subchapter and part C of subchapter I of chapter 34 of title 42'' after ''student assistance''.

Subsec. (a)(1)(F)(viii). Pub. L. 103–208, § 2(h)(32), redesignated cl. (viii) as (vii).

Pub. L. 103–208, § 2(h)(31), struck out period after ''student''.

Subsec. (a)(1)(L). Pub. L. 103–208, § 2(k)(9), amended directory language of Pub. L. 102–325, § 486(a)(3). See 1992 Amendment note below.

Pub. L. 103–208, § 2(h)(33), inserted comma after ''full-time''.

Subsec. (a)(3)(A). Pub. L. 103–208, § 2(h)(34), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: ''shall be available beginning on July 1, 1993, and each year thereafter to current and prospective students prior to enrolling or entering into any financial obligation; and''.

Subsec. (b)(1)(A), (2)(A). Pub. L. 103–208, § 2(h)(35), substituted ''under part'' for ''under parts''.

Subsec. (d). Pub. L. 103–208, § 2(h)(36), inserted period at end of penultimate sentence.

Subsec. (e)(9). Pub. L. 103–208, § 2(h)(37), added subpar. (9).

1992—Subsec. (a)(1)(F). Pub. L. 102–325, § 486(a)(1), inserted '', as determined under section 1091b of this title,'' after ''of the institution'' and '', which refunds shall be credited in the following order:'' after ''of this paragraph'' and added cls. (i) to (viii).

Subsec. (a)(1)(K). Pub. L. 102–325, § 486(a)(2), struck out ''and'' at end.

Subsec. (a)(1)(L). Pub. L. 102–325, § 486(a)(4), redesignated subpar. (L), relating to deferral or partial cancellation of student loans, as (M).

Pub. L. 102–325, § 486(a)(3), as amended by Pub. L. 103–208, § 2(k)(9), amended subpar. (L), relating to completion or graduation rate, by substituting semicolon for period at end.

Subsec. (a)(1)(M). Pub. L. 102–325, § 486(a)(4), (5), redesignated subpar. (L), relating to deferral or partial cancellation of student loans, as (M) and substituted ''; and'' for period at end.

Subsec. (a)(1)(N). Pub. L. 102–325, § 486(a)(6), added subpar. (N).

Subsec. (b). Pub. L. 102–325, § 486(b), amended subsec. (b) generally, making changes in substance and structure of former text which related to exit counseling for borrowers and borrower information.

Subsec. (f)(1)(F). Pub. L. 102–325, § 486(c)(1), amended subpar. (F) generally. Prior to amendment, subpar. (F) read as follows: ''Statistics concerning the occurrence on campus, during the most recent calendar year, and during the 2 preceding calendar years for which data are available, of the following criminal offenses reported to campus security authorities or local police agencies—

''(i) murder;

''(ii) rape;

''(iii) robbery;

''(iv) aggravated assault;

''(v) burglary; and

''(vi) motor vehicle theft.''

Subsec. (f)(7). Pub. L. 102–325, § 486(c)(2), added par. (7).

1991—Subsec. (a)(1)(L). Pub. L. 102–26, § 10(a), which directed the insertion of ''undergraduate'' after ''full-time'' in subpar. (L), was executed to the subpar. (L) added by Pub. L. 101–542, § 103(a), relating to completion

or graduation rate, to reflect the probable intent of Congress.

Subsec. (a)(3)(A) to (C). Pub. L. 102–26, § 10(b), inserted ''and'' at end of subpar. (A), substituted a period for ''; and'' at end of subpar. (B), and struck out subpar. (C) which read as follows: ''shall be updated not less than biennially.''

Subsec. (a)(5). Pub. L. 102–26, § 10(c), added par. (5).

Subsec. (b). Pub. L. 102–164 substituted ''Exit counseling for borrowers; borrower information'' for ''Exit counseling for borrowers'' in heading and inserted at end ''Each eligible institution shall require that the borrower of a loan made under part B, part C, or part D of this subchapter submit to the institution, during the exit interview required by this subsection, the borrower's expected permanent address after leaving the institution, regardless of the reason for leaving; the name and address of the borrower's expected employer after leaving the institution; and the address of the borrower's next of kin. In the case of a loan made under part B of this subchapter, the institution shall then submit this information to the holder of the loan.''

Subsec. (f)(1). Pub. L. 102–26, § 10(d), substituted ''August 1, 1991,'' for ''September 1, 1991,'' in introductory provisions, and in subpar. (F) substituted ''calendar year'' and ''calendar years'' for ''school year'' and ''school years'', respectively.

1990—Subsec. (a)(1)(L). Pub. L. 101–610, § 201, added subpar. (L) relating to deferral or partial cancellation of student loans.

Pub. L. 101–542, § 103(a), added subpar. (L) relating to completion or graduation rate.

Subsec. (a)(3), (4). Pub. L. 101–542, § 103(b), added pars. (3) and (4).

Subsec. (b)(3). Pub. L. 101–610, § 202, added par. (3).

Subsec. (d). Pub. L. 101–610, § 203, inserted before last sentence ''The Secretary shall provide information concerning the specific terms and conditions under which students may obtain partial or total cancellation or defer repayment of loans for service, shall indicate (in terms of the Federal minimum wage) the maximum level of compensation and allowances that a student borrower may receive from a tax-exempt organization to qualify for a deferment, and shall explicitly state that students may qualify for such partial cancellations or deferments when they serve as a paid employee of a tax-exempt organization''.

Subsec. (e). Pub. L. 101–542, § 104(a), added subsec. (e).

Subsec. (f). Pub. L. 101–542, § 204(a), added subsec. (f).

1987—Subsec. (b). Pub. L. 100–50, § 15(10), inserted ''(other than loans made pursuant to section 1078–2 of this title)'' after ''part B of this subchapter''.

Subsec. (d). Pub. L. 100–50, § 15(11), inserted after second sentence ''In addition, such information shall include information to enable borrowers to assess the practical consequences of loan consolidation, including differences in deferment eligibility, interest rates, monthly payments, and finance charges, and samples of loan consolidation profiles to illustrate such consequences.''

CHANGE OF NAME

Committee on Education and Labor of House of Representatives treated as referring to Committee on Economic and Educational Opportunities of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Economic and Educational Opportunities of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Fifth Congress, Jan. 7, 1997.

EFFECTIVE DATE OF 1997 AMENDMENT

Section 60001(b) of Pub. L. 105–18 provided that:

''(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by subsection (a) [amending this section] are effective upon enactment [June 12, 1997].

''(2) INFORMATION DISSEMINATION.—No institution shall be required to comply with the amendment made by subsection (a)(1) [amending this section] before July 1, 1998.''

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1003 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by section 486(a), (b), and (c)(2) of Pub. L. 102–325 effective July 23, 1992, except that changes relating to disclosures effective with respect to periods of enrollment beginning on or after July 1, 1993, see section 498 of Pub. L. 102–325, set out as a note under section 1088 of this title.

Section 486(c)(3) of Pub. L. 102–325 provided that: ''The amendment made by this subsection to subparagraph (F)(ii) of section 485(f)(1) of the Act [20 U.S.C. 1092(f)(1)(F)(ii)] shall be effective with respect to reports made pursuant to such section on or after September 1, 1993. The statistics required by subparagraph (F) of such section shall—

''(A) in the report required on September 1, 1992, include statistics concerning the occurrence on campus of offenses during the period from August 1, 1991, to July 31, 1992;

''(B) in the report required on September 1, 1993, include statistics concerning the occurrence on campus of offenses during (i) the period from August 1, 1991, to December 31, 1991, and (ii) the calendar year 1992;

''(C) in the report required on September 1, 1994, include statistics concerning the occurrence on campus of offenses during (i) the period from August 1, 1991, to December 31, 1991, and (ii) the calendar years 1992 and 1993; and

''(D) in the report required on September 1 of 1995 and each succeeding year, include statistics concerning the occurrence on campus of offenses during the three calendar years preceding the year in which the report is made.''

EFFECTIVE DATE OF 1990 AMENDMENT

Section 104(b) of Pub. L. 101–542, as amended by Pub. L. 102–26, § 10(e), Apr. 9, 1991, 105 Stat. 128, provided that: ''The report to the Secretary of Education required by the amendments made by this section [amending this section] shall be due on July 1, 1993, and annually thereafter, and shall cover the one-year period ending on June 30 of the preceding year.''

Section 204(c) of Pub. L. 101–542 provided that: ''The amendments made by this section [amending this section] shall take effect on September 1, 1991, except that the requirement of section 485(f)(1)(F) and (H) of the Higher Education Act of 1965 [subsec. (f)(1)(F), (H) of this section] (as added by this section) shall be applied to require statistics with respect to school years preceding the date of enactment of this Act [Nov. 8, 1990] only to the extent that data concerning such years is reasonably available.''

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

EFFECTIVE DATE

Section effective Oct. 17, 1986, except as otherwise provided, see section 2 of Pub. L. 99–498, set out as a note under section 1001 of this title.

Subsec. (b) of this section applicable only to periods of enrollment beginning on or after July 1, 1987, see section 407(b) of Pub. L. 99–498, set out as a note under section 1091 of this title.

REGULATIONS

Section 401(a) of Pub. L. 101–542 provided that: ''The Secretary is authorized to issue regulations to carry out the provisions of this Act [amending this section and sections 1085, 1094, and 1232g of this title and enacting provisions set out as notes under this section and section 1001 of this title].''

CONGRESSIONAL FINDINGS

Section 360B(b) of Pub. L. 103–382 provided that: ''The Congress finds that—

''(1) participation in athletic pursuits plays an important role in teaching young Americans how to work on teams, handle challenges and overcome obstacles;

''(2) participation in athletic pursuits plays an important role in keeping the minds and bodies of young Americans healthy and physically fit;

''(3) there is increasing concern among citizens, educators, and public officials regarding the athletic opportunities for young men and women at institutions of higher education;

''(4) a recent study by the National Collegiate Athletic Association found that in Division I–A institutions, only 20 percent of the average athletic department operations budget of $1,310,000 is spent on women's athletics; 15 percent of the average recruiting budget of $318,402 is spent on recruiting female athletes; the average scholarship expenses for men is $1,300,000 and $505,246 for women; and an average of 143 grants are awarded to male athletes and 59 to women athletes;

''(5) female college athletes receive less than 18 percent of the athletics recruiting dollar and less than 24 percent of the athletics operating dollar;

''(6) male college athletes receive approximately $179,000,000 more per year in athletic scholarship grants than female college athletes;

''(7) prospective students and prospective student athletes should be aware of the commitments of an institution to providing equitable athletic opportunities for its men and women students; and

''(8) knowledge of an institution's expenditures for women's and men's athletic programs would help prospective students and prospective student athletes make informed judgments about the commitments of a given institution of higher education to providing equitable athletic benefits to its men and women students.''

Section 102 of Pub. L. 101–542 provided that: ''The Congress finds that—

''(1) education is fundamental to the development of individual citizens and the progress of the Nation as a whole;

''(2) there is increasing concern among citizens, educators, and public officials regarding the academic performance of students at institutions of higher education;

''(3) a recent study by the National Institute of Independent Colleges and Universities found that just 43 percent of students attending 4-year public colleges and universities and 54 percent of students entering private institutions graduated within 6 years of enrolling;

''(4) the academic performance of student athletes, especially student athletes receiving football and basketball scholarships, has been a source of great concern in recent years;

''(5) more than 10,000 athletic scholarships are provided annually by institutions of higher education;

''(6) prospective students and prospective student athletes should be aware of the educational commitments of an institution of higher education; and

''(7) knowledge of graduation rates would help prospective students and prospective student athletes make an informed judgment about the educational benefits available at a given institution of higher education.''

Section 202 of Pub. L. 101–542 provided that: ''The Congress finds that—

''(1) the reported incidence of crime, particularly violent crime, on some college campuses has steadily risen in recent years;

''(2) although annual 'National Campus Violence Surveys' indicate that roughly 80 percent of campus crimes are committed by a student upon another student and that approximately 95 percent of the campus crimes that are violent are alcohol- or drug-related, there are currently no comprehensive data on campus crimes;

''(3) out of 8,000 postsecondary institutions participating in Federal student aid programs, only 352 colleges and universities voluntarily provide crime statistics directly through the Uniform Crime Report of the Federal Bureau of Investigation, and other institutions report data indirectly, through local police agencies or States, in a manner that does not permit campus statistics to be separated;

''(4) several State legislatures have adopted or are considering legislation to require reporting of campus crime statistics and dissemination of security practices and procedures, but the bills are not uniform in their requirements and standards;

''(5) students and employees of institutions of higher education should be aware of the incidence of crime on campus and policies and procedures to prevent crime or to report occurrences of crime;

''(6) applicants for enrollment at a college or university, and their parents, should have access to information about the crime statistics of that institution and its security policies and procedures; and

''(7) while many institutions have established crime preventive measures to increase the safety of campuses, there is a clear need—

''(A) to encourage the development on all campuses of security policies and procedures;

''(B) for uniformity and consistency in the reporting of crimes on campus; and

''(C) to encourage the development of policies and procedures to address sexual assaults and racial violence on college campuses.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1094, 7132 of this title.

§ 1092a. Combined payment plan

(a) Eligibility for plan

Upon the request of the borrower, a lender described in subparagraph (A), (B), or (C) of section 1078–3(a)(1) of this title, or defined in subpart I[1] of part C of title VII of the Public Health Service Act may, with respect to a consolidation loan made under section 1078–3 of this title (and section 1087–2(*o*) of this title as in effect prior to the enactment of section 1078–3 of this title) and loans guaranteed under subpart I[1] of part C of title VII of the Public Health Service Act (known as Health Education Assistance Loans), offer a combined payment plan under which the lender shall submit one bill to the borrower for the repayment of all such loans for the monthly or other similar period of repayment.

(b) Applicability of other requirements

A lender offering a combined payment plan shall comply with all provisions of section 1078–3 of this title applicable to loans consolidated or to be consolidated and shall comply with all provisions of subpart I[1] of part C of title VII of the Public Health Service Act applicable to loans under that subpart which are made part of the combined payment plan, except that a lender of-

[1] See References in Text note below.

fering a combined payment plan under this section may offer consolidation loans pursuant to section 1078–3(b)(1)(A) of this title if such lender holds any outstanding loan of a borrower which is selected for inclusion in a combined payment plan.

(c) Lender eligibility

Such lender may offer a combined payment plan only if—

(1) the lender holds an outstanding loan of that borrower which is selected by the borrower for incorporation into a combined payment plan pursuant to this section (including loans which are selected by the borrower for consolidation under this section); or

(2) the borrower certifies that the borrower has sought and has been unable to obtain a combined payment plan from the holders of the outstanding loans of that borrower.

(d) Borrower selection of competing offers

In the case of multiple offers by lenders to administer a combined payment plan for a borrower, the borrower shall select from among them the lender to administer the combined payment plan including its loan consolidation component.

(e) Effect of plan

Upon selection of a lender to administer the combined payment plan, the lender may reissue any Health Education Assistance Loan selected by the borrower for incorporation in the combined payment plan which is not held by such lender and the proceeds of such reissued loan shall be paid by the lender to the holder or holders of the loans so selected to discharge the liability on such loans, if—

(1) the lender selected to administer the combined payment plan has determined to its satisfaction, in accordance with reasonable and prudent business practices, for each loan being reissued (A) that the loan is a legal, valid, and binding obligation of the borrower; (B) that each such loan was made and serviced in compliance with applicable laws and regulations; and (C) the insurance on such loan is in full force and effect; and

(2) the loan being reissued was not in default (as defined in section 733(e)(3)[2] of the Public Health Service Act) at the time the request for a combined payment plan is made.

(f) Notes and insurance certificates

(1) Each loan reissued under subsection (e) of this section shall be evidenced by a note executed by the borrower. The Secretary of Health and Human Services shall insure such loan under a certificate of comprehensive insurance with no insurance limit, but any such certificate shall only be issued to an authorized holder of loans insured under subpart I[2] of part C of title VII of the Public Health Service Act (including the Student Loan Marketing Association). Such certificates shall provide that all loans reissued under this section shall be fully insured against loss of principal and interest. Any insurance issued with respect to loans reissued under this section shall be excluded from the limitation on maximum insurance authority set forth in section 728(a)[2] of the Public Health Service Act. Notwithstanding the provisions of section 729(a)[2] of the Public Health Service Act, the reissued loan shall be made in an amount, including outstanding principal, capitalized interest, accrued unpaid interest not yet capitalized, and authorized late charges. The proceeds of each such loan will be paid by the lender to the holder of the original loan being reissued and the borrower's obligation to that holder on that loan shall be discharged.

(2) Except as otherwise specifically provided for under the provisions of this section, the terms of any reissued loan shall be the same as the terms of the original loan. The maximum repayment period for a loan reissued under this section shall not exceed the remainder of the period which would have been permitted on the original loan. If the lender holds more than one loan insured under subpart I[2] of part C of title VII of the Public Health Service Act, the maximum repayment period for all such loans may extend to the latest date permitted for any individual loan. Any reissued loan may be consolidated with any other Health Education Assistance Loan as provided in the Public Health Service Act [42 U.S.C. 201 et seq.], and, with the concurrence of the borrower, repayment of any such loans during any period may be made in amounts that are less than the interest that accrues on such loans during that period.

(g) Termination of borrower eligibility

The status of an individual as an eligible combined payment plan borrower terminates upon receipt of a combined payment plan.

(h) Fees and premiums

No origination fee or insurance premium shall be charged to the borrower on any combined payment plan, and no origination fee or insurance premium shall be payable by the lender to the Secretary of Health and Human Services.

(i) Commencement of repayment

Repayment of a combined payment plan shall commence within 60 days after the later of the date of acceptance of the lender's offer to administer a combined payment plan, the making of the consolidation loan or the reissuance of any Health Education Assistance Loans pursuant to subsection (e) of this section.

(Pub. L. 89–329, title IV, § 485A, as added Pub. L. 99–498, title IV, § 407(a), Oct. 17, 1986, 100 Stat. 1484; amended Pub. L. 100–50, § 15(12), June 3, 1987, 101 Stat. 357.)

REFERENCES IN TEXT

The Public Health Service Act, referred to in subsecs. (a), (b), and (f), is act July 1, 1944, ch. 373, 58 Stat. 682, as amended, which is classified generally to chapter 6A (§ 201 et seq.) of Title 42, The Public Health and Welfare. Subpart I of part C of title VII of the Act was classified generally to subpart I (§ 294 et seq.) of part C of subchapter V of chapter 6A of Title 42 and was omitted in the general revision of subchapter V of chapter 6A by Pub. L. 102–408, title I, § 102, Oct. 13, 1992, 106 Stat. 1994. See subpart I (§ 292 et seq.) of part A of subchapter V of chapter 6A. Sections 728, 729, and 733 of the Act were classified to sections 294a, 294b, and 294f, respectively, of Title 42 and were omitted in the general revision of subchapter V by Pub. L. 102–408. Pub. L. 102–408 enacted

[2] See References in Text note below.

a new section 728 of act July 1, 1944, relating to distribution of assets, a new section 762, relating to special projects, and a new section 763, relating to preventive medicine and dental public health which are classified to sections 292x, 294a, and 294b, respectively, of Title 42. See sections 292a, 292b, and 292f, respectively, of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 201 of Title 42 and Tables.

AMENDMENTS

1987—Subsec. (a). Pub. L. 100–50 substituted ''subparagraph (A), (B), or (C)'' for ''clause (i), (ii), or (iii)''.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

§ 1092b. National Student Loan Data System

(a) Development of System

The Secretary shall consult with a representative group of guaranty agencies, eligible lenders, and eligible institutions to develop a mutually agreeable proposal for the establishment of a National Student Loan Data System containing information regarding loans made, insured, or guaranteed under part B of this subchapter and loans made under parts C and D of this subchapter, and for allowing the electronic exchange of data between program participants and the system. In establishing such data system, the Secretary shall place a priority on providing for the monitoring of enrollment, student status, information about current loan holders and servicers, and internship and residency information. Such data system shall also permit borrowers to use the system to identify the current loan holders and servicers of such borrower's loan. The information in the data system shall include (but is not limited to)—

(1) the amount and type of each such loan made;

(2) the names and social security numbers of the borrowers;

(3) the guaranty agency responsible for the guarantee of the loan;

(4) the institution of higher education or organization responsible for loans made under parts C and D of this subchapter;

(5)[1] the exact amount of loans partially or totally canceled or in deferment for service under the Peace Corps Act (22 U.S.C. 2501 et seq.)),[2] for service under the Domestic Volunteer Service Act of 1973 [42 U.S.C. 4950 et seq.], and for comparable full-time service as a volunteer for a tax-exempt organization of demonstrated effectiveness.[3]

(5)[1] the eligible institution in which the student was enrolled or accepted for enrollment at the time the loan was made, and any additional institutions attended by the borrower;

(6) the total amount of loans made to any borrower and the remaining balance of the loans;

(7) the lender, holder, and servicer of such loans;

(8) information concerning the date of any default on the loan and the collection of the loan, including any information concerning the repayment status of any defaulted loan on which the Secretary has made a payment pursuant to section 1080(a) of this title or the guaranty agency has made a payment to the previous holder of the loan;

(9) information regarding any deferments or forbearance granted on such loans; and

(10) the date of cancellation of the note upon completion of repayment by the borrower of the loan or payment by the Secretary pursuant to section 1087 of this title.

(b) Additional information

For the purposes of research and policy analysis, the proposal shall also contain provisions for obtaining additional data concerning the characteristics of borrowers and the extent of student loan indebtedness on a statistically valid sample of borrowers under part B of this subchapter. Such data shall include—

(1) information concerning the income level of the borrower and his family and the extent of the borrower's need for student financial assistance, including loans;

(2) information concerning the type of institution attended by the borrower and the year of the program of education for which the loan was obtained;

(3) information concerning other student financial assistance received by the borrower; and

(4) information concerning Federal costs associated with the student loan program under part B of this subchapter, including the costs of interest subsidies, special allowance payments, and other subsidies.

(c) Verification

The Secretary may require lenders, guaranty agencies, or institutions of higher education to verify information or obtain eligibility or other information through the National Student Loan Data System prior to making, guaranteeing, or certifying a loan made under part B, C, or D of this subchapter.

(d) Report to Congress

The Secretary shall prepare and submit to the appropriate committees of the Congress, in each fiscal year, a report describing the results obtained by the establishment and operation of the student loan data system authorized by this section.

(e) Standardization of data reporting

(1) In general

The Secretary shall by regulation prescribe standards and procedures (including relevant definitions) that require all lenders and guaranty agencies to report information on all aspects of loans made under this subchapter and part C of subchapter I of chapter 34 of title 42 in uniform formats in order to permit the direct comparison of data submitted by individual lenders, servicers or guaranty agencies.

(2) Activities

For the purpose of establishing standards under this section, the Secretary shall—

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[1] So in original. Two pars. (5) have been enacted.

[2] So in original.

[3] So in original. The period probably should be a semicolon.

(A) consult with guaranty agencies, lenders, institutions of higher education, and organizations representing the groups described in paragraph (1);

(B) develop standards designed to be implemented by all guaranty agencies and lenders with minimum modifications to existing data processing hardware and software; and

(C) publish the specifications selected to be used to encourage the automation of exchanges of information between all parties involved in loans under this subchapter and part C of subchapter I of chapter 34 of title 42.

(f) Common identifiers

The Secretary shall, not later than July 1, 1993—

(1) revise the codes used to identify institutions and students in the student loan data system authorized by this section to make such codes consistent with the codes used in each database used by the Department of Education that contains information of participation in programs under this subchapter and part C of subchapter I of chapter 34 of title 42; and

(2) modify the design or operation of the system authorized by this section to ensure that data relating to any institution is readily accessible and can be used in a form compatible with the integrated postsecondary education data system (IPEDS).

(g) Integration of databases

The Secretary shall integrate the National Student Loan Data System with the Pell Grant applicant and recipient databases as of January 1, 1994, and any other databases containing information on participation in programs under this subchapter and part C of subchapter I of chapter 34 of title 42.

(Pub. L. 89–329, title IV, § 485B, as added Pub. L. 99–498, title IV, § 407(a), Oct. 17, 1986, 100 Stat. 1486; amended Pub. L. 100–50, § 15(13), June 3, 1987, 101 Stat. 357; Pub. L. 101–239, title II, § 2008, Dec. 19, 1989, 103 Stat. 2121; Pub. L. 101–610, title II, § 204, Nov. 16, 1990, 104 Stat. 3172; Pub. L. 102–325, title IV, § 487, July 23, 1992, 106 Stat. 623; Pub. L. 103–208, § 2(h)(38)–(41), Dec. 20, 1993, 107 Stat. 2478.)

REFERENCES IN TEXT

The Peace Corps Act, referred to in subsec. (a)(5), is Pub. L. 87–293, Sept. 22, 1961, 75 Stat. 612, as amended, which is classified principally to chapter 34 (§ 2501 et seq.) of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 2501 of Title 22 and Tables.

The Domestic Volunteer Service Act of 1973, referred to in subsec. (a)(5), is Pub. L. 93–113, Oct. 1, 1973, 87 Stat. 394, as amended, which is classified principally to chapter 66 (§ 4950 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4950 of Title 42 and Tables.

AMENDMENTS

1993—Subsec. (a). Pub. L. 103–208, § 2(h)(38), substituted ''parts C and D of this subchapter'' for ''part D of this subchapter'' and struck out second period at end of third sentence.

Subsec. (a)(4). Pub. L. 103–208, § 2(h)(39), substituted ''parts C and D of this subchapter'' for ''part D of this subchapter''.

Subsec. (c). Pub. L. 103–208, § 2(h)(40), substituted ''part B, C, or D of this subchapter'' for ''part B or part D of this subchapter''.

Subsec. (e)(1), (2)(C). Pub. L. 103–208, § 2(h)(41), substituted ''under this subchapter and part C of subchapter I of chapter 34 of title 42'' for ''under this part''.

1992—Subsec. (a). Pub. L. 102–325, § 487(a), inserted '', and for allowing the electronic exchange of data between program participants and the system. In establishing such data system, the Secretary shall place a priority on providing for the monitoring of enrollment, student status, information about current loan holders and servicers, and internship and residency information. Such data system shall also permit borrowers to use the system to identify the current loan holders and servicers of such borrower's loan.'' after ''part D of this subchapter''.

Subsecs. (e) to (g). Pub. L. 102–325, § 487(b), added subsecs. (e) to (g).

1990—Subsec. (a)(5). Pub. L. 101–610 added subsec. (a)(5) relating to loan cancellations and deferments.

1989—Pub. L. 101–239 amended section generally, substituting subsecs. (a) to (d) for former subsec. (a) relating to authority of Secretary, subsec. (b) relating to access to information, subsec. (c) relating to verification not required, and subsec. (d) relating to report to Congress.

1987—Subsec. (b)(1). Pub. L. 100–50, § 15(13)(A), substituted ''public agencies'' for ''Federal agencies''.

Subsec. (b)(2)(D). Pub. L. 100–50, § 15(13)(B), substituted ''of any borrower'' for ''of a borrower for whom the guaranty agency provides insurance''.

Subsec. (b)(3). Pub. L. 100–50, § 15(13)(C), substituted ''public agency'' for ''Federal agency''.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1003 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1078 of this title.

§ 1092c. Simplification of lending process for borrowers

(a) All like loans treated as one

To the extent practicable, and with the cooperation of the borrower, eligible lenders shall treat all loans made to a borrower under the same section of part B of this subchapter as one loan and shall submit one bill to the borrower for the repayment of all such loans for the monthly or other similar period of repayment. Any deferments on one such loan will be considered a deferment on the total amount of all such loans.

(b) One lender, one guaranty agency

To the extent practicable, and with the cooperation of the borrower, the guaranty agency shall ensure that a borrower only have one lender, one holder, one guaranty agency, and one servicer with which to maintain contact.

(Pub. L. 89–329, title IV, § 485C, as added Pub. L. 102–325, title IV, § 488, July 23, 1992, 106 Stat. 624.)

§ 1093. Training in financial aid services

(a) Program authority

The Secretary is authorized to provide grants to appropriate nonprofit private organizations or combinations of such organizations to provide training for student financial aid administrators and TRIO personnel, at all levels of experience, who provide or are involved in student financial aid services.

(b) Use of funds

Financial assistance under this section may be used for—

(1) the operation of short-term training institutes and special training programs for student financial aid administrators or TRIO personnel designed to—

(A) improve the professional management skills of participants in such institutes and programs;

(B) improve the delivery of student services;

(C) improve students' or prospective students' information on the availability and operation of student financial assistance programs; and

(D) improve the understanding and knowledge of the participants concerning the legislative and regulatory requirements of the student financial assistance programs and changes in such requirements; and

(2) the development of appropriate training materials.

(c) Limitations

Grants authorized under this section—

(1) shall be limited to not less than $1,000,000 in the case of single-year grants;

(2) shall be limited to not less than $1,000,000 per year in the case of multiple-year grants;

(3) shall be limited to a maximum of 3 years in the case of multiple-year grants; and

(4) may be renewed at the discretion of the Secretary.

(d) Authorization of appropriations and use of funds

There are authorized to be appropriated $5,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out the provisions of this section.

(Pub. L. 89–329, title IV, § 486, as added Pub. L. 99–498, title IV, § 407(a), Oct. 17, 1986, 100 Stat. 1487; amended Pub. L. 102–325, title IV, § 489, July 23, 1992, 106 Stat. 624.)

PRIOR PROVISIONS

A prior section 1093, Pub. L. 89–329, title IV, § 486, as added Pub. L. 96–374, title IV, § 451(a), Oct. 3, 1980, 94 Stat. 1450, related to training in financial aid and student support services, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1992—Pub. L. 102–325 struck out ''and student support'' after ''aid'' in section catchline and amended text generally, substituting present provisions for former subsec. (a) relating to program authority, subsec. (b) relating to use of funds, and subsec. (c) relating to authorization of appropriations.

§ 1094. Program participation agreements

(a) Required for programs of assistance; contents

In order to be an eligible institution for the purposes of any program authorized under this subchapter and part C of subchapter I of chapter 34 of title 42, an institution must be an institution of higher education or an eligible institution (as that term is defined for the purpose of that program) and shall, except with respect to a program under subpart 4 of part A of this subchapter, enter into a program participation agreement with the Secretary. The agreement shall condition the initial and continuing eligibility of an institution to participate in a program upon compliance with the following requirements:

(1) The institution will use funds received by it for any program under this subchapter and part C of subchapter I of chapter 34 of title 42 and any interest or other earnings thereon solely for the purpose specified in and in accordance with the provision of that program.

(2) The institution shall not charge any student a fee for processing or handling any application, form, or data required to determine the student's eligibility for assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 or the amount of such assistance.

(3) The institution will establish and maintain such administrative and fiscal procedures and records as may be necessary to ensure proper and efficient administration of funds received from the Secretary or from students under this subchapter and part C of subchapter I of chapter 34 of title 42, together with assurances that the institution will provide, upon request and in a timely fashion, information relating to the administrative capability and financial responsibility of the institution to—

(A) the Secretary;

(B) the appropriate State review entity designated under subpart 1 of part G of this subchapter;

(C) the appropriate guaranty agency; and

(D) the appropriate accrediting agency or association.

(4) The institution will comply with the provisions of subsection (b) of this section and the regulations prescribed under that subsection, relating to fiscal eligibility.

(5) The institution will submit reports to the Secretary and, in the case of an institution participating in a program under part B or part D of this subchapter, to holders of loans made to the institution's students under such parts at such times and containing such information as the Secretary may reasonably require to carry out the purpose of this subchapter and part C of subchapter I of chapter 34 of title 42.

(6) The institution will not provide any student with any statement or certification to any lender under part B of this subchapter that qualifies the student for a loan or loans in excess of the amount that student is eligible to borrow in accordance with sections 1075(a), 1078(a)(2), and 1078(b)(1)(A) and (B) of this title.

(7) The institution will comply with the requirements of section 1092 of this title.

(8) In the case of an institution that advertises job placement rates as a means of attracting students to enroll in the institution, the institution will make available to prospective students, at or before the time of application (A) the most recent available data concerning employment statistics, graduation statistics, and any other information necessary to substantiate the truthfulness of the advertisements, and (B) relevant State licensing requirements of the State in which such institution is located for any job for which the course of instruction is designed to prepare such prospective students.

(9) In the case of an institution participating in a program under part B of this subchapter, the institution will inform all eligible borrowers enrolled in the institution about the availability and eligibility of such borrowers for State grant assistance from the State in which the institution is located, and will inform such borrowers from another State of the source for further information concerning such assistance from that State.

(10) The institution certifies that it has in operation a drug abuse prevention program that is determined by the institution to be accessible to any officer, employee, or student at the institution.

(11) In the case of any institution whose students receive financial assistance pursuant to section 1091(d) of this title, the institution will make available to such students a program proven successful in assisting students in obtaining a certificate of high school equivalency.

(12) The institution certifies that—

(A) the institution has established a campus security policy; and

(B) the institution has complied with the disclosure requirements of section 1092(f) of this title.

(13) The institution will not deny any form of Federal financial aid to any student who meets the eligibility requirements of this subchapter and part C of subchapter I of chapter 34 of title 42 on the grounds that the student is participating in a program of study abroad approved for credit by the institution.

(14)(A) The institution, in order to participate as an eligible institution under part B of this subchapter, will develop a Default Management Plan for approval by the Secretary as part of its initial application for certification as an eligible institution and will implement such Plan for two years thereafter.

(B) Any institution of higher education which changes ownership and any eligible institution which changes its status as a parent or subordinate institution shall, in order to participate as an eligible institution under part B of this subchapter, develop a Default Management Plan for approval by the Secretary and implement such Plan for two years after its change of ownership or status.

(15) The institution acknowledges the authority of the Secretary, guaranty agencies, lenders, accrediting agencies, the Secretary of Veterans Affairs, and State review entities under subpart 1 of part G of this subchapter to share with each other any information pertaining to the institution's eligibility to participate in programs under this subchapter and part C of subchapter I of chapter 34 of title 42 or any information on fraud and abuse.

(16)(A) The institution will not knowingly employ an individual in a capacity that involves the administration of programs under this subchapter and part C of subchapter I of chapter 34 of title 42, or the receipt of program funds under this subchapter and part C of subchapter I of chapter 34 of title 42, who has been convicted of, or has pled nolo contendere or guilty to, a crime involving the acquisition, use, or expenditure of funds under this subchapter and part C of subchapter I of chapter 34 of title 42, or has been judicially determined to have committed fraud involving funds under this subchapter and part C of subchapter I of chapter 34 of title 42 or contract with an institution or third party servicer that has been terminated under section 1082 of this title involving the acquisition, use, or expenditure of funds under this subchapter and part C of subchapter I of chapter 34 of title 42, or who has been judicially determined to have committed fraud involving funds under this subchapter and part C of subchapter I of chapter 34 of title 42.

(B) The institution will not knowingly contract with or employ any individual, agency, or organization that has been, or whose officers or employees have been—

(i) convicted of, or pled nolo contendere or guilty to, a crime involving the acquisition, use, or expenditure of funds under this subchapter and part C of subchapter I of chapter 34 of title 42; or

(ii) judicially determined to have committed fraud involving funds under this subchapter and part C of subchapter I of chapter 34 of title 42.

(17) The institution will complete surveys conducted as a part of the Integrated Postsecondary Education Data System (IPEDS) or any other Federal postsecondary institution data collection effort, as designated by the Secretary, in a timely manner and to the satisfaction of the Secretary.

(18)(A) With respect to any institution that offers athletically related student aid, the institution will—

(i) cause an annual compilation, independently audited not less often than every 3 years, to be prepared within 6 months after the end of its fiscal year, of—

(I) the total revenues, and the revenues from football, men's basketball, women's basketball, all other men's sports combined, and all other women's sports combined, derived by the institution from its intercollegiate athletics activities;

(II) the total expenses, and the expenses attributable to football, men's basketball, women's basketball, all other men's sports combined and all other women's sports combined, made by the institution for its intercollegiate athletics activities; and

(III) the total revenues and operating expenses of the institution; and

(ii) make the reports on such compilations and, where allowable by State law, the au-

dits, available for inspection by the Secretary and the public.

(B) For the purpose of subparagraph (A)—

(i) revenues from intercollegiate athletics activities allocable to a sport shall include without limitation gate receipts, broadcast revenues, appearance guarantees and options, concessions and advertising, but revenues such as student activities fees or alumni contributions not so allocable shall be included in the calculation of total revenues only; and

(ii) expenses for intercollegiate athletics activities allocable to a sport shall include without limitation grants-in-aid, salaries, travel, equipment, and supplies, but expenses such as general and administrative overhead not so allocable shall be included in the calculation of total expenses only.

(19) The institution will not impose any penalty, including the assessment of late fees, the denial of access to classes, libraries, or other institutional facilities, or the requirement that the student borrow additional funds, on any student because of the student's inability to meet his or her financial obligations to the institution as a result of the delayed disbursement of the proceeds of a loan made under this subchapter and part C of subchapter I of chapter 34 of title 42 due to compliance with the provisions of this subchapter and part C of subchapter I of chapter 34 of title 42, or delays attributable to the institution.

(20) The institution will not provide any commission, bonus, or other incentive payment based directly or indirectly on success in securing enrollments or financial aid to any persons or entities engaged in any student recruiting or admission activities or in making decisions regarding the award of student financial assistance, except that this paragraph shall not apply to the recruitment of foreign students residing in foreign countries who are not eligible to receive Federal student assistance.

(21) The institution will meet the requirements established by the Secretary, State postsecondary review entities, and accrediting agencies pursuant to part G of this subchapter.

(22) The institution will comply with the refund policy established pursuant to section 1091b of this title.

(b) Hearings

(1) An institution that has received written notice of a final audit or program review determination and that desires to have such determination reviewed by the Secretary shall submit to the Secretary a written request for review not later than 45 days after receipt of notification of the final audit or program review determination.

(2) The Secretary shall, upon receipt of written notice under paragraph (1), arrange for a hearing and notify the institution within 30 days of receipt of such notice the date, time, and place of such hearing. Such hearing shall take place not later than 120 days from the date upon which the Secretary notifies the institution.

(c) Audits; financial responsibility; enforcement of standards

(1) Notwithstanding any other provisions of this subchapter and part C of subchapter I of chapter 34 of title 42, the Secretary shall prescribe such regulations as may be necessary to provide for—

(A)(i) except as provided in clause (ii), a financial audit of an eligible institution with regard to the financial condition of the institution in its entirety, and a compliance audit of such institution with regard to any funds obtained by it under this subchapter and part C of subchapter I of chapter 34 of title 42 or obtained from a student or a parent who has a loan insured or guaranteed by the Secretary under this subchapter and part C of subchapter I of chapter 34 of title 42, on at least an annual basis and covering the period since the most recent audit, conducted by a qualified, independent organization or person in accordance with standards established by the Comptroller General for the audit of governmental organizations, programs, and functions, and as prescribed in regulations of the Secretary, the results of which shall be submitted to the Secretary and shall be available to cognizant guaranty agencies, eligible lenders, State agencies, and the State review entities referred to in subpart 1 of part G of this subchapter; or

(ii) with regard to an eligible institution which is audited under chapter 75 of title 31, deeming such audit to satisfy the requirements of clause (i) for the period covered by such audit;

(B) in matters not governed by specific program provisions, the establishment of reasonable standards of financial responsibility and appropriate institutional capability for the administration by an eligible institution of a program of student financial aid under this subchapter and part C of subchapter I of chapter 34 of title 42, including any matter the Secretary deems necessary to the sound administration of the financial aid programs, such as the pertinent actions of any owner, shareholder, or person exercising control over an eligible institution;

(C)(i) except as provided in clause (ii), a compliance audit of a third party servicer (other than with respect to the servicer's functions as a lender if such functions are otherwise audited under this part and such audits meet the requirements of this clause), with regard to any contract with an eligible institution, guaranty agency, or lender for administering or servicing any aspect of the student assistance programs under this subchapter and part C of subchapter I of chapter 34 of title 42, at least once every year and covering the period since the most recent audit, conducted by a qualified, independent organization or person in accordance with standards established by the Comptroller General for the audit of governmental organizations, programs, and functions, and as prescribed in regulations of the Secretary, the results of which shall be submitted to the Secretary; or

(ii) with regard to a third party servicer that is audited under chapter 75 of title 31, such

audit shall be deemed to satisfy the requirements of clause (i) for the period covered by such audit;

(D)(i) a compliance audit of a secondary market with regard to its transactions involving, and its servicing and collection of, loans made under this subchapter and part C of subchapter I of chapter 34 of title 42, at least once a year and covering the period since the most recent audit, conducted by a qualified, independent organization or person in accordance with standards established by the Comptroller General for the audit of governmental organizations, programs, and functions, and as prescribed in regulations of the Secretary, the results of which shall be submitted to the Secretary; or

(ii) with regard to a secondary market that is audited under chapter 75 of title 31, such audit shall be deemed to satisfy the requirements of clause (i) for the period covered by the audit;

(E) the establishment, by each eligible institution under part B of this subchapter responsible for furnishing to the lender the statement required by section 1078(a)(2)(A)(i) of this title, of policies and procedures by which the latest known address and enrollment status of any student who has had a loan insured under this part and who has either formally terminated his enrollment, or failed to re-enroll on at least a half-time basis, at such institution, shall be furnished either to the holder (or if unknown, the insurer) of the note, not later than 60 days after such termination or failure to re-enroll;

(F) the limitation, suspension, or termination of the participation in any program under this subchapter and part C of subchapter I of chapter 34 of title 42 of an eligible institution, or the imposition of a civil penalty under paragraph (2)(B) whenever the Secretary has determined, after reasonable notice and opportunity for hearing, that such institution has violated or failed to carry out any provision of this subchapter and part C of subchapter I of chapter 34 of title 42, any regulation prescribed under this subchapter and part C of subchapter I of chapter 34 of title 42, or any applicable special arrangement, agreement, or limitation, except that no period of suspension under this section shall exceed 60 days unless the institution and the Secretary agree to an extension or unless limitation or termination proceedings are initiated by the Secretary within that period of time;

(G) an emergency action against an institution, under which the Secretary shall, effective on the date on which a notice and statement of the basis of the action is mailed to the institution (by registered mail, return receipt requested), withhold funds from the institution or its students and withdraw the institution's authority to obligate funds under any program under this subchapter and part C of subchapter I of chapter 34 of title 42, if the Secretary—

(i) receives information, determined by the Secretary to be reliable, that the institution is violating any provision of this subchapter and part C of subchapter I of chapter 34 of title 42, any regulation prescribed under this subchapter and part C of subchapter I of chapter 34 of title 42, or any applicable special arrangement, agreement, or limitation,

(ii) determines that immediate action is necessary to prevent misuse of Federal funds, and

(iii) determines that the likelihood of loss outweighs the importance of the procedures prescribed under subparagraph (D) for limitation, suspension, or termination,

except that an emergency action shall not exceed 30 days unless limitation, suspension, or termination proceedings are initiated by the Secretary against the institution within that period of time, and except that the Secretary shall provide the institution an opportunity to show cause, if it so requests, that the emergency action is unwarranted;

(H) the limitation, suspension, or termination of the eligibility of a third party servicer to contract with any institution to administer any aspect of an institution's student assistance program under this subchapter and part C of subchapter I of chapter 34 of title 42, or the imposition of a civil penalty under paragraph (2)(B), whenever the Secretary has determined, after reasonable notice and opportunity for a hearing, that such organization, acting on behalf of an institution, has violated or failed to carry out any provision of this subchapter and part C of subchapter I of chapter 34 of title 42, any regulation prescribed under this subchapter and part C of subchapter I of chapter 34 of title 42, or any applicable special arrangement, agreement, or limitation, except that no period of suspension under this subparagraph shall exceed 60 days unless the organization and the Secretary agree to an extension, or unless limitation or termination proceedings are initiated by the Secretary against the individual or organization within that period of time; and

(I) an emergency action against a third party servicer that has contracted with an institution to administer any aspect of the institution's student assistance program under this subchapter and part C of subchapter I of chapter 34 of title 42, under which the Secretary shall, effective on the date on which a notice and statement of the basis of the action is mailed to such individual or organization (by registered mail, return receipt requested), withhold funds from the individual or organization and withdraw the individual or organization's authority to act on behalf of an institution under any program under this subchapter and part C of subchapter I of chapter 34 of title 42, if the Secretary—

(i) receives information, determined by the Secretary to be reliable, that the individual or organization, acting on behalf of an institution, is violating any provision of this subchapter and part C of subchapter I of chapter 34 of title 42, any regulation prescribed under this subchapter and part C of subchapter I of chapter 34 of title 42, or any applicable special arrangement, agreement, or limitation,

(ii) determines that immediate action is necessary to prevent misuse of Federal funds, and

(iii) determines that the likelihood of loss outweighs the importance of the procedures prescribed under subparagraph (F), for limitation, suspension, or termination,

except that an emergency action shall not exceed 30 days unless the limitation, suspension, or termination proceedings are initiated by the Secretary against the individual or organization within that period of time, and except that the Secretary shall provide the individual or organization an opportunity to show cause, if it so requests, that the emergency action is unwarranted.

(2) If an individual who, or entity that, exercises substantial control, as determined by the Secretary in accordance with the definition of substantial control in subpart 3 of part G of this subchapter, over one or more institutions participating in any program under this subchapter and part C of subchapter I of chapter 34 of title 42, or, for purposes of paragraphs (1)(H) and (I), over one or more organizations that contract with an institution to administer any aspect of the institution's student assistance program under this subchapter and part C of subchapter I of chapter 34 of title 42, is determined to have committed one or more violations of the requirements of any program under this subchapter and part C of subchapter I of chapter 34 of title 42, or has been suspended or debarred in accordance with the regulations of the Secretary, the Secretary may use such determination, suspension, or debarment as the basis for imposing an emergency action on, or limiting, suspending, or terminating, in a single proceeding, the participation of any or all institutions under the substantial control of that individual or entity.

(3)(A) Upon determination, after reasonable notice and opportunity for a hearing, that an eligible institution has engaged in substantial misrepresentation of the nature of its educational program, its financial charges, or the employability of its graduates, the Secretary may suspend or terminate the eligibility status for any or all programs under this subchapter and part C of subchapter I of chapter 34 of title 42 of any otherwise eligible institution, in accordance with procedures specified in paragraph (1)(D) of this subsection, until the Secretary finds that such practices have been corrected.

(B)(i) Upon determination, after reasonable notice and opportunity for a hearing, that an eligible institution—

(I) has violated or failed to carry out any provision of this subchapter and part C of subchapter I of chapter 34 of title 42 or any regulation prescribed under this subchapter and part C of subchapter I of chapter 34 of title 42; or

(II) has engaged in substantial misrepresentation of the nature of its educational program, its financial charges, and the employability of its graduates,

the Secretary may impose a civil penalty upon such institution of not to exceed $25,000 for each violation or misrepresentation.

(ii) Any civil penalty may be compromised by the Secretary. In determining the amount of such penalty, or the amount agreed upon in compromise, the appropriateness of the penalty to the size of the institution of higher education subject to the determination, and the gravity of the violation, failure, or misrepresentation shall be considered. The amount of such penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owing by the United States to the institution charged.

(4) The Secretary shall publish, after consultation with each State review entity designated under subpart 1 of part G of this subchapter, a list of State agencies which the Secretary determines to be reliable authority as to the quality of public postsecondary vocational education in their respective States for the purpose of determining eligibility for all Federal student assistance programs.

(5) The Secretary shall make readily available to appropriate guaranty agencies, eligible lenders, State review entities designated under subpart 1 of part G of this subchapter, and accrediting agencies or associations the results of the audits of eligible institutions conducted pursuant to paragraph (1)(A).

(6) The Secretary is authorized to provide any information collected as a result of audits conducted under this section, together with audit information collected by guaranty agencies, to any Federal or State agency having responsibilities with respect to student financial assistance, including those referred to in subsection (a)(15) of this section.

(7) Effective with respect to any audit conducted under this subsection after December 31, 1988, if, in the course of conducting any such audit, the personnel of the Department of Education discover, or are informed of, grants or other assistance provided by an institution in accordance with this subchapter and part C of subchapter I of chapter 34 of title 42 for which the institution has not received funds appropriated under this subchapter and part C of subchapter I of chapter 34 of title 42 (in the amount necessary to provide such assistance), including funds for which reimbursement was not requested prior to such discovery or information, such institution shall be permitted to offset that amount against any sums determined to be owed by the institution pursuant to such audit, or to receive reimbursement for that amount (if the institution does not owe any such sums).

(d) "Eligible institution" defined

For the purpose of this section, the term ''eligible institution'' means any such institution described in section 1088 of this title.

(e) Construction

Nothing in the amendments made by the Higher Education Amendments of 1992 shall be construed to prohibit an institution from recording, at the cost of the institution, a hearing referred to in subsection (b)(2), subsection (c)(1)(D), or subparagraph (A) or (B)(i) of subsection (c)(2), of this section to create a record of the hearing, except the unavailability of a recording shall not serve to delay the completion of the proceeding. The Secretary shall allow the institution to use any reasonable means, including stenographers, of recording the hearing.

(Pub. L. 89–329, title IV, § 487, as added Pub. L. 99–498, title IV, § 407(a), Oct. 17, 1986, 100 Stat.

1488; amended Pub. L. 101–239, title II, §§ 2003(c)(2), 2006(c), Dec. 19, 1989, 103 Stat. 2114, 2118; Pub. L. 101–542, title II, § 205, Nov. 8, 1990, 104 Stat. 2387; Pub. L. 102–26, § 2(c)(3), Apr. 9, 1991, 105 Stat. 124; Pub. L. 102–325, title IV, § 490, July 23, 1992, 106 Stat. 625; Pub. L. 103–208, § 2(h)(42), (43), Dec. 20, 1993, 107 Stat. 2478.)

REFERENCES IN TEXT

The Higher Education Amendments of 1992, referred to in subsec. (e), is Pub. L. 102–325, July 23, 1992, 106 Stat. 448. For complete classification of this Act to the Code, see Short Title of 1992 Amendment note set out under section 1001 of this title and Tables.

PRIOR PROVISIONS

A prior section 1094, Pub. L. 89–329, title IV, § 487, as added Pub. L. 96–374, title IV, § 451(a), Oct. 3, 1980, 94 Stat. 1451; amended Pub. L. 99–272, title XVI, § 16034, Apr. 7, 1986, 100 Stat. 356, related to program participation agreements, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1993—Subsec. (a)(2). Pub. L. 103–208, § 2(h)(42), struck out '', or for completing or handling the Federal Student Assistance Report'' after ''amount of such assistance''.

Subsec. (c)(1)(F). Pub. L. 103–208, § 2(h)(43), substituted ''participation in any program under this subchapter and part C of subchapter I of chapter 34 of title 42 of an eligible institution,'' for ''eligibility for any program under this subchapter and part C of subchapter I of chapter 34 of title 42 of any otherwise eligible institution,''.

1992—Subsec. (a). Pub. L. 102–325, § 490(f)(1), substituted ''subpart 4'' for ''subpart 3''.

Subsec. (a)(2). Pub. L. 102–325, § 490(f)(2), struck out ''provided for in section 1090(e) of this title'' after ''Report''.

Subsec. (a)(3). Pub. L. 102–325, § 490(a)(1), inserted before period at end '', together with assurances that the institution will provide, upon request and in a timely fashion, information relating to the administrative capability and financial responsibility of the institution to—'' and added subpars. (A) to (D).

Subsec. (a)(8). Pub. L. 102–325, § 490(a)(2), substituted ''application (A)'' for ''application,'' inserted '', and'' after ''advertisements'', and added subpar. (B).

Subsec. (a)(13) to (22). Pub. L. 102–325, § 490(a)(3), added pars. (13) to (22).

Subsec. (b)(2). Pub. L. 102–325, § 490(b)(1), struck out ''on the record'' after ''for a hearing''.

Subsec. (c)(1). Pub. L. 102–325, § 490(b)(2)(A), substituted ''shall'' for ''is authorized to'' in introductory provisions.

Subsec. (c)(1)(A)(i). Pub. L. 102–325, § 490(c), substituted ''a financial audit of an eligible institution with regard to the financial condition of the institution in its entirety, and a compliance audit of such institution'' for ''a financial and compliance audit of an eligible institution,'' and ''on at least an annual basis'' for ''at least once every 2 years'' and inserted ''and shall be available to cognizant guaranty agencies, eligible lenders, State agencies, and the State review entities referred to in subpart 1 of part G of this subchapter'' after ''submitted to the Secretary''.

Subsec. (c)(1)(B). Pub. L. 102–325, § 490(d)(1), inserted before semicolon at end '', including any matter the Secretary deems necessary to the sound administration of the financial aid programs, such as the pertinent actions of any owner, shareholder, or person exercising control over an eligible institution''.

Subsec. (c)(1)(C). Pub. L. 102–325, § 490(d)(3), added subpar. (C). Former subpar. (C) redesignated (E).

Subsec. (c)(1)(D). Pub. L. 102–325, § 490(d)(3), added subpar. (D). Former subpar. (D) redesignated (F).

Pub. L. 102–325, § 490(b)(2)(B), struck out ''on the record'' after ''opportunity for hearing''.

Subsec. (c)(1)(E). Pub. L. 102–325, § 490(d)(2), redesignated subpar. (C) as (E). Former subpar. (E) redesignated (G).

Subsec. (c)(1)(F). Pub. L. 102–325, § 490(d)(2), redesignated subpar. (D) as (F). Former subpar. (F) redesignated (H).

Pub. L. 102–325, § 490(b)(2)(C), struck out ''on the record'' after ''opportunity for a hearing''.

Subsec. (c)(1)(G). Pub. L. 102–325, § 490(d)(2), redesignated subpar. (E) as (G). Former subpar. (G) redesignated (I).

Subsec. (c)(1)(H). Pub. L. 102–325, § 490(d)(2), (4), redesignated subpar. (F) as (H) and substituted ''a third party servicer'' for ''an individual or an organization''.

Subsec. (c)(1)(I). Pub. L. 102–325, § 490(d)(2), (5), redesignated subpar. (G) as (I) and substituted ''a third party servicer'' for ''an individual or an organization''.

Subsec. (c)(2). Pub. L. 102–325, § 490(d)(8), added par. (2). Former par. (2) redesignated (3).

Pub. L. 102–325, § 490(b)(2)(D), struck out ''on the record'' after ''opportunity for a hearing'' in subpars. (A) and (B)(i).

Subsec. (c)(3). Pub. L. 102–325, § 490(d)(7), redesignated par. (2) as (3). Former par. (3) redesignated (4).

Pub. L. 102–325, § 490(d)(6), inserted '', after consultation with each State review entity designated under subpart 1 of part G of this subchapter,'' after ''shall publish''.

Subsec. (c)(4). Pub. L. 102–325, § 490(d)(7), redesignated par. (3) as (4).

Subsec. (c)(5) to (7). Pub. L. 102–325, § 490(d)(9), added pars. (5) to (7).

Subsec. (d). Pub. L. 102–325, § 490(f)(3), substituted ''section 1088'' for ''section 1085(a)''.

Subsec. (e). Pub. L. 102–325, § 490(e), added subsec. (e).

1991—Subsec. (a)(11). Pub. L. 102–26 substituted ''whose students receive financial assistance pursuant to section 1091(d) of this title,'' for ''which admits students on the basis of their ability to benefit from the education or training provided by such institution (as determined under section 1091(d) of this title),''.

1990—Subsec. (a)(12). Pub. L. 101–542 added par. (12).

1989—Subsec. (a)(11). Pub. L. 101–239, § 2003(c)(2), added par. (11).

Subsec. (c)(1)(D). Pub. L. 101–239, § 2006(c)(2), substituted '', any regulation'' for ''or any regulation'' and inserted ''or any applicable special arrangement, agreement, or limitation,''.

Subsec. (c)(1)(E) to (G). Pub. L. 101–239, § 2006(c)(3), added subpars. (E) to (G).

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1003 of this title.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102–26 applicable to any grant, loan, or work assistance to cover the cost of instruction for periods of enrollment beginning on or after July 1, 1991, see section 2(d)(1) of Pub. L. 102–26, set out as a note under section 1085 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Section 2003(c)(3) of Pub. L. 101–239 provided that: ''The amendments made by this subsection [amending this section and section 1078–1 of this title] shall apply with respect to periods of enrollment beginning on or after January 1, 1990.''

EFFECTIVE DATE

Section effective Oct. 17, 1986, except as otherwise provided, see section 2 of Pub. L. 99–498, set out as a note under section 1001 of this title.

Subsec. (a)(10) of this section applicable only to periods of enrollment beginning on or after July 1, 1987, see section 407(b) of Pub. L. 99–498, set out as a note under section 1091 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1070a–15, 1070b–2, 1087c, 1087nn, 1087*oo*, 1087pp, 1087qq, 1091, 1096, 1099a–3, 1099c of this title; title 42 section 12604.

§ 1094a. Quality assurance program

(a) In general

The Secretary is authorized to select institutions for voluntary participation in a Quality Assurance Program that provides participating institutions with an alternative management approach through which individual schools develop and implement their own comprehensive systems to verify student financial aid application data, thereby enhancing program integrity within the student aid delivery system. The Quality Assurance Program authorized by this section shall be based on criteria that include demonstrated institutional performance, as determined by the Secretary, and shall take into consideration current quality assurance goals, as determined by the Secretary.

(b) Exemption from requirements

The Secretary is authorized to exempt any institution participating in the Quality Assurance Program from any reporting or verification requirements in this subchapter and part C of subchapter I of chapter 34 of title 42, and may substitute such quality assurance reporting as the Secretary deems necessary to ensure accountability and compliance with the purposes of the programs under this subchapter and part C of subchapter I of chapter 34 of title 42.

(c) Removal from program

The Secretary is authorized to determine—

(1) when an institution that is unable to administer the Quality Assurance Program must be removed from such program, and

(2) when institutions desiring to cease participation in such program will be required to complete the current award year under the requirements of the Quality Assurance Program.

(d) Experimental sites

(1) The Secretary is authorized to select institutions for voluntary participation as experimental sites to provide recommendations to the Secretary on the impact and effectiveness of proposed regulations or new management initiatives.

(2) The Secretary is authorized to exempt any institution participating as an experimental site from any requirements in this subchapter and part C of subchapter I of chapter 34 of title 42, or in regulations prescribed under this subchapter and part C of subchapter I of chapter 34 of title 42, that would bias experimental results.

(e) "Current award year" defined

For purposes of this section, ''current award year'' is defined as the award year during which the participating institution indicates its intention to cease participation.

(Pub. L. 89–329, title IV, § 487A, as added Pub. L. 102–325, title IV, § 491, July 23, 1992, 106 Stat. 629.)

§ 1094b. Assignment of identification numbers

The Secretary shall assign to each participant in title IV programs, including institutions, lenders, and guaranty agencies, a single Department of Education identification number to be used to identify its participation in each of the title IV programs.

(Pub. L. 89–329, title IV, § 487B, as added Pub. L. 102–325, title IV, § 491, July 23, 1992, 106 Stat. 630.)

REFERENCES IN TEXT

Title IV, referred to in text, means title IV of Pub. L. 89–329, as added by Pub. L. 99–498, which is classified generally to this subchapter and part C of subchapter I of chapter 34 of Title 42, The Public Health and Welfare.

§ 1095. Transfer of allotments

In order to offer an arrangement of types of aid, including institutional and State aid which best fits the needs of each individual student, an institution may (1) transfer a total of 25 percent of the institutions allotment under section 1087bb of this title to the institution's allotment under section 1070b–3 of this title or section 2752 of title 42 (or both); and (2) transfer 25 percent of the institution's allotment under section 2752 of title 42 to the institution's allotment under section 1070b–3 of this title. Funds transferred to an institution's allotment under another section may be used as a part of and for the same purposes as funds allotted under that section. The Secretary shall have no control over such transfer, except as specifically authorized, except for the collection and dissemination of information.

(Pub. L. 89–329, title IV, § 488, as added Pub. L. 99–498, title IV, § 407(a), Oct. 17, 1986, 100 Stat. 1490; amended Pub. L. 100–50, § 15(14), June 3, 1987, 101 Stat. 357; Pub. L. 102–325, title IV, § 492, July 23, 1992, 106 Stat. 630.)

PRIOR PROVISIONS

A prior section 1095, Pub. L. 89–329, title IV, § 488, as added Pub. L. 96–374, title IV, § 451(a), Oct. 3, 1980, 94 Stat. 1452, related to transfer of allotments, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1992—Pub. L. 102–325 inserted first two sentences and struck out former first sentence which read as follows: ''Up to 10 percent of the allotment of an eligible institution for a fiscal year under section 1070b–3 of this title or 2752 of title 42, may be transferred to, and used for the purposes of, the institution's allotment under the other section within the discretion of such institution in order to offer an arrangement of types of aid, including institutional and State aid, which best fits the needs of each individual student.''

1987—Pub. L. 100–50 substituted ''section 2752 of title 42'' for ''section 2756 of title 42''.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 to this section, relating to transfers of allotments, applicable with respect to funds provided for award years beginning on or after July 1, 1993, see section 498 of Pub. L. 102–325, set out as a note under section 1088 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 42 section 2753.

§ 1095a. Wage garnishment requirement

(a) Garnishment requirements

Notwithstanding any provision of State law, a guaranty agency, or the Secretary in the case of loans made, insured or guaranteed under this subchapter and part C of subchapter I of chapter 34 of title 42 that are held by the Secretary, may garnish the disposable pay of an individual to collect the amount owed by the individual, if he or she is not currently making required repayment under a repayment agreement with the Secretary, or, in the case of a loan guaranteed under part B of this subchapter on which the guaranty agency received reimbursement from the Secretary under section 1078(c) of this title, with the guaranty agency holding the loan, as appropriate, provided that—

(1) the amount deducted for any pay period may not exceed 10 percent of disposable pay, except that a greater percentage may be deducted with the written consent of the individual involved;

(2) the individual shall be provided written notice, sent by mail to the individual's last known address, a minimum of 30 days prior to the initiation of proceedings, from the guaranty agency or the Secretary, as appropriate, informing such individual of the nature and amount of the loan obligation to be collected, the intention of the guaranty agency or the Secretary, as appropriate, to initiate proceedings to collect the debt through deductions from pay, and an explanation of the rights of the individual under this section;

(3) the individual shall be provided an opportunity to inspect and copy records relating to the debt;

(4) the individual shall be provided an opportunity to enter into a written agreement with the guaranty agency or the Secretary, under terms agreeable to the Secretary, or the head of the guaranty agency or his designee, as appropriate, to establish a schedule for the repayment of the debt;

(5) the individual shall be provided an opportunity for a hearing in accordance with subsection (b) of this section on the determination of the Secretary or the guaranty agency, as appropriate, concerning the existence or the amount of the debt, and, in the case of an individual whose repayment schedule is established other than by a written agreement pursuant to paragraph (4), concerning the terms of the repayment schedule;

(6) the employer shall pay to the Secretary or the guaranty agency as directed in the withholding order issued in this action, and shall be liable for, and the Secretary or the guaranty agency, as appropriate, may sue the employer in a State or Federal court of competent jurisdiction to recover, any amount that such employer fails to withhold from wages due an employee following receipt of such employer of notice of the withholding order, plus attorneys' fees, costs, and, in the court's discretion, punitive damages, but such employer shall not be required to vary the normal pay and disbursement cycles in order to comply with this paragraph;

(7) if an individual has been reemployed within 12 months after having been involuntarily separated from employment, no amount may be deducted from the disposable pay of such individual until such individual has been reemployed continuously for at least 12 months; and

(8) an employer may not discharge from employment, refuse to employ, or take disciplinary action against an individual subject to wage withholding in accordance with this section by reason of the fact that the individual's wages have been subject to garnishment under this section, and such individual may sue in a State or Federal court of competent jurisdiction any employer who takes such action. The court shall award attorneys' fees to a prevailing employee and, in its discretion, may order reinstatement of the individual, award punitive damages and back pay to the employee, or order such other remedy as may be reasonably necessary.

(b) Hearing requirements

A hearing described in subsection (a)(5) of this section shall be provided prior to issuance of a garnishment order if the individual, on or before the 15th day following the mailing of the notice described in subsection (a)(2) of this section, and in accordance with such procedures as the Secretary or the head of the guaranty agency, as appropriate, may prescribe, files a petition requesting such a hearing. If the individual does not file a petition requesting a hearing prior to such date, the Secretary or the guaranty agency, as appropriate, shall provide the individual a hearing under subsection (a)(5) of this section upon request, but such hearing need not be provided prior to issuance of a garnishment order. A hearing under subsection (a)(5) of this section may not be conducted by an individual under the supervision or control of the head of the guaranty agency, except that nothing in this sentence shall be construed to prohibit the appointment of an administrative law judge. The hearing official shall issue a final decision at the earliest practicable date, but not later than 60 days after the filing of the petition requesting the hearing.

(c) Notice requirements

The notice to the employer of the withholding order shall contain only such information as may be necessary for the employer to comply with the withholding order.

(d) "Disposable pay" defined

For the purpose of this section, the term ''disposable pay'' means that part of the compensation of any individual from an employer remaining after the deduction of any amounts required by law to be withheld.

(Pub. L. 89–329, title IV, § 488A, as added Pub. L. 102–164, title VI, § 605(a), Nov. 15, 1991, 105 Stat. 1066.)

§ 1096. Administrative expenses

(a) Amount of payments

From the sums appropriated for any fiscal year for the purpose of the program authorized under subpart 1 of part A of this subchapter, the Secretary shall reserve such sums as may be necessary to pay to each institution with which

he has an agreement under section 1094 of this title, an amount equal to $5 for each student at that institution who receives assistance under subpart 1 of part A of this subchapter. In addition, an institution which has entered into an agreement with the Secretary under subpart 3 of part A of this subchapter or part C of subchapter I of chapter 34 of title 42, or under part D of this subchapter shall be entitled for each fiscal year which such institution disburses funds to eligible students under any such part to a payment for the purpose set forth in subsection (b) of this section. The payment for a fiscal year shall be payable from each such allotment by payment in accordance with regulations of the Secretary and shall be equal to 5 percent of the institution's first $2,750,000 of expenditures plus 4 percent of the institution's expenditures greater than $2,750,000 and less than $5,500,000, plus 3 percent of the institution's expenditures in excess of $5,500,000 during the fiscal year from the sum of its grants to students under subpart 3 of part A of this subchapter, its expenditures during such fiscal year under part C of subchapter I of chapter 34 of title 42 for compensation of students, and the principal amount of loans made during such fiscal year from its student loan fund established under part D of this subchapter, excluding the principal amount of any such loans which the institution has agreed to assign under section 1087cc(a)(6)(B) of this title. In addition, the Secretary shall provide for payment to each institution of higher education an amount equal to 100 percent of the costs incurred by the institution in implementing and operating the immigration status verification system under section 1091(h)[1] of this title.

(b) Purpose of payments

(1) The sums paid to institutions under this part are for the sole purpose of offsetting the administrative costs of the programs described in subsection (a) of this section.

(2) If the institution enrolls a significant number of students who are (A) attending the institution less than full time, or (B) independent students, the institution shall use a reasonable proportion of the funds available under this section for financial aid services during times and in places that will most effectively accommodate the needs of such students.

(Pub. L. 89–329, title IV, § 489, as added Pub. L. 99–498, title IV, § 407(a), Oct. 17, 1986, 100 Stat. 1491; amended Pub. L. 99–603, title I, § 121(b)(7), Nov. 6, 1986, 100 Stat. 3391; Pub. L. 100–50, § 15(15), June 3, 1987, 101 Stat. 357; Pub. L. 102–325, title IV, §§ 446(c), 493, July 23, 1992, 106 Stat. 567, 630; Pub. L. 103–208, § 2(h)(44), (k)(6), Dec. 20, 1993, 107 Stat. 2478, 2486.)

REFERENCES IN TEXT

Section 1091(h) of this title, referred to in subsec. (a), was redesignated section 1091(g) by Pub. L. 103–208, § 2(h)(25), Dec. 20, 1993, 107 Stat. 2477.

PRIOR PROVISIONS

A prior section 1096, Pub. L. 89–329, title IV, § 489, as added Pub. L. 96–374, title IV, § 451(a), Oct. 3, 1980, 94 Stat. 1453; amended Pub. L. 97–35, title V, § 537(a)(2), Aug. 13, 1981, 95 Stat. 456, related to administrative expenses, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1993—Subsec. (a). Pub. L. 103–208, § 2(k)(6), repealed Pub. L. 102–325, § 446(c). See 1992 Amendment note below.

Pub. L. 103–208, § 2(h)(44), substituted ''1091(h) of this title'' for ''1091(c) of this title''.

1992—Subsec. (a). Pub. L. 102–325, § 493(a)(3), substituted ''subpart 3'' for ''subpart 2'' in two places.

Pub. L. 102–325, § 493(a)(1), (2), struck out ''(other than section 2756a of title 42)'' before '', or under part D'' in second sentence and struck out fourth sentence which read as follows: ''The payment for a fiscal year for the purpose of subsection (b) of this section with respect to section 2756a of title 42 shall be payable from each allotment under part C of subchapter I of chapter 34 of title 42 in accordance with regulations of the Secretary, and shall be 10 percent of the institution's expenditures during such fiscal year under such section.''

Pub. L. 102–325, § 446(c), which directed amendment identical to amendment by Pub. L. 102–325, § 493(a)(1), (2), above, was repealed by Pub. L. 103–208, § 2(k)(6).

Subsec. (b). Pub. L. 102–325, § 493(b), designated existing provisions as par. (1) and added par. (2).

1987—Subsec. (a). Pub. L. 100–50 made technical amendment to reference to section 2756a of title 42 to correct reference to corresponding section of original Act, requiring no change in text.

1986—Subsec. (a). Pub. L. 99–603 inserted provision directing the Secretary to pay the costs incurred by institutions of higher education in implementing and operating the immigration status verification system under section 1091(c) of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1003 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by section 446(c) of Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

Amendment by section 493 of Pub. L. 102–325, relating to payments for administrative expenses, applicable with respect to funds provided for award years beginning on or after July 1, 1993, see section 498(7) of Pub. L. 102–325, set out as a note under section 1088 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–603 effective Oct. 1, 1987, see section 121(c)(2) of Pub. L. 99–603, set out as a note under section 502 of Title 42, The Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1070b–2, 1087cc of this title; title 42 sections 2753, 2756a.

§ 1096a. Repealed. Pub. L. 102–325, title IV, § 494, July 23, 1992, 106 Stat. 631

Section, Pub. L. 89–329, title IV, § 489A, as added Pub. L. 102–164, title VI, § 606, Nov. 15, 1991, 105 Stat. 1068, related to data matching.

[1] See References in Text note below.

§ 1097. Criminal penalties

(a) In general

Any person who knowingly and willfully embezzles, misapplies, steals, obtains by fraud, false statement, or forgery, or fails to refund any funds, assets, or property provided or insured under this subchapter and part C of subchapter I of chapter 34 of title 42 or attempts to so embezzle, misapply, steal, obtain by fraud, false statement or forgery, or fail to refund any funds, assets, or property, shall be fined not more than $20,000 or imprisoned for not more than 5 years, or both, except if the amount so embezzled, misapplied, stolen, obtained by fraud, false statement, or forgery, or failed to be refunded does not exceed $200, then the fine shall not be more than $5,000 and imprisonment shall not exceed one year, or both.

(b) Assignment of loans

Any person who knowingly and willfully makes any false statement, furnishes any false information, or conceals any material information in connection with the assignment of a loan which is made or insured under this subchapter and part C of subchapter I of chapter 34 of title 42 or attempts to so make any false statement, furnish any false information, or conceal any material information in connection with such assignment shall, upon conviction thereof, be fined not more than $10,000 or imprisoned for not more than one year, or both.

(c) Inducements to lend or assign

Any person who knowingly and willfully makes an unlawful payment to an eligible lender under part B of this subchapter or attempts to make such unlawful payment as an inducement to make, or to acquire by assignment, a loan insured under such part shall, upon conviction thereof, be fined not more than $10,000 or imprisoned for not more than one year, or both.

(d) Obstruction of justice

Any person who knowingly and willfully destroys or conceals any record relating to the provision of assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 or attempts to so destroy or conceal with intent to defraud the United States or to prevent the United States from enforcing any right obtained by subrogation under this part, shall upon conviction thereof, be fined not more than $20,000 or imprisoned not more than 5 years, or both.

(Pub. L. 89–329, title IV, § 490, as added Pub. L. 99–498, title IV, § 407(a), Oct. 17, 1986, 100 Stat. 1491; amended Pub. L. 102–325, title IV, § 495, July 23, 1992, 106 Stat. 631.)

PRIOR PROVISIONS

A prior section 1097, Pub. L. 89–329, title IV, § 490, as added Pub. L. 96–374, title IV, § 451(a), Oct. 3, 1980, 94 Stat. 1453, related to criminal penalties, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1992—Pub. L. 102–325 amended section generally, inserting provisions relating to attempted offenses, wherever appearing, and in subsec. (a) inserting provisions relating to failure to refund and substituting provisions relating to $20,000 and $5,000 fines for provisions relating to $10,000 and $1,000 fines, respectively, in subsec. (b) substituting provisions relating to $10,000 fines for provisions relating to $1,000 fines, in subsec. (c) substituting provisions relating to $10,000 fines for provisions relating $1,000 fines, and in subsec. (d) substituting provisions relating to $20,000 fines for provisions relating to $10,000 fines.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1072 of this title.

§ 1098. Advisory Committee on Student Financial Assistance

(a) Establishment and purpose

(1) There is established in the Department an independent Advisory Committee on Student Financial Assistance (hereafter in this section referred to as the ''Advisory Committee'') which shall provide advice and counsel to the Congress and to the Secretary on student financial aid matters.

(2) The purpose of the Advisory Committee is—

(A) to provide extensive knowledge and understanding of the Federal, State, and institutional programs of postsecondary student assistance;

(B) to provide technical expertise with regard to systems of needs analysis and application forms; and

(C) to make recommendations that will result in the maintenance of access to postsecondary education for low- and middle-income students.

(b) Independence of Advisory Committee

In the exercise of its functions, powers, and duties, the Advisory Committee shall be independent of the Secretary and the other offices and officers of the Department. Notwithstanding Department of Education policies and regulations, the Advisory Committee shall exert independent control of its budget allocations and expenditures, personnel decisions and processes, procurements, and other administrative and management functions. The Advisory Committee's administration and management shall be subject to the usual and customary Federal audit procedures. The recommendations of the Committee shall not be subject to review or approval by any officer in the executive branch, but may be submitted to the Secretary for comment prior to submission to the Congress in accordance with subsection (f) of this section. The Secretary's authority to terminate advisory committees of the Department pursuant to section 1233g(b)[1] of this title ceased to be effective on June 23, 1983.

(c) Membership

(1) The Advisory Committee shall have 11 members of which—

(A) 3 members shall be appointed by the President pro tempore of the Senate upon the recommendation of the Majority Leader and the Minority Leader,

(B) 3 members shall be appointed by the Speaker of the House of Representatives upon the recommendation of the Majority Leader and the Minority Leader, and

[1] See References in Text note below.

(C) 5 members shall be appointed by the Secretary including, but not limited to representatives of States, institutions of higher education, secondary schools, credit institutions, students, and parents.

(2) Not less than 7 members of the Advisory Committee shall be individuals who have been appointed on the basis of technical qualifications, professional standing and demonstrated knowledge in the fields of higher education and student aid administration, need analysis, financing postsecondary education, student aid delivery, and the operations and financing of student loan guarantee agencies.

(d) Functions of the Committee

The Advisory Committee shall—

(1) develop, review, and comment annually upon the system of needs analysis established under part E of this subchapter;

(2) monitor, apprise, and evaluate the effectiveness of student aid delivery and recommend improvements;

(3) recommend data collection needs and student information requirements which would improve access and choice for eligible students under this subchapter and part C of subchapter I of chapter 34 of title 42 and assist the Department of Education in improving the delivery of student aid;

(4) assess the impact of legislative and administrative policy proposals;

(5) review and comment upon, prior to promulgation, all regulations affecting programs under this subchapter and part C of subchapter I of chapter 34 of title 42, including proposed regulations;

(6) recommend to the Congress and to the Secretary such studies, surveys, and analyses of student financial assistance programs, policies, and practices, including the special needs of low-income, disadvantaged, and nontraditional students, and the means by which the needs may be met, but nothing in this section shall authorize the committee to perform such studies, surveys, or analyses;

(7) review and comment upon standards by which financial need is measured in determining eligibility for Federal student assistance programs;

(8) appraise the adequacies and deficiencies of current student financial aid information resources and services and evaluate the effectiveness of current student aid information programs; and

(9) make special efforts to advise Members of Congress and such Members' staff of the findings and recommendations made pursuant to this paragraph.

(e) Operations of the Committee

(1) Each member of the Advisory Committee shall be appointed for a term of 3 years, except that, of the members first appointed—

(A) 4 shall be appointed for a term of 1 year;

(B) 4 shall be appointed for a term of 2 years; and

(C) 3 shall be appointed for a term of 3 years,

as designated at the time of appointment by the Secretary.

(2) Any member appointed to fill a vacancy occurring prior to the expiration of the term of a predecessor shall be appointed only for the remainder of such term. A member of the Advisory Committee shall, upon request, continue to serve after the expiration of a term until a successor has been appointed. A member of the Advisory Committee may be reappointed to successive terms on the Advisory Committee.

(3) The Advisory Committee shall elect a Chairman and a Vice Chairman from among its members.

(4) Six members of the Advisory Committee shall constitute a quorum.

(5) The Advisory Committee shall meet at the call of the Chairman or a majority of its members.

(f) Submission to Department for comment

The Advisory Committee may submit its proposed recommendations to the Department of Education for comment for a period not to exceed 30 days in each instance.

(g) Compensation and expenses

(1) Members of the Advisory Committee who are officers or full-time employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States; but they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, for persons in the Government service employed intermittently.

(2) Members of the Advisory Committee who are not officers or full-time employees of the United States may each receive reimbursement for travel expenses incident to attending Advisory Committee meetings, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, for persons in the Government service employed intermittently.

(h) Personnel and resources

(1) The Advisory Committee may appoint such personnel as may be necessary by the Chairman without regard to the provisions of title 5 governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but no individual so appointed shall be paid in excess of the rate authorized for GS–18 of the General Schedule.

(2) In carrying out its duties under this chapter, the Advisory Committee shall consult with other Federal agencies, representatives of State and local governments, and private organizations to the extent feasible.

(3)(A) The Advisory Committee is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality information, suggestions, estimates, and statistics for the purpose of this section and each such department, bureau, agency, board, commission, office, independent establishment, or instrumentality is authorized and directed, to the extent permitted by law, to furnish such information, suggestions, estimates, and statistics directly to the Advisory Committee, upon request made by the Chairman.

(B) The Advisory Committee may enter into contracts for the acquisition of information,

suggestions, estimates, and statistics for the purpose of this section.

(4) The Advisory Committee is authorized to obtain the services of experts and consultants without regard to section 3109 of title 5 and to set pay in accordance with such section.

(5) The head of each Federal agency shall, to the extent not prohibited by law, cooperate with the Advisory Committee in carrying out this section.

(6) The Advisory Committee is authorized to utilize, with their consent, the services, personnel, information, and facilities of other Federal, State, local, and private agencies with or without reimbursement.

(i) Availability of funds

In each fiscal year not less than $750,000, shall be available from the amount appropriated for each such fiscal year from salaries and expenses of the Department for the costs of carrying out the provisions of this section.

(j) Special analyses and activities

The committee shall—

(1) monitor and evaluate the program modifications resulting from the enactment of the Higher Education Amendments of 1992, especially as such amendments relate to the need analysis;

(2) monitor and evaluate the implementation, pursuant to section 1090 of this title, of a Free Application for Federal Student Aid and the process for determining eligibility and awards for programs under this subchapter and part C of subchapter I of chapter 34 of title 42, including a simplified reapplication process;

(3) assess the adequacy of current methods for disseminating information about programs under this subchapter and part C of subchapter I of chapter 34 of title 42 and recommend improvements, as appropriate, regarding early needs assessment and information for first-year high school students; and

(4) assess the adequacy of methods of monitoring student debt burden.

(k) Term of Committee

Notwithstanding the sunset and charter provisions of the Federal Advisory Committee Act or any other statute or regulation, the Advisory Committee shall be authorized until October 1, 1998.

***(l)* Student loan program simplification study**

(1) The Advisory Committee shall conduct a thorough study of means of simplifying all aspects of the loan programs under part B of this subchapter. In carrying out the study, the Advisory Committee shall examine, at a minimum—

(A) reduction of paperwork burdens experienced by financial aid administrators resulting from the current structure of such loan programs;

(B) promotion of simplification and standardization of forms, procedures, and all other aspects of guaranty agency operations for the purpose of facilitating data exchanges with such agencies (including the National Student Loan Database) and facilitating Department of Education oversight;

(C) simplification of the repayment process to minimize borrower confusion, including encouragement of single holder ownership of all of an individual's loans;

(D) encouragement of efficient utilization of loan programs to minimize multiple program borrowing in postsecondary education; and

(E) other proposals which are designed to reduce the administrative burdens on, and paperwork required of, students, educational institutions, guaranty agencies, lenders, secondary markets, and the Secretary submitted in response to a general solicitation by the Advisory Committee.

(2) The Advisory Committee shall consult with the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate in carrying out the study required by this subsection.

(3) The Advisory Committee shall, not later than 1 year after July 23, 1992, prepare and submit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report on the study required by this subsection.

(Pub. L. 89–329, title IV, § 491, as added Pub. L. 99–498, title IV, § 407(a), Oct. 17, 1986, 100 Stat. 1492; amended Pub. L. 100–50, § 15(16)–(18), June 3, 1987, 101 Stat. 357; Pub. L. 102–325, title IV, § 496, July 23, 1992, 106 Stat. 631; Pub. L. 103–208, § 2(h)(45), (46), Dec. 20, 1993, 107 Stat. 2478.)

REFERENCES IN TEXT

Section 1233g of this title, referred to in subsec. (b), was repealed by Pub. L. 103–382, title II, § 212(a)(2), Oct. 20, 1994, 108 Stat. 3913.

The provisions of title 5 governing appointments in the competitive service, referred to in subsec. (h)(1), are classified to section 3301 et seq. of Title 5, Government Organization and Employees.

This chapter, referred to in subsec. (h)(2), was in the original ''the Act'', meaning Pub. L. 89–329, as amended, known as the Higher Education Act of 1965. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

The Higher Education Amendments of 1992, referred to in subsec. (j)(1), is Pub. L. 102–325, July 23, 1992, 106 Stat. 448. For complete classification of this Act to the Code, see Short Title of 1992 Amendment note set out under section 1001 of this title and Tables.

The Federal Advisory Committee Act, referred to in subsec. (k), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

CODIFICATION

July 23, 1992, referred to in subsec. (*l*)(3), was in the original ''the date of enactment of this Act'', which was translated as meaning the date of enactment of Pub. L. 102–325, which added subsec. (*l*), to reflect the probable intent of Congress.

PRIOR PROVISIONS

A prior section 1098, Pub. L. 89–329, title IV, § 491, as added Pub. L. 96–374, title IV, § 451(a), Oct. 3, 1980, 94 Stat. 1454; amended Pub. L. 98–79, § 11, Aug. 15, 1983, 97 Stat. 484, related to a National Commission on Student Financial Assistance, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1993—Subsec. (d)(1). Pub. L. 103–208, § 2(h)(45), struck out ''sections 1070a–1 through 1070a–5 of this title and'' after ''established under''.

Subsec. (h)(1). Pub. L. 103–208, § 2(h)(46), substituted ''subchapter III'' for ''subtitle III'' before ''of chapter 53 of such title''.

1992—Subsec. (b). Pub. L. 102–325, § 496(a), inserted after first sentence ''Notwithstanding Department of Education policies and regulations, the Advisory Committee shall exert independent control of its budget allocations and expenditures, personnel decisions and processes, procurements, and other administrative and management functions. The Advisory Committee's administration and management shall be subject to the usual and customary Federal audit procedures.''

Subsec. (d)(3). Pub. L. 102–325, § 496(b)(1), struck out ''and in assessing the impact of legislative and administrative policy proposals'' after ''student aid''.

Subsec. (d)(4) to (9). Pub. L. 102–325, § 496(b)(2)–(6), added par. (4), redesignated former pars. (4) to (7) as (5) to (8), respectively, and added par. (9).

Subsec. (h)(4). Pub. L. 102–325, § 496(c), substituted ''without regard to'' for ''in accordance with'' and inserted before period at end ''and to set pay in accordance with such section''.

Subsec. (i). Pub. L. 102–325, § 496(d), substituted ''$750,000'' for ''$500,000''.

Subsecs. (j) to (*l*). Pub. L. 102–325, § 496(e), added subsecs. (j) to (*l*) and struck out former subsec. (j), which related to special institutional lender study.

1987—Subsec. (b). Pub. L. 100–50, § 15(16), inserted at end ''The Secretary's authority to terminate advisory committees of the Department pursuant to section 1233g(b) of this title ceased to be effective on June 23, 1983.''

Subsec. (i). Pub. L. 100–50, § 15(17), substituted ''In each fiscal year not less than $500,000'' for ''An amount, not to exceed $500,000 in any fiscal year''.

Subsec. (j). Pub. L. 100–50, § 15(18), added subsec. (j).

CHANGE OF NAME

Committee on Education and Labor of House of Representatives treated as referring to Committee on Economic and Educational Opportunities of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Economic and Educational Opportunities of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Fifth Congress, Jan. 7, 1997.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1003 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, § 101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

§ 1098a. Regional meetings and negotiated rulemaking

(a) Meetings

(1) In general

The Secretary shall convene regional meetings to obtain public involvement in the development of proposed regulations for parts B, F, and G of this subchapter. Such meetings shall include individuals and representatives of the groups involved in student financial assistance programs under this subchapter and part C of subchapter I of chapter 34 of title 42, such as students, legal assistance organizations that represent students, institutions of higher education, guaranty agencies, lenders, secondary markets, loan servicers, guaranty agency servicers, and collection agencies.

(2) Issues

During such meetings, the Secretary shall provide for a comprehensive discussion and exchange of information concerning the implementation of parts B, F, and G of this subchapter, as amended by the Higher Education Amendments of 1992. The Secretary shall take into account the information received at such meetings in the development of proposed regulations and shall publish a summary of such information in the Federal Register together with such proposed regulations.

(b) Draft regulations

After holding regional meetings and before publishing proposed regulations in the Federal Register, the Secretary shall prepare draft regulations implementing parts B, F, and G of this subchapter as amended by the Higher Education Amendments of 1992 and shall submit such regulations to a negotiated rulemaking process. The Secretary shall follow the guidance provided in sections 305.82–4 and 305.85–5 of chapter 1, Code of Federal Regulations, and any successor recommendation, regulation, or law. Participants in the negotiations process shall be chosen by the Secretary from individuals nominated by groups participating in the regional meetings described in subsection (a)(1) of this section, and shall include both representatives of such groups from Washington, D.C., and industry participants. To the extent possible, the Secretary shall select individuals reflecting the diversity in the industry, representing both large and small participants, as well as individuals serving local areas and national markets. The negotiation process shall be conducted in a timely manner in order that the final regulations may be issued by the Secretary within the 240-day period described in section 1232(g)[1] of this title.

(c) Applicability of Federal Advisory Committee Act

The Federal Advisory Committee Act shall not apply to activities carried out under this section.

(d) Authorization of appropriations

There are authorized to be appropriated in any fiscal year or made available from funds appropriated to carry out this part in any fiscal year

[1] See References in Text note below.

such sums as may be necessary to carry out the provisions of this section, except that if no funds are appropriated pursuant to this subsection, the Secretary shall make funds available to carry out this section from amounts appropriated for the operations and expenses of the Department of Education.

(Pub. L. 89–329, title IV, § 492, as added Pub. L. 102–325, title IV, § 497, July 23, 1992, 106 Stat. 633.)

REFERENCES IN TEXT

The Higher Education Amendments of 1992, referred to in subsecs. (a)(2) and (b), is Pub. L. 102–325, July 23, 1992, 106 Stat. 448. For complete classification of this Act to the Code, see Short Title of 1992 Amendment note set out under section 1001 of this title and Tables.

Section 1232(g) of this title, referred to in subsec. (b), was in the original a reference to section 431(g) of the General Education Provisions Act. Sections 422 and 431 of that Act were renumbered as sections 431 and 437, respectively, by Pub. L. 103–382, title II, § 212(b)(1), Oct. 20, 1994, 108 Stat. 3913, and are classified to sections 1231a and 1232, respectively, of this title. Section 437 was amended generally by Pub. L. 103–382, § 247, and, as so amended, no longer contains a subsec. (g), but it does contain provisions relating to the schedule for promulgation of final regulations in subsec. (e).

The Federal Advisory Committee Act, referred to in subsec. (c), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

§ 1098b. Authorization of appropriations for administrative expenses

There are authorized to be appropriated such sums as may be necessary for fiscal year 1993 and for each succeeding fiscal year thereafter for administrative expenses necessary for carrying out this subchapter and part C of subchapter I of chapter 34 of title 42, including expenses for staff personnel, program reviews, and compliance activities.

(Pub. L. 89–329, title IV, § 493, as added Pub. L. 102–325, title IV, § 497, July 23, 1992, 106 Stat. 634.)

§ 1099. Exemption from State disclosure requirements

Loans made, insured, or guaranteed pursuant to a program authorized by this subchapter shall not be subject to any disclosure requirements of any State law.

(Pub. L. 97–320, title VII, § 701(b), Oct. 15, 1982, 96 Stat. 1538.)

CODIFICATION

Section was enacted as part of the Garn-St Germain Depository Institutions Act of 1982, and not as part of title IV of the Higher Education Act of 1965 which comprises this subchapter.

EFFECTIVE DATE

Section effective both with respect to loans made prior to and after Oct. 15, 1982, see section 701(c) of Pub. L. 97–320, set out as an Effective Date of 1982 Amendment note under section 1603 of Title 15, Commerce and Trade.

PART G—PROGRAM INTEGRITY TRIAD

CODIFICATION

This part was added as part H of title IV of Pub. L. 89–329 by Pub. L. 102–325, title IV, § 499, July 23, 1992, 106 Stat. 634. The letter designation of this part was changed from ''H'' to ''G'' for codification purposes. See Codification note preceding section 1087a of this title.

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 1088, 1089, 1094, 1098a of this title.

SUBPART 1—STATE POSTSECONDARY REVIEW PROGRAM

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in sections 1082, 1087c, 1094, 1099c, 1099c–1, 1145 of this title.

§ 1099a. State postsecondary review program

(a) Purpose

It is the purpose of this section to authorize the Secretary to enter into agreements that—

(1) designate one State postsecondary review entity in each State to be responsible for the conduct or coordination of the review under section 1099a–3(d) of this title of institutions of higher education, reported to the State by the Secretary pursuant to section 1099a–3(a) of this title, for the purposes of determining eligibility under this subchapter and part C of subchapter I of chapter 34 of title 42; and

(2) provide Federal funds to each State postsecondary review entity for performing the functions required by such agreements with the Secretary.

(b) Program authority

The Secretary shall, in accordance with the provisions of this subpart, enter into agreements with each of the States to carry out the purposes of this subpart. If any State declines to enter into an agreement with the Secretary for the purposes of this subpart, the provisions of this subpart which refer to the State, with respect to such State, shall refer to the Secretary, who may make appropriate arrangements with agencies or organizations of demonstrated competence in reviewing institutions of higher education.

(c) Failure to comply with agreement

If a State fails to enter into an agreement under this section or fails to meet the requirements of its agreement with the Secretary under this subpart—

(1) the Secretary—

(A) may not designate as eligible for participation in any program under this subchapter and part C of subchapter I of chapter 34 of title 42 any new institution (including new branch campuses) or any institution that has changed ownership, pursuant to section 1088 of this title and subpart 3 of this part; and

(B) may grant only provisional certification for all institutions in the State pursuant to subpart 3 of this part; and

(2) the State shall be ineligible to receive funds under section 1099a–2 of this title, subpart 4 of part A of this subchapter, and division 2 of subpart 2 of part A of this subchapter.

(Pub. L. 89–329, title IV, § 494, as added Pub. L. 102–325, title IV, § 499, July 23, 1992, 106 Stat. 635.)

EFFECTIVE DATE

Part effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as an Effective Date of 1992 Amendment note under section 1001 of this title.

§ 1099a–1. State postsecondary review entity agreements

(a) State organization structures

(1) Each agreement under this subpart shall describe a State organizational structure responsible for carrying out the review under section 1099a–3(d) of this title of institutions reported to the State by the Secretary pursuant to section 1099a–3(a) of this title. Each such entity's action in reviewing such institutions shall, for purposes of this subpart, be considered to be the action of the State.

(2) For the purposes of this subpart, the designation of a State postsecondary review entity for the purpose of entering into an agreement with the Secretary shall be in accordance with the State law of each individual State with respect to the authority to make legal agreements between the State and the Federal Government.

(3) Except as provided in paragraph (6), nothing in this subpart shall be construed to authorize the Secretary to require any State to adopt, as a condition for entering into an agreement, a specific State organizational structure.

(4) Except as provided in paragraph (6), nothing in this subpart shall be construed—

(A) as a limitation on the authority of any State to adopt a State organization structure for postsecondary education agencies, or programs, or institutions of higher education as appropriate to the needs, traditions, and circumstances of that State;

(B) as a limitation on the authority of a State entering into an agreement pursuant to this subpart to modify the State organizational structure at any time subsequent to entering into such agreement;

(C) as a limitation on the authority of any State to enter into an agreement for purposes of this subpart as a member of a consortium of States;

(D) as an authorization for the Secretary to withhold funds from any State or postsecondary institution on the basis of compliance with a State's constitution or laws;

(E) as an authorization for any State postsecondary review entity to exercise planning, policy, coordinating, supervisory, budgeting, or administrative powers over any postsecondary institution; or

(F) as a limitation on the use of State audits for the purpose of compliance with applicable standards under section 1099a–3(d) of this title.

(5) Nothing in this subpart shall be construed to limit the authority or activities of any State loan insurance program established under section 1078(b) of this title or of any relevant State licensing authority which grants approval for institutions of higher education to operate within a State or their authority to contact the Secretary directly.

(6) Notwithstanding the provisions of paragraphs (2), (3), and (4) of this subsection, the Secretary may require each State to designate an entity responsible for the conduct or coordination of the review of institutions under this subchapter and part C of subchapter I of chapter 34 of title 42.

(b) Contents of agreements

Agreements between each State and the Secretary shall contain the following elements:

(1) A designation of a single State postsecondary review entity, which represents all entities of that State which are responsible for—

(A) granting State authorization to each institution of higher education in that State for the purposes of this subchapter and part C of subchapter I of chapter 34 of title 42, and

(B) ensuring that each institution of higher education in that State remains in compliance with the standards developed pursuant to section 1099a–3 of this title.

(2) Assurances that the State will review institutions of higher education for the purpose of determining eligibility under this subchapter and part C of subchapter I of chapter 34 of title 42 on a schedule to coincide with the dates set by the Secretary to certify or recertify such institutions of higher education as provided in section 1088 of this title and subpart 3 of this part.

(3) Assurances that the appropriate State postsecondary review entity will perform the functions authorized by this subpart and will keep such records and provide such information to the Secretary as may be requested for financial and compliance audits and program evaluation, consistent with the responsibilities of the Secretary.

(4) A description of the relationship between the State postsecondary review entity designated for the purposes of this subpart and (A) the agency or agencies designated for the purposes of chapter 36 of title 38, (B) the loan insurance program established under section 1078(b) of this title for that State, and (C) the grant agency established under section 1070c–2 of this title.

(5) A plan for performing the functions described in section 1099a–3 of this title.

(c) Federal responsibility

Notwithstanding any other provision of law, no State shall be required to enter into an agreement with the Secretary under this subpart for performing the review functions required by such agreement unless the Congress appropriates funds for this subpart.

(Pub. L. 89–329, title IV, § 494A, as added Pub. L. 102–325, title IV, § 499, July 23, 1992, 106 Stat. 635.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1099a–3 of this title.

§ 1099a–2. Federal reimbursement of State postsecondary review costs

(a) Payments

Subject to subsection (b) of this section, the Secretary shall reimburse the States for the costs of performing the functions required by agreements with the Secretary authorized under this subpart. Such costs shall include expenses for providing initial and continuing training to State personnel and other personnel in the State, including personnel at institutions of higher education subject to review, to serve the purposes of this subpart. Reimbursement shall be provided for necessary activities which sup-

plement, but do not supplant, existing licensing or review functions conducted by the State. The Secretary shall also reimburse such entities for work performed by their subcontractors and consultants where such work has a direct relationship to the requirements of agreements with the Secretary under this subpart.

(b) Authorization of appropriations

For the purpose of enabling the Secretary to make payments to States which have made agreements with the Secretary under this subpart, there is authorized to be appropriated $75,000,000 for fiscal year 1993, and such sums as may be necessary for each of the 4 succeeding fiscal years.

(Pub. L. 89–329, title IV, § 494B, as added Pub. L. 102–325, title IV, § 499, July 23, 1992, 106 Stat. 637.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1099a of this title.

§ 1099a–3. Functions of State review entities

(a) Initial review

The Secretary shall review all eligible institutions of higher education in a State to determine if any such institution meets any of the criteria in subsection (b) of this section. If any such institution meets one or more of such criteria, the Secretary shall inform the State in which such institution is located that the institution has met such criteria, and the State shall review the institution pursuant to the standards in subsection (d) of this section. The Secretary may determine that a State need not review an institution if such institution meets the criterion in subsection (b)(10) of this section only, such institution was previously reviewed by the State under subsection (d), and the State determined in such previous review that the institution did not violate any of the standards in subsection (d) of this section. The Secretary shall supply the State with a copy of the institutional audits, required pursuant to section 1094(c) of this title, for the institutions which shall be reviewed by the State. In addition to those institutions identified by the Secretary, the State may, subject to approval by the Secretary, review additional institutions which meet one or more of the criteria provided in subsection (b) of this section, based on more recent data available to the State, or which the State has reason to believe are engaged in fraudulent practices. If the Secretary fails to approve or disapprove a State request to review additional institutions within 21 days, the State may proceed to review such additional institutions as if approved by the Secretary.

(b) Review criteria

The criteria for the initial review of institutions of higher education are as follows:

(1) A cohort default rate (as defined in section 1085(m) of this title) equal to or greater than 25 percent.

(2) A cohort default rate (as defined in such section) equal to or greater than 20 percent and either—

(A) more than two-thirds of the institution's total undergraduates who are enrolled on at least a half-time basis receive assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 (except subparts 4 and 6 of part A of this subchapter); or

(B) two-thirds or more of the institution's education and general expenditures are derived from funds provided to students enrolled at the institution from the programs established under this subchapter and part C of subchapter I of chapter 34 of title 42 (except subparts 4 and 6 of part A of this subchapter and section 1078–2 of this title).

(3) Two-thirds or more of the institution's education and general expenditures are derived from funds provided to students enrolled at the institution pursuant to subpart 1 of part A of this subchapter.

(4) A limitation, suspension, or termination action by the Secretary against the institution pursuant to section 1094 of this title during the preceding 5 years.

(5) An audit finding during the 2 most recent audits of an institution of higher education's conduct of the programs established by this subchapter and part C of subchapter I of chapter 34 of title 42 that resulted in the repayment by the institution of amounts greater than 5 percent of the funds such institution received from the programs assisted under this subchapter and part C of subchapter I of chapter 34 of title 42 for any one year.

(6) A citation of an institution by the Secretary for failure to submit audits required by this subchapter and part C of subchapter I of chapter 34 of title 42 in a timely fashion.

(7) A year-to-year fluctuation of more than 25 percent in the amounts received by students enrolled at the institution from either Federal Pell Grant, Federal Stafford Loan, or Federal Supplemental Loans to Students programs, which are not accounted for by changes in these programs.

(8) Failure to meet financial responsibility standards pursuant to subpart 3 of this part.

(9) A change of ownership of the institution that results in a change of control which includes (but is not limited to)—

(A) the sale of the institution or the majority of its assets;

(B) the division of 1 or more institutions into 2 or more institutions;

(C) the transfer of the controlling interest in stock of the institution or its parent corporation;

(D) the transfer of the controlling interest of stock of the institution to its parent corporation; or

(E) the transfer of the liabilities of the institution to its parent corporation.

(10) Except with regard to any public institution that is affiliated with a State system of higher education, participation in any of the programs established pursuant to subparts 1 and 3 of part A, part B, and part D of this subchapter and part C of subchapter I of chapter 34 of title 42 for less than 5 years.

(11) A pattern of student complaints pursuant to subsection (j) of this section related to the management or conduct of the programs

established by this subchapter and part C of subchapter I of chapter 34 of title 42 or relating to misleading or inappropriate advertising and promotion of the institution's program, which in the judgment of the Secretary are sufficient to justify review of the institution.

(c) Use of recent data

The criteria provided for in subsection (b) of this section shall be measured on the basis of the most recent data available to the Secretary. Institutions may request verification of the data used by the Secretary.

(d) Review standards

Institutions which meet 1 or more of the criteria in subsection (b) of this section shall be reviewed by the appropriate State entity in accordance with published State standards that are consistent with the constitution and laws of the State, developed in consultation with the institutions in the State, and subject to disapproval by the Secretary. Such review shall determine the following:

(1) The availability to students and prospective students of catalogs, admissions requirements, course outlines, schedules of tuition and fees, policies regarding course cancellations, and the rules and regulations of the institution relating to students and the accuracy of such catalogs and course outlines in reflecting the courses and programs offered by the institution.

(2) Assurance that the institution has a method to assess a student's ability to successfully complete the course of study for which he or she has applied.

(3) Assurance that the institution maintains and enforces standards relating to academic progress and maintains adequate student and other records.

(4) Compliance by the institution with relevant safety and health standards, such as fire, building, and sanitation codes.

(5) The financial and administrative capacity of the institution as appropriate to a specified scale of operations and the maintenance of adequate financial and other information necessary to determine the financial and administrative capacity of the institution.

(6) For institutions financially at risk, the adequacy of provisions to provide for the instruction of students and to provide for the retention and accessibility of academic and financial aid records of students in the event the institution closes.

(7) If the stated objectives of the courses or programs of the institution are to prepare students for employment, the relationship of the tuition and fees to the remuneration that can be reasonably expected by students who complete the course or program and the relationship of the courses or programs (including the appropriateness of the length of such courses) to providing the student with quality training and useful employment in recognized occupations in the State.

(8) Availability to students of relevant information by institutions of higher education, including—

(A) information relating to market and job availability for students in occupational, professional, and vocational programs; and

(B) information regarding the relationship of courses to specific standards necessary for State licensure in specific occupations.

(9) The appropriateness of the number of credit or clock hours required for the completion of programs or of the length of 600-hour courses.

(10) Assessing the actions of any owner, shareholder, or person exercising control over the educational institution which may adversely affect eligibility for programs under this subchapter and part C of subchapter I of chapter 34 of title 42.

(11) The adequacy of procedures for investigation and resolution of student complaints.

(12) The appropriateness of advertising and promotion and student recruitment practices.

(13) That the institution has a fair and equitable refund policy to protect students.

(14) The success of the program at the institution, including—

(A) the rates of the institution's students' program completion and graduation, taking into account the length of the program at the institution and the selectivity of the institution's admissions policies;

(B) the withdrawal rates of the institution's students;

(C) with respect to vocational and professional programs, the rates of placement of the institution's graduates in occupations related to their course of study;

(D) where appropriate, the rate at which the institution's graduates pass licensure examinations; and

(E) the variety of student completion goals, including transfer to another institution of higher education, full-time employment in the field of study, and military service.

(15) With respect to an institution which meets 1 or more of the criteria in subsection (b) of this section, the State shall contract with the appropriate approved accrediting agency or association (described in subpart 2 of this part) or another peer review system with demonstrated competence in assessing programs (pursuant to the authority contained in subsection (f) of this section) to carry out a review or provide information regarding such agency's or association's assessment of the following: The quality and content of the institution's courses or programs of instruction, training, or study in relation to achieving the stated objectives for which the courses or programs are offered, including the adequacy of the space, equipment, instructional materials, staff, and student support services (including student orientation, counseling, and advisement) for providing education and training that meets such stated objectives.

(e) Substitutions prohibited

The appropriate State postsecondary review entity may not substitute either (1) accreditation by a private accrediting agency or body, or (2) compliance audits performed by a State guaranty agency established under section 1078(b) of this title, for State review of compliance with the standards in subsection (d) of this section.

(f) State contracts

If the appropriate State postsecondary review entity contracts with a private agency or body or an accreditation body or peer review system for assistance in performing State postsecondary review entity functions, such contract shall be provided for in the agreement with the Secretary required by section 1099a–1 of this title.

(g) Prohibition on unrelated requirements

Notwithstanding any of the provisions of this subpart, the Secretary shall not require a State to establish standards that are unrelated to ensuring institutional or program integrity or that violate the provisions of a State's constitution or laws.

(h) Institutional eligibility

A State postsecondary review entity may determine that an institution of higher education shall not be eligible to participate in programs under this subchapter and part C of subchapter I of chapter 34 of title 42 based on its own findings or the findings of a Federal entity in accordance with the following procedures:

(1) State findings

If the appropriate State postsecondary review entity finds that an institution of higher education does not meet one or more of the standards in subsection (d) of this section, such State postsecondary review entity shall notify the Secretary of its findings and the actions that such entity is taking, or has taken, in response to such findings within a time period prescribed by the Secretary by regulation. If a State postsecondary review entity determines an institution of higher education shall not be eligible for participation in programs under this subchapter and part C of subchapter I of chapter 34 of title 42, such State postsecondary review entity shall so notify the Secretary. Upon receipt of such notification of ineligibility, the Secretary shall immediately terminate the participation of such institutions in the programs authorized by this subchapter and part C of subchapter I of chapter 34 of title 42.

(2) Secretary's findings

If the Secretary or any other Federal entity takes, or plans to take, any action against any institution of higher education (including any actions taken under section 1094 of this title), the Secretary shall notify the appropriate State postsecondary review entity (or entities, in the case of multi-State institutions) of such action within a time period prescribed in the Secretary's regulations.

(3) Procedural protections for disapproval

The Secretary shall, by regulation, prescribe minimum procedural standards for the disapproval of institutions of higher education by the appropriate State postsecondary review entity or entities for purposes of this subchapter and part C of subchapter I of chapter 34 of title 42.

(i) Limit on State postsecondary review agency functions

The functions of State postsecondary review entity shall not include performing financial and compliance audits as may be required under section 1078 or 1094 of this title.

(j) Consumer complaints

A State, in consultation with the institutions of higher education in the State, shall establish and publicize the availability of procedures for receiving and responding to complaints from students, faculty, and others about institutions of higher education and shall keep records of such complaints in order to determine their frequency and nature for specific institutions of higher education.

(k) Enforcement mechanisms

Nothing in this subpart shall restrict the authority of the States to establish mechanisms to enforce the standards established under subsection (d) of this section or require the States to establish specific mechanisms recommended by the Secretary.

(Pub. L. 89–329, title IV, § 494C, as added Pub. L. 102–325, title IV, § 499, July 23, 1992, 106 Stat. 637; amended Pub. L. 103–208, § 2(i)(1), (2), Dec. 20, 1993, 107 Stat. 2478.)

AMENDMENTS

1993—Subsec. (a). Pub. L. 103–208, § 2(i)(1), added first three sentences and struck out former first and second sentences which read as follows: ''The Secretary shall review all institutions of higher education in a State which are eligible or which desire to become eligible under this subchapter and part C of subchapter I of chapter 34 of title 42 to determine if such institutions meet any of the criteria provided in subsection (b) of this section. With respect to those institutions of higher education that meet one or more of the criteria provided in subsection (b) of this section, the Secretary shall inform the State in which such institutions are located that the institutions have met such criteria, and these institutions shall be reviewed by the State pursuant to the standards provided in subsection (d) of this section.''

Subsec. (i). Pub. L. 103–208, § 2(i)(2), substituted ''section'' for ''sections''.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1003 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1099a, 1099a–1, 1099c–1 of this title.

SUBPART 2—ACCREDITING AGENCY APPROVAL

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in sections 1099a–3, 1141, 1145 of this title.

§ 1099b. Approval of accrediting agency or association

(a) Standards required

No accrediting agency or association may be determined by the Secretary to be a reliable authority as to the quality of education or training offered for the purposes of this chapter or for other Federal purposes, unless the agency or association meets standards established by the Secretary pursuant to this section. The Secretary shall, after notice and opportunity for a

hearing, establish standards for such determinations. Such standards shall include an appropriate measure or measures of student achievement. Such standards shall require that—

(1) the accrediting agency or association shall be a State, regional, or national agency or association and shall demonstrate the ability and the experience to operate as an accrediting agency or association within the State, region, or nationally, as appropriate;

(2) such agency or association—

(A)(i) for the purpose of participation in programs under this chapter, has a voluntary membership of institutions of higher education and has as a principal purpose the accrediting of institutions of higher education; or

(ii) for the purpose of participation in other programs administered by the Department of Education or other Federal agencies, has a voluntary membership and has as its principal purpose the accrediting of institutions of higher education or programs;

(B) is a State agency approved by the Secretary for the purpose described in subparagraph (A); or

(C) is an agency or association that, for the purpose of determining eligibility for student assistance under this subchapter and part C of subchapter I of chapter 34 of title 42, conducts accreditation through (i) a voluntary membership organization of individuals participating in a profession, or (ii) an agency or association which has as its principal purpose the accreditation of programs within institutions, which institutions are accredited by another agency or association recognized by the Secretary;

(3) if such agency or association is an agency or association described in—

(A) subparagraph (A)(i) of paragraph (2), then such agency or association is separate and independent, both administratively and financially of any related, associated, or affiliated trade association or membership organization;

(B) subparagraph (B) of paragraph (2), then such agency or association has been recognized by the Secretary on or before October 1, 1991; or

(C) subparagraph (C) of paragraph (2) and such agency or association has been recognized by the Secretary on or before October 1, 1991, then the Secretary may waive the requirement that such agency or association is separate and independent, both administratively and financially of any related, associated, or affiliated trade association or membership organization upon a demonstration that the existing relationship has not served to compromise the independence of its accreditation process;

(4) such agency or association consistently applies and enforces standards that ensure that the courses or programs of instruction, training, or study at the institution of higher education are of sufficient quality to achieve, for the duration of the accreditation period, the stated objective for which the courses or the programs are offered;

(5) the standards of accreditation of the agency or association assess the institution's—

(A) curricula;

(B) faculty;

(C) facilities, equipment, and supplies;

(D) fiscal and administrative capacity as appropriate to the specified scale of operations;

(E) student support services;

(F) recruiting and admissions practices, academic calendars, catalogs, publications, grading and advertising;

(G) program length and tuition and fees in relation to the subject matters taught and the objectives of the degrees or credentials offered;

(H) measures of program length in clock hours or credit hours;

(I) success with respect to student achievement in relation to its mission, including, as appropriate, consideration of course completion, State licensing examination, and job placement rates;

(J) default rates in the student loan programs under this subchapter and part C of subchapter I of chapter 34 of title 42, based on the most recent data provided by the Secretary;

(K) record of student complaints received by, or available to, the agency or association; and

(L) compliance with its program responsibilities under this subchapter and part C of subchapter I of chapter 34 of title 42, including any results of financial or compliance audits, program reviews, and such other information as the Secretary may provide to the agency or association;

except that subparagraphs (G), (H), (I), (J), and (L) shall not apply to agencies or associations described in paragraph (2)(A)(ii) of this subsection;

(6) such agency or association shall apply procedures throughout the accrediting process, including evaluation and withdrawal proceedings, that comply with due process, including—

(A) adequate specification of requirements and deficiencies at the institution of higher education or program being examined;

(B) notice of an opportunity for a hearing by any such institution;

(C) the right to appeal any adverse action against any such institution; and

(D) the right to representation by counsel for any such institution;

(7) such agency or association shall notify the Secretary and the appropriate State postsecondary review entity within 30 days of the accreditation of an institution or any final denial, withdrawal, suspension, or termination of accreditation or placement on probation of an institution, together with any other adverse action taken with respect to an institution; and

(8) such agency or association shall make available to the public, upon request, and to the Secretary, and the State postsecondary review entity of the State in which the institu-

tion of higher education is located a summary of any review resulting in a final accrediting decision involving denial, termination, or suspension of accreditation, together with the comments of the affected institution.

(b) "Separate and independent" defined

For the purpose of subsection (a)(3) of this section, the term ''separate and independent'' means that—

(1) the members of the postsecondary education governing body of the accrediting agency or association are not elected or selected by the board or chief executive officer of any related, associated, or affiliated trade association or membership organization;

(2) among the membership of the board of the accrediting agency or association there shall be one public member (who is not a member of any related trade or membership organization) for each six members of the board, with a minimum of one such public member, and guidelines are established for such members to avoid conflicts of interest;

(3) dues to the accrediting agency or association are paid separately from any dues paid to any related, associated, or affiliated trade association or membership organization; and

(4) the budget of the accrediting agency or association is developed and determined by the accrediting agency or association without review or resort to consultation with any other entity or organization.

(c) Operating procedures required

No accrediting agency or association may be approved by the Secretary as a reliable authority as to the quality of education or training offered by an institution seeking to participate in the programs authorized under this subchapter and part C of subchapter I of chapter 34 of title 42, unless the agency or association—

(1) performs, at regularly established intervals, on-site inspections and reviews of institutions of higher education (at least one of which inspections at each institution that provides vocational education and training shall be unannounced), with particular focus on educational quality and program effectiveness, and ensures that accreditation team members are well-trained and knowledgeable with respect to their responsibilities;

(2) requires that any institution of higher education subject to its jurisdiction which plans to establish a branch campus submit a business plan, including projected revenues and expenditures, prior to opening the branch campus;

(3) agrees to conduct, as soon as practicable, but within a period of not more than 6 months of the establishment of a new branch campus or a change of ownership of an institution of higher education, an on-site visit of that branch campus or of the institution after a change of ownership;

(4) requires that teach-out agreements among institutions are subject to approval by the accrediting agency or association consistent with standards promulgated by such agency or association;

(5) maintains and makes publicly available written materials regarding standards and procedures for accreditation, appeal procedures, and the accreditation status of each institution subject to its jurisdiction; and

(6) discloses publicly whenever an institution of higher education subject to its jurisdiction is being considered for accreditation or reaccreditation.

(d) Length of approval

No accrediting agency or association may be approved by the Secretary for the purpose of this chapter for a period of more than 5 years.

(e) Initial arbitration rule

The Secretary may not recognize the accreditation of any institution of higher education unless the institution of higher education agrees to submit any dispute involving the final denial, withdrawal, or termination of accreditation to initial arbitration prior to any other legal action.

(f) Jurisdiction

Notwithstanding any other provision of law, any civil action brought by an institution of higher education seeking accreditation from, or accredited by, an accrediting agency or association approved by the Secretary for the purpose of this subchapter and part C of subchapter I of chapter 34 of title 42 and involving the denial, withdrawal, or termination of accreditation of the institution of higher education, shall be brought in the appropriate United States district court.

(g) Limitation on scope of standards

Nothing in this chapter shall be construed to permit the Secretary to establish standards for accrediting agencies or associations that are not required by this section. Nothing in this chapter shall be construed to prohibit or limit any accrediting agency or association from adopting additional standards not provided for in this section.

(h) Change of accrediting agency

The Secretary shall not recognize the accreditation of any otherwise eligible institution of higher education if the institution of higher education is in the process of changing its accrediting agency or association, unless the eligible institution submits to the Secretary all materials relating to the prior accreditation, including materials demonstrating reasonable cause for changing the accrediting agency or association.

(i) Dual accreditation rule

The Secretary shall not recognize the accreditation of any otherwise eligible institution of higher education if the institution of higher education is accredited, as an institution, by more than one accrediting agency or association, unless the institution submits to each such agency and association and to the Secretary the reasons for accreditation by more than one such agency or association and demonstrates to the Secretary reasonable cause for its accreditation by more than one agency or association. If the institution is accredited, as an institution, by more than one accrediting agency or association, the institution shall designate which agency's accreditation shall be utilized in determin-

ing the institution's eligibility for programs under this chapter.

(j) Impact of loss of accreditation

An institution may not be certified or recertified as an institution of higher education under section 1088 of this title and subpart 3 of this part or participate in any of the other programs authorized by this chapter if such institution—

(1) is not currently accredited by any agency or association recognized by the Secretary;

(2) has had its accreditation withdrawn, revoked, or otherwise terminated for cause during the preceding 24 months, unless such withdrawal, revocation, or termination has been rescinded by the same accrediting agency; or

(3) has withdrawn from accreditation voluntarily under a show cause or suspension order during the preceding 24 months, unless such order has been rescinded by the same accrediting agency.

(k) Religious institution rule

Notwithstanding subsection (j) of this section, the Secretary shall allow an institution that has had its accreditation withdrawn, revoked, or otherwise terminated, or has voluntarily withdrawn from an accreditation agency, to remain certified as an institution of higher education under section 1088 of this title and subpart 3 of this part for a period sufficient to allow such institution to obtain alternative accreditation, if the Secretary determines that the reason for the withdrawal, revocation, or termination—

(1) is related to the religious mission or affiliation of the institution; and

(2) is not related to the accreditation standards provided for in this section.

(*l*) Limitation, suspension or termination of approval

(1) The Secretary shall limit, suspend, or terminate the approval of an accrediting agency or association if the Secretary determines, after notice and opportunity for a hearing, that the accrediting agency or association has failed to apply effectively the standards or operate according to the procedures provided in this section.

(2) The Secretary may determine that an accrediting agency or association has failed to apply effectively the standards provided in this section if an institution of higher education seeks and receives accreditation from the accrediting agency or association during any period in which the institution is the subject of any interim action by another accrediting agency or association, described in paragraph (2)(A)(i), (2)(B), or (2)(C) of subsection (a) of this section, leading to the suspension, revocation, or termination of accreditation or the institution has been notified of the threatened loss of accreditation, and the due process procedures required by such suspension, revocation, termination, or threatened loss have not been completed.

(m) Limitation on Secretary's authority

The Secretary may only recognize accrediting agencies or associations which accredit institutions of higher education for the purpose of enabling such institutions to establish eligibility to participate in the programs under this chapter or which accredit institutions of higher education or higher education programs for the purpose of enabling them to establish eligibility to participate in other programs administered by the Department of Education or other Federal agencies.

(n) Independent evaluation

(1) The Secretary shall conduct a comprehensive review and evaluation of the performance of all accrediting agencies or associations which seek recognition by the Secretary in order to determine whether such accrediting agencies or associations meet the standards established by this section. The Secretary shall conduct an independent evaluation of the information provided by such agency or association. Such evaluation shall include—

(A) the solicitation of third-party information concerning the performance of the accrediting agency or association; and

(B) site visits, including unannounced site visits as appropriate, at accrediting agencies and associations, and, at the Secretary's discretion, at representative member institutions.

(2) The Secretary shall place a priority for review of accrediting agencies or associations on those agencies or associations that accredit institutions of higher education that participate most extensively in the programs authorized by this subchapter and part C of subchapter I of chapter 34 of title 42 and on those agencies or associations which have been the subject of the most complaints or legal actions.

(3) The Secretary shall consider all available relevant information concerning the compliance of the accrediting agency or association with the standards provided for in this section, including any complaints or legal actions against such agency or association. In cases where deficiencies in the performance of an accreditation agency or association with respect to the requirements of this section are noted, the Secretary shall take these deficiencies into account in the approval process. The Secretary shall not, under any circumstances, base decisions on the approval or disapproval of accreditation agencies or associations on standards other than those contained in this section.

(4) The Secretary shall maintain sufficient documentation to support the conclusions reached in the approval process, and, upon disapproval of any accreditation agency or association, shall make publicly available the reason for such disapproval, including reference to the specific standards under this section which have not been fulfilled.

(*o*) Regulations

The Secretary shall by regulation provide procedures for the recognition of accrediting agencies or associations and for the appeal of the Secretary's decisions.

(Pub. L. 89–329, title IV, § 496, as added Pub. L. 102–325, title IV, § 499, July 23, 1992, 106 Stat. 641; amended Pub. L. 103–208, § 2(i)(3)–(8), Dec. 20, 1993, 107 Stat. 2478, 2479.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a), (d), (g), (i), (j), and (m), was in the original ''this Act'', meaning

Pub. L. 89–329, as amended, known as the Higher Education Act of 1965. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

AMENDMENTS

1993—Subsec. (a)(2)(A)(i). Pub. L. 103–208, §2(i)(3), inserted ''of institutions of higher education'' after ''membership''.

Subsec. (a)(3)(A). Pub. L. 103–208, §2(i)(4), substituted ''subparagraph (A)(i)'' for ''subparagraph (A)''.

Subsec. (a)(5). Pub. L. 103–208, §2(i)(5), substituted a semicolon for the period at end of subpar. (L) and inserted after subpar. (L) the following: ''except that subparagraphs (G), (H), (I), (J), and (L) shall not apply to agencies or associations described in paragraph (2)(A)(ii) of this subsection;''.

Subsec. (c). Pub. L. 103–208, §2(i)(6), substituted ''as a reliable authority as to the quality of education or training offered by an institution seeking to participate in the programs authorized under this subchapter and part C of subchapter I of chapter 34 of title 42'' for ''for the purpose of this subchapter and part C of subchapter I of chapter 34 of title 42''.

Subsec. (*l*)(2). Pub. L. 103–208, §2(i)(7), substituted ''institution'' for ''institutution'' and ''association, described in paragraph (2)(A)(i), (2)(B), or (2)(C) of subsection (a) of this section, leading to the suspension'' for ''association leading to the suspension''.

Subsec. (n)(1)(B). Pub. L. 103–208, §2(i)(8), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: ''site visits at both the accrediting agency or association and member institutions, including unannounced visits where appropriate.''

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1003 of this title.

SUBPART 3—ELIGIBILITY AND CERTIFICATION PROCEDURES

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in sections 1087, 1088, 1094, 1099a, 1099a–1, 1099a–3, 1099b of this title.

§ 1099c. Eligibility and certification procedures

(a) General requirement

For purposes of qualifying institutions of higher education for participation in programs under this subchapter and part C of subchapter I of chapter 34 of title 42, the Secretary shall determine the legal authority to operate within a State, the accreditation status, and the administrative capability and financial responsibility of an institution of higher education in accordance with the requirements of this section.

(b) Single application form

The Secretary shall prepare and prescribe a single application form which—

(1) requires sufficient information and documentation to determine that the requirements of eligibility, accreditation, and capability of the institution of higher education are met;

(2) requires a specific description of the relationship between a main campus of an institution of higher education and all of its branches, including a description of the student aid processing that is performed by the main campus and that which is performed at its branches;

(3) requires a description of third party servicers of an institution of higher education, together with a copy of any contract with the institution of higher education and a financial aid service provider or loan servicer; and

(4) requires such other information as the Secretary determines will ensure compliance with the requirements of this subchapter and part C of subchapter I of chapter 34 of title 42 with respect to eligibility, accreditation, administrative capability and financial responsibility.

(c) Financial responsibility standards

(1) The Secretary shall determine whether an institution has the financial responsibility required by this subchapter and part C of subchapter I of chapter 34 of title 42 on the basis of whether the institution is able—

(A) to provide the services described in its official publications and statements;

(B) to provide the administrative resources necessary to comply with the requirements of this subchapter and part C of subchapter I of chapter 34 of title 42; and

(C) to meet all of its financial obligations, including (but not limited to) refunds of institutional charges and repayments to the Secretary for liabilities and debts incurred in programs administered by the Secretary.

(2) Notwithstanding paragraph (1), if an institution fails to meet criteria prescribed by the Secretary with respect to operating losses, net worth, asset-to-liabilities ratios, or operating fund deficits then the institution shall provide the Secretary with satisfactory evidence of its financial responsibility in accordance with paragraph (3). Such criteria shall take into account any differences in generally accepted accounting principles, and the financial statements required thereunder, that are applicable to for profit and nonprofit institutions. The Secretary shall take into account an institution's total financial circumstances in making a determination of its ability to meet the standards herein required.

(3) The Secretary shall determine an institution to be financially responsible, notwithstanding the institution's failure to meet the criteria under paragraphs (1) and (2), if—

(A) such institution submits to the Secretary third-party financial guarantees, such as performance bonds or letters of credit payable to the Secretary, which third-party financial guarantees shall equal not less than one-half of the annual potential liabilities of such institution to the Secretary for funds under this subchapter and part C of subchapter I of chapter 34 of title 42, including loan obligations discharged pursuant to section 1087 of this title, and to students for refunds of institutional charges, including funds under this subchapter and part C of subchapter I of chapter 34 of title 42;

(B) such institution has its liabilities backed by the full faith and credit of a State, or its equivalent;

(C) such institution establishes to the satisfaction of the Secretary, with the support of a financial statement audited by an independent certified public accountant in accordance with generally accepted auditing standards, that

the institution has sufficient resources to ensure against the precipitous closure of the institution, including the ability to meet all of its financial obligations (including refunds of institutional charges and repayments to the Secretary for liabilities and debts incurred in programs administered by the Secretary); or

(D) such institution has met standards of financial responsibility, prescribed by the Secretary by regulation, that indicate a level of financial strength not less than those required in paragraph (2).

(4) If an institution of higher education that provides a 2-year or 4-year program of instruction for which the institution awards an associate or baccalaureate degree fails to meet the ratio of current assets to current liabilities imposed by the Secretary pursuant to paragraph (2), the Secretary shall waive that particular requirement for that institution if the institution demonstrates to the satisfaction of the Secretary that—

(A) there is no reasonable doubt as to its continued solvency and ability to deliver quality educational services;

(B) it is current in its payment of all current liabilities, including student refunds, repayments to the Secretary, payroll, and payment of trade creditors and withholding taxes; and

(C) it has substantial equity in school-occupied facilities, the acquisition of which was the direct cause of its failure to meet the current operating ratio requirement.

(5) The determination as to whether an institution has met the standards of financial responsibility provided for in paragraphs (2) and (3)(C) shall be based on an audited and certified financial statement of the institution. Such audit shall be conducted by a qualified independent organization or person in accordance with standards established by the American Institute of Certified Public Accountants. Such statement shall be submitted to the Secretary at the time such institution is considered for certification or recertification under this section. If the institution is permitted to be certified (provisionally or otherwise) and such audit does not establish compliance with paragraph (2), the Secretary may require that additional audits be submitted.

(6)(A) The Secretary shall establish requirements for the maintenance by an institution of higher education of sufficient cash reserves to ensure repayment of any required refunds.

(B) The Secretary shall provide for a process under which the Secretary shall exempt an institution of higher education from the requirements described in subparagraph (A) if the Secretary determines that the institution—

(i) is located in a State that has a tuition recovery fund that ensures that the institution meets the requirements of subparagraph (A);

(ii) contributes to the fund; and

(iii) otherwise has legal authority to operate within the State.

(d) Administrative capacity standard

The Secretary is authorized—

(1) to establish procedures and requirements relating to the administrative capacities of institutions of higher education, including—

(A) consideration of past performance of institutions or persons in control of such institutions with respect to student aid programs; and

(B) maintenance of records;

(2) to establish such other reasonable procedures as the Secretary determines will contribute to ensuring that the institution of higher education will comply with administrative capability required by this subchapter and part C of subchapter I of chapter 34 of title 42.

(e) Financial guarantees from owners

(1) Notwithstanding any other provision of law, the Secretary may, to the extent necessary to protect the financial interest of the United States, require—

(A) financial guarantees from an institution participating, or seeking to participate, in a program under this subchapter and part C of subchapter I of chapter 34 of title 42, or from one or more individuals who the Secretary determines, in accordance with paragraph (2), exercise substantial control over such institution, or both, in an amount determined by the Secretary to be sufficient to satisfy the institution's potential liability to the Federal Government, student assistance recipients, and other program participants for funds under this subchapter and part C of subchapter I of chapter 34 of title 42; and

(B) the assumption of personal liability, by one or more individuals who exercise substantial control over such institution, as determined by the Secretary in accordance with paragraph (2), for financial losses to the Federal Government, student assistance recipients, and other program participants for funds under this subchapter and part C of subchapter I of chapter 34 of title 42, and civil and criminal monetary penalties authorized under this subchapter and part C of subchapter I of chapter 34 of title 42.

(2)(A) The Secretary may determine that an individual exercises substantial control over one or more institutions participating in a program under this subchapter and part C of subchapter I of chapter 34 of title 42 if the Secretary determines that—

(i) the individual directly or indirectly controls a substantial ownership interest in the institution;

(ii) the individual, either alone or together with other individuals, represents, under a voting trust, power of attorney, proxy, or similar agreement, one or more persons who have, individually or in combination with the other persons represented or the individual representing them, a substantial ownership interest in the institution; or

(iii) the individual is a member of the board of directors, the chief executive officer, or other executive officer of the institution or of an entity that holds a substantial ownership interest in the institution.

(B) The Secretary may determine that an entity exercises substantial control over one or more institutions participating in a program under this subchapter and part C of subchapter

I of chapter 34 of title 42 if the Secretary determines that the entity directly or indirectly holds a substantial ownership interest in the institution.

(3) For purposes of this subsection, an ownership interest is defined as a share of the legal or beneficial ownership or control of, or a right to share in the proceeds of the operation of, an institution or institution's parent corporation. An ownership interest may include, but is not limited to—

(A) a sole proprietorship;

(B) an interest as a tenant-in-common, joint tenant, or tenant by the entireties;

(C) a partnership; or

(D) an interest in a trust.

(4) The Secretary shall not impose the requirements described in subparagraphs (A) and (B) of paragraph (1) on an institution that—

(A) has not been subjected to a limitation, suspension, or termination action by the Secretary or a guaranty agency within the preceding 5 years;

(B) has not had, during its 2 most recent audits of the institutions conduct of programs under this subchapter and part C of subchapter I of chapter 34 of title 42, an audit finding that resulted in the institution being required to repay an amount greater than 5 percent of the funds the institution received from programs under this subchapter and part C of subchapter I of chapter 34 of title 42 for any year;

(C) meets and has met, for the preceding 5 years, the financial responsibility standards under subsection (c) of this section; and

(D) has not been cited during the preceding 5 years for failure to submit audits required under this subchapter and part C of subchapter I of chapter 34 of title 42 in a timely fashion.

(5) For purposes of section 1094(c)(1)(G) of this title, this section shall also apply to individuals or organizations that contract with an institution to administer any aspect of an institution's student assistance program under this subchapter and part C of subchapter I of chapter 34 of title 42.

(f) Actions on applications; site visits and fees

The Secretary shall ensure that prompt action is taken by the Department on any application required under subsection (b) of this section. The personnel of the Department of Education shall conduct a site visit at each institution before certifying or recertifying its eligibility for purposes of any program under this subchapter and part C of subchapter I of chapter 34 of title 42. The Secretary may establish priorities by which institutions are to receive site visits, and may coordinate such visits with site visits by States, guaranty agencies, and accrediting bodies in order to eliminate duplication, and reduce administrative burden. The Secretary may charge reasonable fees to cover the expenses of certification and site visits and, to the extent permitted by appropriations Acts, may retain such fees to cover such expenses.

(g) Time limitations on, and renewal of, eligibility

(1) The eligibility for the purposes of any program authorized under this subchapter and part C of subchapter I of chapter 34 of title 42 of any institution that is participating in any such program on July 23, 1992, shall expire in accordance with the schedule prescribed by the Secretary in accordance with paragraph (2), but not later than 5 years after July 23, 1992.

(2) The Secretary shall establish a schedule for the expiration of the eligibility for purposes of any such program of all institutions of higher education within the 5-year period specified in paragraph (1). Such schedule shall place a priority for the expiration of the certification of institutions on those that meet the following criteria:

(A) institutions subject to review by a State postsecondary review entity pursuant to subpart 1 of this part; or

(B) other categories of institutions which the Secretary deems necessary.

(3) After the expiration of the certification of any institution under the schedule prescribed under this subsection, or upon request for initial certification from an institution not previously certified, the Secretary may certify the eligibility for the purposes of any program authorized under this subchapter and part C of subchapter I of chapter 34 of title 42 of each such institution for a period not to exceed 4 years.

(h) Provisional certification of institutional eligibility

(1) Notwithstanding subsections (d) and (g) of this section, the Secretary may provisionally certify an institution's eligibility to participate in programs under this subchapter and part C of subchapter I of chapter 34 of title 42—

(A) for not more than one complete award year in the case of an institution of higher education seeking an initial certification; and

(B) for not more than 3 complete award years if—

(i) the institution's administrative capability and financial responsibility is being determined for the first time;

(ii) there is a complete or partial change of ownership, as defined under subsection (i) of this section, of an eligible institution; or

(iii) the Secretary determines that an institution that seeks to renew its certification is, in the judgment of the Secretary, in an administrative or financial condition that may jeopardize its ability to perform its financial responsibilities under a program participation agreement.

(2) Whenever the Secretary withdraws the approval of any accrediting agency, an institution of higher education which meets the requirements of accreditation, eligibility, and certification on the day prior to such withdrawal, the Secretary may, notwithstanding the withdrawal, continue the eligibility of the institution of higher education to participate in the programs authorized by this subchapter and part C of subchapter I of chapter 34 of title 42 for a period not to exceed 18 months from the date of the withdrawal of approval.

(3) If, prior to the end of a period of provisional certification under this subsection, the Secretary determines that the institution is unable to meet its responsibilities under its pro-

gram participation agreement, the Secretary may terminate the institution's participation in programs under this subchapter and part C of subchapter I of chapter 34 of title 42.

(i) Treatment of changes of ownership

(1) An eligible institution of higher education that has had a change in ownership resulting in a change of control shall not qualify to participate in programs under this subchapter and part C of subchapter I of chapter 34 of title 42 after the change in control (except as provided in paragraph (3)) unless it establishes that it meets the requirements of section 1088 of this title (other than the requirements in subsections (b)(5) and (c)(3)) and this section after such change in control.

(2) An action resulting in a change in control may include (but is not limited to)—

(A) the sale of the institution or the majority of its assets;

(B) the transfer of the controlling interest of stock of the institution or its parent corporation;

(C) the merger of two or more eligible institutions;

(D) the division of one or more institutions into two or more institutions;

(E) the transfer of the controlling interest of stock of the institutions to its parent corporation; or

(F) the transfer of the liabilities of the institution to its parent corporation.

(3) An action that may be treated as not resulting in a change in control includes (but is not limited to)—

(A) the sale or transfer, upon the death of an owner of an institution, of the ownership interest of the deceased in that institution to a family member or to a person holding an ownership interest in that institution; or

(B) another action determined by the Secretary to be a routine business practice.

(j) Treatment of branches

(1) A branch of an eligible institution of higher education, as defined pursuant to regulations of the Secretary, shall be certified under this subpart before it may participate as part of such institution in a program under this subchapter and part C of subchapter I of chapter 34 of title 42, except that such branch shall not be required to meet the requirements of sections 1088(b)(5) and 1088(c)(3) of this title prior to seeking such certification. Such branch is required to be in existence at least 2 years prior to seeking certification as a main campus or free-standing institution.

(2) The Secretary may waive the requirement of section 1141(a)(2) of this title for a branch that (A) is not located in a State, (B) is affiliated with an eligible institution, and (C) was participating in one or more programs under this subchapter and part C of subchapter I of chapter 34 of title 42 on or before January 1, 1992.

(Pub. L. 89–329, title IV, § 498, as added Pub. L. 102–325, title IV, § 499, July 23, 1992, 106 Stat. 647; amended Pub. L. 103–208, § 2(i)(9)–(14), Dec. 20, 1993, 107 Stat. 2479, 2480.)

AMENDMENTS

1993—Subsec. (c)(2). Pub. L. 103–208, § 2(i)(9)(A), inserted at end ''Such criteria shall take into account any differences in generally accepted accounting principles, and the financial statements required thereunder, that are applicable to for profit and nonprofit institutions. The Secretary shall take into account an institution's total financial circumstances in making a determination of its ability to meet the standards herein required.''

Subsec. (c)(3). Pub. L. 103–208, § 2(i)(9)(B), substituted ''The Secretary shall determine'' for ''The Secretary may determine'' in introductory provisions.

Subsec. (c)(3)(C). Pub. L. 103–208, § 2(i)(9)(C), amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: ''such institution establishes to the satisfaction of the Secretary, with the support of a report of an independent certified public accountant prepared under generally accepted accounting principles, that the institution is a going concern capable of meeting all of its financial obligations, including (but not limited to) refunds of institutional charges and repayments to the Secretary for liabilities and debts incurred in programs administered by the Secretary; or''.

Subsec. (c)(4) to (6). Pub. L. 103–208, § 2(i)(9)(D), (E), added par. (4) and redesignated former pars. (4) and (5) as (5) and (6), respectively.

Subsec. (f). Pub. L. 103–208, § 2(i)(10), inserted after second sentence ''The Secretary may establish priorities by which institutions are to receive site visits, and may coordinate such visits with site visits by States, guaranty agencies, and accrediting bodies in order to eliminate duplication, and reduce administrative burden.''

Subsec. (h)(1)(B)(iii). Pub. L. 103–208, § 2(i)(11), amended cl. (iii) generally. Prior to amendment, cl. (iii) read as follows: ''the Secretary determines that the institution is, in the judgment of the Secretary, in an administrative or financial condition that may jeopardize its ability to perform its responsibilities under its program participation agreement.''

Subsec. (i)(1). Pub. L. 103–208, § 2(i)(12), amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''For the purpose of certifying the eligibility of an institution, an eligible institution of higher education that has a change in ownership resulting in a change in control shall not be considered to be the same institution (except as provided in paragraph (3)) and shall be considered a new institution for the purpose of establishing eligibility, except that such institution shall not be required (under section 1088(b)(5) or 1088(c)(3) of this title) to be in existence for 2 years prior to seeking such certification unless such institution was in existence as a branch for less than 2 years.''

Subsec. (i)(3)(A). Pub. L. 103–208, § 2(i)(13), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: ''the death of an owner of an institution, when the owner's interest is sold or transferred to either a family member or a current stockholder of the corporation; or''.

Subsec. (j)(1). Pub. L. 103–208, § 2(i)(14), amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''For the purposes of this subchapter and part C of subchapter I of chapter 34 of title 42, a branch of an eligible institution, as defined pursuant to regulations of the Secretary, is a separate institution of higher education and shall separately meet all the requirements of this subchapter and part C of subchapter I of chapter 34 of title 42, except that such institution shall not be required (under section 1088(b)(5) or 1088(c)(3) of this title) to be in existence for 2 years prior to seeking such certification unless such institution was in existence as a branch for less than 2 years.''

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1003 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5938 of this title.

§ 1099c–1. Program review and data

(a) General authority

In order to strengthen the administrative capability and financial responsibility provisions of this subchapter and part C of subchapter I of chapter 34 of title 42, the Secretary—

(1) shall provide for the conduct of program reviews on a systematic basis designed to include all institutions of higher education participating in programs authorized by this subchapter and part C of subchapter I of chapter 34 of title 42;

(2) may give priority for program review to institutions of higher education that are—

(A) institutions with a cohort default rate for loans under part B of this subchapter in excess of 25 percent or which places such institutions in the highest 25 percent of such institutions;

(B) institutions with a default rate in dollar volume for loans under part B of this subchapter which places the institutions in the highest 25 percent of such institutions;

(C) institutions with a significant fluctuation in Federal Stafford Loan volume or Federal Pell Grant awards, or both, in the year for which the determination is made compared to the year prior to such year;

(D) institutions reported to have deficiencies or financial aid problems by the appropriate State postsecondary review entity designated under subpart 1 of this part or by the appropriate accrediting agency or association;

(E) institutions with high annual dropout rates;

(F) any institution which is required to be reviewed by a State postsecondary review entity pursuant to subpart 1 of this part under section 1099a–3(b) of this title; and

(G) such other institutions as the Secretary deems necessary; and

(3) shall establish and operate a central data base of information on institutional accreditation, eligibility, and certification that includes—

(A) all information available to the Department;

(B) all relevant information made available by the Secretary of Veterans Affairs;

(C) all relevant information from accrediting agencies or associations;

(D) all relevant information available from a guaranty agency; and

(E) all relevant information available from States under subpart 1 of this part.

(b) Special administrative rules

(1) In carrying out paragraphs (1) and (2) of subsection (a) of this section, the Secretary shall establish guidelines designed to ensure uniformity of practice in the conduct of program reviews of institutions of higher education.

(2) The Secretary shall review the regulations of the Department and the application of such regulations to ensure the uniformity of interpretation and application of the regulations.

(c) Data collection rules

The Secretary shall develop and carry out a plan for the data collection responsibilities described in paragraph (3) of subsection (a) of this section. The Secretary shall make the information obtained under such paragraph (3) readily available to all institutions of higher education, guaranty agencies, States, and other organizations participating in the programs authorized by this subchapter and part C of subchapter I of chapter 34 of title 42.

(d) Training

The Secretary shall provide training to personnel of the Department, including criminal investigative training, designed to improve the quality of financial and compliance audits and program reviews conducted under this subchapter and part C of subchapter I of chapter 34 of title 42.

(e) Special rule

The provisions of section 3403(b) of this title shall not apply to Secretarial determinations made regarding the appropriate length of instruction for programs measured in clock hours.

(Pub. L. 89–329, title IV, § 498A, as added Pub. L. 102–325, title IV, § 499, July 23, 1992, 106 Stat. 652; amended Pub. L. 103–208, § 2(i)(15), Dec. 20, 1993, 107 Stat. 2480.)

AMENDMENTS

1993—Subsec. (e). Pub. L. 103–208 struck out comma after ''title''.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1003 of this title.

SUBCHAPTER V—EDUCATOR RECRUITMENT, RETENTION, AND DEVELOPMENT

CODIFICATION

Title V of the Higher Education Act of 1965, comprising this subchapter, was originally enacted by Pub. L. 89–329, Nov. 8, 1965, 79 Stat. 1254; amended Pub. L. 90–35, June 29, 1967, 81 Stat. 81; Pub. L. 90–83, Sept. 11, 1967, 81 Stat. 195; Pub. L. 90–247, Jan. 2, 1968, 81 Stat. 783; Pub. L. 90–575, Oct. 16, 1968, 82 Stat. 1014; Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 121; Pub. L. 92–318, June 23, 1972, 86 Stat. 235; Pub. L. 93–380, Aug. 21, 1974, 88 Stat. 484; Pub. L. 94–482, Oct. 12, 1976, 90 Stat. 2081; Pub. L. 95–43, June 15, 1977, 91 Stat. 213; Pub. L. 95–561, Nov. 1, 1978, 92 Stat. 2143; Pub. L. 96–49, Aug. 13, 1979, 93 Stat. 351; Pub. L. 96–88, Oct. 17, 1979, 93 Stat. 668; Pub. L. 96–374, Oct. 3, 1980, 94 Stat. 1367; Pub. L. 97–35, Aug. 13, 1981, 95 Stat. 357; Pub. L. 97–300, Oct. 13, 1982, 96 Stat. 1322; Pub. L. 98–558, Oct. 30, 1984, 98 Stat. 2878; Pub. L. 99–386, Aug. 22, 1986, 100 Stat. 821; Pub. L. 99–498, Oct. 17, 1986, 100 Stat. 1268; Pub. L. 100–50, June 3, 1987, 101 Stat. 335; Pub. L. 101–226, Dec. 12, 1989, 103 Stat. 1928. Such title is shown herein, however, as having been added by Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 653, without reference to such intervening amendments because of the extensive revision of this title V by Pub. L. 102–325.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in title 8 section 1613.

§ 1101. Findings and purpose

(a) Findings

The Congress finds that—

(1) teachers in the classroom are the men and women who must play an integral role in leading our Nation's schools into the 21st century;

(2) we should encourage individuals to enter the education profession so that our teaching force is representative both of the diversity of our Nation and of the tremendous talents and skills of our citizens;

(3) the methods used to prepare prospective teachers and the continuing education and support provided to practicing teachers have a significant influence on the effectiveness of classroom teachers;

(4) the postsecondary education of education professionals has not been linked to local, State and national goals and standards;

(5) the inservice and continuing professional development of educators has not promoted systematic and sustained improvement of the education system;

(6) State educational agencies have not been funded and staffed adequately to carry out a mission of supporting a process to achieve local, State, or national goals and standards;

(7) in order to encourage more women and underrepresented minorities to enter the fields of science and mathematics and succeed in these fields, we must provide proper training for existing mathematics and science teachers and recruit women and underrepresented minorities as teachers in these fields;

(8) educators must have the expertise and the support that allow them to adapt to the changing environment in our schools and to the evolving skills required of our schools' graduates; and

(9) the Federal Government plays an essential role in providing support to educator training and professional development that will enable teachers to be classroom leaders and administrators to be school leaders at the forefront of reforming our Nation's schools.

(b) Purpose

It is the purpose of this subchapter—

(1) to provide assistance to our Nation's teaching force for the continued improvement of their professional skills;

(2) to provide assistance for professional development activities enabling teachers, school administrators, and institutions of higher education to work collaboratively to improve educational performance through school reform and restructuring;

(3) to address the Nation's teacher shortage, particularly in areas where there are heavy concentrations of low-income students, by encouraging talented persons, including the individuals already employed as school paraprofessionals and individuals who have been employed in other areas of endeavor, to enter the teaching profession;

(4) to encourage academically qualified students to become teachers through scholarship assistance;

(5) to support the recruitment of underrepresented populations into teaching careers;

(6) to provide scholarship assistance to encourage women and minorities who are underrepresented in the fields of science and mathematics to enter the teaching profession in these fields;

(7) to encourage the establishment and maintenance of programs that provide professional teacher preparation to individuals who are moving to careers in education from other occupations;

(8) to promote partnerships between institutions of higher education and local educational agencies for the purpose of promoting the simultaneous restructuring and renewal of elementary and secondary schools and college-based teacher education programs;

(9) to improve the leadership and administrative skills of elementary and secondary school administrators;

(10) to provide assistance to schools of education in institutions of higher education in order to reform teacher education programs by encouraging new developments in teacher preparation which provide for greater integration of subject matter and pedagogical training and which prepare classroom teachers to effectively meet changing noneducational challenges in the schools; and

(11) to promote high quality child development and early childhood education specialist training programs, including preschool and early intervention services for infants and toddlers with disabilities.

(Pub. L. 89–329, title V, § 500, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 653.)

PRIOR PROVISIONS

A prior section 1101, Pub. L. 89–329, title V, § 501, as added Pub. L. 99–498, title V, § 501(a), Oct. 17, 1986, 100 Stat. 1495, related to statement of purpose and applicability of this subchapter, prior to the general revision of this subchapter by Pub. L. 102–325.

Another prior section 1101, Pub. L. 89–329, title V, § 511, Nov. 8, 1965, 79 Stat. 1255; Pub. L. 90–35, § 3(a)(3), (b), June 29, 1967, 81 Stat. 85; Pub. L. 90–575, title II, § 231 (a), (b)(1), Oct. 16, 1968, 82 Stat. 1039; Pub. L. 91–230, title VIII, §§ 804(b), 805(a), Apr. 13, 1970, 84 Stat. 190, 191; Pub. L. 92–318, title I, § 141(a)(1)(A), (c)(1)(C), June 23, 1972, 86 Stat. 284, 285; Pub. L. 93–380, title VIII, § 835(a)(1), Aug. 21, 1974, 88 Stat. 605; Pub. L. 94–482, title I, §§ 151(a)(5)(A), 152(a), Oct. 12, 1976, 90 Stat. 2152; Pub. L. 96–49, § 6(a), Aug. 13, 1979, 93 Stat. 353; Pub. L. 96–374, title V, § 501(a), Oct. 3, 1980, 94 Stat. 1459, set forth statement of purpose and authorization of appropriations for Teacher Corps program, prior to repeal by Pub. L. 97–35, title V, § 587(a)(2), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

A prior section 1101a, Pub. L. 89–329, title V, § 502, as added Pub. L. 99–498, title V, § 501(a), Oct. 17, 1986, 100 Stat. 1496, authorized appropriations for this subchapter, prior to the general revision of this subchapter by Pub. L. 102–325.

EFFECTIVE DATE

Subchapter effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as an Effective Date of 1992 Amendment note under section 1001 of this title.

NATIONAL JOB BANK FOR TEACHER RECRUITMENT

Section 1412 of Pub. L. 102–325 provided that:

''(a) FEASIBILITY STUDY.—The Secretary of Education is authorized to conduct a study on the feasibility of—

''(1) establishing a clearinghouse to operate a national teacher job bank; or

''(2) establishing regional clearinghouses to operate regional teacher job banks.

''(b) NATIONAL TEACHER JOB BANK DEMONSTRATION.—

''(1) PROGRAM AUTHORIZED.—The Secretary of Education is authorized to contract with one or more State entities, nonprofit organizations, or institutions of higher education to establish a national or regional teacher job bank clearinghouse which shall—

''(A) assist local educational agencies and private schools in locating qualified applicants for teaching-related positions; and

''(B) help individuals in locating teaching-related jobs or the training necessary to enter the teaching profession or the field of early childhood or preschool education.

''(2) APPLICATION REQUIRED.—Each entity desiring to enter into a contract with the Secretary of Education for the establishment of a teacher job bank clearinghouse shall submit an application to the Secretary at such time, in such manner and accompanied by such information as the Secretary may reasonably require. Each such application shall include—

''(A) a demonstration of the applicant's capacity to efficiently and effectively handle a large volume of inquiries from employers and potential employees;

''(B) a demonstration of support from local educational agencies and private schools and institutions of higher education that are likely to use the services provided by the teacher job bank clearinghouse; and

''(C) a demonstration of ability to provide prospective teachers with information, either directly or by contract with another entity, regarding the certification and licensure requirements of each State which is served by a clearinghouse and information regarding procedures for assisting out-of-State teachers to meet State certification requirements.

''(3) PRIORITY.—The Secretary shall give priority to applications submitted pursuant to paragraph (2) which—

''(A) demonstrate the ability to serve a region of the United States and involve the cooperation of several State educational agencies and institutions of higher education; or

''(B) demonstrate an ability to address shortages of teachers, such as teachers from minority groups, special education teachers, bilingual teachers, or individuals planning to teach in subject areas, geographical areas, or types of schools with shortages.

''(c) USE OF FUNDS.—Each entity, organization, or institution receiving funds under this section may use such funds to—

''(1) develop, in consultation with local education agencies and other appropriate entities, standardized initial application forms for teaching jobs and related positions, and standardized forms and procedures for announcing available teaching positions;

''(2) coordinate and assist State and local teacher recruitment efforts;

''(3) publish and disseminate information about opportunities for teacher employment and teacher training;

''(4) maintain a system for matching available teachers with job openings for which they are qualified and for tracking the supply of teachers and the demand for teachers among the States;

''(5) encourage the development of programs to recruit and train minorities and individuals with disabilities to become teachers;

''(6) assist employers in checking the background of applicants;

''(7) publicize the availability of scholarships, loans, and other programs that assist individuals wishing to pursue a teaching career;

''(8) assist employers in the development of effective teacher recruitment programs;

''(9) assist in developing reciprocal agreements on teacher certification among States; and

''(10) conduct such other activities and services necessary to carrying out the purposes of this section in accordance with the provisions of this section.

''(d) DEFINITION.—For the purposes of this section, the term 'teacher' includes elementary and secondary school classroom teachers, and preschool and early childhood education specialists.

''(e) AUTHORIZATION.—There are authorized to be appropriated $2,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out this section.''

TRAINING AND TECHNICAL ASSISTANCE FOR SCHOOL-BASED DECISIONMAKERS DEMONSTRATION PROGRAM

Section 1531 of Pub. L. 102–325 provided that:

''(a) IN GENERAL.—The Secretary of Education is authorized to make grants to local education agencies, in consortia with one or more institutions of higher education, to establish programs to provide training and technical assistance to school-based decisionmakers in local education agencies implementing system-wide reform.

''(b) APPLICATION.—To be eligible to receive a training and technical assistance demonstration grant under this section, consortia shall submit an application to the Secretary of Education in such form and containing or accompanied by such information as the Secretary may require. A copy of the application shall also be sent to the State educational agency for notification purposes.

''(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $1,000,000 for fiscal year 1993 and such sums as may be necessary for fiscal years 1994 and 1995.''

PART A—STATE AND LOCAL PROGRAMS FOR TEACHER EXCELLENCE

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 1103e of this title.

§ 1102. Authority and allocation of funds; definitions

(a) Purpose and authority

(1) Purpose

It is the purpose of this part to provide funds to State educational agencies, local educational agencies and institutions of higher education in order to update and improve the skills of classroom teachers, including preschool and early childhood education specialists and school administrators, to establish State academies for teachers and school leaders, and to provide for a comprehensive examination of State requirements for teacher preservice and certification.

(2) Program authorized

The Secretary is authorized to make allotments to State educational agencies for the purposes of enhancing and improving the quality of teaching, including early childhood education, in each of the several States.

(b) Allotment of funds

(1) In general

From the funds appropriated in each fiscal year pursuant to section 1102j of this title, the Secretary shall allot to each State—

(A) 50 percent of such funds on the basis of the number of individuals in the State aged 5 through 17 compared to the number of all such individuals in all States; and

(B) 50 percent of such funds on the basis of the amount the State receives under sections 2711 and 2712[1] of this title compared to

[1] See References in Text note below.

the total amount that all States receive under such sections.

(2) Allocations from State allotments

(A)(i) Except as provided in subsection (c) of this section, from the amount allotted to each State in each fiscal year pursuant to paragraph (1) and not reserved pursuant to subparagraph (B)(i), the State education agency shall allocate 50 percent of such amount in accordance with clause (ii) to local eduational[2] agencies to carry out the activities described in section 1102b of this title.

(ii) The State educational agency shall allocate 50 percent of the amount allotted to the State in each fiscal year under paragraph (1) so that—

(I) one-half of such amount is allocated to local educational agencies within such State based on the local educational agency's relative share of the enrollments in public schools within the State; and

(II) one-half of such amount is allocated to local educational agencies within such State based on the local educational agency's relative share of the State's allocation of funds under sections 2711 and 2712[1] of this title,

except that any local educational agency that would receive an allocation of less than $10,000 shall be required to form a consortium with at least one other local educational agency in order to receive an allocation under this part. In making allocations under this part, the State educational agency shall use the most recent data available.

(B)(i) From the amount allotted to each State in each fiscal year pursuant to paragraph (1) the State educational agency shall reserve not more than 3 percent of such funds for the purposes of administering the program under this subchapter, including evaluation and dissemination activities.

(ii) From the amount allotted to each State in each fiscal year under paragraph (1) and not reserved pursuant to clause (i), the State educational agency—

(I) shall reserve not more than 25 percent of such funds to carry out sections 1102c, 1102d, and 1102e of this title; and

(II) shall reserve not more than 25 percent of such funds to award grants to institutions of higher education in accordance with sections 1102f and 1102g of this title.

(c) Special rule

Notwithstanding the provisions of subsection (b)(2)(A) of this section, if the amount appropriated to carry out this part for any fiscal year is less than $250,000,000, then each State educational agency shall use 50 percent of the amount allotted to such State under paragraph (1) and not reserved pursuant to subsection (b)(2)(B)(i) of this section to award grants to local educational agencies on a competitive basis.

(d) Reallotment

If a State or local educational agency elects not to receive assistance under this part in any fiscal year or the Secretary determines in any fiscal year that a State or local educational agency will not be able to use all or any portion of the funds available to such State or local educational agency under this part, then the Secretary shall reallot such funds. The Secretary shall reallot such funds in such fiscal year in accordance with the provisions of this part among the States or local educational agencies who are eligible for assistance under this part and are not described in the preceding sentence.

(e) Definitions

For purposes of this part—

(1) the term ''State'' means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, American Samoa, and the Republic of Palau (until the Compact of Free Association takes effect pursuant to section 1931(a) of title 48); and

(2) the term ''key academic subjects'' means English, mathematics, science, history, geography, foreign languages, civics and government, and economics.

(Pub. L. 89–329, title V, § 501, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 655.)

REFERENCES IN TEXT

Sections 2711 and 2712 of this title, referred to in subsec. (b)(1)(B), (2)(A)(ii)(II), were in the original references to sections 1005 and 1006 of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, and were omitted in the general amendment of that Act by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519.

For Oct. 1, 1994, as the date the Compact of Free Association with the Republic of Palau takes effect, referred to in subsec. (e)(1), see Proc. No. 6726, Sept. 27, 1994, 59 F.R. 49777, set out as a note under section 1931 of Title 48, Territories and Insular Possessions.

PRIOR PROVISIONS

A prior section 1102, Pub. L. 89–329, title V, § 512, Nov. 8, 1965, 79 Stat. 1255; Pub. L. 90–35, § 3(a)(3), (4), June 29, 1967, 81 Stat. 85; Pub. L. 92–318, title I, § 142, June 23, 1972, 86 Stat. 286; Pub. L. 94–482, title I, § 151(a)(5)(B), Oct. 12, 1976, 90 Stat. 2152; Pub. L. 96–88, title III, § 301(b)(2), title V, § 508(*l*)(3), Oct. 17, 1979, 93 Stat. 677, 694; Pub. L. 96–374, title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1503, related to establishment and administration of program, prior to repeal by Pub. L. 97–35, title V, § 587(a)(2), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

A prior section 501 of Pub. L. 89–329, title V, as added Pub. L. 99–498, title V, § 501(a), Oct. 17, 1986, 100 Stat. 1495, set forth statement of purpose and applicability of this subchapter and was classified to section 1101 of this title, prior to the general revision of this subchapter by Pub. L. 102–325.

Another prior section 501 of Pub. L. 89–329, title V, Nov. 8, 1965, 79 Stat. 1254; Pub. L. 90–35, § 2(c), June 29, 1967, 81 Stat. 82; Pub. L. 92–318, title I, § 141(b)(1), June 23, 1972, 86 Stat. 285, set forth statement of purpose and authorization of appropriations for education professions development program, prior to repeal by Pub. L. 94–482, title I, § 151(a)(2), (b), Oct. 12, 1976, 90 Stat. 2151, eff. Sept. 30, 1976.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1102a, 1102b, 1102c, 1102d, 1102e, 1102f, 1102g of this title.

[2] So in original. Probably should be ''educational''.

§ 1102a. State application

(a) In general

Any State which desires to receive an allotment under this part shall submit to the Secretary an application which—

(1) designates the State educational agency as the State agency responsible for the administration and supervision of programs assisted under this part;

(2) provides for a process of active discussion and consultation with a committee, convened by the chief State school officer, which is broadly representative of the following educational interests within the State, including—

(A) a representative nominated by each of the following:

(i) the State teacher organizations;

(ii) the organizations representing preschool and early childhood education specialists;

(iii) the State school administrators organization;

(iv) the State parents organizations;

(v) the State business organizations; and

(vi) the State student organizations;

(B) a representative from the State board of education;

(C) a representative of faculty from departments, schools or colleges of educations;

(D) other representatives of institutions of higher education, including community colleges;

(E) the State director of vocational education; and

(F) the State director of special education;

(3) describes the competitive process that the State will use to distribute funds among local educational agencies pursuant to section 1102(c) of this title;

(4) describes the process the State will use to conduct the assessment required by section 1102c(c) of this title;

(5) describes how the State will allocate funds among activities required under section 1102c of this title;

(6) with respect to the State academies to be established under sections 1102d and 1102e of this title—

(A) describes the academies to be established under this part and the goals and objectives for each such academy;

(B) describes how the academies assisted under this part shall relate to the overall plan for the attainment of the national education goals by the State;

(C) describes the competitive process that shall be used to select applicants to operate the academies assisted under this part;

(D) assures that the Academies for Teachers shall provide instruction in the key academic subjects;

(E) assures that the State shall continue to operate the academies assisted under this part when Federal funds provided pursuant to this subchapter are no longer available;

(F) assures that Federal funds provided under this part shall not be used for construction of new facilities or substantial remodeling;

(G) assures that the Academies for Teachers shall provide activities designed to enhance the ability of teachers to work with special educational populations, including—

(i) limited-English proficient children;

(ii) children with disabilities;

(iii) economically and educationally disadvantaged children; and

(iv) gifted and talented children; and

(H) contains such other assurances and information as the Secretary may reasonably require;

(7) describes the competitive process that the State will use to distribute funds among institutions of higher education pursuant to section 1102f of this title;

(8) describes a plan to promote learning among the State educational agency staff in order to support and facilitate systemic improvement of the State educational agency, schools or colleges of education at institutions of higher education, and local educational agencies; and

(9) includes such other information and assurances as the Secretary may require.

(b) Functions of committee

The application required by subsection (a) of this section shall identify the procedures by which the committee required by paragraph (2) of such subsection will be engaged in—

(1) ensuring that activities assisted under this part are effective, coordinated with other State, local, and Federal activities and programs, and meet the needs of the State for improving the quality of teaching and teacher education programs, including those programs concerned with preschool education and the training of early childhood education specialists, and school leadership programs;

(2) advising the State on criteria for awarding funds under sections 1102(c), 1102d, 1102e, and 1102f of this title; and

(3) advising the State on criteria for approving local educational agency applications under section 1102b(a) of this title.

(c) Evaluation and report

(1) Report to Secretary

Each State educational agency receiving an allotment under this part shall evaluate the work of each academy that is located in the State and assisted under this part every 2 years, including the impact of each academy's programs on participants, and report the findings of such evaluation to the Secretary. The initial report shall be submitted 3 years after funds are first allotted to such State educational agency under section 1102 of this title and subsequent reports shall be submitted every 2 years thereafter. Such report shall also describe the characteristics of the participants and activities provided at each academy assisted under this part.

(2) Report to Congress

The Secretary shall submit to the Congress a summary of the reports required under subsection (a) of this section. The initial summary shall be submitted 60 days after the due date of the first report described in subsection

(a) of this section and subsequent summaries shall be submitted every 2 years thereafter.

(Pub. L. 89–329, title V, § 502, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 656.)

PRIOR PROVISIONS

A prior section 502 of Pub. L. 89–329, title V, as added Pub. L. 99–498, title V, § 501(a), Oct. 17, 1986, 100 Stat. 1496, authorized appropriations for this subchapter and was classified to section 1101a of this title, prior to the general revision of this subchapter by Pub. L. 102–325.

Another prior section 502 of Pub. L. 89–329, title V, as added Pub. L. 90–35, § 2(c), June 29, 1967, 81 Stat. 82; amended Pub. L. 91–230, title IV, § 401(h)(4), title VIII, § 802, Apr. 13, 1970, 84 Stat. 174, 190; Pub. L. 92–318, title I, § 141(c)(1)(A), June 23, 1972, 86 Stat. 285, established National Advisory Council on Education Professions Development and set forth functions, composition, etc., of Council and was classified to section 1091a of this title, prior to repeal by Pub. L. 94–482, title I, § 151(a)(4)(A), Oct. 12, 1976, 90 Stat. 2152, eff. Sept. 30, 1976.

§ 1102b. Local application and use of funds

(a) Local application

Any local educational agency which desires to receive assistance under section 1102(b)(2)(A) or 1102(c) of this title shall submit to the State educational agency an application which—

(1) describes the needs of such local educational agency with respect to inservice training programs for teachers and preschool and early childhood education specialists pursuant to the assessment conducted under subsection (b)(2)(A) of this section, and, if appropriate, describes the need of such local educational agency for teacher recruitment, business partnerships, outreach to military veterans, and the provision of other opportunities for teachers to improve their skills;

(2) describes the process used to determine such needs, including consultation with teachers, preschool and early childhood specialists, principals, parents, representatives from departments, schools or colleges of education, and others in the community;

(3) describes the activities such agency intends to conduct with the funds provided under section 1102(b)(2)(A) or 1102(c) of this title consistent with the provisions of this section in order to improve the quality of teaching within such agency;

(4) describes the processes and methods used to promote systematic improvement through continual learning in order to achieve agreed upon local, State and National standards; and

(5) any other information that the State educational agency may reasonably require.

(b) Local uses of funds

(1) In general

Local educational agencies receiving assistance under section 1102(b)(2)(A) or 1102(c) of this title shall use such funds for the inservice training of teachers and, if appropriate, for preschool and early childhood education specialists, and may use funds for—

(A) development of programs to recruit individuals into the teaching profession and the field of early childhood education;

(B) business partnerships;

(C) outreach to military veterans; and

(D) other purposes consistent with improving the quality of teaching in the local educational agency, as approved by the State educational agency.

(2) Inservice training

(A) In order to receive assistance under section 1102(b)(2)(A) or 1102(c) of this title, a local educational agency or a consortium of local educational agencies shall first assess the needs of such agency or agencies for inservice training.

(B) Funds expended for inservice training shall be used, in accordance with the assessment conducted under subparagraph (A), for the cost of—

(i) the expansion and improvement of inservice training and retraining of teachers and other appropriate school personnel, including vocational teachers, special education teachers, and preschool teachers, consistent with the assessment conducted under subparagraph (A);

(ii) providing funds for grants for individual teachers within the local educational agency to undertake projects to improve their teaching ability or to improve the instructional materials used in their classrooms;

(iii) activities designed to address the effects of chronic community violence on children, such as violence counseling training for teachers and early childhood specialists, and activities and training aimed at resolving conflicts;

(iv) activities designed to enhance the ability of teachers to work with culturally diverse students;

(v) activities designed to integrate academic and vocational education;

(vi) as appropriate, activities designed to assist teacher participation in a Tech-Prep program under section 2394b of this title, in order to develop the skills of such teachers in activities such as organizational development leadership and interdisciplinary curricula development; and

(vii) other activities consistent with the goals of this part as approved by the State educational agency.

(C) Such activities may be carried out through agreements with institutions of higher education, nonprofit organizations, public agencies, and museums.

(D) Activities related to inservice training shall be coordinated with such activities carried out under part A of title II of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6621 et seq.].

(3) Recruitment of teachers

(A) Local educational agencies receiving assistance under section 1102(b)(2)(A) or 1102(c) of this title may use such assistance—

(i) to establish, operate, or expand programs to encourage and recruit interested individuals to pursue a course of study that will lead to a career in education; and

(ii) to establish, operate, or expand a program where such agency recruits students

currently enrolled in a school in the local educational agency to be teachers or early childhood education specialists.

(B) Activities under this paragraph may include—

(i) academic and career counseling of and support services for students;

(ii) programs in which students act as tutors while they are enrolled in schools in the local educational agency;

(iii) programs in which students enrolled in institutions of higher education and other individuals tutor students within schools in the local educational agency;

(iv) information and recruitment efforts to attract individuals into the teaching profession; and

(v) programs to support early childhood education efforts at the preschool and school level.

(C) In conducting programs under this paragraph, local educational agencies shall place a priority on recruiting students and individuals from minority groups.

(D) Local educational agencies may conduct programs under this paragraph in consortia with institutions of higher education.

(4) Business partnerships

Local educational agencies receiving assistance under section 1102(b)(2)(A) or 1102(c) of this title may use such assistance to establish partnerships with representatives of the business community to sponsor—

(A) programs which allow representatives of local business or firms to go into the classroom and work with the classroom teacher to provide instruction in subject areas where the expertise of the teacher could be supplemented, especially in the subject areas of mathematics, science, and vocational and technology education training;

(B) internship programs which provide an opportunity for classroom teachers to work in local businesses or firms to gain practical experience or to develop new skills or expertise;

(C) programs which bring students and teachers into business settings to see applications of course work and in specialized areas, and to learn to use advanced technical equipment;

(D) programs which allow representatives of local businesses and firms to work with school administrators to develop instructional material; and

(E) other activities appropriate to forming a working relationship between business leaders and classroom leaders.

(5) Outreach to military veterans

Local educational agencies receiving assistance under section 1102(b)(2)(A) or 1102(c) of this title may use such assistance to establish programs to inform United States military veterans of teaching opportunities and to provide assistance in the establishment of teaching opportunities for such veterans by—

(A) planning and implementing informational and outreach programs leading to the development of programs specifically designed to inform United States military veterans about teaching opportunities and the qualifications necessary for such opportunities;

(B) planning and implementing programs leading to the creation of teaching opportunities for such veterans;

(C) supporting programs to assist such veterans to meet the qualifications to become teachers;

(D) disseminating information on the program described in this paragraph and on sources of student financial assistance available under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42 and under programs administered by the Department of Veterans Affairs and other Federal agencies; and

(E) making scholarships available to such military veterans under the same terms and conditions specified in subpart 1 of part C of this subchapter.

(Pub. L. 89–329, title V, § 503, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 658.)

REFERENCES IN TEXT

The Elementary and Secondary Education Act of 1965, referred to in subsec. (b)(2)(D), is Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, as amended generally by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519. Part A of title II of the Act is classified generally to part A (§ 6621 et seq.) of subchapter II of chapter 70 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1102, 1102a, 1102c of this title.

§ 1102c. State uses of funds

(a) In general

Each State educational agency receiving funds reserved pursuant to section 1102(b)(2)(B)(ii)(I) of this title shall use such funds—

(1) first, to conduct a study of teacher education programs within such State, as required under subsection (c) of this section; and

(2) secondly, for—

(A) the establishment of State Academies for Teachers under section 1102d of this title;

(B) the establishment of State Academies for School Leaders under section 1102e of this title; and

(C) activities directly related to the implementation of the teacher education study required under subsection (c) of this section.

(b) Special rule

If a State educational agency can demonstrate that the amount of funds reserved pursuant to section 1102(b)(2)(B)(ii)(I) of this title is insufficient to establish one State academy, then the State educational agency shall distribute such funds to local educational agencies in accordance with section 1102(b)(2)(A) or 1102(c) of this title to carry out the activities described in section 1102b(b) of this title.

(c) Teacher education study

(1) Study required

Each State educational agency receiving funds under this part shall, in consultation

with institutions of higher education, local educational agencies, teachers, parents, the State legislature, the State board of education, and business, undertake a study of—

(A) teacher education programs and State teacher professional development requirements, including programs and requirements intended to train preschool and early childhood education specialists; and

(B) the State laws and regulations relating to such programs and requirements, including any standards or requirements for certification and licensure,

in order to determine if such programs and requirements are adequately preparing teachers to effectively educate students.

(2) Considerations

Such study shall consider whether such programs or requirements—

(A) would be improved if teacher education programs were required to coordinate courses with other departments on campus in order to provide prospective teachers with a strong background in their subject matter;

(B) integrate academic and vocational education instruction;

(C) give enough flexibility in order to allow experimentation and innovation;

(D) would be improved if such programs provided preparation for students desiring to become teachers, but who are pursuing a bachelor's degree in an area of study other than education;

(E) would be improved if teacher certification required a bachelor's degree in a subject area and a master's degree in education; and

(F) would be improved if institutions of higher education that have developed innovative materials and curricula for inservice training were required to incorporate these improvements into their preservice programs.

(3) Deadlines

(A) Such study shall be completed by two years from the end of the first fiscal year in which funding was made available for this part. The results of such study shall be reported to the Secretary. In submitting the report to the Secretary, the State educational agency shall include in the report the most successful practices used to enhance the profession of teaching. The Secretary may disseminate such successful practices in order to assist other States in their efforts to enhance the profession of teaching.

(B) Except as provided in paragraph (4), beginning in the third fiscal year for which funding under this part is available, State educational agencies shall use all funds provided under section 1102(b)(2)(B)(ii)(I) of this title which are not allotted for State Academies for Teachers and State Academies for School Leaders—

(i) to implement the program and policy changes resulting from the findings of such study; and

(ii) to assist schools and programs of education throughout the State in meeting any new requirements that result from such study.

(C) The State educational agency shall award grants pursuant to section 1102f(b)(9) of this title to institutions of higher education to implement the programs and policy changes resulting from the findings of such study.

(4) Waiver

If a State demonstrates to the Secretary that it has completed a study comparable to the study required by this subsection within the previous 5 years prior to the fiscal year for which funds are first made available under this part, then the Secretary may waive the requirements of this subsection. States receiving a waiver shall use funds provided under section 1102(b)(2)(B)(ii)(I) of this title to implement the program and policy changes resulting from the findings of such study. If the State can demonstrate to the Secretary that such program and policy changes have been implemented, then the State shall use funds provided under section 1102(b)(2)(B)(ii)(I) of this title to carry out the activities authorized under sections 1102d and 1102e of this title.

(Pub. L. 89–329, title V, § 504, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 661.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1102, 1102a, 1102d, 1102f of this title.

§ 1102d. State Academies for teachers

(a) Purpose; definitions

(1) Purpose

It is the purpose of this section to improve elementary and secondary school teacher subject matter knowledge and teaching skills in each of the key academic subjects by establishing one or more Academies in the key academic subjects in every State.

(2) Definitions

For purposes of this section—

(A) the term ''Academy'' means a course of instruction and related activities to increase a teacher's knowledge of a specific subject area, a teacher's ability to impart such knowledge to students, and a teacher's ability to address any other issue described in this section, except that such term—

(i) does not mean a physical facility; and

(ii) does not require a separate location from another Academy or other training program; and

(B) the term ''eligible entity'' means a local educational agency, an institution of higher education, a museum, a private nonprofit educational organization of demonstrated effectiveness, or a consortium of any 2 or more of such entities.

(b) Application required

(1) In general

Each eligible entity desiring to operate an Academy under this section shall submit an application to the State educational agency at such time, in such manner, and accompanied

by such information as the State may reasonably require.

(2) Contents

Each application submitted pursuant to paragraph (1) shall describe—

(A) the goals of the Academy and the steps that shall be taken to evaluate the extent to which the Academy reaches its goals;

(B) the curriculum to be used or developed by the Academy;

(C) steps to be taken to recruit teachers for the Academy's program, including outreach efforts to identify and attract—

(i) minority group members;

(ii) individuals with disabilities;

(iii) individuals from areas with large numbers or concentrations of disadvantaged students; and

(iv) other teachers with the potential to serve as mentor teachers;

(D) steps to be taken to ensure that faculty members teaching at the Academy shall be of exceptional ability and experience, including outreach efforts to identify and attract as faculty members—

(i) minority group members;

(ii) individuals with disabilities; and

(iii) individuals from areas with large numbers or concentrations of disadvantaged students;

(E) efforts to be undertaken to disseminate information about the Academy;

(F) selection criteria to be used in identifying teachers to participate in the Academy;

(G) steps to be taken to assure that the programs offered by the Academy shall be of sufficient length and comprehensiveness to significantly improve participants' knowledge; and

(H) efforts to be undertaken to evaluate the impact of the Academy on participants.

(c) Use of allotted funds

(1) Grants

Each State educational agency receiving an allotment under this part shall use the funds reserved pursuant to section 1102(b)(2)(B)(ii)(I) of this title to award one or more competitive grants to eligible entities to enable such eligible entities to operate an Academy in accordance with the provisions of this section.

(2) Coordination of activities

To the extent practicable, such academies shall coordinate efforts with teacher inservice activities of local educational agencies.

(3) Combination of resources

Each State educational agency receiving an allotment under this part may combine the funds reserved pursuant to section 1102(b)(2)(B)(ii)(I) of this title with such funds reserved by another State educational agency to operate academies assisted under this part on a multistate or regional basis.

(4) Costs

Each eligible entity receiving a grant under this section shall use such funds to meet the operating costs of carrying out the activities described in subsection (d) of this section, which may include reasonable startup and initial operating costs, and costs associated with release time, stipends, travel, and living expenses for teachers who participate in the Academy's program if no other funds are available to pay such costs.

(d) Authorized activities

Each eligible entity receiving a grant to operate an Academy under this section may use such grant funds for—

(1) renewal and enhancement of participants' knowledge in key academic subjects;

(2) skills and strategies to improve academic achievement of students, especially students who are educationally disadvantaged, are limited-English proficient, are drug- or alcohol-exposed, or have disabilities;

(3) improved teaching and classroom management skills;

(4) techniques for the integration of academic and vocational subject matter, including the application of such techniques in tech/prep education programs;

(5) the use of educational technologies in teaching the key academic subjects;

(6) training needed to participate in curriculum development in a key academic subject;

(7) training in the development and use of assessment tools;

(8) review of existing teacher enhancement programs to identify the most promising approaches;

(9) development of a curriculum for use by the Academy;

(10) follow-up activities for previous participants;

(11) dissemination of information about the Academy, including the training curricula developed; and

(12) any other activities proposed by the applicant and approved by the State educational agency.

(e) Cost sharing

Funds received for this section may be used to pay not more than 75 percent of the cost of operating an Academy in the first year an eligible entity receives a grant under this section, 65 percent of such cost in such second year, 55 percent of such cost in such third year, 45 percent of such cost in such fourth year, and 35 percent of such cost in such fifth year. The remaining share shall be provided from non-Federal sources, and may be in cash or in-kind contributions, fairly valued.

(f) Special rules

(1) Uses of funds

(A) Key academic subjects

At least 70 percent of funds received for this section shall be used for enhancement of participant knowledge in key academic subjects.

(B) Other subjects

At least 20 percent of the funds received for this section shall be used for enhancement of participant knowledge in areas not related to academic subjects.

(2) Special rule

In awarding grants under this section the State educational agency may provide for training in 2 or more key academic subjects at a single site.

(3) Additional academies or awards

If a State can demonstrate that the State's need for academies in key academic subjects has been met, and if the State can demonstrate that it is implementing the findings of the teacher education study described in section 1102c(c) of this title, then the State may use a portion of the amount reserved pursuant to section 1102(b)(2)(B)(ii)(I) of this title to establish one or more of the following academies or awards:

(A) Early childhood academies

A State educational agency may establish an academy aimed at early childhood education training. Such an academy shall give a priority to recruiting candidates from underrepresented groups in the early childhood education profession and shall provide intensive childhood training in violence counseling.

(B) Tech-prep academies

A State educational agency may establish an academy for—

(i) assisting educators in secondary schools and community colleges to more effectively understand organizational structures and organizational change strategies;

(ii) assisting educators to learn effective peer leadership strategies;

(iii) assisting secondary school teachers and community college faculty to identify the knowledge and skills required in highly technical industries and workplaces;

(iv) assisting secondary school teachers and community college faculty to apply creative strategies to the development of interdisciplinary curricula; and

(v) assisting educators in integrating academic and vocational education.

(C) Teacher awards

(i) A State educational agency may make awards to State Academies for Teachers to provide for a program of cash awards and recognition to outstanding teachers in the key academic subject or subjects covered by the program of the Academy.

(ii) Any full-time public or private elementary or secondary school teacher of a key academic subject or vocational and technology education subject, including an elementary school teacher of the general curriculum, shall be eligible to receive an award under this subparagraph.

(iii) The amount of a teacher's award under this subparagraph shall not exceed $5,000 and shall be available for any purpose the recipient chooses.

(iv) Each Academy receiving an award under clause (i) of this subparagraph shall select teachers to receive awards from nominations received from local educational agencies, public and private elementary and secondary schools, teachers, associations of teachers, parents, associations of parents and teachers, businesses, business groups, and student groups.

(v) The Academy shall select award recipients under this subparagraph in accordance with criteria developed by the Academy and approved by the State educational agency. The selection criteria may take into account teacher's success in—

(I) educating disadvantaged children and children with disabilities;

(II) educating gifted and talented children;

(III) encouraging students to enroll, and succeed, in advanced classes in a key academic subject or vocational and technology education subject;

(IV) teaching a key academic subject or vocational and technology education subject successfully in schools educating large numbers of educationally disadvantaged students, including schools in low-income inner-city or rural areas;

(V) introducing a new curriculum in a key academic subject into a school or strengthening an established curriculum;

(VI) acting as a master teacher; and

(VII) other criteria as developed by the Academies and approved by the State educational agency.

(Pub. L. 89–329, title V, § 505, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 663; amended Pub. L. 103–208, § 2(j)(1), Dec. 20, 1993, 107 Stat. 2480.)

AMENDMENTS

1993—Subsec. (b)(2)(D)(iii). Pub. L. 103–208 substituted semicolon for period at end.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1003 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1102, 1102a, 1102c, 1102e of this title.

§ 1102e. State Academies for school leaders

(a) Purpose; definitions

(1) Purpose

It is the purpose of this section to improve the training and performance of school principals and other school leaders and to increase the number of persons who are highly trained to be principals and school leaders by establishing an Academy for current and prospective school leaders in every State.

(2) Definitions

For the purpose of this section—

(A) the term ''Academy'' means a course of instruction and related activities to increase a school leader's knowledge of the tools and techniques of school management and leadership, and such leader's ability to exercise such tools and techniques in the school setting, and may include a course of instruction

for school district level system leaders separately or in combination with school leaders and teachers, except that such term—

(i) does not mean a physical facility; and

(ii) does not require a separate location from another Academy or other training program; and

(B) the term ''eligible entity'' means a technical assistance center assisted under subpart 2[1] of part C of this subchapter of this chapter as such chapter was in effect on the day before July 23, 1992, a local educational agency, an institution of higher education, a museum, a private nonprofit educational organization of demonstrated effectiveness, or a consortium of any 2 or more such entities.

(b) Application required

(1) In general

(A) Each eligible entity desiring to operate an Academy under this section shall submit an application to the State educational agency at such time, in such manner and accompanied by such information as the State may reasonably require. Such Academy may be operated in cooperation or consortium with an Academy of another State.

(B) A priority for awards shall be given to entities who received funds under subpart 2[1] of part C of this subchapter as in effect on September 30, 1991.

(2) Contents

Each application submitted pursuant to paragraph (1) shall describe—

(A) the goals of the Academy and the steps that shall be taken to evaluate the extent to which the Academy reaches its goals;

(B) the curriculum to be used or developed by the Academy;

(C) the steps to be taken to recruit school leaders for the Academy's program, including outreach efforts to identify and attract—

(i) minority group members;

(ii) individuals with disabilities;

(iii) individuals from areas with large numbers or concentrations of disadvantaged students; and

(iv) other individuals with potential to become school leaders;

(D) efforts to be taken to disseminate information about the Academy;

(E) selection criteria to be used in identifying school leaders to participate in the Academy;

(F) steps to be taken to assure that the programs offered by the Academy shall be of sufficient length and comprehensiveness to significantly improve participants' knowledge;

(G) steps to be taken to assure the involvement of private sector managers and executives from businesses in the conduct of the Academy's programs; and

(H) efforts to be undertaken to evaluate the impact of the Academy on participants.

(c) Use of allotted funds

(1) Grants

Each State educational agency receiving an allotment under this part shall use the funds reserved pursuant to section 1102(b)(2)(B)(ii)(I) of this title to award a competitive grant to an eligible entity to enable such eligible entity to operate an Academy in accordance with the provisions of this subpart.

(2) Costs

Each eligible entity receiving a grant under this section shall use such funds to meet the costs of carrying out the activities described in subsection (d) of this section, which may include reasonable startup and initial operating costs, and stipends, travel, and living expenses for participants in the Academy if no other funds are available to pay such costs.

(3) Limitations

(A) Participants

At least 70 percent of the participants in an Academy shall be from the school building level.

(B) Special rule

In awarding grants under this section, the State educational agency may provide for the location at the same site of Academies assisted under this section and Academies assisted under section 1102d of this title.

(d) Authorized activities

Each eligible entity receiving a grant to operate an Academy under this section may use such grant funds for—

(1) developing and enhancing of participants' knowledge in instructional leadership, school-based management, shared decisionmaking, school improvement strategies and school-level accountability mechanisms;

(2) identifying candidates, including members of minority groups, individuals with disabilities, and individuals from schools with high numbers or concentrations of educationally disadvantaged students and individuals who are bilingual, to be trained as new school leaders;

(3) conducting programs which provide for the involvement of private sector managers and executives from businesses;

(4) identifying models and methods of leadership training and development that are promising or have proven to be successful;

(5) providing intensive training and development programs for current school leaders seeking enhanced and up-to-date knowledge needed to perform their jobs effectively;

(6) identifying local educational agencies and schools with principal and other school leader vacancies and working with such agencies and schools to match Academy participants with such vacancies;

(7) facilitating internships for graduates of the program for new school leaders, under the guidance and supervision of experienced administrators;

(8) providing periodic follow-up development activities for school leaders trained through the Academy's programs;

[1] See References in Text note below.

(9) disseminating information about the Academy, including the training curricula developed;

(10) coordinating activities with those of any State Academies for Teachers established in the State; and

(11) any other activity proposed by the applicant in the application submitted pursuant to subsection (b) of this section and approved by the State educational agency.

(e) Cost-sharing

Funds received under this section may be used to pay not more than 75 percent of the cost of operating an Academy in the first year an eligible entity receives a grant under this subpart, 65 percent of such cost in such second year, 55 percent of such cost in such third year, 45 percent of such cost in such fourth year, and 35 percent of such cost in such fifth year. The remaining share shall be provided from non-Federal sources, and be in cash or in kind, fairly valued.

(Pub. L. 89–329, title V, § 506, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 666.)

REFERENCES IN TEXT

Subpart 2 of part C of this subchapter of this chapter as such chapter was in effect on the day before July 23, 1992, and subpart 2 of part C of this subchapter as in effect on September 30, 1991, referred to in subsecs. (a)(2)(B) and (b)(1)(B), respectively, were classified to section 1109 et seq. of this title, prior to the general revision of this subchapter by Pub. L. 102–325.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1102, 1102a, 1102c of this title.

§ 1102f. Institutions of higher education uses of funds

(a) Applications

Institutions of higher education desiring to receive a grant under section 1102(b)(2)(B)(ii)(II) of this title shall submit to the State educational agency an application which—

(1) describes the types of activities that the institution plans to undertake with funds provided;

(2) describes the process used by the institution to determine the State's needs for improving teacher education and training for preschool and early childhood education specialists, including consulting with current students, teachers, representatives from local educational agencies, parents, and representatives from preschool and early childhood specialists;

(3) if such institution is applying for a grant to assist local educational agencies in providing inservice training for teachers, describes the training and services that such institution plans to provide for teachers within the local educational agency and demonstrates that such training and services are consistent with the needs of the local educational agencies to be served;

(4) if such institution is applying for a grant to establish a professional development academy, contains the information required pursuant to section 1102g of this title;

(5) describes how the institution plans to integrate academic and vocational teacher education programs; and

(6) contains any other information that may be required by the State educational agency.

(b) Awards

The State educational agency shall award grants on a competitive basis to institutions of higher education that have departments, schools, or colleges of education. In awarding grants, the State educational agency shall award funds for the following purposes:

(1) For the establishment of professional development academies pursuant to section 1102g of this title.

(2) For the establishment and maintenance of programs that provide teacher training to individuals who are moving to a career in education from another occupation.

(3) For institutions of higher education in consultation and cooperation with a local educational agency or a consortium of local educational agencies, to develop and provide technical assistance to local education agencies in providing inservice training for teachers.

(4) For improving teacher education programs in order to further innovation in teacher education programs within an institution of higher education and to better meet the needs of the local educational agencies for well-prepared teachers.

(5) For improving training for preschool and early childhood education specialists, including preschool and early intervention services for infants and toddlers with disabilities, in order to further innovation in such programs with institutions of higher education and to better meet the needs of preschool and early childhood education programs for well-prepared personnel.

(6) To integrate the instruction of academic and vocational teacher education programs.

(7) For activities to encourage individuals, especially individuals from minority groups, to pursue a career in education.

(8) For expanding cooperative educational programs between State educational agencies and offices, schools, and school systems, institutions of higher education, appropriate educational entities, and private sector establishments involved in education between the United States and the Republic of Mexico for the purpose of providing bilateral teaching initiatives and programs that provide teacher training experiences between the educational communities of the United States and those of the Republic of Mexico and to enhance mutually beneficial educational activities involving researchers, scholars, faculty members, teachers, educational administrators, and other specialists to lecture, teach, conduct research, and develop cooperative programs.

(9) When the study of teacher education programs is completed in accordance with section 1102c(c) of this title, to implement the program and policy changes for teacher education programs resulting from the findings of such study.

(Pub. L. 89–329, title V, § 507, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 669.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1102, 1102a, 1102c of this title.

§ 1102g. Professional development academies

(a) Authority; definitions

(1) Authority

From amounts reserved pursuant to section 1102(b)(2)(B)(ii)(II) of this title, the State educational agency is authorized to make grants to, and enter into contracts and cooperative agreements with, eligible entities to plan, establish, and operate professional development academies.

(2) Definitions

For purposes of this section—

(A) the term ''Academy'' means school-based teacher training operated as a partnership between one or more elementary or secondary schools and one or more institutions of higher education that provides prospective and novice teachers an opportunity to work under the guidance of master teachers and college faculty members. Such Academy shall be established for the purpose of—

(i) the training of prospective and novice teachers (including preschool and early childhood education specialists, where appropriate) under the guidance of master teachers and teacher educators;

(ii) the continuing development of experienced teachers;

(iii) research and development to improve teaching and learning and the organization of schools;

(iv) public demonstration of exemplary learning programs for diverse students; and

(v) dissemination of knowledge produced in the research and development process;

except that such term—

(i) does not mean a physical facility; and

(ii) does not require a separate location from another Academy or other training program; and

(B) the term ''eligible entity'' means a partnership that includes one or more local educational agencies and one or more institutions of higher education and may include teachers and the business community.

(b) Awards and renewals

An award made under this section may be in the form of a one-year planning grant. Such award may be renewed for implementation purposes without further competition annually for 4 additional years, upon submission of an evaluation of the project to the State educational agency and assurances that the recipient—

(1) has achieved the goals set out in its application for the original term;

(2) shows promise of continuing its progress;

(3) will meet its share of the project costs; and

(4) has developed a plan for continuing the Academy after Federal funding is no longer available.

(c) Application required

(1) In general

Each eligible entity desiring to operate an Academy under this section shall submit an application to the State educational agency at such time, in such manner, and accompanied by such information as the State educational agency may reasonably require.

(2) Contents

Each application submitted pursuant to subsection (a) of this section shall describe—

(A) what schools within the local educational agency and what institutions of higher education shall participate in the partnership or otherwise participate in the program;

(B) the goals of the Academy and the steps that shall be taken to evaluate the extent to which the Academy reaches such goals;

(C) a plan for monitoring progress and evaluating the effectiveness of the Academy in meeting the goals it has developed for teacher and student performance;

(D) a description of the partnership's plan for systemic change in education, and a description of the activities and services for which assistance is sought;

(E) ways in which the professional development programs shall cover course content in key academic subjects, methods of instruction, and classroom and school-based management skills;

(F) plans to involve prospective and novice teachers in the programs offered by the Academy, including outreach efforts to identify and attract—

(i) minority group members;

(ii) individuals with disabilities; and

(iii) individuals from areas with large numbers or concentrations of disadvantaged students; and

(G) estimates of the number of prospective and beginning teachers to be trained in the Academy in each year of the project and assurances that a significant number of prospective and beginning teachers will be trained in the Academy in each year of the project.

(3) Assurances

Each application submitted pursuant to this subsection shall contain assurances that—

(A) professional development programs at the Academy shall be designed and conducted by faculty members from institutions of higher education and teachers from local schools of demonstrated excellence;

(B) in establishing the Academy, the applicant has consulted with teachers, administrators, and parents who will be affected at the teaching school site;

(C) participating faculty from institutions of higher education shall include faculty members who are experts in the key academic subjects; and

(D) the activities, services and programs offered by the Academy shall be of sufficient length and comprehensiveness to significantly improve participants' knowledge.

(4) Priorities

In making awards under this part, the State educational agency shall give priority to applicants that—

(A) select Academy sites based on need, as evidenced by such measures as a high rate of

teacher attrition or a high proportion of the student body at risk of educational failure;

(B) propose projects that demonstrate the strong commitment to or previous active support for educational innovation;

(C) propose projects that demonstrate collaboration with other educational organizations, social or human service agencies, other community organizations, and the business community in the teaching school's operation;

(D) demonstrate potential for a significant impact on the quality of the future education work force; and

(E) demonstrate the long-term feasibility of the partnership.

(5) Special rules

Each such application shall describe—

(A) how the local educational agency will address the need to change or waive a local rule or regulation that is found by an Academy to impede the school's progress in achieving its goals; and

(B) how partners that are institutions of higher education will involve the School of Education, the School of Arts and Sciences, and the School of Technology or Engineering and any other department of the institution.

(d) Use of allotted funds

(1) Permitted uses

Each eligible entity receiving a grant under this section shall use such funds to meet the operating costs of carrying out the activities described in subsection (e) of this section, which may include reasonable startup and initial operating costs, staff development, purchase of books, materials, and equipment, including new technology, costs associated with release time, payment of personnel directly related to the operation of the Academy, and participation in the activities of a network of Academies.

(2) Limitations

The Secretary may limit the amounts of funds that may be used for minor remodeling and the purchase of equipment under this part.

(e) Authorized activities

Each eligible entity receiving a grant to operate an Academy under this section may use such grant funds for—

(1) training and internship activities for prospective or novice teachers in a school setting under the guidance of master or mentor teachers and faculty from institutions of higher education, especially faculty who are experts in key academic subjects;

(2) mentoring and induction activities for prospective and novice teachers, including such teachers seeking to enter teaching through alternative routes;

(3) participation of experienced teachers in the internship training and assessment of prospective and beginning teachers;

(4) teaching skills and strategies to increase the ability of prospective, novice and experienced teachers to teach disadvantaged students, students with disabilities (including students with severe and multiple disabilities and students with lesser known or newly emerging disabilities), students who are limited-English proficient, and students from diverse cultural backgrounds;

(5) programs to enhance teaching and classroom management skills, including school-based management skills, of novice, prospective and experienced teachers;

(6) experimentation and research to improve teaching and learning conducted in the Academy by teachers and university faculty;

(7) activities to integrate academic and vocational education;

(8) training and other activities to promote the continued learning of experienced teachers, especially in their subject matter knowledge and how to teach it;

(9) participation of expert practicing teachers and administrators in the university-based education studies of prospective teachers;

(10) activities designed to disseminate information about the teaching strategies acquired through the Academy with other teachers in the district's schools;

(11) organizational restructuring, including the introduction of new roles and staffing patterns in the school and university;

(12) activities intended to address the effects of chronic community violence, such as violence counseling and conflict resolution training; and

(13) other activities proposed by the applicant and approved by the Secretary.

(f) Cost-sharing

Funds received under this section may be used to pay 100 percent of the cost of a planning grant and not more than 75 percent of the cost of operating an Academy in the first 2 years an eligible entity receives a grant under this subpart and not more than 50 percent of such cost in such third and fourth years. The remaining share shall be provided from non-Federal sources, and may be in-kind, fairly valued.

(Pub. L. 89–329, title V, § 508, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 670.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1102, 1102f of this title.

§ 1102h. Federal funds to supplement, not supplant regular non-Federal funds

A State educational agency, local educational agency, or institution of higher education may use funds received under this part only so as to supplement and, to the extent practicable, increase the level of funds that would be available from non-Federal sources for the uses of funds under this part and in no case may such funds be so used as to supplant such funds from such non-Federal sources.

(Pub. L. 89–329, title V, § 509, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 673.)

§ 1102i. Coordination with other programs

The State educational agency shall ensure that activities conducted under this part shall

be consistent with the goals and objectives of any Federal or State systemic educational reform activities.

(Pub. L. 89–329, title V, § 510, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 673.)

§ 1102j. Authorization of appropriations

There are authorized to be appropriated to carry out this part $350,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(Pub. L. 89–329, title V, § 510A, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 674.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1102 of this title.

PART B—NATIONAL TEACHER ACADEMIES

§ 1103. Program established

(a) In general

The Secretary is authorized, in accordance with the provisions of this part, to make grants to eligible recipients to establish and operate National Teacher Academies.

(b) Subject areas and staff

(1) Subject areas

At least 1 but not more than 3 National Teacher Academies shall be established in each of the following subject areas commonly taught in elementary and secondary schools:

(A) English.
(B) Mathematics.
(C) Science.
(D) History.
(E) Geography.
(F) Civics and government.
(G) Foreign languages.

(2) Staff

Academy staff shall be selected from the most accomplished and prominent scholars in the relevant fields of study and in the methodologies which improve the skills of persons who teach in such fields of study.

(c) Duration of grant

Each grant to establish and operate a National Teacher Academy shall be for a period of 3 years, and is renewable.

(d) Competitive grant awards

The Secretary shall award grants under this part on a competitive basis.

(e) Consistency with systemic reforms

In awarding grants under this part, the Secretary shall ensure that activities conducted under this part are consistent with the goals and objectives of other Federal or State systemic educational reform activities.

(Pub. L. 89–329, title V, § 511, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 674.)

PRIOR PROVISIONS

A prior section 1103, Pub. L. 89–329, title V, § 511, as added Pub. L. 99–498, title V, § 501(a), Oct. 17, 1986, 100 Stat. 1496, set forth statement of purpose for part A relating to midcareer teacher training for nontraditional students, prior to the general revision of this subchapter by Pub. L. 102–325.

Another prior section 1103, Pub. L. 89–329, title V, § 513, Nov. 8, 1965, 79 Stat. 1256; Pub. L. 90–35, § 3(a)(3), (c)–(f), June 29, 1967, 81 Stat. 85, 86; Pub. L. 91–230, title VIII, §§ 803, 804(c), (d), 805(b), Apr. 13, 1970, 84 Stat. 190, 191; Pub. L. 93–380, title VIII, § 835(a)(2), (3), Aug. 21, 1974, 88 Stat. 605; Pub. L. 94–482, title I, §§ 151(a)(5)(C), 152(b)–(d), Oct. 12, 1976, 90 Stat. 2152, 2153; Pub. L. 96–374, title V, § 502(a)–(d), title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1459, 1503, related to recruitment, enrollment, training, etc., of members for program, prior to repeal by Pub. L. 97–35, title V, § 587(a)(2), Aug. 13, 1981, 95 Stat. 480.

A prior section 511 of Pub. L. 89–329, title V, Nov. 8, 1965, 79 Stat. 1255, as amended, set forth statement of purpose and authorization of appropriations for the Teacher Corps program and was classified to section 1101 of this title, prior to repeal by Pub. L. 97–35, title V, § 587(a)(2), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1103g of this title.

§ 1103a. Eligible recipients

(a) In general

For the purposes of this part, the term ''eligible recipient'' means—

(1) an institution of higher education;

(2) a private nonprofit educational organization of demonstrated effectiveness; or

(3) a combination of the institutions or organizations set forth in paragraphs (1) and (2) of this paragraph.

(b) Expertise requirements

The Secretary shall only award grants to eligible recipients that have demonstrated expertise in the—

(1) subject area of the National Teacher Academy to be established and operated; and

(2) in-service training of teachers at the national, State, and local levels.

(Pub. L. 89–329, title V, § 512, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 674.)

PRIOR PROVISIONS

A prior section 1103a, Pub. L. 89–329, title V, § 512, as added Pub. L. 99–498, title V, § 501(a), Oct. 17, 1986, 100 Stat. 1496, related to selection procedures for grants to institutions offering midcareer teacher training for nontraditional students, prior to the general revision of this subchapter by Pub. L. 102–325.

A prior section 512 of Pub. L. 89–329, title V, Nov. 8, 1965, 79 Stat. 1255, as amended, related to establishment and administration of the program and was classified to section 1102 of this title, prior to repeal by Pub. L. 97–35, title V, § 587(a)(2), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

§ 1103b. Use of funds

(a) In general

Funds provided pursuant to this part shall be used to—

(1) provide in-service training programs for teachers and administrators, including—

(A) programs which emphasize improving the teachers' knowledge in the particular subject area of the National Teacher Academy;

(B) programs which integrate knowledge of subject matter with techniques for communicating that knowledge to students, including students who are disadvantaged, limited-English proficient, drug- or alcohol-exposed, or who have disabilities;

(C) the use of the most recent applied research findings concerning education and the classroom; and

(D) integration of materials from different disciplines into classroom instruction, especially for elementary school teachers;

(2) conduct each year at least one summer institute of at least 3 weeks duration for the State delegations described in section 1103d of this title; and

(3) provide support services to the State Academies for Teachers, including—

(A) the establishment of a national network of individuals to assist in teacher education programs in State Academies for Teachers;

(B) consultation assistance in the design and implementation of in-service teacher training programs; and

(C) monthly newsletters or other methods of communicating useful information.

(b) Administrative costs

Not more than 10 percent of the amount of funds received under this part may be used by an eligible recipient for administrative costs.

(Pub. L. 89–329, title V, §513, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 674.)

PRIOR PROVISIONS

A prior section 1103b, Pub. L. 89–329, title V, §513, as added Pub. L. 99–498, title V, §501(a), Oct. 17, 1986, 100 Stat. 1497, related to review of applications for grants, prior to the general revision of this subchapter by Pub. L. 102–325.

A prior section 513 of Pub. L. 89–329, title V, Nov. 8, 1965, 79 Stat. 1256, as amended, related to recruitment, enrollment, training, etc., of members for program and was classified to section 1103 of this title, prior to repeal by Pub. L. 97–35, title V, §587(a)(2), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

§ 1103c. Application

(a) Application

Each eligible recipient desiring a grant under this part shall submit an application to the Secretary at such time and in such manner as the Secretary may reasonably require.

(b) Contents

Each application submitted pursuant to subsection (a) of this section shall—

(1) describe the activities, services, and programs for which assistance is sought;

(2) describe how at least 70 percent of the National Teacher Academy's time shall be devoted to basic course content relevant to the particular subject field and necessary for improving the quality of teaching in public and private elementary and secondary schools;

(3) describe how not more than 30 percent of the National Teacher Academy's time shall be devoted to methods of instruction relevant to the particular subject field;

(4) describe how the National Teacher Academy's activities will be coordinated with or administered cooperatively with institutes established by other Federal entities, such as the National Science Foundation and the National Endowment for the Humanities; and

(5) provide such additional assurances or information as the Secretary may reasonably require.

(Pub. L. 89–329, title V, §514, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 675.)

PRIOR PROVISIONS

A prior section 1103c, Pub. L. 89–329, title V, §514, as added Pub. L. 99–498, title V, §501(a), Oct. 17, 1986, 100 Stat. 1497, related to amount of grants to institutions offering midcareer teacher training for nontraditional students, prior to the general revision of this subchapter by Pub. L. 102–325.

A prior section 514 of Pub. L. 89–329, title V, Nov. 8, 1965, 79 Stat. 1257, as amended, set forth provisions respecting compensation of program members and was classified to section 1104 of this title, prior to repeal by Pub. L. 97–35, title V, §587(a)(2), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

§ 1103d. State delegations

(a) In general

Each selection panel established pursuant to section 1103e(b) of this title shall select a State delegation to participate in each National Teacher Academy assisted under this part.

(b) Composition

(1) In general

Except as provided in paragraphs (2) and (3), each State delegation described in subsection (a) of this section shall, at a minimum, be composed of—

(A) 1 school administrator with authority to design and conduct in-service teacher training and academic programs; and

(B) at least 5 teachers, of whom at least 2 shall be elementary school teachers.

(2) Special rule

The State delegations for the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa and the Republic of Palau (until the Compact of Free Association is ratified) shall, at a minimum, be composed of—

(A) 1 school administrator with authority to design and conduct in-service teacher training and academic programs; and

(B) at least 3 teachers, of whom at least 1 shall be an elementary school teacher.

(3) Additional teachers

(A) Each State that has obtained the approval of the appropriate National Teacher Academy may send to such National Teacher Academy the number of additional teachers determined in accordance with subparagraph (B).

(B) The appropriate National Teacher Academy shall determine the number of additional teachers to attend such National Teacher Academy on the basis of the number of full-time equivalent teachers in the State compared to such number in all States.

(c) Duties

Each State delegation shall—

(1) attend the appropriate subject area summer institute at the appropriate National Teacher Academy; and

(2) after participation in the National Teacher Academy assist in the development and operation of the appropriate National Teacher Academy.

(Pub. L. 89–329, title V, § 515, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 676.)

REFERENCES IN TEXT

For ratification of Compact of Free Association with the Republic of Palau, referred to in subsec. (b)(2), see Proc. No. 6726, Sept. 27, 1994, 59 F.R. 49777, set out as a note under section 1931 of Title 48, Territories and Insular Possessions.

PRIOR PROVISIONS

A prior section 1103d, Pub. L. 89–329, title V, § 515, as added Pub. L. 99–498, title V, § 501(a), Oct. 17, 1986, 100 Stat. 1497, required reports to Secretary from institutions receiving grants under this part, prior to the general revision of this subchapter by Pub. L. 102–325.

A prior section 515 of Pub. L. 89–329, title V, Nov. 8, 1965, 79 Stat. 1257, as amended, related to applicability of other provisions of laws to members and was classified to section 1105 of this title, prior to repeal by Pub. L. 97–35, title V, § 587(a)(2), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1103b, 1103e of this title.

§ 1103e. Selection

(a) In general

Individuals participating in a National Teacher Academy shall be selected by the selection panel described in subsection (b) of this section in accordance with the provisions of section 1103d of this title.

(b) Selection panel

(1) Establishment

Each State educational agency receiving assistance under part A of this subchapter shall establish a 10-member selection panel to select teachers to attend the National Teacher Academies established pursuant to this part.

(2) Composition and representation

(A) Composition

At least 50 percent of the membership of each selection panel shall be classroom teachers, selected in consultation with teacher organizations, if any, in the State.

(B) Representation

The composition of each selection panel shall be broadly representative of the elementary and secondary schools and the State.

(3) Function

Each selection panel shall—

(A) annually select the State delegations in accordance with section 1103d of this title; and

(B) involve the individuals selected pursuant to subparagraph (A) in the operation of the State academies, if any, or other in-service training activities in the local educational agency in which such individuals teach.

(Pub. L. 89–329, title V, § 516, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 676.)

PRIOR PROVISIONS

A prior section 516 of Pub. L. 89–329, title V, Nov. 8, 1965, 79 Stat. 1258, related to supervision and control of members by local educational agencies and was classified to section 1106 of this title, prior to repeal by Pub. L. 97–35, title V, § 587(a)(2), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1103d of this title.

§ 1103f. National Teacher Academy evaluation

The Secretary shall evaluate the system of National Teacher Academies and the effects of such academies on teachers every 2 years. The Secretary shall make available to the Congress and the public the results of such evaluation.

(Pub. L. 89–329, title V, § 517, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 677.)

PRIOR PROVISIONS

A prior section 517 of Pub. L. 89–329, title V, Nov. 8, 1965, 79 Stat. 1258; Pub. L. 90–35, § 3(a)(3), June 29, 1967, 81 Stat. 85, prohibited members of the Teachers Corps from acting as replacements for teachers and was classified to section 1107 of this title, prior to repeal by Pub. L. 97–35, title V, § 587(a)(2), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

§ 1103g. Authorization of appropriations

(a) In general

There are authorized to be appropriated $35,000,000 for fiscal year 1993 and such sums as may be necessary for the 4 succeeding fiscal years to carry out the provisions of this part, of which not more than $5,000,000 shall be available for each of the National Teacher Academy subject areas listed in section 1103(b)(1) of this title.

(b) Special rules

(1) Appropriations less than $14,000,000

If the amount appropriated pursuant to the authority of subsection (a) of this section is less than $14,000,000, then not more than $2,000,000 shall be available for each National Teacher Academy subject area in the order in which such subject areas are listed in section 1103(b)(1) of this title, until such funds are expended.

(2) Appropriations equal to or in excess of $14,000,000

If the amount appropriated pursuant to the authority of subsection (a) of this section is equal to or exceeds $14,000,000, then such funds as equals or exceeds $14,000,000 shall be allocated equitably among each of the National Teacher Academy subject areas listed in section 1103(b)(1) of this title.

(Pub. L. 89–329, title V, § 518, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 677.)

PRIOR PROVISIONS

A prior section 518 of Pub. L. 89–329, title V, as added Pub. L. 90–35, § 4, June 29, 1967, 81 Stat. 87; amended Pub. L. 90–575, title II, §§ 231(a), 233(a), Oct. 16, 1968, 82 Stat. 1039; Pub. L. 92–318, title I, §§ 141(a)(1)(B), (c)(1)(D), (2)(A), 143(a)(1), June 23, 1972, 86 Stat. 284–286, authorized a program for making grants to States to alleviate teacher shortages and was classified to section 1108 of this title, prior to repeal by Pub. L. 94–482, title I, § 151(a)(4)(A), Oct. 12, 1976, 90 Stat. 2152, eff. Sept. 30, 1976.

PART C—TEACHER SCHOLARSHIPS AND FELLOWSHIPS

SUBPART 1—PAUL DOUGLAS TEACHER SCHOLARSHIPS

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in section 1102b of this title.

§ 1104. Purpose; designation

(a) Purpose

It is the purpose of this subpart to make available, through grants to the States, scholarships to individuals who are outstanding secondary school graduates and who demonstrate an interest in teaching, in order to enable and encourage those individuals to pursue teaching careers in education at the preschool, elementary or secondary level.

(b) Designation

Scholarships awarded under this subpart shall be referred to as the ''Paul Douglas Teacher Scholarships''.

(Pub. L. 89–329, title V, § 521, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 677.)

PRIOR PROVISIONS

A prior section 1104, Pub. L. 89–329, title V, § 514, Nov. 8, 1965, 79 Stat. 1257; Pub. L. 90–35, § 3(a)(3), (g)(1), June 29, 1967, 81 Stat. 85, 86; Pub. L. 90–575, title II, § 232, Oct. 16, 1968, 82 Stat. 1039; Pub. L. 91–230, title VIII, §§ 804(e), 805(c), Apr. 13, 1970, 84 Stat. 191, 192; Pub. L. 93–380, title VIII, § 835(a)(4), Aug. 21, 1974, 88 Stat. 605; Pub. L. 94–482, title I, § 152(e), Oct. 12, 1976, 90 Stat. 2153; Pub. L. 96–374, title V, § 502(e), title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1459, 1503, set forth provisions respecting compensation of program members, prior to repeal by Pub. L. 97–35, title V, § 587(a)(2), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

A prior section 521 of Pub. L. 89–329, title V, as added Pub. L. 99–498, title V, § 501(a), Oct. 17, 1986, 100 Stat. 1498, provided that the purpose of former part B of this subchapter was to encourage partnerships between institutions of higher education and secondary schools serving low-income students and was classified to section 1105 of this title, prior to the general revision of this subchapter by Pub. L. 102–325.

Another prior section 521 of Pub. L. 89–329, title V, Nov. 8, 1965, 79 Stat. 1258, as amended, set forth Congressional declaration of policy and statement of purpose, and definitions for fellowship program for teachers and related educational personnel and was classified to section 1111 of this title, prior to repeal by Pub. L. 94–482, title I, § 151(a)(4)(A), Oct. 12, 1976, 90 Stat. 2152, eff. Sept. 30, 1976.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1104b of this title.

§ 1104a. Allocation among States

(a) Allocation

From the sums appropriated for this subpart for any fiscal year, the Secretary shall allocate to any State an amount based on the school-age population in the State compared to the school-age population in all States.

(b) Use of census data

For the purpose of this section, the number of persons in a State and in all States shall be determined by the most recently available data from the Bureau of the Census.

(Pub. L. 89–329, title V, § 522, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 677.)

PRIOR PROVISIONS

A prior section 522 of Pub. L. 89–329, title V, as added Pub. L. 99–498, title V, § 501(a), Oct. 17, 1986, 100 Stat. 1498, related to partnership agreements between institutions of higher education and local educational agencies and was classified to section 1105a of this title, prior to the general revision of this subchapter by Pub. L. 102–325.

Another prior section 522 of Pub. L. 89–329, title V, Nov. 8, 1965, 79 Stat. 1258, as amended, authorized Commissioner to award fellowships for graduate study by teaching personnel and was classified to section 1112 of this title, prior to repeal by Pub. L. 94–482, title I, § 151(a)(4)(A), Oct. 12, 1976, 90 Stat. 2152, eff. Sept. 30, 1976.

§ 1104b. Grant applications

(a) Submission of applications

The Secretary is authorized to make grants to States in accordance with the provisions of this subpart. In order to receive a grant under this subpart, a State shall submit an application at such time or times, in such manner, and containing such information as the Secretary may prescribe by regulation. Such application shall set forth a program of activities for carrying out the purposes set forth in section 1104 of this title in such detail as will enable the Secretary to determine the degree to which such program will accomplish such purposes and such other policies, procedures, and assurances as the Secretary may require by regulation.

(b) Content of applications

The Secretary shall approve an application under this subpart only if the application—

(1) describes the selection criteria and procedures to be used by the State in the selection of scholarship recipients under this subpart;

(2) designates as the State agency responsible for administering the grants received under this subpart the State agency which administers the program under subpart 4 of part A of subchapter IV of this chapter (relating to State student incentive grants), the State agency with which the Secretary has an agreement under section 1078(b) of this title, or another appropriate State agency approved by the Secretary;

(3) describes the outreach effort the State agency intends to use to publicize the availability of Paul Douglas Scholarships to secondary school students in the State;

(4) describes how the State will inform recipients, upon receipt of the award, of current

and projected teacher shortages and surpluses within the State;

(5) provides assurances that each recipient eligible under section 1104d(b) of this title who receives a Paul Douglas Scholarship shall enter into an agreement with the State agency under which the recipient shall—

(A) within the 10-year period after completing the postsecondary education for which the Paul Douglas Teacher Corps Scholarship was awarded, teach for a period of not less than 2 years for each year for which assistance was received, in a public or private nonprofit preschool, elementary, or secondary school in any State, or, on a full-time basis, children with disabilities or children with limited English proficiency in a private nonprofit school, except that, in the case of individuals who teach in a shortage area established by the Secretary pursuant to section 1104j of this title, the requirements of this subparagraph shall be reduced by one-half;

(B) provide the State agency evidence of compliance with section 1104e of this title as required by the State agency; and

(C) repay all or part of a Paul Douglas Scholarship received under section 1104c of this title plus interest and, if applicable, reasonable collection fees, in compliance with regulations issued by the Secretary under section 1104f of this title, in the event that the conditions of subparagraph (A) are not complied with, except as provided for in section 1104g of this title;

(6) provides that the agreement entered into with recipients shall fully disclose the terms and conditions under which assistance under this subpart is provided and under which repayment may be required, including—

(A) a description of the procedures required to be established under paragraph (7); and

(B) a description of the appeals procedures required to be established under paragraph (8) under which a recipient may appeal a determination of noncompliance with any provision under this subpart;

(7) provides for procedures under which a recipient of assistance received under this subpart who teaches for less than the period required under paragraph (5)(A) will have the repayment requirements reduced or eliminated consistent with the provisions of sections 1104f and 1104g of this title;

(8) provides for appeals procedures under which a recipient may appeal any determination of noncompliance with any provision under this subpart; and

(9) provides assurances that the State agency shall make particular efforts to attract students from low-income backgrounds; ethnic and racial minority students; individuals with disabilities; other individuals from groups historically underrepresented in teaching; individuals who express a willingness or desire to teach in rural schools, urban schools, or schools having less than average academic results or serving large numbers of economically disadvantaged students; or women or minorities who show interest in pursuing teaching careers in mathematics and science and who are underrepresented in such fields.

(c) Selection criteria and procedures

The State educational agency, in cooperation with the State higher education agency, and pursuant to scholarship selection criteria included in section 1104d of this title, shall establish criteria to select Paul Douglas Teacher Scholarship recipients. These criteria shall be intended to attract highly qualified individuals into teaching, to ensure that these students are enrolled or are accepted for enrollment in approved teacher education programs, and to meet the present and projected needs of States in addressing teacher shortages, including the demand for and supply of early childhood and elementary teachers in the State, the demand for and supply of secondary teachers in the State, and the demand for teachers with training in specific academic disciplines in the State.

(d) Special consideration

The State educational agency, in cooperation with the State higher education agency, shall give special consideration in the selection of scholarship recipients to individuals who—

(1) intend to teach or provide related services to students with disabilities;

(2) intend to teach limited English proficient students;

(3) intend to teach preschool age children;

(4) intend to teach in schools servicing inner city or rural or geographically isolated areas (as defined by the Secretary by regulations consistent with the purposes of this section);

(5) intend to teach in curricular areas or geographic areas where there are demonstrated shortages of qualified teachers; or

(6) are from disadvantaged backgrounds, including racial and ethnic minorities and individuals with disabilities, and are underrepresented in the teaching profession or in the curricular areas in which they are preparing to teach.

(e) Solicitation of views on selection criteria and procedures

In developing the selection criteria and procedures to be used by the State, the State shall solicit the views of local educational agencies, private educational institutions, and other interested parties. Such views—

(1) shall be solicited by means of—

(A) written comments; and

(B) publication of proposed selection criteria and procedures in final form for implementation; and

(2) may be solicited by means of—

(A) public hearings on the teaching needs of elementary and secondary schools in the State (including the number of new teachers needed, the expected supply of new teachers, and the shortages in the State of teachers with specific preparation); or

(B) such other methods as the State may determine to be appropriate to gather information on such needs.

(Pub. L. 89–329, title V, § 523, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 678.)

PRIOR PROVISIONS

A prior section 523 of Pub. L. 89–329, title V, as added Pub. L. 99–498, title V, § 501(a), Oct. 17, 1986, 100 Stat. 1498, related to division of grants between school-year and summer programs, amount and use of grants, and preferences in making grants and was classified to section 1105b of this title, prior to the general revision of this subchapter by Pub. L. 102–325.

Another prior section 523 of Pub. L. 89–329, title V, Nov. 8, 1965, 79 Stat. 1259, as amended, required allocation of fellowships to institutions with approved programs and set forth criteria for approval of programs and was classified to section 1113 of this title, prior to repeal by Pub. L. 94–482, title I, § 151(a)(4)(A), Oct. 12, 1976, 90 Stat. 2152, eff. Sept. 30, 1976.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1104d, 1104f, 1104g, 1104h of this title.

§ 1104c. Amount and duration of and relation to other assistance

(a) Limitations on amount and duration

Subject to subsection (c) of this section each Paul Douglas Teacher Scholarship recipient shall receive a $5,000 scholarship for each academic year of postsecondary education for study in preparation to become a preschool, special education, elementary, or secondary teacher. No individual shall receive scholarship assistance for more than 4 years of postsecondary education, as determined by the State agency.

(b) Consideration of award in other programs

Notwithstanding the provisions of subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42, scholarship funds awarded pursuant to this part shall be considered in determining eligibility for student assistance under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42.

(c) Assistance not to exceed cost of attendance

No individual shall receive an award under the Paul Douglas Teacher Scholarship established under this subpart, in any academic year, which exceeds the cost of attendance, as defined in section 1087*ll* of this title, at the institution the individual is attending. A scholarship awarded under this part shall not be reduced on the basis of the student's receipt of other forms of Federal student financial assistance, but shall be taken into account in determining the eligibility of the student for those other forms of Federal student financial assistance.

(Pub. L. 89–329, title V, § 524, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 680.)

PRIOR PROVISIONS

A prior section 524 of Pub. L. 89–329, title V, as added Pub. L. 99–498, title V, § 501(a), Oct. 17, 1986, 100 Stat. 1499, related to applications for grants to partnerships between institutions of higher education and secondary schools serving low-income students and was classified to section 1105c of this title, prior to the general revision of this subchapter by Pub. L. 102–325.

Another prior section 524 of Pub. L. 89–329, title V, Nov. 8, 1965, 79 Stat. 1259, as amended, set forth prerequisites for approval of graduate programs to develop and strengthen training of educational personnel and was classified to section 1114 of this title, prior to repeal by Pub. L. 94–482, title I, § 151(a)(4)(A), Oct. 12, 1976, 90 Stat. 2152, eff. Sept. 30, 1976.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1104b of this title.

§ 1104d. Selection of Paul Douglas Teacher Scholars

(a) Selection by statewide panels

Paul Douglas Teacher Scholars shall be selected by a 7-member statewide panel appointed by the chief State elected official, acting in consultation with the State educational agency, or by an existing grant agency or panel designated by the chief State elected official and approved by the Secretary. The statewide panel shall be representative of school administrators, teachers, including preschool and special education teachers, and parents.

(b) Eligibility for selection; selection criteria and procedures

Selections of Paul Douglas Scholars shall be made from students who have graduated or who are graduating from secondary school and who rank in the top 10 percent of their graduating class. The State educational agency shall make applications available to public and private nonprofit secondary schools in the State and in other locations convenient to applicants, parents, and others. The statewide panel shall develop criteria and procedures for the selection of Paul Douglas Scholars. Such criteria may include the applicant's secondary school grade point average, involvement in extracurricular activities, financial need, and expression of interest in teaching as expressed in an essay written by the applicant. The panel may also require the applicant to furnish letters of recommendation from teachers and others.

(c) Waivers

For purposes of giving special consideration under section 1104b(d) of this title, a State may waive the criteria contained in the first sentence of subsection (b) of this section for not more than 25 percent of individuals receiving Paul Douglas Teacher Scholarships on or after July 1, 1993.

(Pub. L. 89–329, title V, § 525, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 680; amended Pub. L. 103–208, § 2(j)(2), Dec. 20, 1993, 107 Stat. 2480.)

PRIOR PROVISIONS

A prior section 525 of Pub. L. 89–329, title V, as added Pub. L. 99–498, title V, § 501(a), Oct. 17, 1986, 100 Stat. 1499, related to community college pilot projects and was classified to section 1105d of this title, prior to the general revision of this subchapter by Pub. L. 102–325.

Another prior section 525 of Pub. L. 89–329, title V, Nov. 8, 1965, 79 Stat. 1260, as amended, authorized Commissioner to pay stipends to individuals awarded fellowships and additional amounts to institutions of higher education for support of programs and was classified to section 1115 of this title, prior to repeal by Pub. L. 94–482, title I, § 151(a)(4)(A), Oct. 12, 1976, 90 Stat. 2152, eff. Sept. 30, 1976.

AMENDMENTS

1993—Subsec. (c). Pub. L. 103–208 amended heading and text of subsec. (c) generally. Prior to amendment, text read as follows: ''The Secretary may waive the requirements of section 1104b(d) of this title for not more

than 25 percent of all individuals receiving a scholarship under this subpart.''

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1003 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1104b of this title.

§ 1104e. Scholarship conditions

Recipients of scholarship assistance under this subpart shall continue to receive such scholarship payments only during such periods that the State agency finds that the recipient is—

(1) enrolled as a full-time student in an accredited postsecondary institution;

(2) pursuing a course of study leading to teacher certification; and

(3) maintaining satisfactory progress as determined by the postsecondary institution the recipient is attending.

(Pub. L. 89–329, title V, § 526, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 681.)

PRIOR PROVISIONS

A prior section 526 of Pub. L. 89–329, title V, Nov. 8, 1965, 79 Stat. 1260; Pub. L. 92–318, title I, § 131(d)(2)(C), June 23, 1972, 86 Stat. 260, prohibited award of fellowships for study at divinity school or department and was classified to section 1116 of this title, prior to repeal by Pub. L. 94–482, title I, § 151(a)(4)(A), Oct. 12, 1976, 90 Stat. 2152, eff. Sept. 30, 1976.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1104b of this title.

§ 1104f. Scholarship repayment provisions

Recipients found by the State agency to be in noncompliance with the agreement entered into under section 1104b(b)(5) of this title shall be required to repay a pro rata amount of the scholarship awards received, plus interest (but in no event at an interest rate higher than the rate applicable to loans in the applicable period under part B of subchapter IV of this chapter) and, where applicable, reasonable collection fees, on a schedule and at a rate of interest to be prescribed by the Secretary by regulations issued pursuant to this subpart.

(Pub. L. 89–329, title V, § 527, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 681.)

PRIOR PROVISIONS

A prior section 527 of Pub. L. 89–329, title V, Nov. 8, 1965, 79 Stat. 1260, set forth conditions imposed upon fellowship recipient and was classified to section 1117 of this title, prior to repeal by Pub. L. 94–482, title I, § 151(a)(4)(A), Oct. 12, 1976, 90 Stat. 2152, eff. Sept. 30, 1976.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1104b, 1111d of this title.

§ 1104g. Exceptions to repayment provisions

(a) Deferral during certain periods

A recipient shall not be considered in violation of the agreement entered into pursuant to section 1104b(b)(5)(C) of this title during any period in which the recipient—

(1) is pursuing a full-time course of study related to the field of teaching at an eligible institution;

(2) is serving, not in excess of 3 years, as a member of the armed services of the United States;

(3) is temporarily totally disabled for a period of time not to exceed 3 years as established by sworn affidavit of a qualified physician;

(4) is unable to secure employment for a period not to exceed 12 months by reason of the care required by a spouse who is disabled;

(5) is seeking and unable to find full-time employment for a single period not to exceed 12 months;

(6) is seeking and unable to find full-time employment as a teacher in a public or private nonprofit preschool, elementary or secondary school, or education program for a single period not to exceed 27 months; or

(7) satisfies the provisions of additional repayment exceptions that may be prescribed by the Secretary in regulations issued pursuant to this subpart.

(b) Forgiveness if permanently totally disabled

A recipient shall be excused from repayment of any scholarship assistance received under this subpart if the recipient becomes permanently totally disabled as established by sworn affidavit of a qualified physician.

(Pub. L. 89–329, title V, § 528, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 681.)

PRIOR PROVISIONS

A prior section 528 of Pub. L. 89–329, title V, Nov. 8, 1965, 79 Stat. 1260; Pub. L. 90–35, § 5(g), June 29, 1967, 81 Stat. 91; Pub. L. 90–247, title VII, § 704(c)(1), Jan. 2, 1968, 81 Stat. 820; Pub. L. 90–575, title II, § 231(a), (b)(2), Oct. 16, 1968, 82 Stat. 1039; Pub. L. 92–318, title I, § 141(a)(1)(B), June 23, 1972, 86 Stat. 284, authorized appropriations for fiscal years 1966 through 1974 to enable persons who were awarded fellowships prior to July 1, 1972, to complete their study under fellowships and was classified to section 1118 of this title, prior to repeal by Pub. L. 92–318, title I, § 141(c)(1)(E), June 23, 1972, 86 Stat. 285, eff. on and after July 1, 1972.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1104b, 1106e, 1111d of this title.

§ 1104h. Federal administration of State programs; judicial review

(a) Disapproval hearing required

The Secretary shall not finally disapprove any application for a State program submitted under section 1104b of this title, or any modification thereof, without first affording the State agency submitting the program reasonable notice and opportunity for a hearing.

(b) Suspension of eligibility

Whenever the Secretary, after reasonable notice and opportunity for a hearing to the State

agency administering a State program approved under this subpart, finds—

(1) that the State program has been so changed that it no longer complies with the provisions of this subpart, or

(2) that in the administration of the program there is a failure to comply substantially with any such provisions,

the Secretary shall notify such State agency that the State will not be regarded as eligible to participate in the program under this subpart until the Secretary is satisfied that there is no longer any such failure to comply.

(c) Court review

(1) In general

If any State is dissatisfied with the Secretary's final action under subsection (b)(1) or (2) of this section, such State may appeal to the United States court of appeals for the circuit in which such State is located. The summons and notice of appeal may be served at any place in the United States. The Secretary shall forthwith certify and file in the court the transcript of the proceedings and the record on which the action was based.

(2) Findings

The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify any previous action, and shall certify to the court the transcript and record of further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(3) Jurisdiction

The court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28.

(Pub. L. 89–329, title V, § 529, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 682.)

§ 1104i. Evaluation

(a) In general

The Secretary shall conduct, by grant or contract, an independent evaluation of recipients of scholarship assistance under this subpart, which shall summarize and evaluate the State activities assisted under this subpart and the performance of such recipients. The evaluation shall assess the impact of the scholarship program assisted under this subpart to determine whether such program has brought into teaching a significant number of highly able individuals who otherwise would not have entered teaching.

(b) Contents

The evaluation described in subsection (a) of this section shall include—

(1) a description of the characteristics, including the educational preparation and achievement, of recipients of scholarship assistance under this subpart compared to similar students participating in teacher training who do not receive such scholarships;

(2) the rate at which such recipients successfully complete academic training and go on to teaching careers in preschool, elementary, or secondary education, compared to such rate for similar individuals who do not receive scholarship assistance under this subpart;

(3) the extent to which it is possible to determine objectively that the receipt of scholarship assistance under this subpart was the primary reason for an individual's choice of a teaching education and career;

(4) the extent to which such recipients comply with the provisions of this subpart;

(5) the length of time such recipients remain in teaching careers, compared to similar teachers who do not receive scholarships;

(6) the barriers to the effectiveness of the program assisted under this subpart; and

(7) the cost-effectiveness of such program in improving teacher quality and quantity.

(c) Evaluation reports

The Secretary shall submit such interim evaluation reports to the President and the Congress as may be appropriate, and shall submit a final report on or before January 1, 1997.

(d) Funding

The Secretary shall reserve a total of not more than $1,000,000 from the amounts appropriated pursuant to the authority of section 1104k of this title in fiscal years 1993 through 1997 to carry out this section.

(Pub. L. 89–329, title V, § 530, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 682.)

§ 1104j. Designation of shortage areas

For the purposes of this part, the term ''shortage areas'' means (1) geographic areas of the State in which there is a shortage of preschool, elementary, and secondary school teachers, and (2) an area of shortage of preschool, elementary, and secondary school teachers in specific grade levels and in specific academic, instructional, subject matter, and discipline classifications. Such shortage areas shall be prescribed by the Secretary, in consultation with the chief State school officer or, in the case of nonprofit private elementary or secondary schools, with appropriate officials of nonprofit private schools in each State in accordance with this section. In carrying out the provisions of this section, the Secretary shall give special consideration to areas in which emergency certification of individuals in a State is being used to correct teacher shortages and to States which have retirement laws permitting early retirement.

(Pub. L. 89–329, title V, § 530A, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 683; amended Pub. L. 103–208, § 2(j)(3), Dec. 20, 1993, 107 Stat. 2481.)

AMENDMENTS

1993—Pub. L. 103–208 substituted ''preschool, elementary, and secondary school teachers'' for ''elementary and secondary school teachers'' in two places in first sentence.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1003 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1104b, 1111g of this title.

§ 1104k. Authorization of appropriations

There are authorized to be appropriated $26,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out this subpart.

(Pub. L. 89–329, title V, § 530B, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 683.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1104i of this title.

SUBPART 2—CHRISTA MC AULIFFE FELLOWSHIP PROGRAM

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in section 1102e of this title.

§ 1105. Declaration of purpose; designation

(a) Purpose

It is the purpose of this subpart to establish a national fellowship program for experienced and outstanding teachers.

(b) Designation

A recipient of a fellowship under this subpart shall be known as a ''Christa McAuliffe fellow''.

(Pub. L. 89–329, title V, § 531, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 684.)

PRIOR PROVISIONS

A prior section 1105, Pub. L. 89–329, title V, § 521, as added Pub. L. 99–498, title V, § 501(a), Oct. 17, 1986, 100 Stat. 1498, provided that the purpose of former part B of this subchapter was to encourage partnerships between institutions of higher education and secondary schools serving low-income students, prior to the general revision of this subchapter by Pub. L. 102–325.

Another prior section 1105, Pub. L. 89–329, title V, § 515, Nov. 8, 1965, 79 Stat. 1257; Pub. L. 90–35, § 3(h), June 29, 1967, 81 Stat. 87; Pub. L. 90–83, § 10(b), Sept. 11, 1967, 81 Stat. 223, related to applicability of other provisions of laws to members of the Teacher Corps, prior to repeal by Pub. L. 97–35, title V, § 587(a)(2), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

A prior section 531 of Pub. L. 89–329, title V, as added Pub. L. 99–498, title V, § 501(a), Oct. 17, 1986, 100 Stat. 1500, related to the purpose of and authority for professional development resource centers and was classified to section 1107 of this title, prior to the general revision of this subchapter by Pub. L. 102–325.

Another prior section 531 of Pub. L. 89–329, title V, as added Pub. L. 94–482, title I, § 153, formerly § 153(a), Oct. 12, 1976, 90 Stat. 2154, renumbered § 153, Pub. L. 95–43, § 1(b)(5), June 15, 1977, 91 Stat. 218, and amended, authorized appropriations for fiscal years 1981 to 1985 to carry out teacher training programs and was classified to section 1119 of this title, prior to the general revision of this subchapter by Pub. L. 99–498.

Another prior section 531 of Pub. L. 89–329, title V, as added Pub. L. 90–35, § 6, June 29, 1967, 81 Stat. 91; amended Pub. L. 90–247, title VII, § 704(d), Jan. 2, 1968, 81 Stat. 820; Pub. L. 92–318, title I, §§ 147(a), 148(a), June 23, 1972, 86 Stat. 287, authorized training and retraining programs for education personnel other than higher education personnel and was classified to section 1119 of this title, prior to repeal by Pub. L. 94–482, title I, § 151(a)(4)(A), Oct. 12, 1976, 90 Stat. 2152, effective Sept. 30, 1976.

§ 1105a. Program authorized

(a) In general

The Secretary is authorized to make grants, in accordance with the provisions of this subpart, to State educational agencies to enable such State educational agencies to—

(1) conduct Christa McAuliffe fellowship activities; and

(2) award fellowships to Christa McAuliffe fellows in accordance with the provisions of this subpart.

(b) Amount of grants

The amount awarded to each State educational agency pursuant to paragraph (1) of subsection (a) of this section shall be an amount awarded on the basis of the school-age population in the State compared to the school-age population in all States, except that the Secretary may adjust the awards to ensure that such awards are of sufficient size to carry out the purposes of this subpart.

(c) State activities

Each State educational agency receiving a grant pursuant to subsection (a) of this section shall use not more than 3 percent of such grant for administrative purposes.

(d) Use of funds for fellowships and administration

Funds appropriated for any fiscal year for fellowships to teachers under this subpart shall be used to award fellowships in accordance with the requirements of this subpart, except that not more than 1 percent of such funds shall be used by the Secretary for purposes of administering this subpart, including activities authorized under section 1105f(b) of this title.

(Pub. L. 89–329, title V, § 532, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 684.)

PRIOR PROVISIONS

A prior section 1105a, Pub. L. 89–329, title V, § 522, as added Pub. L. 99–498, title V, § 501(a), Oct. 17, 1986, 100 Stat. 1498, related to partnership agreements between institutions of higher education and secondary schools serving low-income students, prior to the general revision of this subchapter by Pub. L. 102–325.

A prior section 532 of Pub. L. 89–329, title V, as added Pub. L. 99–498, title V, § 501(a), Oct. 17, 1986, 100 Stat. 1501, related to the geographical distribution of grants for professional development resource centers and was classified to section 1107a of this title, prior to the general revision of this subchapter by Pub. L. 102–325.

Another prior section 532 of Pub. L. 89–329, title V, as added Pub. L. 94–482, title I, § 153, formerly § 153(a), Oct. 12, 1976, 90 Stat. 2154, renumbered § 153, Pub. L. 95–43, § 1(b)(5), June 15, 1977, 91 Stat. 218, and amended, related to grants, functions, etc., of teacher centers and was classified to section 1119a of this title, prior to repeal by Pub. L. 97–35, title V, § 587(a)(2), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Another prior section 532 of Pub. L. 89–329, title V, as added Pub. L. 92–318, title IV, § 451(b), June 23, 1972, 86

Stat. 344, authorized teachers for Indian children as part of the training and retraining program and was classified to section 1119a of this title, prior to repeal by Pub. L. 94–482, title I, §151(a)(4)(A), Oct. 12, 1976, 90 Stat. 2152, effective Sept. 30, 1976.

Another prior section 532 of Pub. L. 89–329, title V, as added Pub. L. 90–35, §6, June 29, 1967, 81 Stat. 92; amended Pub. L. 90–575, title II, §231(a), Oct. 16, 1968, 82 Stat. 1039; Pub. L. 92–318, title I, §141(a)(1)(B), June 23, 1972, 86 Stat. 284, authorized appropriations for fiscal years 1969 to 1972 and was classified to section 1119a of this title, prior to repeal by section 141(c)(1)(F) of Pub. L. 92–318, effective on and after July 1, 1972.

§ 1105b. Christa McAuliffe fellowships

(a) Award distribution and amount

(1) Award distribution

Each State educational agency receiving a grant under this subpart shall use such funds to award Christa McAuliffe fellowships to public and private school teachers who have been employed as teachers for 8 or more years to enable such teachers to engage in the activities described in subsection (b) of this section.

(2) Amount

Fellowships shall be in an amount equal to the annual salary the individual would earn in such individual's current place of employment for the award period.

(3) Ratable reduction

If an individual receives a fellowship award for less than a school year, such fellowship shall be ratably reduced to equal the salary forgone.

(4) Duration

No Christa McAuliffe fellow may receive an award for 2 consecutive years.

(5) Requirement

Subject to the repayment provisions of section 1105e of this title, each Christa McAuliffe fellow shall be required to return to a teaching position, in their place of employment prior to receiving the fellowship award, for at least 2 years following such award. The Secretary is authorized, in extraordinary circumstances, to waive or defer all or a portion of the service requirement, or allow fellows to fulfill their service requirement by going into a teaching position in another school or school district within the State or in another State upon approval of the sending and receiving State.

(b) Use of fellowships

Each Christa McAuliffe fellowship may be used for—

(1) sabbaticals for study, research or academic improvement to—

(A)(i) improve such teacher's knowledge base in an area of expertise; or

(ii) learn a new area of expertise;

(B) increase skills and professional ability; and

(C) enhance the ability of teachers to work with special education populations, including—

(i) gifted and talented children;

(ii) limited-English proficient children;

(iii) children with disabilities; and

(iv) economically and educationally disadvantaged children;

(2)(A) consultation with or assistance to other school districts or private school systems; or

(B) development of special innovative programs;

(3) projects or partnerships that involve the business community and the schools;

(4) programs that incorporate the use and the sharing of technologies to help students learn; or

(5) expanding or replicating model programs of staff development.

(Pub. L. 89–329, title V, §533, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 684.)

PRIOR PROVISIONS

A prior section 1105b, Pub. L. 89–329, title V, §523, as added Pub. L. 99–498, title V, §501(a), Oct. 17, 1986, 100 Stat. 1498, related to grants to encourage partnerships between institutions of higher education and secondary schools serving low-income students, prior to the general revision of this subchapter by Pub. L. 102–325.

A prior section 533 of Pub. L. 89–329, title V, as added Pub. L. 99–498, title V, §501(a), Oct. 17, 1986, 100 Stat. 1501, related to grant requirements for the professional development resource centers program and was classified to section 1107b of this title, prior to the general revision of this subchapter by Pub. L. 102–325.

Another prior section 533 of Pub. L. 89–329, title V, as added Pub. L. 94–482, title I, §153, Oct. 12, 1976, 90 Stat. 2155, and amended, related to grants for training higher education personnel and was classified to section 1119a–1 of this title, prior to the general revision of this subchapter by Pub. L. 99–498.

Another prior section 533 of Pub. L. 89–329, title V, as added Pub. L. 90–575, title II, §239, Oct. 16, 1968, 82 Stat. 1040, required an equitable distribution with respect to geography for training programs and was classified to section 1119a–1 of this title, prior to repeal by Pub. L. 94–482, title I, §151(a)(4)(A), Oct. 12, 1976, 90 Stat. 2152, effective Sept. 30, 1976.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1105d, 1105f of this title.

§ 1105c. Selection of Christa McAuliffe fellows

(a) In general

Christa McAuliffe fellows in each State shall be selected (in accordance with section 1105d of this title) by a 7-member statewide panel appointed by the chief State school officer, or by an existing panel designated by the chief State school officer. The statewide panel shall be representative of school administrators, teachers, parents, and institutions of higher education.

(b) Special rule

Each State educational agency may choose to administer the program assisted under this subpart through a pre-existing panel which is experienced in administering similar programs.

(Pub. L. 89–329, title V, §534, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 685.)

PRIOR PROVISIONS

A prior section 1105c, Pub. L. 89–329, title V, §524, as added Pub. L. 99–498, title V, §501(a), Oct. 17, 1986, 100 Stat. 1499, related to application for grants to encourage the partnership between institutions of higher education and secondary schools serving low-income stu-

dents, prior to the general revision of this subchapter by Pub. L. 102–325.

A prior section 534 of Pub. L. 89–329, title V, as added Pub. L. 99–498, title V, § 501(a), Oct. 17, 1986, 100 Stat. 1502, related to the Professional Development Policy Board and was classified to section 1107c of this title, prior to the general revision of this subchapter by Pub. L. 102–325.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1105d of this title.

§ 1105d. Evaluation of applications

(a) Submission to and review by statewide panel

An applicant for a Christa McAuliffe fellowship shall submit a proposal for a project in accordance with section 1105b(b) of this title, and shall indicate the extent to which the applicant wishes to continue current teaching duties. The applicant shall submit such a proposal to the local educational agency for comment prior to submission to the statewide panel (appointed under section 1105c of this title) for the State in which the project will be conducted. Each such application shall contain such information as such State educational agency may reasonably require.

(b) Consultation and consideration

(1) In general

In evaluating proposals, the statewide panel shall consult with the local educational agency, and shall consider—

(A) evaluations during employment as a teacher;

(B) demonstrated commitment to teaching in the future; and

(C) intended activities during the award period.

(2) Recommendations

The statewide panel may request recommendations from teaching peers and the applicant's principal and superintendent on the quality of the proposal, the benefit of such proposal to education, and any other criteria for awarding fellowships as are considered appropriate by such statewide panel.

(3) Selection

Selection of members of the statewide panel shall be made in accordance with regulations prescribed by the Secretary.

(c) Public announcement

Announcement of fellowship awards shall be made in a public ceremony.

(Pub. L. 89–329, title V, § 535, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 685; amended Pub. L. 103–208, § 2(j)(4), Dec. 20, 1993, 107 Stat. 2481.)

PRIOR PROVISIONS

A prior section 1105d, Pub. L. 89–329, title V, § 525, as added Pub. L. 99–498, title V, § 501(a), Oct. 17, 1986, 100 Stat. 1499, related to the community college pilot project, prior to the general revision of this subchapter by Pub. L. 102–325.

A prior section 535 of Pub. L. 89–329, title V, as added Pub. L. 99–498, title V, § 501(a), Oct. 17, 1986, 100 Stat. 1502, related to submission and approval of grant applications for professional development resource centers and was classified to section 1107d of this title, prior to the general revision of this subchapter by Pub. L. 102–325.

AMENDMENTS

1993—Subsec. (b)(1)(C). Pub. L. 103–208 substituted period for semicolon at end.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1003 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1105c of this title.

§ 1105e. Fellowship repayment provisions

Repayment of the award shall be made to the Federal Government in the case of fraud or gross noncompliance.

(Pub. L. 89–329, title V, § 536, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 686.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1105b of this title.

§ 1105f. Secretary's responsibilities

(a) In general

The Secretary shall—

(1) make awards to State educational agencies having applications approved under section 1105g of this title; and

(2) in cooperation with the State educational agency, conduct activities which foster communication among and bring together Christa McAuliffe fellows including activities such as written communications, meetings, or training sessions.

(b) Information dissemination

The Secretary shall establish a clearinghouse or otherwise provide for the collection and dissemination of information on exemplary projects for improving education that were developed in accordance with section 1105b(b) of this title. The Secretary may utilize the National Diffusion Network in carrying out the requirements of this section.

(Pub. L. 89–329, title V, § 537, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 686; amended Pub. L. 103–208, § 2(j)(5), Dec. 20, 1993, 107 Stat. 2481.)

AMENDMENTS

1993—Subsec. (a). Pub. L. 103–208 substituted ''In general'' for ''General'' in heading.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1003 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1105a of this title.

§ 1105g. State application

(a) Application required

Each State educational agency desiring a grant under this subpart shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

(b) Contents

Each application submitted pursuant to subsection (a) of this section shall—

(1) provide assurances that Christa McAuliffe fellows will be released from teaching responsibilities for up to one school year (if the fellow's proposal requires such release time) without jeopardizing the rights such members would have had without participating in the program assisted under this subpart;

(2) provide assurances that the State educational agency, or its designee, in cooperation with local educational agencies, shall maintain accurate records regarding the activities of Christa McAuliffe fellows within the State to ensure that such members are meeting all conditions of the fellowships provided pursuant to this subpart, and shall notify the Secretary immediately upon a change in a Christa McAuliffe fellow's status rendering such fellow in violation of the conditions of the fellowship; and

(3) provide assurances that the State educational agency has consulted with local educational agencies in designing and developing the Christa McAuliffe Fellowship program.

(Pub. L. 89–329, title V, § 538, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 686.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1105f of this title.

§ 1105h. Evaluation

(a) In general

(1) In general

The Secretary shall conduct, by grant or contract, an independent evaluation of—

(A) Christa McAuliffe fellows; and

(B) the impact of the activities undertaken by the Christa McAuliffe fellows on teachers, teacher research, curricula, staff development, improvement of programs and improvement of student achievement.

(2) Competitive basis

The grant or contract described in paragraph (1) shall be awarded on a competitive basis.

(b) Contents

The evaluation shall—

(1) include information on the nature of projects developed and implemented by Christa McAuliffe fellows;

(2) assess the measurable effects of such projects on the academic performance of the students served by such projects;

(3) assess the effect of the fellowship program assisted under this subpart on the post-fellowship experiences of Christa McAuliffe fellows;

(4) identify the barriers to such program's effectiveness;

(5) assess the extent to which successful projects were disseminated and adopted by other teachers and schools without further Federal assistance; and

(6) determine and explore ways to improve the cost-effectiveness of such program.

(c) Evaluation reports

The Secretary shall submit such interim evaluation reports to the President and the Congress as may be appropriate, and shall submit a final report on or before January 1, 1997.

(d) Funding

The Secretary shall reserve a total of not more than $1,000,000 from the amounts appropriated pursuant to the authority of section 1105i of this title in fiscal years 1993 through 1997 to carry out this section.

(Pub. L. 89–329, title V, § 539, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 687.)

§ 1105i. Authorization of appropriations

There are authorized to be appropriated $20,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out this subpart.

(Pub. L. 89–329, title V, § 540, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 687.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1105h of this title.

SUBPART 3—TEACHER CORPS

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in sections 1112b, 7474 of this title.

§ 1106. Teacher Corps program authorized

(a) Grants by Secretary

In any fiscal year in which the appropriations for this subpart do not equal or exceed $50,000,000, the Secretary is authorized, in accordance with the provisions of this subpart, to make grants, on a competitive basis, to State educational agencies to carry out Teacher Corps activities.

(b) State grant program

In any fiscal year in which the appropriations for this subpart equal or exceed $50,000,000, the Secretary is authorized, in accordance with the provisions of this subpart, to make grants to State educational agencies from allocations under subsection (c) of this section to carry out Teacher Corps activities.

(c) Allocation

Except as provided in subsection (a) of this section, each State educational agency shall be eligible to receive a grant under this subpart in each fiscal year that bears the same ratio to the amount appropriated under section 1106g of this title in that fiscal year as the school-age population of the State bears to the school-age population of all States.

(d) Teacher Corps school

For the purpose of this subpart the term ''Teacher Corps school'' means a public elementary or secondary school identified by the State educational agency as having the highest levels of poverty and the lowest levels of student achievement based on a ranking of such elementary schools and secondary schools in the State according to the number of children living in poverty and the levels of student achievement. In carrying out the preceding sentence, the State educational agency shall identify and inform not more than 10 percent of such elementary schools and not more than 10 percent of such secondary schools in the State which have the highest levels of poverty and the lowest levels of student achievement.

(e) Designation

(1) Scholarship

A scholarship awarded under this subpart shall be referred to as a ''Teacher Corps scholarship''.

(2) Recipient

A recipient of a scholarship under this subpart shall be referred to as a ''Teacher Corps member''.

(Pub. L. 89–329, title V, § 541, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 687.)

PRIOR PROVISIONS

A prior section 1106, Pub. L. 89–329, title V, § 516, Nov. 8, 1965, 79 Stat. 1258, related to supervision and control of members by local educational agencies, prior to repeal by Pub. L. 97–35, title V, § 587(a)(2), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

A prior section 541 of Pub. L. 89–329, title V, as added Pub. L. 99–498, title V, § 501(a), Oct. 17, 1986, 100 Stat. 1503; amended Pub. L. 100–50, § 16(1), June 3, 1987, 101 Stat. 358; Pub. L. 101–226, § 20, Dec. 12, 1989, 103 Stat. 1936, related to purpose of leadership in educational administration development program and was classified to section 1109 of this title, prior to the general revision of this subchapter by Pub. L. 102–325.

Another prior section 541 of Pub. L. 89–329, title V, as added Pub. L. 96–374, title V, § 505(a), Oct. 3, 1980, 94 Stat. 1461, authorized grants to State educational agencies to train teachers for handicapped children and was classified to section 1119b of this title, prior to the general revision of this subchapter by Pub. L. 99–498.

Another prior section 541 of Pub. L. 89–329, title V, as added Pub. L. 90–35, § 6, June 29, 1967, 81 Stat. 93, authorized grants or contracts with institutions of higher education for training programs and projects for higher education personnel and was classified to section 1119b of this title, prior to repeal by Pub. L. 94–482, title I, § 151(a)(4)(A), Oct. 12, 1976, 90 Stat. 2152.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1106e of this title.

§ 1106a. Use of funds

(a) Secretary

The Secretary shall use funds provided pursuant to this subpart to—

(1) disseminate information nationally about the availability of scholarships under this subpart;

(2) conduct activities, with the cooperation of the State and local educational agencies, which foster communication among, and bring together, members of the Teacher Corps, including activities such as written communications, meetings, or training sessions;

(3) establish and conduct summer preservice orientation programs for Teacher Corps members about to begin teaching;

(4) ensure that Teacher Corps members recognize the challenges of teaching in a Teacher Corps school;

(5) inform Teacher Corps members of Teacher Corps schools and facilitate the hiring and placement of Teacher Corps members at Teacher Corps schools;

(6) evaluate applications from and award grants to State educational agencies to enable such agencies to award Teacher Corps scholarships in accordance with the provisions of this subpart; and

(7) collect scholarship repayments from individual Teacher Corps members, in accordance with the provisions of section 1106e of this title.

(b) State educational agency

Each State educational agency receiving a grant under this subpart shall use such grant funds to—

(1) evaluate applications for Teacher Corps membership and award scholarships to Teacher Corps members;

(2) provide technical assistance to local educational agencies establishing and operating induction programs;

(3) ensure that Teacher Corps members understand the obligation to repay the scholarships received under this subpart upon failure to comply with the conditions of the scholarship; and

(4) ensure that Teacher Corps members are fulfilling the obligation to repay scholarships received under this subpart, and provide the Secretary with the names and addresses of Teacher Corps members who have not fulfilled such obligation.

(c) Special rule

The Secretary may enter into contracts with or make grants to nonprofit educational organizations for—

(1) recruiting members of the Teacher Corps;

(2) establishing and conducting summer preservice training programs; and

(3) conducting activities that foster communications among and bring together members of the Teacher Corps.

(d) Reservations

Each State receiving a grant under this subpart may reserve—

(1) 5 percent of such grant funds to provide technical assistance to local educational agencies and to pay administrative costs; and

(2) 5 percent of such grant funds to provide for induction and mentoring programs.

(e) Special rule

Each State educational agency receiving a grant under this subpart may enter into contracts with or award grants to nonprofit educational agencies to conduct the activities described in subsection (b) of this section.

(Pub. L. 89–329, title V, § 542, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 688.)

PRIOR PROVISIONS

A prior section 542 of Pub. L. 89–329, title V, as added Pub. L. 99–498, title V, § 501(a), Oct. 17, 1986, 100 Stat. 1504; amended Pub. L. 100–50, § 16(2), June 3, 1987, 101 Stat. 358, related to allocation of appropriations for leadership in educational administration development program and was classified to section 1109a of this title, prior to the general revision of this subchapter by Pub. L. 102–325.

Another prior section 542 of Pub. L. 89–329, title V, as added Pub. L. 96–374, title V, § 505(a), Oct. 3, 1980, 94 Stat. 1462, related to applications for grants for training teachers for handicapped children and was classified to section 1119b–1 of this title, prior to the general revision of this subchapter by Pub. L. 99–498.

Another prior section 542 of Pub. L. 89–329, title V, as added Pub. L. 90–35, § 6, June 29, 1967, 81 Stat. 93, authorized the payment of stipends to persons participating in authorized training programs and was classified to section 1119b–1 of this title, prior to repeal by Pub. L. 94–482, title I, § 151(a)(4)(A), Oct. 12, 1976, 90 Stat. 2152.

§ 1106b. Teacher Corps

(a) Selection

The State educational agency shall select Teacher Corps members.

(b) Criteria

(1) In general

The State educational agency shall establish criteria to select Teacher Corps members that are intended to—

(A) attract highly qualified individuals to teaching; and

(B) meet the needs of Teacher Corps schools in addressing teacher shortages.

(2) Criteria

The criteria described in paragraph (1) may include—

(A) in the case of students or recent graduates, outstanding academic records, or in other cases, contributions which may be made by individuals working in other careers; and

(B) a demonstrated commitment to teaching or professional experience in substantive fields of expertise in which the State is experiencing or expects to experience teacher shortages.

(c) Special consideration

The State educational agency, in selecting Teacher Corps members, shall give special consideration to individuals who—

(1) intend to teach or provide related services to students with disabilities;

(2) intend to teach limited-English proficient students;

(3) intend to teach preschool age children;

(4) are from disadvantaged backgrounds, including racial and ethnic minorities and individuals with disabilities;

(5) are members of populations that are underrepresented in the teaching profession or in the curricular areas in which such individuals are preparing to teach;

(6) intend to teach in the areas of science or mathematics, especially women and minorities who are underrepresented in such fields; or

(7) intend to teach on Indian reservations or in Alaska Native villages named or certified pursuant to section 1602(c) of title 43, or in areas with high concentrations of Native Hawaiians.

(d) Application

Each individual desiring to participate in the program assisted under this subpart shall submit an application at such time, in such manner, and containing such information as the State educational agency may reasonably require.

(Pub. L. 89–329, title V, § 543, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 689.)

PRIOR PROVISIONS

A prior section 543 of Pub. L. 89–329, title V, as added Pub. L. 99–498, title V, § 501(a), Oct. 17, 1986, 100 Stat. 1504; amended Pub. L. 100–50, § 16(3), June 3, 1987, 101 Stat. 358, related to technical assistance centers for leadership in educational administration development program and was classified to section 1109b of this title, prior to the general revision of this title by Pub. L. 102–325.

Another prior section 543 of Pub. L. 89–329, title V, as added Pub. L. 96–374, title V, § 505(a), Oct. 3, 1980, 94 Stat. 1462, provided for stipends and allowances for participants in program of training teachers for handicapped children and was classified to section 1119b–2 of this title, prior to the general revision of this subchapter by Pub. L. 99–498.

Another prior section 543 of Pub. L. 89–329, title V, as added Pub. L. 90–35, § 6, June 29, 1967, 81 Stat. 93; amended Pub. L. 90–575, title II, § 231(a), Oct. 16, 1968, 82 Stat. 1039; Pub. L. 92–318, title I, § 141(a)(1)(B), June 23, 1972, 86 Stat. 284, authorized appropriations for fiscal years 1969 to 1972 and was classified to section 1119b–2 of this title, prior to repeal by Pub. L. 92–318, title I, § 141(c)(1)(G), June 23, 1972, 86 Stat. 285.

§ 1106c. State application

In order to receive funds under this subpart, a State educational agency, in consultation with the Governor, shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require. Each such application shall—

(1) describe how the State educational agency shall select Teacher Corps members;

(2) identify Teacher Corps schools within the State, where Teacher Corps members shall be assigned, provided that not more than 10 percent of all public schools in the State may be designated Teacher Corps schools;

(3) provide assurances that the State educational agency, in cooperation with local educational agencies, shall assist in employment placement within such State for Teacher Corps members in Teacher Corps schools;

(4) provide assurances that the State educational agency, in cooperation with local educational agencies, shall ensure that Teacher Corps members are paid at rates comparable to other entry level teachers in the school district where the Teacher Corps member is assigned;

(5) provide assurances that the local educational agencies in which the Teacher Corps

members shall be placed shall establish or expand induction programs that assist Teacher Corps members in adjusting to the new school and community where such members shall teach, including working with a mentor teacher in the school building where the Teacher Corps members are placed; and

(6) describe how the State educational agency shall monitor and report to the Secretary not less than annually on the operation of programs assisted under this subpart and on the compliance of individuals who receive Teacher Corps scholarships with the provisions of this subpart.

(Pub. L. 89–329, title V, § 544, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 690.)

PRIOR PROVISIONS

A prior section 544 of Pub. L. 89–329, title V, as added Pub. L. 99–498, title V, § 501(a), Oct. 17, 1986, 100 Stat. 1505; amended Pub. L. 100–50, § 16(4), June 3, 1987, 101 Stat. 359, related to general criteria for grants under leadership in educational administration development program and was classified to section 1109c of this title, prior to the general revision of this subchapter by Pub. L. 102–325.

Another prior section 544 of Pub. L. 89–329, title V, as added Pub. L. 96–374, title V, § 505(a), Oct. 3, 1980, 94 Stat. 1463, set out conditions for maintaining fellowships in training teachers for handicapped children and was classified to section 1119b–3 of this title, prior to the general revision of this subchapter by Pub. L. 99–498.

§ 1106d. Scholarships

(a) Eligibility

(1) In general

An individual is eligible to receive Teacher Corps scholarships for a maximum of 3 years during enrollment in any of the following programs of study, or a combination thereof:

(A) a program of study leading to a baccalaureate degree;

(B) a 1- or 2-year postbaccalaureate program of study leading to a master's or specialist degree or a teaching certificate; or

(C) a 2-year program of study leading to an associate's degree in early childhood education or early childhood development, or a 1-year program of study leading to a child development associate credential.

(2) Special rules

(A) An individual pursuing a program of study described in subparagraph (B) of paragraph (1) is eligible to receive a Teacher Corps scholarship during any of the first 3 years that such individual is employed as a teacher to defray the costs of pursuing such postbaccalaureate instruction.

(B) An individual in possession of a bachelor's degree, who wishes to enter teaching from another profession, is eligible to receive a Teacher Corps scholarship to enable such individual to receive the instruction necessary to enter the teaching profession, as determined by the State in which the individual wishes to teach. Such instruction may be provided while the individual is employed as a provisional teacher.

(b) Limitations on amount and duration

Subject to subsection (d) of this section, each Teacher Corps member shall receive a $5,000 scholarship for each academic year of postsecondary education, except that no individual shall receive scholarship assistance for more than 3 years of postsecondary education (including postbaccalaureate), as determined by the Secretary.

(c) Consideration of award in other programs

Each Teacher Corps scholarship awarded pursuant to this subpart shall be considered as student financial assistance in determining eligibility for student assistance under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42.

(d) Assistance not to exceed need

Each Teacher Corps scholarship, when added to assistance received under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42, if any, shall not exceed the cost of attendance, as defined in section 1087*ll* of this title, at the institution the individual is attending. If the amount of the Teacher Corps scholarship and assistance received under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42 exceeds the cost of attendance, loans received under part B, C, or D of subchapter IV of this chapter shall be reduced by an amount equal to the amount by which the combined awards exceed the cost of attendance.

(e) Continued eligibility

Each individual who receives a Teacher Corps scholarship shall continue to receive such scholarship payments only during such periods that the State educational agency finds that such individual is—

(1) enrolled as a full-time student in an accredited postsecondary institution; and

(2) maintaining satisfactory progress defined under section 1091 of this title.

(Pub. L. 89–329, title V, § 545, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 690; amended Pub. L. 103–208, § 2(j)(6), Dec. 20, 1993, 107 Stat. 2481.)

PRIOR PROVISIONS

A prior section 545 of Pub. L. 89–329, title V, as added Pub. L. 99–498, title V, § 501(a), Oct. 17, 1986, 100 Stat. 1505; amended Pub. L. 100–50, § 16(5), June 3, 1987, 101 Stat. 359, defined certain terms for purposes of leadership in educational administration development program and was classified to section 1109d of this title, prior to the general revision of this subchapter by Pub. L. 102–325.

Another prior section 545 of Pub. L. 89–329, title V, as added Pub. L. 96–374, title V, § 505(a), Oct. 3, 1980, 94 Stat. 1463, defined ''special education'' and was classified to section 1119b–4 of this title, prior to the general revision of this subchapter by Pub. L. 99–498.

AMENDMENTS

1993—Subsec. (d). Pub. L. 103–208 substituted ''part B, C,'' for ''parts B, C,''.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1003 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1106e of this title.

§ 1106e. Scholarship conditions

(a) Scholarship agreement

Each individual receiving a scholarship under this subpart shall enter into a written agreement with the State educational agency which shall provide assurances that each such individual—

(1) shall pursue a course of study which meets State requirements for teacher preparation;

(2) has completed at least 2 years of undergraduate education at an institution of higher education;

(3) shall maintain satisfactory academic progress and participate in teaching-related activities while in undergraduate or post-baccalaureate programs;

(4) shall work as a teacher upon completion of such individual's education for 3 years in a Teacher Corps school, as identified by the State educational agency pursuant to section 1106(d) of this title, except that Teacher Corps members may transfer to another such school within the State or in another State upon approval of the State educational agency;

(5) in carrying out the obligation described in paragraph (4), shall meet the performance requirements of—

(A) the school in which such individual teaches; and

(B) the local educational agency exercising administrative control or direction of, or performing a service function for such school;

(6) shall repay all or part of a Teacher Corps scholarship received under section 1106d(b) of this title plus interest and, if applicable, reasonable collection fees, in compliance with regulations issued by the Secretary under subsection (b) of this section, in the event that the conditions of this subsection are not complied with, except as provided for in subsection (c) of this section;

(7) at least during the first year of employment, shall participate in an induction program which includes working with a mentor teacher selected by the local educational agency in which the Teacher Corps member is employed and who, to the extent practicable, is teaching in the same subject as the Teacher Corps member; and

(8) who is not enrolled in a program of study as set forth in section 1106d(a)(1)(C) of this title shall obtain State teacher certification during the period of employment or as soon as possible as State law requires.

(b) Scholarship repayment

(1) In general

Individuals found by the State educational agency to be in noncompliance with the agreement entered into under subsection (a) of this section shall be required to repay to the Secretary a pro rata amount of the scholarship awards received, plus interest at the highest rate applicable to loans under part B of subchapter IV of this chapter and, where applicable, reasonable collection fees, in accordance with the provisions of paragraph (3).

(2) Exceptions to repayment

An individual shall not be considered to be in violation of the agreement entered into pursuant to subsection (a) of this section during any period in which such individual meets the exceptions to repayment provisions set forth in section 1104g(a)(2), 1104g(a)(3) or 1104g(b) of this title, or if the individual dies.

(3) Repayment percentages

Each individual found by the Secretary to be in noncompliance with the agreement entered into under subsection (a) of this section shall be required to repay—

(A) 100 percent of the total amount of scholarships awarded under this subpart if such individual does not teach pursuant to the agreement described in subsection (a) of this section or teaches pursuant to such agreement for less than 1 year;

(B) 67 percent of such amount if such individual teaches pursuant to such agreement for at least 1 year but less than 2 years; and

(C) 34 percent of such amount if such individual teaches pursuant to such agreement for at least 2 years but less than 3 years.

(4) Interest

If a portion of scholarship is repaid under this subsection in any year, the entire amount of interest on such portion of such scholarship which accrues for such year shall be repaid.

(5) Use of repayments

Any repayments of scholarships made to the Secretary pursuant to the provisions of this section shall be used by the Secretary to make additional grants in accordance with the provisions of this subpart.

(c) Waiver

The Secretary may provide for the partial or total waiver or suspension of any service obligation or repayment by an individual who received a Teacher Corps scholarship whenever compliance by such individual is impossible or would involve extreme hardship to such individual.

(Pub. L. 89–329, title V, § 546, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 691.)

PRIOR PROVISIONS

A prior section 546 of Pub. L. 89–329, title V, as added Pub. L. 96–374, title V, § 505(a), Oct. 3, 1980, 94 Stat. 1463, authorized appropriations for fiscal years 1981 to 1985 to carry out grant program for training teachers for handicapped children and was classified to section 1119b–5 of this title, prior to the general revision of this subchapter by Pub. L. 99–498.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1106a of this title.

§ 1106f. Publication and recruitment

(a) In general

The Secretary shall—

(1) publicize the availability of, and procedure to apply for, Teacher Corps scholarships,

particularly among students participating in teaching-related activities through summer teaching institutes, future teacher clubs, and other teaching-related activities, at institutions of higher education nationwide, particularly in institutions of higher education with large minority enrollments, historically black colleges and universities, secondary schools nationwide (especially such schools with minority enrollment in excess of the statewide average minority enrollment), and with—

(A) individuals participating in programs assisted under subpart 4 of part A of subchapter IV of this chapter;

(B) individuals leaving the armed services, the Peace Corps, VISTA, and programs funded under the National and Community Service Act of 1990 [42 U.S.C. 12501 et seq.];

(C) community-based organizations working in minority education; and

(D) other agencies and entities likely to attract individuals interested in entering teaching from another career;

(2) recruit minority students to participate in the program assisted under this subpart; and

(3) recruit students with outstanding academic records to participate in such program.

(b) Special rule

The publications required under subsection (a) of this section shall describe substantive fields of expertise and geographic areas experiencing teacher shortages within the Nation.

(Pub. L. 89–329, title V, § 547, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 693.)

REFERENCES IN TEXT

The National and Community Service Act of 1990, referred to in subsec. (a)(1)(B), is Pub. L. 101–610, Nov. 16, 1990, 104 Stat. 3127, as amended, which is classified principally to chapter 129 (§ 12501 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 12501 of Title 42 and Tables.

§ 1106g. Authorization of appropriations

There are authorized to be appropriated $25,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out the provisions of this subpart.

(Pub. L. 89–329, title V, § 548, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 693.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1106 of this title.

PART D—INNOVATION AND RESEARCH

SUBPART 1—NATIONAL BOARD FOR PROFESSIONAL TEACHING STANDARDS

§ 1107. National Board for Professional Teaching Standards

(a) Definitions

For the purpose of this subpart—

(1) The term ''Board'' means the National Board for Professional Teaching Standards.

(2) The term ''Committee'' means the Fund for Improvement and Reform of Schools and Teaching Board established in section 4831[1] of this title.

(3) The term ''Director'' means the Director of the National Science Foundation.

(b) Program authorization

(1) Program authorized

From sums appropriated pursuant to the authority of subsection (k) of this section in any fiscal year, the Secretary shall, in accordance with this subpart, provide financial assistance to the National Board for Professional Teaching Standards, in order to pay the costs of the activities described in subsection (d) of this section.

(2) Terms and conditions

(A) No financial assistance may be made available under this subpart except upon an application as required by subsection (e) of this section.

(B) No financial assistance may be made available under this subpart unless the Secretary determines that—

(i) the Board will comply with the provisions of this subpart;

(ii) the Board will use the Federal funds only for research and development activities in accordance with subsection (d) of this section and such teacher assessment and certification procedures will be free from racial, cultural, gender or regional bias;

(iii) the Board—

(I) will widely disseminate for review and comment announcements of specific research projects to be conducted with Federal funds, including a description of the goals and focus of the specific project involved and the specific merit review procedures and evaluation criteria to be used in the competitive award process; and

(II) will send such announcements to the Secretary, the Director, the National Research Council, and the educational research community;

(iv) the Secretary, pursuant to an arrangement with the Board, will publish the announcements described in clause (iii) in the Federal Register (or such other publication deemed appropriate by the Secretary) and in publications of general circulation designed to disseminate such announcements widely to the educational research community;

(v) the Board will, after offering any interested party an opportunity to make comment upon, and take exception to, the projects contained in the announcements described in clause (iii) for a 30-day period following publication, and after reconsidering any project upon which comment is made or to which exception is taken, issue through the Secretary a request for proposals in the Federal Register (or such other publication deemed appropriate by the Secretary) containing any revised project information;

(vi) the Board will make awards of Federal funds competitively on the basis of merit,

[1] See References in Text note below.

and, in the award process, the Board will select, to the extent practicable consistent with standards of excellence—

(I) a broad range of institutions associated with educational research and development; and

(II) individuals who are broadly representative of the educational research and teaching communities with expertise in the specific area of research and development in question;

(vii) the Board will adopt audit practices customarily applied to nonprofit private organizations and will comply with subsection (g)(4) of this section;

(viii) the Board will not use Federal funds to meet the administrative and operating expenses of the Board;

(ix) the Board will submit an annual report to the Congress in accordance with the provisions of subsection (g)(1) of this section; and

(x) the Board will, upon request, disseminate to States, local educational agencies, or other public educational entities the results of any research or research project produced with funds authorized by this subpart, upon the payment of the cost of reproducing the appropriate material.

(3) Availability of funds

(A) Notwithstanding any other provision of law, funds appropriated to carry out this subpart shall remain available for obligation and expenditure until the end of the second fiscal year succeeding the fiscal year for which the funds were appropriated.

(B) No funds shall be made available to the Board after September 30, 1997, except as authorized by subparagraph (A) of this subsection.

(c) Consultation

The Board shall consult at least twice annually with the Committee on the design and execution of its overall research and development strategy, including procedures to assure compliance with the requirements of this subpart. The procedures shall include—

(1) an outline of specific research and development agenda and activities to be conducted with the Federal funds; and

(2) provisions to ensure compliance with the open competition and merit review requirements of this subpart for proposals and projects assisted under this subpart.

(d) Authorized activities

(1) In general

Federal funds received under this subpart may only be used for research and development activities directly related to the development of teacher assessment and certification procedures for elementary and secondary school teachers.

(2) Priorities

(A) The Board shall give priority to research and development activities in—

(i) mathematics;

(ii) the sciences;

(iii) foreign languages; and

(iv) literacy, including the ability to read, write and analyze.

(B) The Board shall give priority to research and development activities for the certification of elementary and secondary school teachers and the need and ability of such teachers to teach special educational populations, including—

(i) limited English proficient children;

(ii) gifted and talented children;

(iii) children with disabilities; and

(iv) economically and educationally disadvantaged children.

(e) Application

(1) In general

The Board shall submit applications to the Secretary at such time and in such manner as the Secretary may reasonably require. Each such application shall—

(A) describe the activities for which assistance is sought; and

(B) provide assurances that the non-Federal contributions described in subsection (f) of this section are paid from non-Federal sources, together with a description of the manner in which the Board will comply with the requirements of this subparagraph.

(2) Approval

The Secretary shall approve an application unless such application fails to comply with the provisions of this subpart.

(f) Matching funds requirement

(1) In general

The Secretary shall not provide financial assistance under this subpart to the Board unless the Board agrees to expend non-Federal contributions equal to $1 for every $1 of the Federal funds provided pursuant to such financial assistance.

(2) Non-Federal contributions

The non-Federal contributions described in paragraph (1)—

(A) may include all non-Federal funds raised by the Board on or after January 1, 1987; and

(B) may be used for outreach, implementation, administration, operation, and other costs associated with the development and implementation of national teacher assessment and certification procedures under this subpart.

(g) Reports and auditing provision

(1) National Board for Professional Teaching Standards report

The Board shall submit an annual report to the appropriate committees of the Congress not later than June 30 of any fiscal year in which Federal funds are expended pursuant to this subpart. The Board shall disseminate the report for review and comment to the Department of Education, the National Science Foundation, the National Research Council, and the education research community. The report shall—

(A) include a detailed financial statement and a report of the audit practices described in subsection (b)(2)(B)(vii) of this section;

(B) include a description of the general procedures to assure compliance with the requirements of this subpart as required in subsection (d) of this section; and

(C) provide a comprehensive and detailed description of the Board's agenda, activities, and planned activities for the preceding and succeeding fiscal years, including—

(i) the Board's overall research and development program and activities;

(ii) the specific research and development projects and activities conducted with Federal funds during the preceding fiscal year, including—

(I) a description of the goals and methodology of the project;

(II) a description and assessment of the findings (or status and preliminary findings if the project is not yet completed);

(III) a description of the competitive bidding process, the merit review procedures, and the evaluation criteria used to award project funds; and

(IV) a description of the Board's plans for dissemination of the findings described in clause (ii);

(iii) the specific research and development projects and activities planned to be conducted with Federal funds during the succeeding fiscal year, including the goals and methodologies to be used; and

(iv) a listing of available publications of the Board, including publications related to policies, standards and general information, research reports, and commissioned papers of the Board.

(2) First annual report

The first annual report required by this subsection shall include a description of the Board's research and development agenda for the succeeding 5-year period. Such first report shall include to the maximum extent practicable, a description of specific research and development projects and activities, and the goals and methodologies of such projects and activities.

(3) Additional reports

The Secretary, the Director, and the National Research Council shall report to the appropriate committees of the Congress on the compliance of the Board with the requirements of this part not later than 30 days after the Board submits its annual report pursuant to paragraph (1).

(4) Auditing provision

The Comptroller General of the United States, and any of the Comptroller's authorized representatives, shall have access, for the purpose of audit and examination, to any books, documents, papers, and records of the Board, and to any recipient of the Board, that is pertinent to the sums received and disbursed under this subpart.

(h) Evaluation

(1) In general

After September 30, 1995, the Secretary shall reserve not more than 2 percent of the amount appropriated pursuant to the authority of subsection (k) of this section to provide for an independent, ongoing evaluation of the research program of teacher assessments carried out by the Board and the fairness and the accuracy of the data such evaluations produce. The evaluation shall include an analysis of the impact of teacher assessments on minority teachers. The findings of the evaluation shall be submitted to the Labor and Human Resources Committee of the Senate and the Education and Labor Committee of the House of Representatives.

(2) Special rule

The Secretary shall enter into a contract for the performance of the evaluation described in paragraph (1) with a nationally recognized organization (such as the National Academy of Sciences or the National Academy of Education).

(i) Construction

Nothing in this subpart shall be construed to—

(1) establish a preferred national curriculum or preferred teaching methodology for elementary and secondary school instruction;

(2) infringe upon the rights and responsibilities of the States to license elementary and secondary school teachers;

(3) infringe upon the practice or accreditation of home school or private school teaching;

(4) provide an individual certified by the Board with a right of action against a State, local educational agency, or other public educational entity for any decisions related to hiring, promotion, retention or dismissal;

(5) authorize the Board to—

(A) study, create, or promulgate separate standards applicable to home school or private school teachers;

(B) take any action to require home school, private school, or public school teachers to participate in any program offered by the Board; or

(C) take any action that infringes in any manner on the right of parents to direct the education of their children; or

(6) authorize the Secretary to exercise supervision or control over the research program, standards, assessment practices, administration, or staffing policies of the Board.

(j) Voluntary participation

Notwithstanding any other provision of this subpart, voluntary participation in certification assessments by the Board shall be open to home school, private school, and public school teachers.

(k) Authorization of appropriations

There are authorized to be appropriated $20,000,000 for the period beginning October 1, 1992, and ending September 30, 1997, to carry out the provisions of this subpart.

(Pub. L. 89–329, title V, § 551, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 693; amended Pub. L. 103–227, title X, § 1013, Mar. 31, 1994, 108 Stat. 265.)

REFERENCES IN TEXT

Section 4831 of this title, referred to in subsec. (a)(2), was repealed by Pub. L. 103–382, title III, § 365, Oct. 20, 1994, 108 Stat. 3975.

PRIOR PROVISIONS

A prior section 1107, Pub. L. 89–329, title V, §531, as added Pub. L. 99–498, title V, §501(a), Oct. 17, 1986, 100 Stat. 1500, related to purpose and authority for professional development resource centers program, prior to the general revision of this subchapter by Pub. L. 102–325.

A prior section 551 of Pub. L. 89–329, title V, as added Pub. L. 99–498, title V, §501(a), Oct. 17, 1986, 100 Stat. 1506; amended Pub. L. 100–50, §17(a), June 3, 1987, 101 Stat. 359, set forth the purpose of the Congressional teacher scholarship program and was classified to section 1111 of this title, prior to the general revision of this subchapter by Pub. L. 102–325.

Another prior section 551 of Pub. L. 89–329, title V, as added Pub. L. 96–374, title V, §506, Oct. 3, 1980, 94 Stat. 1464, stated Congressional findings concerning Federal programs to train education professionals and was classified to section 1119c of this title, prior to the general revision of this subchapter by Pub. L. 99–498.

Another prior section 551 of Pub. L. 89–329, title V, as added Pub. L. 90–576, title II, §201, Oct. 16, 1968, 82 Stat. 1091, stated the Congressional declaration of purpose and was classified to section 1119c of this title, prior to repeal by Pub. L. 94–482, title I, §151(a)(4)(C), title II, §204(c)(1), Oct. 12, 1976, 90 Stat. 2152, 2215.

Another prior section 1107, Pub. L. 89–329, title V, §517, Nov. 8, 1965, 79 Stat. 1258; Pub. L. 90–35, §3(a)(3), June 29, 1967, 81 Stat. 85, prohibited members of the Teacher Corps from acting as replacements for teachers, prior to repeal by Pub. L. 97–35, title V, §587(a)(2), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Sections 1107a to 1107d were omitted in the general revision of this subchapter by Pub. L. 102–325.

Section 1107a, Pub. L. 89–329, title V, §532, as added Pub. L. 99–498, title V, §501(a), Oct. 17, 1986, 100 Stat. 1501, related to geographical distribution of grants to establish and operate professional development resource centers.

Another prior section 1107a, Pub. L. 89–329, title V, §517A, as added Pub. L. 90–35, §3(i), June 29, 1967, 81 Stat. 87, related to teaching children of migratory agricultural workers, prior to repeal by Pub. L. 97–35, title V, §587(a)(2), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 1107b, Pub. L. 89–329, title V, §533, as added Pub. L. 99–498, title V, §501(a), Oct. 17, 1986, 100 Stat. 1501, related to grant requirements for professional development resource centers.

Section 1107c, Pub. L. 89–329, title V, §534, as added Pub. L. 99–498, title V, §501(a), Oct. 17, 1986, 100 Stat. 1502, related to requirement for professional development policy boards.

Section 1107d, Pub. L. 89–329, title V, §535, as added Pub. L. 99–498, title V, §501(a), Oct. 17, 1986, 100 Stat. 1502, related to submission and approval of applications for grants to establish and operate professional development resource centers.

AMENDMENTS

1994—Subsec. (b)(1). Pub. L. 103–227, §1013(1), struck out ''the Federal share of'' after ''in order to pay''.

Subsec. (e)(1)(B). Pub. L. 103–227, §1013(2), which directed substitution of ''contributions described in subsection (f) of this section are'' for ''share of the cost of the activities of the Board is'', was executed by making the substitution for ''share of the cost of activities of the Board is'', to reflect the probable intent of Congress.

Subsec. (f). Pub. L. 103–227, §1013(3), amended heading and text of subsec. (f) generally. Prior to amendment, subsec. (f) read as follows:

''(f) FEDERAL SHARE.—

''(1) IN GENERAL.—The Secretary shall pay to the Board the Federal share of the costs of the activities of the Board for the period for which the application is approved under subsection (e) of this section.

''(2) AMOUNT OF FEDERAL SHARE.—The Federal share shall be 50 percent of the costs of the activities described in subsection (d) of this section.''

CHANGE OF NAME

Committee on Education and Labor of House of Representatives treated as referring to Committee on Economic and Educational Opportunities of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Economic and Educational Opportunities of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Fifth Congress, Jan. 7, 1997.

SUBPART 2—ALTERNATIVE ROUTES TO TEACHER CERTIFICATION AND LICENSURE

§§ 1108 to 1108g. Repealed. Pub. L. 102–325, title V, § 501(b), July 23, 1992, 106 Stat. 719

Section 1108, Pub. L. 89–329, title V, §552, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 698, provided that this subpart could be cited as the ''Alternative Routes to Teacher Certification and Licensure Act of 1992''.

A prior section 1108, Pub. L. 89–329, title V, §518, as added Pub. L. 90–35, §4, June 29, 1967, 81 Stat. 87; amended Pub. L. 90–575, title II, §§231(a), 233(a), Oct. 16, 1968, 82 Stat. 1039; Pub. L. 92–318, title I, §§141(a)(1)(B), (c)(1)(D), (2)(A), 143(a)(1), June 23, 1972, 86 Stat. 284–286, authorized a program for making grants to States to alleviate teacher shortages, prior to repeal by Pub. L. 94–482, title I, §151(a)(4)(A), Oct. 12, 1976, 90 Stat. 2152, eff. Sept. 30, 1976.

A prior section 552 of Pub. L. 89–329, title V, as added Pub. L. 99–498, title V, §501(a), Oct. 17, 1986, 100 Stat. 1506, related to allocation of funds among States for Congressional Teacher Scholarships and was classified to section 1111a of this title, prior to the general revision of this subchapter by Pub. L. 102–325.

Another prior section 552 of Pub. L. 89–329, title V, as added Pub. L. 96–374, title V, §506, Oct. 3, 1980, 94 Stat. 1464, stated Congressional declaration of policy concerning Federal programs to support education professional development and was classified to section 1119c–1 of this title, prior to the general revision of this subchapter by Pub. L. 99–498.

Another prior section 552 of Pub. L. 89–329, title V, as added Pub. L. 90–576, title II, §201, Oct. 16, 1968, 82 Stat. 1092, related to leadership development awards and was classified to section 1119c–1 of this title, prior to repeal by Pub. L. 94–482, title I, §151(a)(4)(C), title II, §204(c)(1), Oct. 12, 1976, 90 Stat. 2152, 2215.

Section 1108a, Pub. L. 89–329, title V, §553, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 698, provided congressional findings concerning alternative teacher certification and licensure.

A prior section 553 of Pub. L. 89–329, title V, as added Pub. L. 99–498, title V, §501(a), Oct. 17, 1986, 100 Stat. 1506; amended Pub. L. 100–50, §17(b), June 3, 1987, 101 Stat. 359, related to grant applications for Congressional Teacher Scholarships and was classified to section 1111b of this title, prior to the general revision of this subchapter by Pub. L. 102–325.

Another prior section 553 of Pub. L. 89–329, title V, as added Pub. L. 96–374, title V, §506, Oct. 3, 1980, 94 Stat. 1464; amended Pub. L. 99–386, title I, §103(b), Aug. 22, 1986, 100 Stat. 821, established Office of Education Professional Development and was classified to section 1119c–2 of this title, prior to the general revision of this subchapter by Pub. L. 99–498.

Another section 553 of Pub. L. 89–329, title V, as added Pub. L. 90–576, title II, §201, Oct. 16, 1968, 82 Stat. 1093, related to exchange programs, institutes, and in-service education for vocational education teachers, supervisors, coordinators, and administrators and was classified to section 1119c–2 of this title, prior to repeal by Pub. L. 94–482, title I, §151(a)(4)(C), title II, §204(c)(1), Oct. 12, 1976, 90 Stat. 2152, 2215.

Section 1108b, Pub. L. 89–329, title V, §554, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 698, stated purpose of this subpart.

A prior section 554 of Pub. L. 89–329, title V, as added Pub. L. 99–498, title V, § 501(a), Oct. 17, 1986, 100 Stat. 1508, related to amount and duration of assistance under Congressional Teacher Scholarship program and was classified to section 1111c of this title, prior to the general revision of this subchapter by Pub. L. 102–325.

Another prior section 554 of Pub. L. 89–329, title V, as added Pub. L. 90–576, title II, § 201, Oct. 16, 1968, 82 Stat. 1094, related to familiarizing teachers with new curricular methods and was classified to section 1119c–3 of this title, prior to repeal by Pub. L. 94–482, title I, § 151(a)(4)(C), title II, § 204(c)(1), Oct. 12, 1976, 90 Stat. 2152, 2215.

Section 1108c, Pub. L. 89–329, title V, § 555, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 699, provided for allotments of funds to States.

A prior section 555 of Pub. L. 89–329, title V, as added Pub. L. 99–498, title V, § 501(a), Oct. 17, 1986, 100 Stat. 1508, related to selection of Congressional Teacher Scholars and was classified to section 1111d of this title, prior to the general revision of this subchapter by Pub. L. 102–325.

Another prior section 555 of Pub. L. 89–329, title V, as added Pub. L. 94–482, title I, § 151(a)(4)(B), Oct. 12, 1976, 90 Stat. 2152, authorized appropriation for the fiscal years ending prior to Oct. 1, 1977, and was classified to section 1119c–4 of this title, prior to repeal by Pub. L. 94–482, title I, § 151(a)(4)(C), title II, § 204(c)(1), Oct. 12, 1976, 90 Stat. 2152, 2215.

An identical section 555 of Pub. L. 89–329 was added by Pub. L. 94–482, title II, § 201(q), Oct. 12, 1976, 90 Stat. 2169, and repealed by Pub. L. 94–482, title II, § 204(c)(1), Oct. 12, 1976, 90 Stat. 2215.

Another prior section 555 of Pub. L. 89–329, title V, as added by Pub. L. 90–576, title II, § 201, Oct. 16, 1968, 82 Stat. 1094; amended by Pub. L. 91–230, title VII, § 708, Apr. 13, 1970, 84 Stat. 189, authorized appropriations for fiscal years 1969 to 1972 and was classified to section 1119c–4 of this title, prior to repeal by Pub. L. 92–318, title I, § 141(c)(1)(H), June 23, 1972, 86 Stat. 285.

Section 1108d, Pub. L. 89–329, title V, § 556, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 699; amended Pub. L. 103–382, title II, § 261(i)(2), Oct. 20, 1994, 108 Stat. 3929, related to State applications for grants under this subpart.

A prior section 556 of Pub. L. 89–329, title V, as added Pub. L. 99–498, title V, § 501(a), Oct. 17, 1986, 100 Stat. 1509, related to conditions for Congressional Teacher Scholarships and was classified to section 1111e of this title, prior to the general revision of this subchapter by Pub. L. 102–325.

Section 1108e, Pub. L. 89–329, title V, § 557, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 700, outlined permissible uses of funds.

A prior section 557 of Pub. L. 89–329, title V, as added Pub. L. 99–498, title V, § 501(a), Oct. 17, 1986, 100 Stat. 1509; amended Pub. L. 100–50, § 17(c), June 3, 1987, 101 Stat. 359, related to Congressional Teacher Scholarship repayments and was classified to section 1111f of this title, prior to the general revision of this subchapter by Pub. L. 102–325.

Section 1108f, Pub. L. 89–329, title V, § 558, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 700, defined ''State'' for purposes of this subpart.

A prior section 558 of Pub. L. 89–329, title V, as added Pub. L. 99–498, title V, § 501(a), Oct. 17, 1986, 100 Stat. 1509; amended Pub. L. 100–50, § 17(d), June 3, 1987, 101 Stat. 359, related to exceptions to Congressional Teacher Scholarship repayment provisions and was classified to section 1111g of this title, prior to the general revision of this subchapter by Pub. L. 102–325.

Section 1108g, Pub. L. 89–329, title V, § 559, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 700, authorized appropriations for fiscal year 1993 to carry out this subpart.

A prior section 559 of Pub. L. 89–329, title V, as added Pub. L. 99–498, title V, § 501(a), Oct. 17, 1986, 100 Stat. 1510, related to Federal administration of State programs and judicial review of Congressional Teacher Scholarship programs and was classified to section 1111h of this title, prior to the general revision of this subchapter by Pub. L. 102–325.

EFFECTIVE DATE OF REPEAL

Section 501(b) of Pub. L. 102–325 provided that: ''Effective July 1, 1995, the Alternative Routes to Teacher and Principal Certification and Licensure Act of 1992 (as contained in subpart 2 of part D of title V of this Act [enacting this subpart] is repealed.''

SUBPART 3—CLASS SIZE DEMONSTRATION GRANT

§ 1109. Purpose

It is the purpose of this subpart to provide grants to local educational agencies to enable such agencies to determine the benefits in various school settings of reducing class size on the educational performance of students and on classroom management and organization.

(Pub. L. 89–329, title V, § 561, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 700.)

PRIOR PROVISIONS

A prior section 1109, Pub. L. 89–329, title V, § 541, as added Pub. L. 99–498, title V, § 501(a), Oct. 17, 1986, 100 Stat. 1503; amended Pub. L. 100–50, § 16(1), June 3, 1987, 101 Stat. 358; Pub. L. 101–226, § 20, Dec. 12, 1989, 103 Stat. 1936, related to purpose of, and regulations under, leadership in educational administration development program, prior to the general revision of this subchapter by Pub. L. 102–325.

Another prior section 1109, Pub. L. 89–329, title V, § 519, as added Pub. L. 90–35, § 4, June 29, 1967, 81 Stat. 88; amended Pub. L. 90–575, title II, § 234(a), Oct. 16, 1968, 82 Stat. 1039; Pub. L. 92–318, title I, § 141(c)(2)(B), June 23, 1972, 86 Stat. 285, authorized allotments and reallotments to States, etc., for grants for implementation of program and set forth criteria for determination of amounts, prior to repeal Pub. L. 94–482, title I, § 151(a)(4)(A), Oct. 12, 1976, 90 Stat. 2152, eff. Sept. 30, 1976.

A prior section 561 of Pub. L. 89–329, title V, as added Pub. L. 99–498, title V, § 501(a), Oct. 17, 1986, 100 Stat. 1510, related to purpose and designation of Christa McAuliffe Fellowships and was classified to section 1113 of this title, prior to the general revision of this subchapter by Pub. L. 102–325.

Another prior section 561 of Pub. L. 89–329, title V, as added Pub. L. 98–558, title VII, § 701, Oct. 30, 1984, 98 Stat. 2894, stated purpose and authorized appropriations for Carl D. Perkins Scholarship program and was classified to section 1119d of this title, prior to the general revision of this subchapter by Pub. L. 99–498.

§ 1109a. Program authorized

(a) Program authorized

(1) In general

The Secretary shall carry out a program of awarding grants, in accordance with the provisions of this subpart, to local educational agencies to pay the Federal share of the costs of conducting demonstration projects that demonstrate methods of reducing class size which may provide information meaningful to other State and local educational agencies.

(2) Federal share

The Federal share shall be 50 percent.

(b) Reservation

The Secretary may reserve not more than 5 percent of the amount appropriated pursuant to the authority of section 1109e of this title in

each fiscal year to carry out the evaluation activities described in section 1109d of this title.

(c) Selection criteria

The Secretary shall make grants to local educational agencies on the basis of—

(1) the need and the ability of a local educational agency to reduce the class size of an elementary or secondary school served by such agency;

(2) the ability of a local educational agency to furnish the non-Federal share of the costs of the demonstration project for which assistance is sought;

(3) the ability of a local educational agency to continue the project for which assistance is sought after the termination of Federal financial assistance under this subpart; and

(4) the degree to which a local educational agency demonstrates in the application submitted pursuant to section 1109c of this title consultation in program implementation and design with parents, teachers, school administrators, and local teacher organizations, where applicable.

(d) Priority

In awarding grants under this subpart, the Secretary shall give priority to demonstration projects that involve at-risk students, including educationally or economically disadvantaged students, students with disabilities, limited-English proficient students, and young students.

(e) Grants must supplement other funds

A local educational agency shall use the Federal funds received under this subpart to supplement and not supplant other Federal, State and local funds available to the local educational agency.

(Pub. L. 89–329, title V, §562, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 700.)

PRIOR PROVISIONS

A prior section 1109a, Pub. L. 89–329, title V, §542, as added Pub. L. 99–498, title V, §501(a), Oct. 17, 1986, 100 Stat. 1504; amended Pub. L. 100–50, §16(2), June 3, 1987, 101 Stat. 358, related to allocation of appropriations for leadership in educational administration development program, prior to the general revision of this subchapter by Pub. L. 102–325.

A prior section 562 of Pub. L. 89–329, title V, as added Pub. L. 99–498, title V, §501(a), Oct. 17, 1986, 100 Stat. 1511, related to use of funds under Christa McAuliffe Fellowship program and was classified to section 1113a of this title, prior to the general revision of this subchapter by Pub. L. 102–325.

Another prior section 562 of Pub. L. 89–329, title V, as added Pub. L. 98–558, title VII, §701, Oct. 30, 1984, 98 Stat. 2894, provided for allocation among States of funds appropriated for Carl D. Perkins Scholarship program and was classified to section 1119d–1 of this title, prior to the general revision of this subchapter by Pub. L. 99–498.

§ 1109b. Program requirements

(a) Annual competition

In each fiscal year, the Secretary shall announce the factors to be examined in a demonstration project assisted under this subpart. Such factors may include—

(1) the magnitude of the reduction in class size to be achieved;

(2) the level of education and the subject areas in which the demonstration projects shall occur;

(3) the form of the instructional strategy to be demonstrated; and

(4) the duration of the project.

(b) Random techniques and appropriate comparison groups

Demonstration projects assisted under this subpart shall be designed to utilize randomized techniques or appropriate comparison groups, where feasible.

(Pub. L. 89–329, title V, §563, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 701.)

PRIOR PROVISIONS

A prior section 1109b, Pub. L. 89–329, title V, §543, as added Pub. L. 99–498, title V, §501(a), Oct. 17, 1986, 100 Stat. 1504; amended Pub. L. 100–50, §16(3), June 3, 1987, 101 Stat. 358, related to technical assistance centers under leadership in educational administration development program, prior to the general revision of this subchapter by Pub. L. 102–325.

A prior section 563 of Pub. L. 89–329, title V, as added Pub. L. 99–498, title V, §501(a), Oct. 17, 1986, 100 Stat. 1511, related to Christa McAuliffe fellowships and was classified to section 1113b of this title, prior to the general revision of this subchapter by Pub. L. 102–325.

Another prior section 563 of Pub. L. 89–329, title V, as added Pub. L. 98–558, title VII, §701, Oct. 30, 1984, 98 Stat. 2894, provided for form, content, and processing of applications for grants to States under Carl D. Perkins Scholarship program and was classified to section 1119d–2 of this title, prior to the general revision of this subchapter by Pub. L. 99–498.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1109c of this title.

§ 1109c. Application

(a) In general

In order to receive a grant under this subpart a local educational agency shall submit an application to the Secretary that is responsive to the announcement described in section 1109b(a) of this title, at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

(b) Duration

The Secretary shall encourage local educational agencies to submit applications under this subpart for a period of 3 years.

(c) Contents

Each application submitted pursuant to subsection (a) of this section shall include—

(1) a description of the objectives to be attained with the financial assistance made available under this subpart and the manner in which such financial assistance shall be used to reduce class size;

(2) a description of the steps to be taken to achieve target class sizes, including, where applicable, the acquisition of additional teaching personnel and classroom space;

(3) a statement of the methods for the collection of data necessary for the evaluation of the impact of class size reduction programs on student achievement;

(4) an assurance that the local educational agency shall pay from non-Federal sources the non-Federal share of the costs of the demonstration project for which assistance is sought; and

(5) such additional assurances as the Secretary may reasonably require.

(d) Sufficient size and scope required

The Secretary shall only award grants under this subpart to applicants having applications which describe projects of sufficient size and scope to contribute to carrying out the purposes of this subpart.

(Pub. L. 89–329, title V, § 564, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 701.)

PRIOR PROVISIONS

A prior section 1109c, Pub. L. 89–329, title V, § 544, as added Pub. L. 99–498, title V, § 501(a), Oct. 17, 1986, 100 Stat. 1505; amended Pub. L. 100–50, § 16(4), June 3, 1987, 101 Stat. 359, related to general criteria for grants under leadership in educational administration development program, prior to the general revision of this subchapter by Pub. L. 102–325.

A prior section 564 of Pub. L. 89–329, title V, as added Pub. L. 99–498, title V, § 501(a), Oct. 17, 1986, 100 Stat. 1511, related to selection of Christa McAuliffe teacher fellowships and was classified to section 1113c of this title, prior to the general revision of this subchapter by Pub. L. 102–325.

Another prior section 564 of Pub. L. 89–329, title V, as added Pub. L. 98–558, title VII, § 701, Oct. 30, 1984, 98 Stat. 2896, related to amount and duration of Carl D. Perkins Scholarships and relationship of Scholarships to other forms of assistance and was classified to section 1119d–3 of this title, prior to the general revision of this subchapter by Pub. L. 99–498.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1109a, 1109b of this title.

§ 1109d. Evaluation and dissemination

(a) National evaluation

The Secretary shall conduct a national evaluation of the demonstration projects assisted under this subpart to determine the costs incurred in achieving the reduction in class size and the effects of the reductions on outcomes, such as student performance in the affected subjects or grades, attendance, discipline, classroom organization, management, and teacher satisfaction and retention.

(b) Cooperation

Each local educational agency receiving a grant under this subpart shall cooperate in the national evaluation described in subsection (a) of this section and shall provide such information to the Secretary as the Secretary may reasonably require.

(c) Reports

The Secretary shall report to the Congress on the results of the evaluation conducted pursuant to subsection (a) of this section.

(d) Dissemination

The Secretary shall widely disseminate information about the results of the class size demonstration projects assisted under this subpart.

(Pub. L. 89–329, title V, § 565, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 702.)

PRIOR PROVISIONS

A prior section 1109d, Pub. L. 89–329, title V, § 545, as added Pub. L. 99–498, title V, § 501(a), Oct. 17, 1986, 100 Stat. 1505; amended Pub. L. 100–50, § 16(5), June 3, 1987, 101 Stat. 359, defined terms for purposes of leadership in educational administration development program, prior to the general revision of this subchapter by Pub. L. 102–325.

A prior section 565 of Pub. L. 89–329, title V, as added Pub. L. 99–498, title V, § 501(a), Oct. 17, 1986, 100 Stat. 1511, related to evaluation of applications for Christa McAuliffe fellowships and was classified to section 1113d of this title, prior to the general revision of this subchapter by Pub. L. 102–325.

Another prior section 565 of Pub. L. 89–329, title V, as added Pub. L. 98–558, title VII, § 701, Oct. 30, 1984, 98 Stat. 2896, provided for selection of Carl D. Perkins Scholars and was classified to section 1119d–4 of this title, prior to the general revision of this subchapter by Pub. L. 99–498.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1109a of this title.

§ 1109e. Authorization of appropriations

There are authorized to be appropriated $3,000,000 for fiscal year 1993, and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out this subpart.

(Pub. L. 89–329, title V, § 565A, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 702.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1109a of this title.

SUBPART 4—MIDDLE SCHOOL TEACHING DEMONSTRATION PROGRAMS

§ 1110. Statement of purpose

It is the purpose of this subpart to provide financial assistance to institutions of higher education which offer teacher training or retraining programs to develop model programs with a specialized focus on teaching grades 6 through 9.

(Pub. L. 89–329, title V, § 566, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 703.)

PRIOR PROVISIONS

A prior section 1110, Pub. L. 89–329, title V, § 520, as added Pub. L. 90–35, § 4, June 29, 1967, 81 Stat. 88; amended Pub. L. 90–575, title II, § 233(b), Oct. 16, 1968, 82 Stat. 1039; Pub. L. 92–318, title I, §§ 143(a)(2), (3), 144(a), 145(a), 146(a), June 23, 1972, 86 Stat. 286, 287, set forth requirements for State plans as prerequisite for receipt of grant by State, prior to repeal by Pub. L. 94–482, title I, § 151(a)(4)(A), Oct. 12, 1976, 90 Stat. 2152, eff. Sept. 30, 1976.

A prior section 566 of Pub. L. 89–329, title V, as added Pub. L. 99–498, title V, § 501(a), Oct. 17, 1986, 100 Stat. 1512, related to Christa McAuliffe fellowship repayment provisions and was classified to section 1113e of this section, prior to the general revision of this subchapter by Pub. L. 102–325.

Another prior section 566 of Pub. L. 89–329, title V, as added Pub. L. 98–558, title VII, § 701, Oct. 30, 1984, 98 Stat. 2897, provided conditions for continued receipt of Carl D. Perkins Scholarship assistance and was classified to section 1119d–5 of this title, prior to the general revision of this subchapter by Pub. L. 99–498.

§ 1110a. Definitions

As used in this subpart:

(1) The term ''developmentally appropriate'' means a program that is appropriate for a child's age and all areas of an individual child's development, including educational, physical, emotional, social, cognitive, and communication.

(2) The term ''middle school'' means a school which enrolls students in at least two of the grades 6, 7, 8, and 9.

(Pub. L. 89–329, title V, § 567, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 703.)

PRIOR PROVISIONS

A prior section 1110a, Pub. L. 89–329, title V, § 520A, as added Pub. L. 90–35, § 4, June 29, 1967, 81 Stat. 89, set forth manner of repayment of amounts expended by each State for implementation of State plan, prior to repeal by Pub. L. 94–482, title I, § 151(a)(4)(A), Oct. 12, 1976, 90 Stat. 2152, eff. Sept. 30, 1976.

A prior section 567 of Pub. L. 89–329, title V, as added Pub. L. 98–558, title VII, § 701, Oct. 30, 1984, 98 Stat. 2897, provided for repayment of Carl D. Perkins Scholarship assistance in case of noncompliance with program agreement and was classified to section 1119d–6 of this title, prior to the general revision of this subchapter by Pub. L. 99–498.

§ 1110b. Program authorized

(a) In general

The Secretary is authorized to make grants, on a competitive basis, to institutions of higher education to develop model programs with a specialized focus on teaching grades 6 through 9.

(b) Special rule

(1) Equitable distribution

The Secretary shall ensure an equitable geographic distribution of grants awarded under this subpart.

(2) Consideration

The Secretary shall take into consideration equitable levels of funding for urban and rural areas in awarding grants under this subpart.

(c) Grant period

Grants under this subpart may be awarded for a period not to exceed 3 years.

(d) Funding limitation

Grants awarded under this subpart may not exceed $250,000 in the first year of funding.

(Pub. L. 89–329, title V, § 568, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 703.)

PRIOR PROVISIONS

A prior section 1110b, Pub. L. 89–329, title V, § 520B, as added Pub. L. 90–35, § 4, June 29, 1967, 81 Stat. 89, set forth requirements for disapproval of State plans by Commissioner, prior to repeal by Pub. L. 94–482, title I, § 151(a)(4)(A), Oct. 12, 1976, 90 Stat. 2152, eff. Sept. 30, 1976.

A prior section 568 of Pub. L. 89–329, title V, as added Pub. L. 98–558, title VII, § 701, Oct. 30, 1984, 98 Stat. 2897, provided exceptions to repayment requirements and was classified to section 1119d–7 of this title, prior to the general revision of this subchapter by Pub. L. 99–498.

§ 1110c. Application

(a) In general

Each institution of higher education desiring a grant under this subpart shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

(b) Contents

Each application submitted pursuant to subsection (a) of this section shall demonstrate that—

(1) the applicant will establish and maintain a program of teacher training or retraining designed to offer specialized preparation for individuals teaching grades 6 through 9;

(2) the applicant has designed a program of teacher training or retraining which includes—

(A) a study of adolescent development (including cognitive, social, and emotional) with particular emphasis on early adolescent development;

(B) a study of the influence of institutions such as schools, families, and peer groups in the socialization of adolescents;

(C) information concerning the organization of schools for students in grades 6 through 9, with particular emphasis on developmentally appropriate school and classroom organization and practices;

(D) training in at least 2 subject areas and related instructional strategies;

(E) direct experience through internships in middle grade schools under the guidance of teachers who demonstrate exemplary classroom practices;

(F) strategies for the prevention and detection of high risk behavior, particularly drug and alcohol abuse, and for the enhancement of self esteem among adolescents;

(G) a study of effective methods and models of presenting substance abuse information and education to adolescent students; and

(H) methods of encouraging parental and community involvement with middle schools; and

(3) the program will be designed and operated with the active participation of classroom teachers and will include an in-service training component.

(Pub. L. 89–329, title V, § 569, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 703.)

PRIOR PROVISIONS

A prior section 1110c, Pub. L. 89–329, title V, § 520C, as added Pub. L. 90–35, § 4, June 29, 1967, 81 Stat. 90, set forth procedure for judicial review of determinations of Commissioner with respect to State plan, prior to repeal by Pub. L. 94–482, title I, § 151(a)(4)(A), Oct. 12, 1976, 90 Stat. 2152, eff. Sept. 30, 1976.

A prior section 569 of Pub. L. 89–329, title V, as added Pub. L. 98–558, title VII, § 701, Oct. 30, 1984, 98 Stat. 2898, related to Federal administration of State programs to make available Carl D. Perkins Scholarships and judicial review thereof and was classified to section 1119d–8 of this title, prior to the general revision of this subchapter by 99–498.

§ 1110d. Reports and information dissemination

Each institution of higher education receiving a grant under this subpart shall submit to the Secretary such reports and other information regarding programs conducted under this sub-

part as the Secretary deems necessary. The Secretary shall disseminate such information to other institutions of higher education, State educational agencies, and local educational agencies.

(Pub. L. 89–329, title V, § 570, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 704.)

§ 1110e. Authorization of appropriations

There are authorized to be appropriated $5,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out the provisions of this subpart.

(Pub. L. 89–329, title V, § 570A, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 704.)

PART E—MINORITY TEACHER RECRUITMENT

SUBPART 1—NEW TEACHING CAREERS

§ 1111. Statement of purpose

It is the purpose of this subpart to establish and operate new career programs to attract minority candidates, who are in school support or paraprofessional positions in shortage area schools serving disadvantaged students, to careers as certified or licensed teachers.

(Pub. L. 89–329, title V, § 571, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 704.)

PRIOR PROVISIONS

A prior section 1111, Pub. L. 89–329, title V, § 551, as added Pub. L. 99–498, title V, § 501(a), Oct. 17, 1986, 100 Stat. 1506; amended Pub. L. 100–50, § 17(a), June 3, 1987, 101 Stat. 359, set forth purpose of Congressional teacher scholarship program, prior to the general revision of this subchapter by Pub. L. 102–325.

Another prior section 1111, Pub. L. 89–329, title V, § 521, Nov. 8, 1965, 79 Stat. 1258; Pub. L. 90–35, § 5(b), June 29, 1967, 81 Stat. 90; Pub. L. 90–247, title VII, § 704(a), Jan. 2, 1968, 81 Stat. 820; Pub. L. 90–575, title II, § 235, Oct. 16, 1968, 82 Stat. 1040; Pub. L. 91–230, title VIII, § 806(a), Apr. 13, 1970, 84 Stat. 192; Pub. L. 92–318, title I, § 146A, June 23, 1972, 86 Stat. 287, set forth Congressional declaration of policy and statement of purpose, and definitions for fellowship program for teachers and related educational personnel, prior to repeal by Pub. L. 94–482, title I, § 151(a)(4)(A), Oct. 12, 1976, 90 Stat. 2152, eff. Sept. 30, 1976.

A prior section 571 of Pub. L. 89–329, title V, as added Pub. L. 99–498, title V, § 501(a), Oct. 17, 1986, 100 Stat. 1512, related to State task forces on teacher training and was classified to section 1115 of this title, prior to the general revision of this subchapter by Pub. L. 102–325.

Another prior section 571 of Pub. L. 89–329, title V, as added Pub. L. 98–558, title VII, § 701, Oct. 30, 1984, 98 Stat. 2898, stated purpose of establishing national fellowship program for outstanding teachers and was classified to section 1119e of this title, prior to the general revision of this subchapter by Pub. L. 99–498.

§ 1111a. State grant authority; applications

(a) Authority

(1) Grants by Secretary

In any fiscal year in which appropriations for this subpart do not equal or exceed $50,000,000, the Secretary is authorized, in accordance with this subpart, to award grants, on a competitive basis, to States to enable States to pay the Federal share of supporting programs that carry out the purpose of this subpart.

(2) State grant program

In any fiscal year in which appropriations for this subpart equal or exceed $50,000,000, the Secretary is authorized, in accordance with the provisions of this subpart, to make grants to States in accordance with allocations under subsection (b) of this section to enable States to pay the Federal share of supporting programs that carry out the purposes of this subpart.

(b) Allocation among States

Except as provided in subsection (a)(1) of this section, each State shall be eligible to receive a grant under this subpart in each fiscal year that bears as nearly as possible the same ratio to the amount appropriated under section 1111h of this title as the allocation of funds under part A of title I of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6311 et seq.] in that State bears to the total allocation of such funds in all States, except that no State grant shall be less than $500,000 in any fiscal year.

(c) Duration of grant

Each grant awarded under this subpart shall be awarded for a term of 5 years, subject to the availability of appropriations.

(d) Federal share

The Federal share of each grant awarded under this subpart shall be 75 percent in the first year in which the State receives a grant, 65 percent in the second such year, 55 percent in the third such year, 45 percent in the fourth such year, and 35 percent in the fifth such year.

(e) Non-Federal share

The non-Federal share of each grant awarded under this subpart may be in cash or in kind fairly evaluated, including planned equipment or services.

(f) Submission of State applications

In order to receive a grant under this subpart, a State shall submit an application at such time or times, in such manner, and containing such information as the Secretary may prescribe by regulation. Such application shall—

(1) contain assurances that the State will award grants on a competitive basis to eligible recipients submitting applications described in section 1111c of this title;

(2) set forth a program of activities for carrying out the purposes set forth in this subpart in such detail as will enable the Secretary to determine the degree to which such program will accomplish such purposes and such other policies, procedures, and assurances as the Secretary may require by regulation.

(Pub. L. 89–329, title V, § 572, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 704; amended Pub. L. 103–382, title III, § 391(e)(5), Oct. 20, 1994, 108 Stat. 4022.)

REFERENCES IN TEXT

The Elementary and Secondary Education Act of 1965, referred to in subsec. (b), is Pub. L. 89–10, Apr. 11,

1965, 79 Stat. 27, as amended generally by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519. Part A of title I of the Act is classified generally to part A (§ 6311 et seq.) of subchapter I of chapter 70 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

PRIOR PROVISIONS

A prior section 1111a, Pub. L. 89–329, title V, § 552, as added Pub. L. 99–498, title V, § 501(a), Oct. 17, 1986, 100 Stat. 1506, related to allocation of funds among the States for Congressional teacher scholarships, prior to the general revision of this subchapter by Pub. L. 102–325.

A prior section 572 of Pub. L. 89–329, title V, as added Pub. L. 98–558, title VII, § 701, Oct. 30, 1984, 98 Stat. 2898, authorized appropriations for fiscal years 1986 to 1989 for fellowships to outstanding teachers and was classified to section 1119e–1 of this title, prior to the general revision of this subchapter by Pub. L. 99–498.

AMENDMENTS

1994—Subsec. (b). Pub. L. 103–382 substituted ''part A of title I'' for ''part A of chapter 1 of title I''.

§ 1111b. Agreements

Each State receiving a grant under this subpart shall enter into an agreement with the Secretary. Each such agreement shall include provisions designed to ensure that—

(1) the State educational agency, the State higher education agency, or the State agency which administers subpart 4 of part A of subchapter IV of this chapter, relating to State student incentive grants, will administer the program authorized by this subpart in the State;

(2) the State educational agency or higher education agency will use not more than 5 percent of the grant it receives for administrative expenses;

(3) the State educational agency or higher education agency will keep such records and provide such information to the Secretary as may be required for fiscal audit and program evaluation, consistent with the responsibilities of the Secretary; and

(4) the State will establish a system for the evaluation of the programs assisted under this subpart.

(Pub. L. 89–329, title V, § 573, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 705.)

PRIOR PROVISIONS

A prior section 1111b, Pub. L. 89–329, title V, § 553, as added Pub. L. 99–498, title V, § 501(a), Oct. 17, 1986, 100 Stat. 1506; amended Pub. L. 100–50, § 17(b), June 3, 1987, 101 Stat. 359, related to grant applications for Congressional teacher scholarships, prior to the general revision of this subchapter by Pub. L. 102–325.

A prior section 573 of Pub. L. 89–329, title V, as added Pub. L. 98–558, title VII, § 701, Oct. 30, 1984, 98 Stat. 2899, provided for program of talented teacher fellowships and was classified to section 1119e–2 of this title, prior to the general revision of this subchapter by Pub. L. 99–498.

§ 1111c. Application

(a) In general

A grant under this subpart may be made only to an eligible recipient which submits an application to the State containing or accompanied by such information as the State may reasonably require.

(b) Contents of application

Each such application shall—

(1) describe the activities and services for which assistance is sought;

(2) set forth the number of expected participants in each program assisted under this subpart;

(3) demonstrate steps on a career ladder leading to the position of fully credentialed teacher, ranging from nonskilled entry positions, extending through intermediate subprofessional functions, and terminating in full professional status as a certified teacher duly recognized by the appropriate State agency;

(4) contain assurances that advancement within such career ladders would be based on merit, but that the opportunity for professional growth is available to all;

(5) demonstrate a plan for employing permanently individuals who have participated in the program at their new level of training, including individuals who terminate the program at a level below that of fully credentialed teacher;

(6) demonstrate a plan for bringing a sizable portion of the educational program and coursework to the place of the participant's employment;

(7) demonstrate a plan for providing academic credit for in-service training and other relevant experience as well as formal academic coursework;

(8) provide for participation of individuals who have attained various levels of education, including individuals who have not completed high school, with special consideration for such participation given to individuals already serving within the school system;

(9) provide assurances that the program assisted under this subpart will be available to individuals with disabilities; and

(10) contain such other assurances as the State may reasonably require.

(Pub. L. 89–329, title V, § 574, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 705.)

PRIOR PROVISIONS

A prior section 1111c, Pub. L. 89–329, title V, § 554, as added Pub. L. 99–498, title V, § 501(a), Oct. 17, 1986, 100 Stat. 1508, related to amount and duration of assistance under Congressional teacher fellowships and relationship of such assistance to other assistance, prior to the general revision of this subchapter by Pub. L. 102–325.

A prior section 574 of Pub. L. 89–329, title V, as added Pub. L. 98–558, title VII, § 701, Oct. 30, 1984, 98 Stat. 2899, provided for selection of recipients of talented teacher fellowships and was classified to section 1119e–3 of this title, prior to the general revision of this subchapter by Pub. L. 99–498.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1111a of this title.

§ 1111d. Requirements

(a) General requirements

An eligible recipient of a grant under this subpart shall require that any paraprofessional who

receives student financial assistance under this subpart and who becomes a fully certified or licensed teacher enter into an agreement under which the paraprofessional shall—

(1) within the 10-year period after completing the postsecondary education for which the assistance was provided, act as an educational professional or a paraprofessional in the local educational agency that is a consortium member of the eligible recipient providing such assistance, or, if no teaching position is offered by such local educational agency, in a shortage area school approved by the State for a period of not less than one year for each full-time academic year or equivalent for which the assistance was received;

(2) provide to the State evidence of compliance with paragraph (1); and

(3) repay that portion of the student financial assistance received under this subpart which was provided for tuition, plus interest and reasonable collection costs (if applicable), in the event that the teacher fails to comply with the conditions of paragraph (1), in accordance with the regulations prescribed by the Secretary under section 1104f of this title, except that the provisions of this paragraph shall not apply to anyone for whom no teaching position was made available by the local educational agency or State, or in the circumstances provided in section 1104g of this title.

(b) Amount of financial assistance

The amount of financial assistance awarded under this subpart shall be reduced by the amount that the financial assistance exceeds the student's cost of attendance, as defined in section 1087*ll* of this title. Financial assistance awarded under this subpart shall not be reduced on the basis of the student's receipt of other forms of Federal student financial assistance but shall be taken into account in determining the eligibility of the student for those other forms of Federal student financial assistance.

(Pub. L. 89–329, title V, § 575, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 706.)

PRIOR PROVISIONS

A prior section 1111d, Pub. L. 89–329, title V, § 555, as added Pub. L. 99–498, title V, § 501(a), Oct. 17, 1986, 100 Stat. 1508, related to the selection of Congressional teacher scholars, prior to the general revision of this subchapter by Pub. L. 102–325.

A prior section 575 of Pub. L. 89–329, title V, as added Pub. L. 98–558, title VII, § 701, Oct. 30, 1984, 98 Stat. 2899, provided for submission and evaluation of applications for talented teacher fellowship assistance and was classified to section 1119e–4 of this title, prior to the general revision of this subchapter by Pub. L. 99–498.

§ 1111e. Special consideration

In awarding grants under this subpart, the State shall give special consideration to—

(1) programs designed to identify, recruit, and certify—

(A) speakers of non-English languages who have been trained as teachers in their home country; or

(B) individuals already employed in a local educational agency; and

(2) eligible recipients located in shortage areas as defined in section 1111g of this title.

(Pub. L. 89–329, title V, § 576, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 707.)

PRIOR PROVISIONS

A prior section 1111e, Pub. L. 89–329, title V, § 556, as added Pub. L. 99–498, title V, § 501(a), Oct. 17, 1986, 100 Stat. 1509, related to conditions for Congressional teacher scholarships, prior to the general revision of this subchapter by Pub. L. 102–325.

A prior section 576 of Pub. L. 89–329, title V, as added Pub. L. 98–558, title VII, § 701, Oct. 30, 1984, 98 Stat. 2900, provided for repayment of awards to Federal Government in case of fraud or gross noncompliance and was classified to section 1119e–5 of this title, prior to the general revision of this subchapter by Pub. L. 99–498.

§ 1111f. Use of funds

Funds provided to eligible recipients pursuant to this subpart may be used for—

(1) tuition or part or all of the costs of attendance (as determined under section 1087*ll* of this title) for participants in programs assisted under this subpart;

(2) the release time of such participants;

(3) instructional and supportive services for such participants in such programs; and

(4) stipends for child care to such participants whose academic coursework takes place outside the normal workday.

(Pub. L. 89–329, title V, § 576A, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 707.)

PRIOR PROVISIONS

A prior section 1111f, Pub. L. 89–329, title V, § 557, as added Pub. L. 99–498, title V, § 501(a), Oct. 17, 1986, 100 Stat. 1509; amended Pub. L. 100–50, § 17(c), June 3, 1987, 101 Stat. 359, related to Congressional teacher scholarship repayment provisions, prior to the general revision of this subchapter by Pub. L. 102–325.

§ 1111g. Definitions

For the purpose of this subpart—

(1) the term ''certified or licensed teacher'' means an individual who possesses a document certifying that the individual has met the requirements of a State for employment as a teacher in the public schools of that State (including individuals who have been certified as specialists in preschool and early childhood education);

(2) the term ''eligible recipient'' means a consortium of—

(A) an institution of higher education, and

(B) one or more local educational agencies.

(3) the term ''paraprofessional'' means an individual with at least a high school diploma or recognized equivalent who is employed in a preschool or elementary or secondary school under the supervision of a certified or licensed teacher, including individuals employed in bilingual education, special education, and migrant education;

(4) the term ''school support'' means an individual who is employed by a local educational agency; and

(5) the term ''shortage area'' means (A) an area the Secretary has designated as an area with a shortage of elementary and secondary school teachers, or (B) a shortage in a des-

ignated subject area as described in section 1104j of this title.

(Pub. L. 89–329, title V, § 576B, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 707.)

PRIOR PROVISIONS

A prior section 1111g, Pub. L. 89–329, title V, § 558, as added Pub. L. 99–498, title V, § 501(a), Oct. 17, 1986, 100 Stat. 1509; amended Pub. L. 100–50, § 17(d), June 3, 1987, 101 Stat. 359, related to exceptions to Congressional teacher scholarship repayment provisions, prior to the general revision of this subchapter by Pub. L. 102–325.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1111e of this title.

§ 1111h. Authorization of appropriations

There are authorized to be appropriated $30,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out this subpart.

(Pub. L. 89–329, title V, § 576C, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 708.)

PRIOR PROVISIONS

A prior section 1111h, Pub. L. 89–329, title V, § 559, as added Pub. L. 99–498, title V, § 501(a), Oct. 17, 1986, 100 Stat. 1510, related to Federal administration of State programs and judicial review of Congressional teacher scholarship programs, prior to the general revision of this subchapter by Pub. L. 102–325.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1111a of this title.

SUBPART 2—PROGRAMS TO ENCOURAGE MINORITY STUDENTS TO BECOME TEACHERS

§ 1112. Statement of purpose

It is the purpose of the program conducted pursuant to section 1112a of this title to carry out activities designed to—

(1) improve recruitment and training opportunities in education for minority individuals, including language minority individuals;

(2) increase the number of minority teachers, including language minority teachers, in elementary and secondary schools; and

(3) to identify and encourage minority students in the 7th through the 12th grades to aspire to, and to prepare for, careers in elementary and secondary school teaching.

(Pub. L. 89–329, title V, § 577, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 708.)

PRIOR PROVISIONS

A prior section 1112, Pub. L. 89–329, title V, § 522, Nov. 8, 1965, 79 Stat. 1258; Pub. L. 90–35, § 5(c), June 29, 1967, 81 Stat. 91; Pub. L. 90–247, title VII, § 704(b), Jan. 2, 1968, 81 Stat. 820, authorized Commissioner to award fellowships for graduate study by teaching personnel, prior to repeal by Pub. L. 94–482, title I, § 151(a)(4)(A), Oct. 12, 1976, 90 Stat. 2152, eff. Sept. 30, 1976.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1112b of this title.

§ 1112a. Partnership grants authorized

(a) Authority

The Secretary is authorized to make grants to pay the Federal share of carrying out the purposes of this subpart to a partnership between—

(1) one or more institutions of higher education which have a demonstrated record and special expertise in carrying out the purposes of this subpart; and

(2)(A) one or more local educational agencies;

(B) a State educational agency or a State higher education agency; or

(C) community-based organizations.

(b) Federal share

The Federal share of each grant awarded under this section shall be 50 percent.

(c) Non-Federal share

The non-Federal share of each grant awarded under this section may be in cash or kind fairly evaluated, including planned equipment or services.

(d) Administrative costs

Not more than 5 percent of any grant awarded under this section may be used for administrative expenses.

(Pub. L. 89–329, title V, § 578, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 708.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1112, 1112b, 1112c, 1112e of this title.

§ 1112b. Partnership agreement

(a) In general

In order to be eligible for a grant under section 1112a of this title, a partnership shall enter into a written partnership agreement. All partners shall sign the agreement.

(b) Contents of agreement

The agreement shall include—

(1) a listing of all participants in the partnership;

(2) a description of the responsibilities of each participant in the partnership; and

(3) a listing of the resources, if any, to be contributed to the partnership.

(c) Selection criteria

In making grants under section 1112a of this title, the Secretary shall approve applications which contain provision for projects designed to carry out the purposes described in section 1112 of this title and which—

(1) identify students who indicate an interest in entering the teaching profession, and provide such individuals with support programs such as—

(A) scholarship funds to meet expenses;

(B) remedial and tutoring programs;

(C) counseling and support services;

(D) academic advice and guidance in course selection to prepare for teacher certification;

(E) information and advice regarding eligibility for membership in the Teacher Corps

established under subpart 3 of part C of this subchapter, and other financial assistance programs;

(F) teaching mentors;

(G) motivational activities;

(H) teaching skill development;

(I) future teacher clubs; and

(J) instruction in test-taking skills.

(2) establish or strengthen teacher training programs;

(3) establish or enhance early identification/articulation partnership programs with secondary schools and community colleges;

(4) establish partnerships with graduate schools of education to foster and facilitate the movement of minority students into post-graduate studies;

(5) establish programs and activities which foster and facilitate the movement of students interested in pursuing teaching careers from 2-year institutions to 4-year institutions, focusing particular attention on facilitating the transfer of academic credit; and

(6) improve existing assessment practices that determine an individual's qualifications to become a teacher.

(Pub. L. 89–329, title V, § 579, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 708.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1112c of this title.

§ 1112c. Application for teacher partnerships program

(a) Application required

A partnership desiring to receive a grant under section 1112a of this title shall submit an application to the Secretary.

(b) Contents of application

The application shall include—

(1) the written and signed partnership agreement required by section 1112b of this title;

(2) set forth the individuals to be served;

(3) a listing of the elementary, if applicable, and secondary schools of the local educational agency to be involved in the program assisted under this subpart;

(4) a description of the services and activities to be offered under the program assisted under this subpart; and

(5) such additional information and assurances as the Secretary may reasonably require.

(c) State educational agency review

Each application from a partnership for a grant under section 1112a of this title shall be forwarded to the appropriate State educational agency (unless the State educational agency is a member of the partnership) for review and comment if the State educational agency requests the opportunity for such a review. The State educational agency must complete a review of such application and comment to the Secretary within 30 calendar days of receipt. Failure of the State educational agency to submit comments to the Secretary shall not prejudice such application.

(Pub. L. 89–329, title V, § 580, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 709.)

§ 1112d. Teacher placement program

(a) Grants authorized

(1) In general

The Secretary is authorized to make grants to institutions of higher education that have schools or departments of education to pay the Federal share of developing and carrying out programs and activities designed to—

(A) prepare and train students to become elementary and secondary school teachers; and

(B) to the extent practicable, place the students as teachers in urban and rural public or private nonprofit elementary or secondary schools where at least 50 percent of students enrolled are from minority groups.

(2) Federal share

The Federal share of each grant awarded under this section shall be 50 percent.

(3) Non-Federal share

The non-Federal share of each grant awarded under this section may be in cash or in kind fairly evaluated, including planned equipment or services.

(b) Use of funds

Grants under this section may be used for the costs of developing and carrying out the program of teacher preparation, training, and placement described in subsection (a) of this section.

(c) Applications

No grant may be made under this section unless an application to the Secretary is made by the institution of higher education at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

(d) Special consideration

The Secretary is authorized, in making grants under this section, to give special consideration to historically Black colleges and universities and to institutions which—

(1) are eligible to receive funds under part C of subchapter X of this chapter; and

(2) have enrollments of at least 50 percent minority students in their teacher education programs.

(e) Performance incentive

In any fiscal year beginning after September 30, 1993, the Secretary may, based upon evaluation and monitoring of programs assisted under this section, increase the Federal share for a recipient of funds under this section for the succeeding fiscal year to 75 percent, if the Secretary determines that there is demonstrated success in the operation of the program assisted by such recipient.

(f) Administrative costs

Not more than 5 percent of any grant awarded under this section may be used for administrative expenses.

(Pub. L. 89–329, title V, § 580A, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 710.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1112e of this title.

§ 1112e. Authorization of appropriations

There are authorized to be appropriated $15,000,000 for fiscal year 1993, and such sums as may be necessary for each of the 4 succeeding fiscal years, of which not more than 2/3 shall be available to carry out programs under section 1112a of this title and not less than 1/3 shall be available to carry out programs under section 1112d of this title.

(Pub. L. 89–329, title V, § 580B, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 710; amended Pub. L. 103–208, § 2(j)(7), Dec. 20, 1993, 107 Stat. 2481.)

AMENDMENTS

1993—Pub. L. 103–208 struck out subsec. (a) designation and heading.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1003 of this title.

PART F—PROGRAMS FOR SPECIAL POPULATIONS

SUBPART 1—NATIONAL MINI CORPS PROGRAM

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in section 7474 of this title.

§ 1113. National Mini Corps

(a) Program authorized

The Secretary is authorized to make grants to institutions of higher education to enable such institutions to establish partnerships with local educational agencies to carry out the purposes of the National Mini Corps Program.

(b) Definitions

As used in this subpart—

(1) the term ''children'' means children who are eligible to receive services under part A or C of title I of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6311 et seq.; 20 U.S.C. 6391 et seq.]; and

(2) the term ''individual'' (A) has the same meaning as the terms ''first generation college student'' and ''low income individual'' as defined under section 1070a–11(g) of this title, or (B) means a student enrolled in an institution of higher education who is the child of current or former migratory workers (including migratory agricultural dairy workers) or of migratory fishermen.

(c) Purpose of program

It is the purpose of the National Mini Corps Program to—

(1) provide individuals who are enrolled or plan to enroll in an institution of higher education with advisement, training, and instructional services, and to encourage individuals to be role models for children;

(2) provide outreach and recruitment services to encourage individuals to enroll in teacher education programs;

(3) provide support and instructional services to individuals who are enrolled in an institution of higher education to enable such individuals to provide direct instructional services, which are coordinated with the overall educational goals of the State or local educational agency, to children eligible to receive services under title I of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6301 et seq.] during the regular school year or summer term. Such support and services may include—

(A) lessons and provision of materials that meet the academic needs of children in the classroom;

(B) supplemental instruction to reinforce the basic skills and concepts provided through instruction by the teacher;

(C) instruction in other subject areas;

(D) academic assistance, home visits, parental involvement, parent-student advisement services, and family advocacy; and

(E) stipends for individuals who participate in the program assisted under this subpart for at least 10 but not more than 15 hours per week;

(4) designate college coordinators at participating institutions of higher education to train, supervise, and assign individuals to carry out the activities of this subpart in cooperation with State and local educational agencies in which children with special needs have been identified; and

(5) support other appropriate activities related to encouraging individuals to enter the teaching profession and to provide a link to the community.

(d) Application required

Institutions of higher education desiring to receive a grant under this subpart shall submit an application to the Secretary which shall include—

(1) a written partnership agreement with the State and local educational agency in which the children have been identified for participation in the activities under this subpart;

(2) a description of the strategies that will be employed to engage the community generally in the activities and programs supported by the programs under this subpart;

(3) a description of the process by which individuals will be recruited and selected to participate in the programs assisted under this subpart;

(4) a description of the programs and activities which will be supported by the programs under this subpart; and

(5) such other information as the Secretary considers necessary to determine the nature of the local needs, the quality of the proposed Mini Corps Program, and the capability of the applicant to implement the proposed Mini Corps Program.

(e) Awarding of grants

In awarding grants under this subpart, the Secretary shall ensure, to the extent practicable, that—

(1) grants are equitably distributed on a geographic basis throughout the Nation and among a variety of communities;

(2) the amount of the grant awarded is proportionate to the number of individuals and children who, on the basis of the grant application, are expected to be involved in the programs and activities supported by the National Mini Corps; and

(3) not less than 30 percent of the grants awarded under this subpart are awarded for programs serving migrant students and children.

(f) Uses of funds

Funds provided under this part may be used for planning, implementing and operating a National Mini Corps Program, except that not more than 5 percent of any grant received under this subpart may be used for administrative costs.

(g) Evaluation

The Secretary shall, by January 1, 1996, evaluate the demonstration program assisted under this part and report the results of such evaluation to the appropriate committees of the Congress.

(h) Authorization of appropriations

There are authorized to be appropriated to carry out this subpart $10,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(Pub. L. 89–329, title V, § 581, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 711; amended Pub. L. 103–208, § 2(j)(8), Dec. 20, 1993, 107 Stat. 2481; Pub. L. 103–382, title III, § 391(e)(6), (7), Oct. 20, 1994, 108 Stat. 4022, 4023.)

REFERENCES IN TEXT

The Elementary and Secondary Education Act of 1965, referred to in subsecs. (b)(1) and (c)(3), is Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, as amended generally by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519. Parts A and C of title I of the Act are classified generally to parts A (§ 6311 et seq.) and C (§ 6391 et seq.), respectively, of subchapter I of chapter 70 of this title. Title I of the Act is classified generally to subchapter I (§ 6301 et seq.) of chapter 70 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

PRIOR PROVISIONS

A prior section 1113, Pub. L. 89–329, title V, § 561, as added Pub. L. 99–498, title V, § 501(a), Oct. 17, 1986, 100 Stat. 1510, related to purpose of Christa McAuliffe fellowship program and to designation of fellowships under such program, prior to the general revision of this subchapter by Pub. L. 102–325.

Another prior section 1113, Pub. L. 89–329, title V, § 523, Nov. 8, 1965, 79 Stat. 1259; Pub. L. 90–35, § 5(d), June 29, 1967, 81 Stat. 91; Pub. L. 90–575, title II, § 236, Oct. 16, 1968, 82 Stat. 1040, required allocation of fellowships to institutions with approved programs and set forth criteria for approval of programs, prior to repeal by Pub. L. 94–482, title I, § 151(a)(4)(A), Oct. 12, 1976, 90 Stat. 2152, eff. Sept. 30, 1976.

Sections 1113a to 1113e were omitted in the general revision of this subchapter by Pub. L. 102–325. See section 1105 et seq. of this title.

Section 1113a, Pub. L. 89–329, title V, § 562, as added Pub. L. 99–498, title V, § 501(a), Oct. 17, 1986, 100 Stat. 1511, related to use of funds for Christa McAuliffe fellowship program.

Section 1113b, Pub. L. 89–329, title V, § 563, as added Pub. L. 99–498, title V, § 501(a), Oct. 17, 1986, 100 Stat. 1511, related to award, distribution, and use of Christa McAuliffe fellowships.

Section 1113c, Pub. L. 89–329, title V, § 564, as added Pub. L. 99–498, title V, § 501(a), Oct. 17, 1986, 100 Stat. 1511, related to selection of Christa McAuliffe teacher fellowships.

Section 1113d, Pub. L. 89–329, title V, § 565, as added Pub. L. 99–498, title V, § 501(a), Oct. 17, 1986, 100 Stat. 1511, related to evaluation of applications for Christa McAuliffe fellowships.

Section 1113e, Pub. L. 89–329, title V, § 566, as added Pub. L. 99–498, title V, § 501(a), Oct. 17, 1986, 100 Stat. 1512, related to repayment of Christa McAuliffe fellowships.

AMENDMENTS

1994—Subsec. (b)(1). Pub. L. 103–382, § 391(e)(6), substituted ''part A or C'' for ''part A or subpart 1 of part D of chapter 1''.

Subsec. (c)(3). Pub. L. 103–382, § 391(e)(7), substituted ''under title I'' for ''under chapter 1 of title I''.

1993—Subsec. (b)(2). Pub. L. 103–208 substituted ''section 1070a–11(g)'' for ''section 1070a–11(g)(2)''.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1003 of this title.

SUBPART 2—FOREIGN LANGUAGE INSTRUCTION

§ 1114. Demonstration grants for critical language and area studies

(a) Program authority

The Secretary is authorized to make demonstration grants to eligible consortia to enable such eligible consortia to—

(1) operate critical language and area studies programs;

(2) develop and acquire educational equipment and materials; and

(3) develop teacher training programs, texts, curriculum, and other activities designed to improve and expand the instruction of foreign languages at elementary and secondary schools across the Nation.

(b) Grant limitation

The Secretary shall not award a grant which exceeds $2,000,000 to an eligible consortium under this section in any fiscal year, but shall award grants of sufficient size, scope and quality for a program of comprehensive instruction of foreign languages.

(c) Special rules

(1) Priority

In awarding grants under this section, the Secretary shall give priority to eligible consortia with demonstrated, proven effectiveness in the field of critical language and area studies and which have been in existence for at least 1 year prior to applying for a grant under this section.

(2) Equitable distribution

In awarding grants under this section, the Secretary shall take into consideration providing an equitable geographic distribution of such grants among the regions of the United States.

(3) Program requirement

Each eligible consortium receiving a grant under this section shall include in the activities assisted pursuant to such grant, a study abroad or cultural exchange program.

(d) Eligible consortium

(1) In general

For the purposes of this section, the term ''eligible consortium'' means a cooperative effort between entities in one or more States that must include at least 4 schools, of which—

(A) one shall be an institution of higher education;

(B) one shall be a secondary school with experience in teaching critical languages;

(C) one shall be a secondary school with experience in teaching critical languages and in which at least 25 percent of the students are eligible to be counted under title I of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6301 et seq.]; and

(D) one shall be a secondary school in which at least 25 percent of the students are eligible to be counted under title I of the Elementary and Secondary Education Act of 1965.

(2) Nonprofit organizations

Each eligible consortium described in paragraph (1) may include a nonprofit organization to provide services not otherwise available from the entities described in paragraph (1).

(e) Administration

Each eligible consortium receiving a grant under this section may use not more than 10 percent of such grant for administrative expenses.

(f) Application

(1) In general

Except as provided in paragraph (2), each eligible consortium desiring a grant under this section shall submit an application to the Secretary at such time, in such manner and accompanied by such information as the Secretary may reasonably require.

(2) Special rule

The State educational agency or State higher education agency responsible for the supervision of any one school participating in an eligible consortium may submit the application described in paragraph (1) on behalf of such eligible consortium.

(g) "Critical language" defined

For purposes of this section, the term ''critical language'' means each of the languages contained in the list of critical foreign languages designated by the Secretary pursuant to section 212(d) of the Education for Economic Security Act (50 Fed. Reg. 149, 31413).

(h) Authorization of appropriations

There are authorized to be appropriated $15,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out the provisions of this section.

(Pub. L. 89–329, title V, §586, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 712; amended Pub. L. 103–382, title III, §391(e)(8), (9), Oct. 20, 1994, 108 Stat. 4023.)

REFERENCES IN TEXT

The Elementary and Secondary Education Act of 1965, referred to in subsec. (d)(1)(C), (D), is Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, as amended generally by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519. Title I of the Act is classified generally to subchapter I (§6301 et seq.) of chapter 70 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

Section 212(d) of the Education for Economic Security Act, referred to in subsec. (g), is section 212(d) of Pub. L. 98–377, title II, Aug. 11, 1984, 98 Stat. 1281, as amended, which was classified to section 3972(d) of this title and was repealed by Pub. L. 100–297, title II, §2303, Apr. 28, 1988, 102 Stat. 324.

PRIOR PROVISIONS

A prior section 1114, Pub. L. 89–329, title V, §524, Nov. 8, 1965, 79 Stat. 1259; Pub. L. 90–35, §5(e), June 29, 1967, 81 Stat. 91; Pub. L. 90–575, title II, §237, Oct. 16, 1968, 82 Stat. 1040, set forth prerequisites for approval of graduate programs to develop and strengthen training of educational personnel, prior to repeal by Pub. L. 94–482, title I, §151(a)(4)(A), Oct. 12, 1976, 90 Stat. 2152, eff. Sept. 30, 1976.

AMENDMENTS

1994—Subsec. (d)(1)(C), (D). Pub. L. 103–382 substituted ''title I of'' for ''chapter I of title I of''.

§ 1114a. Development of foreign language and culture instructional materials

(a) Grants authorized

The Secretary is authorized to provide one or more grants on a competitive basis to a State or local educational agency, an institution of higher education, a private nonprofit foreign language organization, a nonprofit education association, or a consortium thereof, to enable such entity to act as a resource center for—

(1) coordinating the development of and disseminating foreign language and culture instructional material, including children's literature in foreign languages, videotapes and computer software, and teacher's instructional kits relating to international study; and

(2) encouraging the expanded use of technology in teaching foreign languages and culture at the elementary school level and, when the needs of elementary schools have been met, at the secondary school level, with a particular emphasis on expanding the use of technology in teaching foreign languages and culture at elementary and secondary schools that have proportionally fewer resources available for teaching foreign languages and cultures, including schools in urban and rural areas.

(b) Coordination

In developing materials and technologies under this section, the Secretary shall, where appropriate, make use of materials and technologies developed under the Star Schools Program Assistance Act.

(c) Authorization of appropriations

There are authorized to be appropriated $4,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out the provisions of this section.

(Pub. L. 89–329, title V, § 587, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 714.)

REFERENCES IN TEXT

The Star Schools Program Assistance Act, referred to in subsec. (b), is title IX of Pub. L. 98–377, as added by Pub. L. 100–297, title II, § 2302, Apr. 28, 1988, 102 Stat. 320, which was classified generally to subchapter IX (§ 4081 et seq.) of chapter 52 of this title, prior to repeal by Pub. L. 103–382, title III, § 364, Oct. 20, 1994, 108 Stat. 3975. For complete classification of this Act to the Code, see Tables. For provisions relating to the Star Schools Program, see section 6891 et seq. of this title.

SUBPART 3—SMALL STATE TEACHING INITIATIVE

§ 1115. Model programs and educational excellence

(a) Purpose

It is the purpose of this section to provide sufficient funds to small States to enable such States to develop model programs for educational excellence, teacher training and educational reform.

(b) Program authorized

(1) Authority

The Secretary is authorized to make grants to small States in order to enable such States to make grants to eligible institutions for the purpose of enhancing and improving the quality of teacher education, training, and recruitment in the Nation's smallest States.

(2) Equitable distribution

The Secretary shall award grants described in paragraph (1) in equal amounts among small States having applications approved under subsection (e) of this section.

(c) Institutional use of funds

Eligible institutions receiving funds under this section may use such funds for the development of innovative teaching techniques and materials, preservice and inservice training programs, renovation of training facilities and construction of model classrooms.

(d) Definitions

(1) Small State

For the purposes of this section the term ''small State'' means a State the total population of which is less than 1,108,500 as reported in the 1990 Census of Population and Housing.

(2) Eligible institution

For the purposes of this section, the term ''eligible institution'' means any institution of higher education (as such term is defined in section 1141(a) of this title) that is located in a small State and that provides a course of study which prepares an individual to become a classroom teacher.

(e) Application

Any eligible institution which desires to receive a grant under this section shall submit to the State an application which—

(1) if the State educational agency is not administering the program assisted under this subpart, certifies that the State educational agency has participated in the development of the application;

(2) provides for a process of active discussion and consultation with an advisory committee convened by the State educational agency and the eligible institution; and

(3) describes how the institution will use the funding.

(f) Authorization of appropriations

For the purposes of this part there are authorized to be appropriated $5,000,000 for fiscal year 1993 and such sums as may be necessary in each of the 4 succeeding fiscal years.

(Pub. L. 89–329, title V, § 591, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 714.)

PRIOR PROVISIONS

A prior section 1115, Pub. L. 89–329, title V, § 571, as added Pub. L. 99–498, title V, § 501(a), Oct. 17, 1986, 100 Stat. 1512, related to State task forces on teacher training, prior to the general revision of this subchapter by Pub. L. 102–325.

Another prior section 1115, Pub. L. 89–329, title V, § 525, Nov. 8, 1965, 79 Stat. 1260; Pub. L. 90–35, § 5(f), June 29, 1967, 81 Stat. 91; Pub. L. 90–575, title II, § 238, Oct. 16, 1968, 82 Stat. 1040; Pub. L. 92–318, title I, § 141(c)(3), June 23, 1972, 86 Stat. 285, authorized Commissioner to pay stipends to individuals awarded fellowships and additional amounts to institutions of higher education for support of programs, prior to repeal by Pub. L. 94–482, title I, § 151(a)(4)(A), Oct. 12, 1976, 90 Stat. 2152, eff. Sept. 30, 1976.

SUBPART 4—FACULTY DEVELOPMENT GRANTS

§ 1116. Training grants

(a) Grants authorized

The Secretary is authorized to award grants to institutions of higher education to enable such institutions to—

(1) develop model programs that provide training to secondary school faculty to prepare students with disabilities for postsecondary educational opportunities; and

(2) establish programs of faculty development for faculty who teach in an institution of higher education to prepare such faculty for the enrollment of students with disabilities at such institution.

(b) Use of grants

The grants described in subsection (a) of this section may be used to—

(1) provide scholarships, including stipends and allowances, to faculty described in paragraph (1) or (2) of subsection (a) of this section;

(2) develop materials and inservice programs to assist such faculty in making the curriculum at an institution of higher education accessible to students with disabilities; and

(3) provide funds to support the release of such faculty from teaching assignments for the purpose of educating such faculty regarding the needs of students with disabilities.

(c) Special rules

The Secretary shall ensure that grants awarded under subsection (a)(1) of this section are used for programs that are in compliance with State and professionally recognized standards for the training of special education personnel.

(d) Application

Each institution of higher education desiring a grant under this section shall submit an application to the Secretary at such time, in such manner and accompanied by such information as the Secretary may reasonably require.

(e) Authorization of appropriations

There are authorized to be appropriated to carry out this subpart $5,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(Pub. L. 89–329, title V, § 593, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 715.)

PRIOR PROVISIONS

A prior section 1116, Pub. L. 89–329, title V, § 526, Nov. 8, 1965, 79 Stat. 1260; Pub. L. 92–318, title I, § 131(d)(2)(C), June 23, 1972, 86 Stat. 260, prohibited award of fellowships for study at divinity school or department, prior to repeal by Pub. L. 94–482, title I, § 151(a)(4)(A), Oct. 12, 1976, 90 Stat. 2152, eff. Sept. 30, 1976.

SUBPART 5—EARLY CHILDHOOD EDUCATION TRAINING

§ 1117. Training in early childhood education and violence counseling

(a) Program authorized

The Secretary shall award grants to institutions of higher education to enable such institutions to establish innovative programs to recruit and train students for careers in—

(1) early childhood development and care, or preschool programs; or

(2) providing counseling to young children from birth to 6 years of age who have been affected by violence and to adults who work with such young children.

(b) Application

An institution of higher education desiring a grant pursuant to subsection (a) of this section shall submit an application to the Secretary at such time, in such form and containing or accompanied by such information or assurances as the Secretary may require. Each such application shall—

(1) describe the activities and services for which assistance is sought;

(2) contain a plan in accordance with subsection (c) of this section;

(3) demonstrate that such institution has the capacity to implement such plan; and

(4) provide assurances that such plan was developed in consultation with agencies and organizations that will assist the institution in carrying out such plan.

(c) Plan

Each application described in subsection (a) of this section shall contain a comprehensive plan for the recruitment, retention and training of students seeking careers in early childhood development or violence counseling. Such plan shall include a description of—

(1) specific strategies for reaching students at secondary schools, community colleges, undergraduate institutions, or other agencies and institutions from which such students are to be drawn for participation in the program, including any partnerships with such institutions;

(2) specific strategies for retaining such students in the program, such as summer sessions, internships, mentoring, and other activities;

(3) methods that will be used to ensure that students trained pursuant to the plan will find employment in early childhood education, development and care, or violence counseling;

(4) the goals, objectives, and timelines to be used in assessing the success of the plan and of the activities assisted under this section;

(5) the curriculum and training leading to the degree or credential that prepares students for the careers described in the plan;

(6) the special plans, if any, to assure that students trained pursuant to the plan will be prepared for serving in economically disadvantaged areas; and

(7) sources of financial aid, to ensure that the training program offered pursuant to this section is available to all qualified students.

(d) Selection and priorities

In evaluating the applications submitted under this section, the Secretary shall prescribe criteria regarding such evaluation and shall give priority in granting funds to institutions that—

(1) prepare students for work in economically disadvantaged areas;

(2) plan to focus their recruitment, retention, and training efforts on disadvantaged students; and

(3) have demonstrated effectiveness in providing the type of training for which the institution seeks assistance under this section.

(e) Duration and amount

(1) Duration

A grant under this section shall be awarded for a period of not less than 3 years nor more than 5 years.

(2) Amount

The total amount of the grant awarded under this section to any institution of higher education for any 1 year shall not be less than $500,000 nor more than $1,000,000.

(Pub. L. 89–329, title V, § 596, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 716.)

PRIOR PROVISIONS

A prior section 1117, Pub. L. 89–329, title V, § 527, Nov. 8, 1965, 79 Stat. 1260, set forth conditions imposed upon fellowship recipient, prior to repeal by Pub. L. 94–482, title I, § 151(a)(4)(A), Oct. 12, 1976, 90 Stat. 2152, eff. Sept. 30, 1976.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1117c of this title.

§ 1117a. Early childhood staff training and professional enhancement

(a) Program authorized

(1) In general

The Secretary shall award grants, on a competitive basis, to States in accordance with the provisions of this section.

(2) Duration

Grants under this section shall be awarded for a period of 5 years.

(b) Application

A State desiring a grant pursuant to this section shall submit an application to the Secretary at such time, in such form and containing or accompanied by such information or assurances as the Secretary may require.

(c) Lead agency

(1) Designation of lead agency

The chief executive officer of a State, in consultation with the State educational agency, desiring to receive a grant shall designate an appropriate State agency to act as the lead agency to—

(A) administer funds received under this section;

(B) develop a State plan pursuant to subsection (e) of this section; and

(C) coordinate the provision of services with other appropriate Federal, State, and local programs.

(2) Advisory committee

The lead agency shall establish an advisory committee, described in subsection (d) of this section, to assist in developing the plan required under subsection (e) of this section.

(d) Advisory committee

Each advisory committee established pursuant to subsection (c)(2) of this section shall consist of a representative of the following agencies, institutions, organizations, divisions, programs or departments in the State to the extent such entities exist within such State:

(1) The lead State agency responsible for administering funds received under the Child Care and Development Block Grant Act [42 U.S.C. 9858 et seq.].

(2) Other State agencies administering or regulating childcare, early childhood development or education programs.

(3) Institutions of higher education.

(4) Organizations representing early childhood development staff and parents.

(5) A local child care resource and referral agency or an organization representing local child care resource and referral.

(6) A State Head Start association.

(7) An organization with significant experience in training in the fields of early childhood development, early care and early education.

(8) State agencies or departments administering or regulating employment, job training, and community development programs.

(e) State plan

(1) In general

Each State desiring a grant under this section shall submit, through the lead agency, a plan to the Secretary at such time, in such manner and accompanied by such information as the Secretary may reasonably require. The Secretary shall consult with the Secretary of Health and Human Services regarding the contents of such plan.

(2) Contents

Each plan submitted pursuant to subsection (a) of this section shall—

(A) identify the lead agency as described in subsection (c) of this section;

(B) assess the training offerings and content of such offerings, amount of training required for an early childhood development staff license or certificate, compensation, recruitment and turnover of staff, and any coordination of training offerings and professional growth of early childhood development staff in the State;

(C) describe the goals of the activities assisted under this part; and

(D) describe how the State shall—

(i) identify and maintain a career development path, based on a progression of roles for early childhood development staff, with each role articulated with training and different levels of responsibility and suggested compensation, in such manner as will permit an individual to qualify for a more responsible role;

(ii) ensure that trainers of early childhood development staff in the State are qualified, licensed or certified in accordance with State law;

(iii) describe the ways in which the State will encourage the coordination of training programs among institutions of higher education, including, if practicable, transfer of credits among institutions;

(iv) set forth the ways in which the State will pay the costs of any assessment, credentialing, certification, licensing, training offering, training inventory, increase in staff participation in training, or other services assisted by a grant under this section;

(v) describe the ways in which the State plans to coordinate the various State and local agencies and organizations to maximize coordination of standards and requirements for certifications, licenses, and accreditations;

(vi) describe the ways in which the State will compile and disseminate information on—

(I) training offerings;

(II) requirements for admission into courses and programs;

(III) requirements for a license, certificate, credential, or degree to which such offerings may be applied;

(IV) funding sources available for such activities; and

(V) the cost of training offerings; and

(vii) describe the ways in which the State will use the funds received under this section and any other funds available to the State to carry out the activities described in the State plan.

(Pub. L. 89–329, title V, § 597, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 717; amended Pub. L. 103–208, § 2(j)(9), Dec. 20, 1993, 107 Stat. 2481.)

REFERENCES IN TEXT

The Child Care and Development Block Grant Act, referred to in subsec. (d)(1), probably means the Child Care and Development Block Grant Act of 1990, which is subchapter C (§ 658A et seq.) of chapter 8 of subtitle A of title VI of Pub. L. 97–35, as added by Pub. L.

101–508, title V, § 5082(2), Nov. 5, 1990, 104 Stat. 1388–236, as amended, and which is classified generally to subchapter II–B (§ 9858 et seq.) of chapter 105 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 9801 of Title 42 and Tables.

AMENDMENTS

1993—Subsec. (d)(1). Pub. L. 103–208 substituted ''Child Care and Development Block Grant Act'' for ''Child Care Development and Block Grant Act''.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1003 of this title.

TERMINATION OF ADVISORY COMMITTEES

Advisory committees established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by Congress, its duration is otherwise provided for by law. See section 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1117c of this title.

§ 1117b. Report

Each institution of higher education or State receiving a grant under this subpart shall submit to the Secretary program reports and evaluations at such times and containing such information as the Secretary may require.

(Pub. L. 89–329, title V, § 598, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 719.)

§ 1117c. Authorization of appropriations

(a) Training in early childhood education and violence counseling

To carry out activities described in section 1117 of this title, there are authorized to be appropriated $20,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(b) Early childhood staff training and professional enhancement

To carry out activities described in section 1117a of this title, there are authorized to be appropriated $10,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(Pub. L. 89–329, title V, § 599, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 719.)

PRIOR PROVISIONS

A prior section 1118, Pub. L. 89–329, title V, § 528, Nov. 8, 1965, 79 Stat. 1260; Pub. L. 90–35, § 5(g), June 29, 1967, 81 Stat. 91; Pub. L. 90–247, title VII, § 704(c)(1), Jan. 2, 1968, 81 Stat. 820; Pub. L. 90–575, title II, § 231(a), (b)(2), Oct. 16, 1968, 82 Stat. 1039; Pub. L. 92–318, title I, § 141(a)(1)(B), June 23, 1972, 86 Stat. 284, authorized appropriations for fiscal years 1966 to 1974 to enable persons who were awarded fellowships prior to July 1, 1972, to complete their study under fellowships, prior to repeal by Pub. L. 92–318, title I, § 141(c)(1)(E), June 23, 1972, 86 Stat. 285, eff. on and after July 1, 1972.

Prior sections 1119 to 1119e–5 provided for teacher training programs, training for elementary and secondary school teachers to teach handicapped children in areas with a shortage, coordination of education professional development, Carl D. Perkins Scholarship program, and National Talented Teacher Fellowship program, prior to the general amendment and revision of this subchapter by Pub. L. 99–498.

Section 1119 Pub. L. 89–329, title V, § 531, as added Pub. L. 94–482, title I, § 153, formerly § 153(a), Oct. 12, 1976, 90 Stat. 2154, renumbered Pub. L. 95–43, § 1(b)(5), June 15, 1977, 91 Stat. 218; amended Pub. L. 95–561, title XIII, § 1321(a), Nov. 1, 1978, 92 Stat. 2362; Pub. L. 96–49, § 6(b), Aug. 13, 1979, 93 Stat. 353; Pub. L. 96–374, title V, §§ 501(b), 503(a), Oct. 3, 1980, 94 Stat. 1459, authorized appropriations for fiscal years 1981 to 1985 to carry out teacher training programs.

Another prior section 1119, Pub. L. 89–329, title V, § 531, as added Pub. L. 90–35, § 6, June 29, 1967, 81 Stat. 91; amended Pub. L. 90–247, title VII, § 704(d), Jan. 2, 1968, 81 Stat. 820; Pub. L. 92–318, title I, §§ 147(a), 148(a), June 23, 1972, 86 Stat. 287, authorized training and retraining programs for education personnel other than higher education personnel, prior to repeal by Pub. L. 94–482, title I, § 151(a)(4)(A), Oct. 12, 1976, 90 Stat. 2152, effective Sept. 30, 1976.

Section 1119a, Pub. L. 89–329, title V, § 532, as added Pub. L. 94–482, title I, § 153, formerly § 153(a), Oct. 12, 1976, 90 Stat. 2154, renumbered Pub. L. 95–43, § 1(b)(5), June 15, 1977, 91 Stat. 218; amended Pub. L. 95–561, title XIII, § 1321(b), Nov. 1, 1978, 92 Stat. 2363; Pub. L. 96–374, title V, § 503(b), (c), title XIII, § 1391(a)(1), (2), Oct. 3, 1980, 94 Stat. 1459, 1460, 1503, related to grants, functions, etc., of teacher centers, prior to repeal by Pub. L. 97–35, title V, § 587(a)(2), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Another prior section 1119a, Pub. L. 89–329, title V, § 532, as added Pub. L. 92–318, title IV, § 451(b), June 23, 1972, 86 Stat. 344, authorized teachers for Indian children as part of the training and retraining program, prior to repeal by Pub. L. 94–482, title I, § 151(a)(4)(A), Oct. 12, 1976, 90 Stat. 2152, effective Sept. 30, 1976.

Another prior section 1119a, Pub. L. 89–329, title V, § 532, as added Pub. L. 90–35, § 6, June 29, 1967, 81 Stat. 92; amended Pub. L. 90–575, title II, § 231(a), Oct. 16, 1968, 82 Stat. 1039; Pub. L. 92–318, title I, § 141(a)(1)(B), June 23, 1972, 86 Stat. 284, authorized appropriations for fiscal years 1969 to 1972, prior to repeal by section 141(c)(1)(F) of Pub. L. 92–318, effective on and after July 1, 1972.

Section 1119a–1, Pub. L. 89–329, title V, § 533, as added Pub. L. 94–482, title I, § 153, Oct. 12, 1976, 90 Stat. 2155; amended Pub. L. 95–43, § 1(a)(42), (b)(5), June 15, 1977, 91 Stat. 217, 218; Pub. L. 96–374, title V, § 504, Oct. 3, 1980, 94 Stat. 1460; Pub. L. 97–300, title I, § 183, Oct. 13, 1982, 96 Stat. 1357, related to grants for training higher education personnel.

Another prior section 1119a–1, Pub. L. 89–329, title V, § 533, as added Pub. L. 90–575, title II, § 239, Oct. 16, 1968, 82 Stat. 1040, required an equitable distribution with respect to geography for training programs, prior to repeal by Pub. L. 94–482, title I, § 151(a)(4)(A), Oct. 12, 1976, 90 Stat. 2152, effective Sept. 30, 1976.

Section 1119b, Pub. L. 89–329, title V, § 541, as added Pub. L. 96–374, title V, § 505(a), Oct. 3, 1980, 94 Stat. 1461, authorized grants to State educational agencies to train teachers for handicapped children.

Another prior section 1119b, Pub. L. 89–329, title V, § 541, as added Pub. L. 90–35, § 6, June 29, 1967, 81 Stat. 93, authorized grants or contracts with institutions of higher education for training programs and projects for higher education personnel, prior to repeal by Pub. L. 94–482, title I, § 151(a)(4)(A), Oct. 12, 1976, 90 Stat. 2152.

Section 1119b–1, Pub. L. 89–329, title V, § 542, as added Pub. L. 96–374, title V, § 505(a), Oct. 3, 1980, 94 Stat. 1462, related to applications for grants for training teachers for handicapped children.

Another prior section 1119b–1, Pub. L. 89–329, title V, § 542, as added Pub. L. 90–35, § 6, June 29, 1967, 81 Stat. 93, authorized the payment of stipends to persons participating in authorized training programs, prior to repeal by Pub. L. 94–482, title I, § 151(a)(4)(A), Oct. 12, 1976, 90 Stat. 2152.

Section 1119b–2, Pub. L. 89–329, title V, § 543, as added Pub. L. 96–374, title V, § 505(a), Oct. 3, 1980, 94 Stat. 1462, provided for stipends and allowances for participants in program of training teachers for handicapped children.

Another prior section 1119b–2, Pub. L. 89–329, title V, § 543, as added Pub. L. 90–35, § 6, June 29, 1967, 81 Stat. 93; amended Pub. L. 90–575, title II, § 231(a), Oct. 16, 1968, 82 Stat. 1039; Pub. L. 92–318, title I, § 141(a)(1)(B), June 23, 1972, 86 Stat. 284, authorized appropriations for fiscal years 1969 to 1972, prior to repeal by Pub. L. 92–318, title I, § 141(c)(1)(G), June 23, 1972, 86 Stat. 285.

Section 1119b–3, Pub. L. 89–329, title V, § 544, as added Pub. L. 96–374, title V, § 505(a), Oct. 3, 1980, 94 Stat. 1463, set out conditions for maintaining fellowships in training teachers for handicapped children.

Section 1119b–4, Pub. L. 89–329, title V, § 545, as added Pub. L. 96–374, title V, § 505(a), Oct. 3, 1980, 94 Stat. 1463, defined ''special education''.

Section 1119b–5, Pub. L. 89–329, title V, § 546, as added Pub. L. 96–374, title V, § 505(a), Oct. 3, 1980, 94 Stat. 1463, authorized appropriations for fiscal years 1981 to 1985 to carry out grant program for training teachers for handicapped children.

Section 1119c, Pub. L. 89–329, title V, § 551, as added Pub. L. 96–374, title V, § 506, Oct. 3, 1980, 94 Stat. 1463, stated Congressional findings concerning Federal programs to train education professionals.

Another prior section 1119c, Pub. L. 89–329, title V, § 551, as added Pub. L. 90–576, title II, § 201, Oct. 16, 1968, 82 Stat. 1091, set forth Congressional declaration of purpose, prior to repeal by Pub. L. 94–482, title I, § 151(a)(4)(C), title II, § 204(c)(1), Oct. 12, 1976, 90 Stat. 2152, 2215.

Section 1119c–1, Pub. L. 89–329, title V, § 552, as added Pub. L. 96–374, title V, § 506, Oct. 3, 1980, 94 Stat. 1464, stated Congressional declaration of policy concerning Federal programs to support education professional development.

Another prior section 1119c–1, Pub. L. 89–329, title V, § 552, as added Pub. L. 90–576, title II, § 201, Oct. 16, 1968, 82 Stat. 1092, related to leadership development awards, prior to repeal by Pub. L. 94–482, title I, § 151(a)(4)(C), title II, § 204(c)(1), Oct. 12, 1976, 90 Stat. 2152, 2215.

Section 1119c–2, Pub. L. 89–329, title V, § 553, as added Pub. L. 96–374, title V, § 506, Oct. 3, 1980, 94 Stat. 1464; amended Pub. L. 99–386, title I, § 103(b), Aug. 22, 1986, 100 Stat. 821, established Office of Education Professional Development.

Another prior section 1119c–2, Pub. L. 89–329, title V, § 553, as added Pub. L. 90–576, title II, § 201, Oct. 16, 1968, 82 Stat. 1093, related to exchange programs, institutes, and in-service education for vocational education teachers, supervisors, coordinators, and administrators, prior to repeal by Pub. L. 94–482, title I, § 151(a)(4)(C), title II, § 204(c)(1), Oct. 12, 1976, 90 Stat. 2152, 2215.

Section 1119c–3, Pub. L. 89–329, title V, § 554, as added Pub. L. 90–576, title II, § 201, Oct. 16, 1968, 82 Stat. 1094, related to familiarizing teachers with new curricular methods, prior to repeal by Pub. L. 94–482, title I, § 151(a)(4)(C), title II, § 204(c)(1), Oct. 12, 1976, 90 Stat. 2152, 2215.

Section 1119c–4, Pub. L. 89–329, title V, § 555, as added Pub. L. 94–482, title I, § 151(a)(4)(B), Oct. 12, 1976, 90 Stat. 2152, authorized appropriation for the fiscal years ending prior to Oct. 1, 1977, prior to repeal by Pub. L. 94–482, title I, § 151(a)(4)(C), title II, § 204(c)(1), Oct. 12, 1976, 90 Stat. 2152, 2215.

An identical section 555 of Pub. L. 89–329 was added by Pub. L. 94–482, title II, § 201(q), Oct. 12, 1976, 90 Stat. 2169, and repealed by Pub. L. 94–482, title II, § 204(c)(1), Oct. 12, 1976, 90 Stat. 2215.

Another prior section 1119c–4, Pub. L. 89–329, title V, § 555, as added by Pub. L. 90–576, title II, § 201, Oct. 16, 1968, 82 Stat. 1094; amended by Pub. L. 91–230, title VII, § 708, Apr. 13, 1970, 84 Stat. 189, authorized appropriations for fiscal years 1969 to 1972, prior to repeal by Pub. L. 92–318, title I, § 141(c)(1)(H), June 23, 1972, 86 Stat. 285.

Section 1119d, Pub. L. 89–329, title V, § 561, as added Pub. L. 98–558, title VII, § 701, Oct. 30, 1984, 98 Stat. 2894, stated purpose and authorized appropriations for Carl D. Perkins Scholarship program.

Section 1119d–1, Pub. L. 89–329, title V, § 562, as added Pub. L. 98–558, title VII, § 701, Oct. 30, 1984, 98 Stat. 2894, provided for allocation among States of funds appropriated for Carl D. Perkins Scholarship program.

Section 1119d–2, Pub. L. 89–329, title V, § 563, as added Pub. L. 98–558, title VII, § 701, Oct. 30, 1984, 98 Stat. 2894, provided for form, content, and processing of applications for grants to States under Carl D. Perkins Scholarship program.

Section 1119d–3, Pub. L. 89–329, title V, § 564, as added Pub. L. 98–558, title VII, § 701, Oct. 30, 1984, 98 Stat. 2896, related to amount and duration of Carl D. Perkins Scholarships and the relationship of Scholarships to other forms of assistance.

Section 1119d–4, Pub. L. 89–329, title V, § 565, as added Pub. L. 98–558, title VII, § 701, Oct. 30, 1984, 98 Stat. 2896, provided for selection of Carl D. Perkins Scholars.

Section 1119d–5, Pub. L. 89–329, title V, § 566, as added Pub. L. 98–558, title VII, § 701, Oct. 30, 1984, 98 Stat. 2897, provided conditions for continued receipt of Carl D. Perkins Scholarship assistance.

Section 1119d–6, Pub. L. 89–329, title V, § 567, as added Pub. L. 98–558, title VII, § 701, Oct. 30, 1984, 98 Stat. 2897, provided for repayment of Carl D. Perkins Scholarship assistance in case of noncompliance with program agreement.

Section 1119d–7, Pub. L. 89–329, title V, § 568, as added Pub. L. 98–558, title VII, § 701, Oct. 30, 1984, 98 Stat. 2897, provided exceptions to repayment requirements.

Section 1119d–8, Pub. L. 89–329, title V, § 569, as added Pub. L. 98–558, title VII, § 701, Oct. 30, 1984, 98 Stat. 2898, related to Federal administration of State programs to make available Carl D. Perkins Scholarships and judicial review thereof.

Section 1119e, Pub. L. 89–329, title V, § 571, as added Pub. L. 98–558, title VII, § 701, Oct. 30, 1984, 98 Stat. 2898, stated purpose of establishing national fellowship program for outstanding teachers.

Section 1119e–1, Pub. L. 89–329, title V, § 572, as added Pub. L. 98–558, title VII, § 701, Oct. 30, 1984, 98 Stat. 2898, authorized appropriations for fiscal years 1986 to 1989 for fellowships to outstanding teachers.

Section 1119e–2, Pub. L. 89–329, title V, § 573, as added Pub. L. 98–558, title VII, § 701, Oct. 30, 1984, 98 Stat. 2899, provided for program of talented teacher fellowships.

Section 1119e–3, Pub. L. 89–329, title V, § 574, as added Pub. L. 98–558, title VII, § 701, Oct. 30, 1984, 98 Stat. 2899, provided for selection of recipients of talented teacher fellowships.

Section 1119e–4, Pub. L. 89–329, title V, § 575, as added Pub. L. 98–558, title VII, § 701, Oct. 30, 1984, 98 Stat. 2899, provided for submission and evaluation of applications for talented teacher fellowship assistance.

Section 1119e–5, Pub. L. 89–329, title V, § 576, as added Pub. L. 98–558, title VII, § 701, Oct. 30, 1984, 98 Stat. 2900, provided for repayment of awards to Federal Government in case of fraud or gross noncompliance.

SUBCHAPTER VI—INTERNATIONAL EDUCATION PROGRAMS

CODIFICATION

Title VI of the Higher Education Act of 1965, comprising this subchapter, was originally enacted by Pub. L. 89–329, title VI, Nov. 8, 1965, 79 Stat. 1261; amended Pub. L. 89–752, Nov. 3, 1966, 80 Stat. 1240; Pub. L. 90–575, Oct. 16, 1968, 82 Stat. 1014; Pub. L. 92–318, June 23, 1972, 86 Stat. 235; Pub. L. 94–482, Oct. 12, 1976, 90 Stat. 2081; Pub. L. 95–180, Nov. 15, 1977, 91 Stat. 1372; Pub. L. 96–49, Aug. 13, 1979; 93 Stat. 351. Such title is shown herein, how-

ever, as having been added by Pub. L. 96–374, title VI, § 601(a), Oct. 3, 1980, 94 Stat. 1464, without reference to such intervening amendments because of the extensive revision of the title's provisions by Pub. L. 96–374.

PART A—INTERNATIONAL AND FOREIGN LANGUAGE STUDIES

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in title 40 App. section 214.

§ 1121. Findings and purposes

(a) Findings

The Congress finds that—

(1) the well-being of the United States, its economy and long-range security, is dependent on the education and training of Americans in international and foreign language studies and on a strong research base in these areas;

(2) knowledge of other countries and the ability to communicate in other languages is essential to the promotion of mutual understanding and cooperation among nations; and

(3) present and future generations of Americans must be afforded the opportunity to develop to the fullest extent possible their intellectual capacities in all areas of knowledge.

(b) Purposes

It is the purpose of this part to assist in the development of knowledge, international study, resources and trained personnel, to stimulate the attainment of foreign language acquisition and fluency, to develop a pool of international experts to meet national needs, and to coordinate the programs of the Federal Government in the areas of foreign language, area and other international studies, including professional international affairs education, and research.

(Pub. L. 89–329, title VI, § 601, as added Pub. L. 96–374, title VI, § 601(a), Oct. 3, 1980, 94 Stat. 1464; amended Pub. L. 99–498, title VI, § 601, Oct. 17, 1986, 100 Stat. 1514; Pub. L. 102–325, title VI, § 601, July 23, 1992, 106 Stat. 720.)

PRIOR PROVISIONS

A prior section 1121, Pub. L. 89–329, title VI, § 601, Nov. 8, 1965, 79 Stat. 1261; Pub. L. 89–752, § 3(b), Nov. 3, 1966, 80 Stat. 1241; Pub. L. 90–575, title II, §§ 241, 242(a), Oct. 16, 1968, 82 Stat. 1041; Pub. L. 92–318, title I, § 151(a), June 23, 1972, 86 Stat. 288; Pub. L. 94–482, title I, § 156, Oct. 12, 1976, 90 Stat. 2155; Pub. L. 96–49, § 7, Aug. 13, 1979, 93 Stat. 353, set out the Congressional statement of purpose and the authorization of appropriations for the program of equipment grants to institutions of higher education, prior to the general revision of this subchapter by Pub. L. 96–374.

AMENDMENTS

1992—Pub. L. 102–325 amended section generally. Prior to amendment, section read as follows:

''(a) The Congress finds that—

''(1) the well-being of the United States, its economy and long-range security, is dependent on the education and training of Americans in international and foreign language studies and on a strong research base in these areas;

''(2) knowledge of other countries and the ability to communicate in other languages is essential to the promotion of mutual understanding and cooperation among nations; and

''(3) present and future generations of Americans must be afforded the opportunity to develop to the fullest extent possible their intellectual capacities in all areas of knowledge.

''(b) It is the purpose of this part to assist in the development of knowledge, international study, resources and trained personnel, to stimulate the attainment of foreign language acquisition and fluency, and to coordinate the programs of the Federal Government in the areas of foreign language and international studies and research.''

1986—Pub. L. 99–498 amended section generally. Prior to amendment, section read as follows:

''(a) The Congress finds that—

''(1) knowledge of other countries is important in promoting mutual understanding and cooperation between nations;

''(2) strong American educational resources are a necessary base for strengthening our relations with other countries;

''(3) present and future generations of Americans should be given the opportunity to develop to the fullest extent possible their intellectual capacities in all areas of knowledge pertaining to other countries, peoples, and cultures; and

''(4) the economy of the United States and the long range security of the Nation are dependent upon acquiring such knowledge.

''(b) It is the purpose of this part to assist in the development of resources and trained personnel for international study, international research, and foreign language study and to coordinate programs of the Federal Government in the areas of international study and research and foreign language study.''

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

EFFECTIVE DATE

Subchapter effective Oct. 1, 1980, see section 1393(a) of Pub. L. 96–374, set out as an Effective Date of 1980 Amendment note under section 1001 of this title.

NATIONAL ENDOWMENT FOR INTERNATIONAL STUDIES

Section 1302 of title XIII of Pub. L. 99–498, as amended by Pub. L. 100–50, § 23(2), June 3, 1987, 101 Stat. 362, required Secretary of Education, in consultation with Director of United States Information Agency, Director of the Agency for International Development, Secretary of State, and Secretary of Defense, to conduct a study on establishment of a National Endowment for International Studies, such study to develop a program, a funding plan, and priorities for such an Endowment, with the Secretary to prepare and submit to Congress, not later than one year after Oct. 17, 1986, a report on the study, together with such recommendations, including recommendations for legislation, as the Secretary deemed appropriate.

§ 1122. Graduate and undergraduate language and area centers

(a) National language and area centers authorized

(1) General authority

The Secretary is authorized—

(A) to make grants to institutions of higher education, or combinations thereof, for the purpose of establishing, strengthening, and operating comprehensive language and area centers and programs; and

(B) to make grants to such institutions or combinations for the purpose of establishing, strengthening, and operating a diverse network of undergraduate language and area centers and programs,

which will be national resources for teaching of any modern foreign language, for instruc-

tion in fields needed to provide full understanding of areas, regions, or countries in which such language is commonly used, for research and training in international studies, and the international and foreign language aspects of professional and other fields of study, and for instruction and research on issues in world affairs which concern one or more countries.

(2) Authorized activities

Any such grant may be used to pay all or part of the cost of establishing or operating a center or program, including the cost of—

(A) faculty, staff, and student travel in foreign areas, regions, or countries;

(B) teaching and research materials;

(C) curriculum planning and development;

(D) bringing visiting scholars and faculty to the center to teach or to conduct research;

(E) establishing and maintaining linkages with overseas institutions of higher education and other organizations that may contribute to the educational objectives of this section for the purpose of contributing to the teaching and research of the center or program; and

(F) training and improvement of the staff, for the purpose of, and subject to such conditions as the Secretary finds necessary, for carrying out the objectives of this section.

(3) Grants to maintain library collections

The Secretary may make grants to centers described in paragraph (1) having important library collections for the maintenance of such collections.

(4) Outreach grants and summer institutes

The Secretary may make additional grants to centers described in paragraph (1) for any one or combination of the following purposes:

(A) Programs of linkage or outreach between foreign language, area studies, and other international fields and professional schools and colleges.

(B) Programs of linkage or outreach with 2 and 4-year colleges and universities.

(C) Programs of linkage or outreach with departments or agencies of Federal and State Governments.

(D) Programs of linkage or outreach with the news media, business, professional, or trade associations.

(E) Summer institutes in foreign area and other international fields designed to carry out the programs of linkage and outreach in subparagraphs (A), (B), (C), and (D) of this paragraph.

(b) Stipends for foreign language and area studies

(1) Graduate stipends

(A) The Secretary is authorized to make grants to institutions of higher education or combinations of such institutions for the purpose of paying stipends to individuals undergoing advanced training in any center or program approved by the Secretary under this part.

(B) Students receiving stipends described in subparagraph (A) shall be individuals who are engaged in an instructional program with stated performance goals for functional foreign language use or in a program developing such performance goals, in combination with area studies, international studies, or the international aspects of a professional studies program.

(C) Stipends awarded to graduate level recipients may include allowances for dependents and for travel for research and study in the United States and abroad.

(2) Doctoral stipends

(A) The Secretary is authorized to make grants to institutions of higher education or combinations of such institutions for the purpose of paying stipends to students beginning with their third year of graduate training in any center or program approved by the Secretary under this part.

(B) Students receiving stipends described in subparagraph (A) shall be individuals engaged in completing advanced degree requirements in foreign language, foreign area studies, or other international fields.

(C) Stipends shall be for the purpose of completing degree requirements, such as the predissertation level studies, preparation for dissertation research including the study of less commonly taught languages, dissertation research abroad, and dissertation writing.

(D) Students may receive stipends described in subparagraph (A) for a maximum of 4 years if such students make satisfactory progress toward completion of a degree program.

(3) Funding limitations

The Secretary is not authorized to make awards under paragraph (2) for any fiscal year unless the amount made available under paragraph (1) for such fiscal year equals or exceeds the current services equivalent of the level of funding during fiscal year 1992 under paragraph (1).

(c) Special rule with respect to travel

No funds may be expended under this part for undergraduate travel except in accordance with rules prescribed by the Secretary setting forth policies and procedures to assure that Federal funds made available for such travel are expended as part of a formal program of supervised study.

(Pub. L. 89–329, title VI, § 602, as added Pub. L. 96–374, title VI, § 601(a), Oct. 3, 1980, 94 Stat. 1465; amended Pub. L. 99–498, title VI, § 602, Oct. 17, 1986, 100 Stat. 1514; Pub. L. 100–50, § 18, June 3, 1987, 101 Stat. 360; Pub. L. 102–325, title VI, § 601, July 23, 1992, 106 Stat. 720; Pub. L. 103–208, § 2(j)(10), (11), Dec. 20, 1993, 107 Stat. 2481.)

PRIOR PROVISIONS

A prior section 1122, Pub. L. 89–329, title VI, § 602, Nov. 8, 1965, 79 Stat. 1261; Pub. L. 95–180, § 1(c), Nov. 15, 1977, 91 Stat. 1372, related to the allotment to States of funds under the program of equipment grants to institutions of higher education, prior to the general revision of this subchapter by Pub. L. 96–374.

AMENDMENTS

1993—Subsec. (a)(3), (4). Pub. L. 103–208 substituted ''paragraph (1)'' for ''paragraph (1)(A)''.

1992—Pub. L. 102–325 amended section generally, substituting present provisions for provisions which provided for grant authority for graduate and undergraduate language and area centers in subsec. (a), stipends and allowances in subsec. (b), and travel expenses in subsec. (c).

1987—Subsec. (b)(1)(B). Pub. L. 100–50 struck out ''in a program of competency-based training,'' after ''in a program of competency-based language training,''.

1986—Subsec. (a)(1). Pub. L. 99–498, § 602(a)(1), amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''The Secretary is authorized to make grants to, and enter into contracts with, institutions of higher education, or combination of such institutions, for the purpose of establishing, strengthening, and operating graduate and undergraduate centers and programs which will be national resources for the teaching of any modern foreign language, for instruction in fields needed to provide a full understanding of the areas, regions, or countries in which such language is commonly used, or for research and training in international studies and the international aspects of professional and other fields of study.''

Subsec. (a)(2). Pub. L. 99–498, § 602(a)(2), struck out ''or contract'' after ''Any such grant''.

Subsec. (a)(3). Pub. L. 99–498, § 602(a)(3), substituted ''paragraph (1)(A)'' for ''paragraph (1)''.

Subsec. (b). Pub. L. 99–498, § 602(b), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: ''The Secretary is also authorized to pay stipends to individuals undergoing such advanced training in any center or program approved by the Secretary under this part, including allowances for dependents and for travel for research and study in the United States and abroad.''

Subsec. (c). Pub. L. 99–498, § 602(b), reenacted subsec. (c) without change.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1003 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1124a, 1125b, 1126 of this title.

§ 1123. Language resource centers

(a) Language resource centers authorized

The Secretary is authorized to make grants to and enter into contracts with institutions of higher education, or combinations of such institutions, for the purpose of establishing, strengthening, and operating a small number of national language resource and training centers, which shall serve as resources to improve the capacity to teach and learn foreign languages effectively. Activities carried out by such centers may include—

(1) the conduct of research on new and improved teaching methods, including the use of advanced educational technology;

(2) the development of new teaching materials reflecting the use of such research in effective teaching strategies;

(3) the development and application of performance testing appropriate to an educational setting for use as a standard and comparable measurement of skill levels in all languages;

(4) the training of teachers in the administration and interpretation of performance tests, the use of effective teaching strategies, and the use of new technologies;

(5) the publication of instructional materials in the less commonly taught languages; and

(6) the widespread dissemination of research results, teaching materials, and improved pedagogical strategies to others within the postsecondary education community.

(b) Conditions for grants

Grants under this section shall be made on such conditions as the Secretary determines to be necessary to carry out the provisions of this section.

(Pub. L. 89–329, title VI, § 603, as added Pub. L. 96–374, title VI, § 601(a), Oct. 3, 1980, 94 Stat. 1466; amended Pub. L. 99–498, title VI, § 603, Oct. 17, 1986, 100 Stat. 1515; Pub. L. 102–325, title VI, § 601, July 23, 1992, 106 Stat. 722; Pub. L. 103–208, § 2(j)(12), Dec. 20, 1993, 107 Stat. 2481.)

PRIOR PROVISIONS

A prior section 1123, Pub. L. 89–329, title VI, § 603, Nov. 8, 1965, 79 Stat. 1262, related to the State plans for carrying out the program of equipment grants to institutions of higher education, prior to the general revision of this subchapter by Pub. L. 96–374.

AMENDMENTS

1993—Subsec. (a). Pub. L. 103–208 substituted ''resource'' for ''resources'' in heading.

1992—Pub. L. 102–325 amended section generally, substituting ''operating a small number of national language and training centers'' for ''operating language training centers'' in introductory provisions of subsec. (a).

1986—Pub. L. 99–498 amended section generally, revising and restating as subsecs. (a) and (b) provisions of former subsecs. (a) to (c).

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1003 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

APPROPRIATIONS NOT AUTHORIZED FOR FISCAL YEAR 1982, 1983, OR 1984

Pub. L. 97–35, title V, § 511(b)(2), Aug. 13, 1981, 95 Stat. 443, provided that: ''No funds are authorized to be appropriated to carry out part B of title XV of the Education Amendments of 1978 [sections 1511 to 1519 of Pub. L. 95–561, see note below] for fiscal year 1982, 1983, or 1984.''

NATIONAL ACADEMY OF PEACE AND CONFLICT RESOLUTION

Pub. L. 95–561, title XV, §§ 1511–1519, Nov. 1, 1978, 92 Stat. 2376–2378, established the Commission on Proposals for the National Academy of Peace and Conflict Resolution, authorized the Commission to undertake a study to consider whether to establish a National Acad-

emy of Peace and Conflict Resolutions and alternative proposals, and directed the Commission to make interim reports as appropriate and a final report to the President and each House of Congress not later than one year after the date on which appropriations first become available.

§ 1124. Undergraduate international studies and foreign language programs

(a) Incentives for creation of undergraduate international studies and foreign language programs

(1) Authority

The Secretary is authorized to make grants to institutions of higher education or combinations of such institutions to assist such institutions or combinations in planning, developing, and carrying out a program to improve undergraduate instruction in international studies and foreign languages. Such grants shall be awarded to institutions of higher education or combinations of such institutions seeking to create new programs or curricula in area studies, foreign languages, and other international fields.

(2) Federal share and use of funds

Grants made under this section may be used to pay not more than 50 percent of the cost of projects and activities which are an integral part of such a program, such as—

(A) planning for the development and expansion of undergraduate programs in international studies;

(B) teaching, research, curriculum development, and other related activities;

(C) training of faculty members in foreign countries;

(D) expansion of foreign language courses;

(E) programs under which foreign teachers and scholars may visit institutions as visiting faculty;

(F) international education programs designed to develop or enhance linkages between two- and four-year institutions of higher education, or baccalaureate and postbaccalaureate programs or institutions;

(G) the development of an international dimension in preservice and inservice teacher training;

(H) the development of undergraduate study abroad programs in locations abroad in which such study opportunities are not otherwise available or which serve students for whom such opportunities are not otherwise available and which provide courses that are closely related to on-campus foreign language and international studies curricula; and

(I) the integration of new study abroad opportunities for undergraduate students into curricula of specific degree programs.

(3) Non-Federal share

The non-Federal share of the cost of the programs assisted under this subsection may be provided either in cash or in kind. Such assistance may be composed of institutional and noninstitutional funds, including State and private contributions.

(4) Priority

In awarding grants under this section, the Secretary shall give priority to applications from institutions of higher education or combinations of such institutions that require entering students to have successfully completed at least 2 years of secondary school foreign language instruction or that require each graduating student to earn 2 years of postsecondary credit in a foreign language (or have demonstrated equivalent competence in the foreign language) or, in the case of a two-year degree granting institution, offer 2 years of postsecondary credit in a foreign language.

(b) Grants to strengthen programs of demonstrated excellence in undergraduate international studies and foreign language programs

(1) In general

The Secretary is authorized to make grants to institutions of higher education, combinations of such institutions, or partnerships between nonprofit educational organizations and institutions of higher education to enable such institutions of higher education, combinations of such institutions or partnerships to—

(A) strengthen programs of demonstrated excellence in area studies, foreign languages, and other international fields in order to ensure the self-sustaining maintenance and growth of such programs; and

(B) enhance the capacity-building and dissemination functions of such programs.

(2) Federal share and use of grant funds

Grants awarded under this subsection may be used to pay not more than 50 percent of the cost of projects and activities which are an integral part of the programs described in paragraph (1), such as—

(A) teaching, research, curriculum development, and other related activities;

(B) strengthening undergraduate majors and minors directly related to the generation of international expertise;

(C) developing new foreign language courses, especially in languages previously not taught at such institution or combination of such institutions, and improving the quality of existing foreign language programs;

(D) expanding library and teaching resources;

(E) establishing linkages overseas with institutions of higher education and organizations that contribute to the educational objectives of this subsection;

(F) developing programs designed to integrate professional and technical education with area studies, foreign languages, and other international fields;

(G) disseminating curricular materials and program designs to other educational institutions;

(H) integrating on-campus undergraduate curriculum with study abroad and exchange programs;

(I) training faculty and staff in area studies, foreign languages, and other international fields;

(J) conducting summer institutes in foreign area and other international fields to provide faculty and curriculum develop-

ment, including the integration of professional and technical education with foreign area and other international studies, and to provide foreign area and other international knowledge or skills to government personnel or private sector professionals in international activities;

(K) developing study and internship abroad programs—

(i) in locations in which such opportunities are not otherwise available; or

(ii) which serve students for whom such opportunities are not otherwise available; and

(L) developing model programs to enrich or enhance the effectiveness of study abroad programs, including predeparture and post return orientation programs, integration of study abroad into the curriculum of the home institution, credit transfer, improved faculty involvement, cross-disciplinary programs, student selection and advising services, and academic advising.

(3) Non-Federal share

The non-Federal share of the cost of the programs assisted under this subsection may be provided either in cash or in kind. Such assistance may be composed of institutional and noninstitutional funds, including State and private contributions.

(4) Evaluation criteria and report

As a condition for the award of any grant under this subsection, the Secretary may establish criteria for evaluating programs and require an annual report which evaluates the progress and performance of students in such programs.

(c) Programs of national significance

The Secretary may also award grants to public and private nonprofit agencies and organizations, including professional and scholarly associations, whenever the Secretary determines such grants will make an especially significant contribution to attaining the objective of this section.

(Pub. L. 89–329, title VI, § 604, as added Pub. L. 96–374, title VI, § 601(a), Oct. 3, 1980, 94 Stat. 1466; amended Pub. L. 99–498, title VI, § 604, Oct. 17, 1986, 100 Stat. 1516; Pub. L. 102–325, title VI, § 601, July 23, 1992, 106 Stat. 722.)

PRIOR PROVISIONS

A prior section 1124, Pub. L. 89–329, title VI, § 604, Nov. 8, 1965, 79 Stat. 1263; Pub. L. 89–752, § 14, Nov. 3, 1966, 80 Stat. 1244; Pub. L. 90–575, title II, § 242(b)–(d), Oct. 16, 1968, 82 Stat. 1041; Pub. L. 94–482, title I, § 157, Oct. 12, 1976, 90 Stat. 2156, provided for grants to institutions of higher education for projects, prior to the general revision of this subchapter by Pub. L. 96–374.

AMENDMENTS

1992—Pub. L. 102–325 amended section generally, substituting present provisions for provisions authorizing grants for undergraduate international studies and foreign language programs in subsec. (a), model programs in subsec. (b), and grants to nonprofit agencies and organizations in subsec. (c).

1986—Subsec. (a). Pub. L. 99–498, § 604(a), (b), struck out ''comprehensive'' before ''program'' in two places in introductory provisions and inserted ''pre-service and in-service'' before ''teacher'' in par. (7).

Subsecs. (b), (c). Pub. L. 99–498, § 604(c), added subsec. (b) and redesignated former subsec. (b) as (c).

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

§ 1124a. Intensive summer language institutes

(a) Intensive summer language institutes authorized

(1) Grants authorized

The Secretary is authorized to make grants to institutions of higher education, or combinations of such institutions, for the purpose of establishing and conducting intensive summer language institutes.

(2) Eligible grant recipients

Training authorized by this section shall be provided through—

(A) institutes designed to meet the needs for intensive language training by advanced foreign language students;

(B) institutes designed to provide professional development and improve language instruction through preservice and inservice training for language teachers; or

(C) institutes that combine the purposes of subparagraphs (A) and (B).

(3) Authorized activities

Grants made under this section may be used for—

(A) intensive training in critical languages;

(B) training in neglected languages; and

(C) stipends for students and faculty attending the institutes authorized by this section.

(4) Instructional program

Institutes supported under this section may provide instruction on a full-time or part-time basis to supplement instruction not fully available in centers supported under section 1122 of this title.

(b) Peer review

Grants made under this section shall be awarded on the basis of recommendations made by peer review panels composed of broadly representative professionals.

(Pub. L. 89–329, title VI, § 605, as added Pub. L. 99–498, title VI, § 605(2), Oct. 17, 1986, 100 Stat. 1517; amended Pub. L. 102–325, title VI, § 601, July 23, 1992, 106 Stat. 725.)

PRIOR PROVISIONS

A prior section 605 of Pub. L. 89–329 was renumbered section 606 and is classified to section 1125 of this title.

AMENDMENTS

1992—Pub. L. 102–325 amended section generally, inserting subsec. headings and reenacting text without substantial change.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

§ 1125. Research; studies; annual report

(a) Authorized activities

The Secretary may, directly or through grants or contracts, conduct research and studies which contribute to the purposes of this part. Such research and studies may include but are not limited to—

(1) studies and surveys to determine needs for increased or improved instruction in foreign language, area studies, or other international fields, including the demand for foreign language, area, and other international specialists in government, education, and the private sector;

(2) studies and surveys to assess the utilization of graduates of programs supported under this subchapter by governmental, educational, and private sector organizations and other studies assessing the outcomes and effectiveness of programs so supported;

(3) comparative studies of the effectiveness of strategies to provide international capabilities at institutions of higher education;

(4) research on more effective methods of providing instruction and achieving competency in foreign languages;

(5) the development and publication of specialized materials for use in foreign language, area studies, and other international fields, or for training foreign language, area, and other international specialists; and

(6) the application of performance tests and standards across all areas of foreign language instruction and classroom use.

(b) Annual report

The Secretary shall prepare, publish, and announce an annual report listing the books and research materials produced with assistance under this section.

(Pub. L. 89–329, title VI, § 606, formerly § 605, as added Pub. L. 96–374, title VI, § 601(a), Oct. 3, 1980, 94 Stat. 1467; amended Pub. L. 97–375, title II, § 204, Dec. 21, 1982, 96 Stat. 1823; Pub. L. 99–386, title I, § 103(c), Aug. 22, 1986, 100 Stat. 821; renumbered § 606 and amended Pub. L. 99–498, title VI, §§ 605(1), 606, Oct. 17, 1986, 100 Stat. 1517; Pub. L. 102–325, title VI, § 601, July 23, 1992, 106 Stat. 725.)

PRIOR PROVISIONS

A prior section 1125, Pub. L. 89–329, title VI, § 605, Nov. 8, 1965, 79 Stat. 1264; Pub. L. 90–575, title II, § 242(a), (e), Oct. 16, 1968, 82 Stat. 1041, related to the applications by institutions of higher education for grants under the program of equipment grants, prior to the general revision of this subchapter by Pub. L. 96–374.

A prior section 606 of Pub. L. 89–329 was renumbered section 609 and is classified to section 1126 of this title.

AMENDMENTS

1992—Pub. L. 102–325 amended section generally, in subsec. (a) adding references to area studies or other international fields, including demand for foreign language, area, and other international specialists in government, education, and private sector, and references to studies and surveys to assess utilization of graduates of programs supported under this subchapter and in subsec. (b) requiring Secretary to announce annual report.

1986—Subsec. (a). Pub. L. 99–498, § 606(a), struck out ''and part N of title III of the Elementary and Secondary Education Act of 1965'' after ''contribute to the purposes of this part'' in introductory provisions, added par. (3), redesignated former par. (3) as (4), and inserted ''and publication'' after ''development'' in par. (4).

Subsec. (b). Pub. L. 99–498, § 606(b), amended subsec. (b) generally, notwithstanding prior repeal of subsec. (b) by Pub. L. 99–386.

Pub. L. 99–386 struck out subsec. (b) which related to publication by Secretary of annual report listing books and research materials produced with assistance under this subchapter.

1982—Subsec. (b). Pub. L. 97–375 substituted ''listing'' for ''which shall include an index and analysis''.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

§ 1125a. Periodicals and other research materials published outside United States

(a) Program authorized; authorization of appropriations

(1) Program authorized

From the amount appropriated under paragraph (2), the Secretary is authorized to award grants to institutions of higher education, public or nonprofit private library institutions, or consortia of such institutions for the acquisition of, and provision of access to, periodicals and other research materials published outside the United States.

(2) Authorization of appropriations

In addition to the amount authorized to be appropriated by section 1128 of this title, there are authorized to be appropriated $5,000,000 for fiscal year 1993, and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out this section.

(b) Authorized activities

Grants under this section shall be used for the following purposes:

(1) To acquire periodicals and other research materials published outside the United States which are not commonly held by American academic libraries and which are of scholarly or research importance.

(2) To maintain in machine-readable form current bibliographic information on periodicals and other research materials thus acquired, and to enter such information into one or more of the widely available bibliographic data bases.

(3) To preserve such periodicals and other research materials.

(4) To make such periodicals and other research materials widely available to researchers and scholars.

(c) Application and preference

(1) Application

Each institution or consortium desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information and assurances as the Secretary may reasonably require.

(2) Preference

The Secretary shall give preference to grant applications according to the following criteria:

(A) The total number of library research materials in an institution's or consortium's collection.

(B) The comprehensiveness, both current and retrospective, of the institution's or consortium's collection of periodicals and other research materials published outside the United States.

(C) Public accessibility to the institution's or consortium's collection of periodicals and other research materials published outside the United States.

(D) The institution's or consortium's technological capability to share its collection of periodicals and other research materials published outside the United States with other institutions of higher education, with public or nonprofit institutions, and with individual scholars.

(E) The institution's or consortium's budget and staff capability to build, maintain, and service periodicals and other research materials published outside the United States.

(3) Sufficient size

The Secretary shall award grants under this section of sufficient size to enable an institution or consortium to—

(A) substantially improve its collection of foreign periodicals and other research materials published outside the United States; and

(B) contribute to a comprehensive national base of foreign language materials for students and scholars.

(d) Written agreement

(1) Agreement required

Prior to the awarding of grants authorized under subsection (c) of this section, each recipient institution or consortium shall file a formal written agreement with the Secretary which outlines their collecting responsibilities regarding periodicals and other research materials published outside the United States and ensures public access.

(2) Funding limitation

No funds from grants authorized under subsection (c) of this section may be used by a recipient institution or consortium to acquire and process periodicals and other research materials published outside the United States other than that specified in the agreement filed with the Secretary under paragraph (1).

(e) Copyright

Nothing in this section shall be considered to amend, affect, or define the provisions of title 17, relating to copyright.

(Pub. L. 89–329, title VI, § 607, as added Pub. L. 99–498, title VI, § 607, Oct. 17, 1986, 100 Stat. 1518; amended Pub. L. 102–325, title VI, § 601, July 23, 1992, 106 Stat. 726; Pub. L. 103–208, § 2(j)(13), Dec. 20, 1993, 107 Stat. 2481.)

PRIOR PROVISIONS

A prior section 607 of Pub. L. 89–329 was renumbered section 610 and is classified to section 1127 of this title.

AMENDMENTS

1993—Subsec. (c)(2), (3). Pub. L. 103–208 redesignated the par. (2) relating to size of grants as (3).

1992—Pub. L. 102–325 amended section generally, inserting references to other research materials published outside United States, increasing authorized annual appropriation to $5,000,000, and adding provision for a system of preferences and a written agreement.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1003 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

§ 1125b. Selection of certain grant recipients

(a) Competitive grants

The Secretary shall award grants under section 1122 of this title competitively on the basis of criteria that separately, but not less rigorously, evaluates the applications for comprehensive and undergraduate language and area centers and programs.

(b) Selection criteria

The Secretary shall set criteria for grants awarded under section 1122 of this section by which a determination of excellence shall be made to meet the differing objectives of graduate and undergraduate institutions.

(c) Equitable distribution of grants

The Secretary shall, to the extent practicable, award grants under this part (other than section 1122 of this title) in such manner as to achieve an equitable distribution of funds throughout the United States, based on the merit of a proposal with peer review by broadly representative professionals.

(Pub. L. 89–329, title VI, § 608, as added Pub. L. 99–498, title VI, § 608, Oct. 17, 1986, 100 Stat. 1518; amended Pub. L. 102–325, title VI, § 601, July 23, 1992, 106 Stat. 727.)

PRIOR PROVISIONS

A prior section 608 of Pub. L. 89–329, title VI, Nov. 8, 1965, 79 Stat. 1265, provided process of judicial review in event of State dissatisfaction in equipment grant program and was classified to section 1128 of this title, prior to the general revision of this subchapter by Pub. L. 96–374.

AMENDMENTS

1992—Pub. L. 102–325 amended section generally, making minor changes in headings for subsecs. (a) and (b) and reenacting text without substantial change.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

§ 1126. Equitable distribution of certain funds

(a) Selection criteria

The Secretary shall make excellence the criterion for selection of grants awarded under section 1122 of this title.

(b) Equitable distribution

To the extent practicable and consistent with the criterion of excellence, the Secretary shall

award grants under this part (other than section 1122 of this title) in such a manner as will achieve an equitable distribution of funds throughout the Nation.

(c) Support for undergraduate education

The Secretary shall also award grants under this part in such manner as to ensure that an appropriate portion of the funds appropriated for this part (as determined by the Secretary) are used to support undergraduate education.

(Pub. L. 89–329, title VI, § 609, formerly § 606, as added Pub. L. 96–374, title VI, § 601(a), Oct. 3, 1980, 94 Stat. 1467; renumbered § 609, Pub. L. 99–498, title VI, § 605(1), Oct. 17, 1986, 100 Stat. 1517; amended Pub. L. 102–325, title VI, § 601, July 23, 1992, 106 Stat. 727.)

PRIOR PROVISIONS

A prior section 1126, Pub. L. 89–329, title VI, § 606, Nov. 8, 1965, 79 Stat. 1265, related to reservation and payment of equipment grants to institutions of higher education, prior to the general revision of this subchapter by Pub. L. 96–374.

A prior section 609 of Pub. L. 89–329, title VI, Nov. 8, 1965, 79 Stat. 1266; Pub. L. 92–318, title I, § 131(d)(2)(D), June 23, 1972, 86 Stat. 260, prohibited equipment grants for sectarian instruction or religious worship and was classified to section 1129 of this title, prior to the general revision of this subchapter by Pub. L. 96–374.

AMENDMENTS

1992—Pub. L. 102–325 amended section generally, reenacting subsecs. (a) and (b) without substantial change and adding subsec. (c).

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

§ 1127. American overseas research centers

(a) Centers authorized

The Secretary is authorized to make grants to and enter into contracts with any American overseas research center that is a consortium of institutions of higher education (hereafter in this section referred to as a ''center'') to enable such center to promote postgraduate research, exchanges and area studies.

(b) Use of grants

Grants made and contracts entered into pursuant to this section may be used to pay all or a portion of the cost of establishing or operating a center or program, including the cost of faculty and staff stipends and salaries, faculty, staff and student travel, the operation and maintenance of overseas facilities, the cost of teaching and research materials, the cost of acquisition, maintenance and preservation of library collections, the cost of bringing visiting scholars and faculty to a center to teach or to conduct research, the cost of organizing and managing conferences and the cost of publication and dissemination of material for the scholarly and general public.

(c) Limitation

The Secretary shall only award grants to and enter into contracts with centers under this section that—

(1) receive more than 50 percent of their funding from public or private United States sources;

(2) have a permanent presence in the country in which the center is located; and

(3) are organizations described in section 501(c)(3) of title 26 which are exempt from taxation under section 501(a) of such title.

(Pub. L. 89–329, title VI, § 610, formerly § 607, as added Pub. L. 96–374, title VI, § 601(a), Oct. 3, 1980, 94 Stat. 1467; renumbered § 610 and amended Pub. L. 99–498, title VI, §§ 605(1), 609, Oct. 17, 1986, 100 Stat. 1517, 1519; Pub. L. 102–325, title VI, § 601, July 23, 1992, 106 Stat. 728.)

PRIOR PROVISIONS

A prior section 1127, Pub. L. 89–329, title VI, § 607, Nov. 8, 1965, 79 Stat. 1265, provided procedures to be followed in event of disapproval of a State plan under equipment grant program, prior to the general revision of this subchapter by Pub. L. 96–374.

A prior section 610 of Pub. L. 89–329, title VI, as added Pub. L. 90–575, title II, § 243, Oct. 16, 1968, 82 Stat. 1041, provided for consultation with National Science Foundation in regard to purchase of laboratory equipment and was classified to section 1129a of this title, prior to the general revision of this subchapter by Pub. L. 96–374.

AMENDMENTS

1992—Pub. L. 102–325 amended section generally. Prior to amendment, section read as follows: ''There are authorized to be appropriated to carry out this part $49,000,000 for fiscal year 1987, and such sums as may be necessary for the 4 succeeding fiscal years.''

1986—Pub. L. 99–498, § 609, amended section generally. Prior to amendment, section read as follows: ''There are authorized to be appropriated $45,000,000 for fiscal year 1981, $50,000,000 for fiscal year 1982, $60,000,000 for fiscal year 1983, $70,000,000 for fiscal year 1984, and $80,000,000 for fiscal year 1985, to carry out the provisions of this part.''

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

§ 1128. Authorization of appropriations

There are authorized to be appropriated to carry out this part $80,000,000 for fiscal year 1993, and such sums as may be necessary for the 4 succeeding fiscal years.

(Pub. L. 89–329, title VI, § 610A, as added Pub. L. 102–325, title VI, § 601, July 23, 1992, 106 Stat. 728.)

PRIOR PROVISIONS

A prior section 1128, Pub. L. 89–329, title VI, § 608, Nov. 8, 1965, 79 Stat. 1265, provided the process of judicial review in event of State dissatisfaction in equipment grant program, prior to the general revision of this subchapter by Pub. L. 96–374.

Sections 1129 and 1129a were omitted in the general revision of this subchapter by Pub. L. 96–374.

Section 1129, Pub. L. 89–329, title VI, § 609, Nov. 8, 1965, 79 Stat. 1266; Pub. L. 92–318, title I, § 131(d)(2)(D), June 23, 1972, 86 Stat. 260, prohibited equipment grants for sectarian instruction or religious worship.

Section 1129a, Pub. L. 89–329, title VI, § 610, as added Pub. L. 90–575, title II, § 243, Oct. 16, 1968, 82 Stat. 1041, provided for consultation with the National Science Foundation in regard to the purchase of laboratory equipment.

EFFECTIVE DATE

Section effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as an Effective Date of 1992 Amendment note under section 1001 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1125a of this title.

PART B—BUSINESS AND INTERNATIONAL EDUCATION PROGRAMS

§ 1130. Findings and purposes

(a) Findings

The Congress finds that—

(1) the future economic welfare of the United States will depend substantially on increasing international skills in the business and educational community and creating an awareness among the American public of the internationalization of our economy;

(2) concerted efforts are necessary to engage business schools, language and area study programs, professional international affairs education programs, public and private sector organizations, and United States business in a mutually productive relationship which benefits the Nation's future economic interests;

(3) few linkages presently exist between the manpower and information needs of United States business and the international education, language training and research capacities of institutions of higher education in the United States, and public and private organizations; and

(4) organizations such as world trade councils, world trade clubs, chambers of commerce and State departments of commerce are not adequately used to link universities and business for joint venture exploration and program development.

(b) Purposes

It is the purpose of this part—

(1) to enhance the broad objective of this chapter by increasing and promoting the Nation's capacity for international understanding and economic enterprise through the provision of suitable international education and training for business personnel in various stages of professional development; and

(2) to promote institutional and noninstitutional educational and training activities that will contribute to the ability of United States business to prosper in an international economy.

(Pub. L. 89–329, title VI, § 611, as added Pub. L. 96–374, title VI, § 601(a), Oct. 3, 1980, 94 Stat. 1467; amended Pub. L. 99–498, title VI, § 610, Oct. 17, 1986, 100 Stat. 1519; Pub. L. 102–325, title VI, § 601, July 23, 1992, 106 Stat. 728.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (b)(1), was in the original ''this Act'', meaning Pub. L. 89–329, known as the Higher Education Act of 1965. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

AMENDMENTS

1992—Pub. L. 102–325 amended section generally, inserting subsec. headings and reenacting text without substantial change.

1986—Subsec. (a)(1). Pub. L. 99–498 inserted ''and educational'' after ''skills in the business''.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

§ 1130–1. Centers for international business education

(a) Program authorized

(1) In general

The Secretary is authorized to make grants to institutions of higher education, or combinations of such institutions, to pay the Federal share of the cost of planning, establishing and operating centers for international business education which—

(A) will be national resources for the teaching of improved business techniques, strategies, and methodologies which emphasize the international context in which business is transacted;

(B) will provide instruction in critical foreign languages and international fields needed to provide understanding of the cultures and customs of United States trading partners; and

(C) will provide research and training in the international aspects of trade, commerce, and other fields of study.

(2) Special rule

In addition to providing training to students enrolled in the institution of higher education in which a center is located, such centers shall serve as regional resources to businesses proximately located by offering programs and providing research designed to meet the international training needs of such businesses. Such centers shall also serve other faculty, students, and institutions of higher education located within their region.

(b) Authorized expenditures

Each grant made under this section may be used to pay the Federal share of the cost of planning, establishing or operating a center, including the cost of—

(1) faculty and staff travel in foreign areas, regions, or countries;

(2) teaching and research materials;

(3) curriculum planning and development;

(4) bringing visiting scholars and faculty to the center to teach or to conduct research; and

(5) training and improvement of the staff, for the purpose of, and subject to such conditions as the Secretary finds necessary for, carrying out the objectives of this section.

(c) Authorized activities

(1) Mandatory activities

Programs and activities to be conducted by centers assisted under this section shall include—

(A) interdisciplinary programs which incorporate foreign language and international studies training into business, finance, management, communications systems, and other professional curricula;

(B) interdisciplinary programs which provide business, finance, management, communications systems, and other professional training for foreign language and inter-

national studies faculty and advanced degree candidates;

(C) evening or summer programs, such as intensive language programs, available to members of the business community and other professionals which are designed to develop or enhance their international skills, awareness, and expertise;

(D) collaborative programs, activities, or research involving other institutions of higher education, local educational agencies, professional associations, businesses, firms, or combinations thereof, to promote the development of international skills, awareness, and expertise among current and prospective members of the business community and other professionals;

(E) research designed to strengthen and improve the international aspects of business and professional education and to promote integrated curricula; and

(F) research designed to promote the international competitiveness of American businesses and firms, including those not currently active in international trade.

(2) Permissible activities

Programs and activities to be conducted by centers assisted under this section may include—

(A) the establishment of overseas internship programs for students and faculty designed to provide training and experience in international business activities, except that no Federal funds provided under this section may be used to pay wages or stipends to any participant who is engaged in compensated employment as part of an internship program;

(B) the establishment of linkages overseas with institutions of higher education and other organizations that contribute to the educational objectives of this section;

(C) summer institutes in international business, foreign area studies, and other international studies designed to carry out the purposes of subparagraph (A) of this paragraph;

(D) the development of opportunities for business students to study abroad in locations which are important to the existing and future economic well-being of the United States;

(E) outreach activities or consortia with business programs located at other institutions of higher education for the purpose of providing expertise regarding the internationalization of such programs, such as assistance in research, curriculum development, faculty development, or educational exchange programs; and

(F) other eligible activities prescribed by the Secretary.

(d) Advisory council

(1) Establishment

In order to be eligible for assistance under this section, an institution of higher education, or combination of such institutions, shall establish a center advisory council which will conduct extensive planning prior to the establishment of a center concerning the scope of the center's activities and the design of its programs.

(2) Membership on advisory council

The center advisory council shall include—

(A) one representative of an administrative department or office of the institution of higher education;

(B) one faculty representative of the business or management school or department of such institution;

(C) one faculty representative of the international studies or foreign language school or department of such institution;

(D) one faculty representative of another professional school or department of such institution, as appropriate;

(E) one or more representatives of local or regional businesses or firms;

(F) one representative appointed by the Governor of the State in which the institution of higher education is located whose normal responsibilities include official oversight or involvement in State-sponsored trade-related activities or programs; and

(G) such other individuals as the institution of higher education deems appropriate.

(3) Meetings

In addition to the initial planning activities required under subsection (d)(1) of this section, the center advisory council shall meet not less than once each year after the establishment of the center to assess and advise on the programs and activities conducted by the center.

(e) Grant duration; Federal share

(1) Duration of grants

The Secretary shall make grants under this section for a minimum of 3 years unless the Secretary determines that the provision of grants of shorter duration is necessary to carry out the objectives of this section.

(2) Federal share

The Federal share of the cost of planning, establishing and operating centers under this section shall be—

(A) not more than 90 percent for the first year in which Federal funds are received;

(B) not more than 70 percent for the second such year; and

(C) not more than 50 percent for the third such year and for each such year thereafter.

(3) Non-Federal share

The non-Federal share of the cost of planning, establishing, and operating centers under this section may be provided either in cash or in-kind.

(4) Waiver of non-Federal share

In the case of an institution of higher education receiving a grant under this part and conducting outreach or consortia activities with another institution of higher education in accordance with subsection (c)(2)(E) of this section, the Secretary may waive a portion of the requirements for the non-Federal share required in paragraph (2) equal to the amount provided by the institution of higher edu-

cation receiving such grant to such other institution of higher education for carrying out such outreach or consortia activities. Any such waiver shall be subject to such terms and conditions as the Secretary deems necessary for carrying out the purposes of this section.

(f) Grant conditions

Grants under this section shall be made on such conditions as the Secretary determines to be necessary to carry out the objectives of this section. Such conditions shall include—

(1) evidence that the institution of higher education, or combination of such institutions, will conduct extensive planning prior to the establishment of a center concerning the scope of the center's activities and the design of its programs in accordance with subsection (d)(1) of this section;

(2) assurance of ongoing collaboration in the establishment and operation of the center by faculty of the business, management, foreign language, international studies, professional international affairs, and other professional schools or departments, as appropriate;

(3) assurance that the education and training programs of the center will be open to students concentrating in each of these respective areas, as appropriate; and

(4) assurance that the institution of higher education, or combination of such institutions, will use the assistance provided under this section to supplement and not to supplant activities conducted by institutions of higher education described in subsection (c)(1) of this section.

(Pub. L. 89–329, title VI, § 612, as added Pub. L. 100–418, title VI, § 6261(2), Aug. 23, 1988, 102 Stat. 1520; amended Pub. L. 102–325, title VI, § 601, July 23, 1992, 106 Stat. 729.)

PRIOR PROVISIONS

A prior section 612 of Pub. L. 89–329 was renumbered section 613 and is classified to section 1130a of this title.

AMENDMENTS

1992—Pub. L. 102–325 amended section generally, substituting present provisions for provisions relating to grants for establishing and operating international business education centers in subsec. (a), costs to be covered by Federal funds in subsec. (b), scope of programs and activities in subsec. (c), center advisory council in subsec. (d), duration of grants and allotment of Federal and non-Federal shares in subsec. (e), and conditions for grants in subsec. (f).

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1130b of this title.

§ 1130a. Education and training programs

(a) Program authorized

The Secretary shall make grants to, and enter into contracts with, institutions of higher education to pay the Federal share of the cost of programs designed to promote linkages between such institutions and the American business community engaged in international economic activity. Each program assisted under this section shall both enhance the international academic programs of institutions of higher education and provide appropriate services to the business community which will expand its capacity to engage in commerce abroad.

(b) Authorized activities

Eligible activities to be conducted by institutions of higher education pursuant to grants or contracts awarded under this section shall include—

(1) innovation and improvement in international education curricula to serve the needs of the business community, including development of new programs for nontraditional, mid-career, or part-time students;

(2) development of programs to inform the public of increasing international economic interdependence and the role of American business within the international economic system;

(3) internationalization of curricula at the junior and community college level, and at undergraduate and graduate schools of business;

(4) development of area studies programs, and interdisciplinary international programs;

(5) establishment of export education programs through cooperative arrangements with regional and world trade centers and councils, and with bilateral and multilateral trade associations;

(6) research for and development of specialized teaching materials, including language materials, and facilities appropriate to business-oriented students;

(7) establishment of student and faculty fellowships and internships for training and education in international business activities;

(8) development of opportunities for junior business and other professional school faculty to acquire or strengthen international skills and perspectives;

(9) development of research programs on issues of common interest to institutions of higher education and private sector organizations and associations engaged in or promoting international economic activity;

(10) the establishment of internships overseas to enable foreign language students to develop their foreign language skills and knowledge of foreign cultures and societies;

(11) the establishment of linkages overseas with institutions of higher education and organizations that contribute to the educational objectives of this section; and

(12) summer institutes in international business, foreign area and other international studies designed to carry out the purposes of this section.

(c) Applications

No grant may be made and no contract may be entered into under this section unless an institution of higher education submits an application to the Secretary at such time and in such manner as the Secretary may reasonably require. Each such application shall be accompanied by a copy of the agreement entered into by the institution of higher education with a

business enterprise, trade organization or association engaged in international economic activity, or a combination or consortium of such enterprises, organizations or associations, for the purpose of establishing, developing, improving or expanding activities eligible for assistance under subsection (b) of this section. Each such application shall contain assurances that the institution of higher education will use the assistance provided under this section to supplement and not to supplant activities conducted by institutions of higher education described in subsection (b) of this section.

(d) Federal share

The Federal share under this part for each fiscal year shall not exceed 50 percent of the cost of such program.

(Pub. L. 89–329, title VI, § 613, formerly § 612, as added Pub. L. 96–374, title VI, § 601(a), Oct. 3, 1980, 94 Stat. 1468; amended Pub. L. 99–498, title VI, § 611, Oct. 17, 1986, 100 Stat. 1519; renumbered § 613 and amended Pub. L. 100–418, title VI, §§ 6261(1), 6263, Aug. 23, 1988, 102 Stat. 1520, 1523; Pub. L. 102–325, title VI, § 601, July 23, 1992, 106 Stat. 732.)

PRIOR PROVISIONS

A prior section 613 of Pub. L. 89–329 was renumbered section 614 and is classified to section 1130b of this title.

AMENDMENTS

1992—Pub. L. 102–325 amended section generally, adding provisions relating to establishment of linkages overseas with institutions of higher education and organizations that contribute to educational objectives of this section and relating to summer institutes in international business, foreign area and other international studies designed to carry out purposes of this section.

1988—Subsecs. (a), (c), (d). Pub. L. 100–418 substituted ''section'' for ''part'' wherever appearing.

1986—Subsec. (b)(10). Pub. L. 99–498 added par. (10).

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1130b of this title.

§ 1130b. Authorization of appropriations

(a) Centers for international business education

There are authorized to be appropriated $11,000,000 for the fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out the provisions of section 1130–1 of this title.

(b) Education and training programs

There are authorized to be appropriated $7,000,000 for fiscal year 1993, and such sums as may be necessary for the 4 succeeding fiscal years, to carry out the provisions of section 1130a of this title.

(Pub. L. 89–329, title VI, § 614, formerly § 613, as added Pub. L. 96–374, title VI, § 601(a), Oct. 3, 1980, 94 Stat. 1469; amended Pub. L. 99–498, title VI, § 612, Oct. 17, 1986, 100 Stat. 1519; renumbered § 614 and amended Pub. L. 100–418, title VI, §§ 6261(1), 6262, Aug. 23, 1988, 102 Stat. 1520, 1523; Pub. L. 101–600, § 7, Nov. 16, 1990, 104 Stat. 3046; Pub. L. 102–325, title VI, § 601, July 23, 1992, 106 Stat. 733.)

AMENDMENTS

1992—Pub. L. 102–325 amended section generally. Prior to amendment, section read as follows:

''(a) There are authorized to be appropriated $7,500,000 for the fiscal year 1988 and for each of the 4 succeeding fiscal years to carry out the provisions of section 1130–1 of this title.

''(b) There are authorized to be appropriated $5,000,000 for fiscal year 1987, and such sums as may be necessary for the 4 succeeding fiscal years, to carry out the provisions of section 1130a of this title.''

1990—Subsec. (a). Pub. L. 101–600 substituted ''$7,500,000'' for ''$5,000,000'' and ''4 succeeding'' for ''3 succeeding''.

1988—Pub. L. 100–418, § 6262, amended section generally. Prior to amendment, section read as follows: ''There are authorized to be appropriated to carry out this part $5,000,000 for fiscal year 1987, and such sums as may be necessary for the 4 succeeding fiscal years.''

1986—Pub. L. 99–498 amended section generally. Prior to amendment, section read as follows: ''There are authorized to be appropriated $7,500,000 for fiscal year 1981 and for each of the succeeding fiscal years ending prior to October 1, 1985, to carry out the provisions of this part.''

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

PART C—INSTITUTE FOR INTERNATIONAL PUBLIC POLICY

§ 1131. Minority foreign service professional development program

(a) Establishment

The Secretary is authorized to award a grant, on a competitive basis, to an eligible recipient to enable such recipient to establish an Institute for International Public Policy (hereafter in this part referred to as the ''Institute''). The Institute shall conduct a program to significantly increase the numbers of African Americans and other underrepresented minorities in the international service, including private international voluntary organizations and the foreign service of the United States. Such program shall include a program for such students to study abroad in their junior year, fellowships for graduate study, internships, intensive academic programs such as summer institutes, or intensive language training.

(b) "Eligible recipient" defined

(1) In general

For the purpose of this part, the term ''eligible recipient'' means a consortium consisting of 1 or more of the following entities:

(A) An institution eligible for assistance under part B of subchapter III of this chapter.

(B) An institution of higher education which serves substantial numbers of African American or other underrepresented minority students.

(C) An institution of higher education with programs in training foreign service professionals.

(2) Host institution

Each eligible recipient receiving a grant under this section shall designate an institution of higher education as the host institution for the Institute.

(c) Application

Each eligible recipient desiring a grant under this section shall submit an application at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

(d) Duration

Grants made pursuant to this section shall be awarded for a period not to exceed 5 years.

(e) Match required

The eligible recipient of a grant under this section shall contribute to the conduct of the program supported by the grant an amount from non-Federal sources equal to at least one-fourth the amount of the grant, which contribution may be in cash or in kind.

(Pub. L. 89–329, title VI, § 621, as added Pub. L. 102–325, title VI, § 601, July 23, 1992, 106 Stat. 734.)

PRIOR PROVISIONS

A prior section 1131, Pub. L. 89–329, title VI, § 621, as added Pub. L. 96–374, title VI, § 601(a), Oct. 3, 1980, 94 Stat. 1469; amended Pub. L. 97–241, title III, § 303(b), Aug. 24, 1982, 96 Stat. 291; Pub. L. 99–498, title VI, § 613, Oct. 17, 1986, 100 Stat. 1519, related to advisory board on the conduct of programs under this subchapter, prior to repeal by Pub. L. 101–392, title VI, §§ 612, 702(a), Sept. 25, 1990, 104 Stat. 842, 843, effective July 1, 1991.

Another prior section 1131, Pub. L. 89–329, title VI, § 621, Nov. 8, 1965, 79 Stat. 1266, related to grants for operating faculty development program workshops and institutes, prior to the general revision of this subchapter by Pub. L. 96–374.

EFFECTIVE DATE

Part effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as an Effective Date of 1992 Amendment note under section 1001 of this title.

§ 1131a. Junior year abroad program

(a) Program authority

The Institute shall conduct, by grant or contract, a junior year abroad program. The junior year abroad program shall be open to eligible students at institutions of higher education, including historically Black colleges and universities as defined in section 1061 of this title, tribally controlled Indian community colleges as defined in the Tribally Controlled Community College Assistance Act of 1978 [25 U.S.C. 1801 et seq.], and other institutions of higher education with significant minority student populations. Eligible student expenses shall be shared by the Institute and the institution at which the student is in attendance. Each student may spend not more than 9 months abroad in a program of academic study, as well as social, familial and political interactions designed to foster an understanding of and familiarity with the language, culture, economics and governance of the host country.

(b) "Eligible student" defined

For the purpose of this section, the term ''eligible student'' means a student that is—

(1) enrolled full-time in a baccalaureate degree program at an institution of higher education; and

(2) entering the third year of study at an institution of higher education which nominates such student for participation in the junior year abroad program.

(c) Special rule

An institution of higher education desiring to send a student on the junior year abroad program shall enter into a Memorandum of Understanding with the Institute under which such institution of higher education agrees to—

(1) provide the requisite academic preparation for students participating in the junior year abroad or internship programs;

(2) pay one-half the cost of each student it nominates for participation in the junior year abroad program; and

(3) meet such other requirements as the Secretary may from time to time, by regulation, reasonably require.

(Pub. L. 89–329, title VI, § 622, as added Pub. L. 102–325, title VI, § 601, July 23, 1992, 106 Stat. 734.)

REFERENCES IN TEXT

The Tribally Controlled Community College Assistance Act of 1978, referred to in subsec. (a), is Pub. L. 95–471, Oct. 17, 1978, 92 Stat. 1325, as amended, which is classified principally to chapter 20 (§ 1801 et seq.) of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of Title 25 and Tables.

PRIOR PROVISIONS

A prior section 622 of Pub. L. 89–329, title VI, as added Pub. L. 96–374, title VI, § 601(a), Oct. 3, 1980, 94 Stat. 1470; amended Pub. L. 99–498, title VI, § 614, Oct. 17, 1986, 100 Stat. 1520, defined terms used in this subchapter and was classified to section 1132 of this title, prior to the general revision of this subchapter by Pub. L. 102–325. For definitions, see section 1132 of this title.

Another prior section 622 of Pub. L. 89–329, title VI, Nov. 8, 1965, 79 Stat. 1266, related to stipends for persons attending faculty development program institutes and was classified to section 1132 of this title, prior to the general revision of this subchapter by Pub. L. 96–374.

§ 1131b. Masters degree in international relations

The Institute shall provide, in cooperation with the other members participating in the eligible recipient consortium, a program of study leading to a masters degree in international relations. The masters degree program designed by the consortia shall be reviewed and approved by the Secretary. The Institute may grant fellowships in an amount not to exceed the level of support comparable to that provided by the National Science Foundation graduate fellowships, except such amount shall be adjusted as necessary so as not to exceed the fellow's demonstrated level of need according to measurement of need approved by the Secretary. A fellowship recipient shall agree to undertake full-time study and to enter the international service (including work with private international voluntary organizations) or foreign service of the United States.

(Pub. L. 89–329, title VI, § 623, as added Pub. L. 102–325, title VI, § 601, July 23, 1992, 106 Stat. 735.)

§ 1131c. Internships

The Institute shall enter into agreements with historically Black colleges and universities as defined in section 1061 of this title, tribally controlled Indian community colleges as defined in the Tribally Controlled Community College Assistance Act of 1978 [25 U.S.C. 1801 et seq.], other institutions of higher education with significant numbers of minority students, and institutions of higher education with programs in training foreign service professionals, to provide academic year internships during the junior and senior year and summer internships following the sophomore and junior academic years, by work placements with an international voluntary or government organizations or agencies, including the Agency for International Development, the United States Information Agency, the International Monetary Fund, the National Security Council, the Organization of American States, the Export-Import Bank, the Overseas Private Investment Corporation, the Department of State, Office of the United States Trade Representative, the World Bank, and the United Nations.

(Pub. L. 89–329, title VI, § 624, as added Pub. L. 102–325, title VI, § 601, July 23, 1992, 106 Stat. 735.)

REFERENCES IN TEXT

The Tribally Controlled Community College Assistance Act of 1978, referred to in text, is Pub. L. 95–471, Oct. 17, 1978, 92 Stat. 1325, as amended, which is classified principally to chapter 20 (§ 1801 et seq.) of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of Title 25 and Tables.

§ 1131d. Report

The Institute shall annually prepare a report on the activities of the Institute and shall submit such report to the Secretary of Education and the Secretary of State.

(Pub. L. 89–329, title VI, § 625, as added Pub. L. 102–325, title VI, § 601, July 23, 1992, 106 Stat. 735.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1131e of this title.

§ 1131e. Gifts and donations

The Institute is authorized to receive money and other property donated, bequeathed, or devised to the Institute with or without a condition of restriction, for the purpose of providing financial support for the fellowships or underwriting the cost of the Junior Year Abroad Program. All funds or property given, devised, or bequeathed shall be retained in a separate account, and an accounting of those funds and property shall be included in the annual report described in section 1131d of this title.

(Pub. L. 89–329, title VI, § 626, as added Pub. L. 102–325, title VI, § 601, July 23, 1992, 106 Stat. 736.)

§ 1131f. Authorization of appropriations

There is authorized to be appropriated $10,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out this part.

(Pub. L. 89–329, title VI, § 627, as added Pub. L. 102–325, title VI, § 601, July 23, 1992, 106 Stat. 736.)

PART D—GENERAL PROVISIONS

§ 1132. Definitions

(a) Definitions

As used in this subchapter—

(1) the term ''area studies'' means a program of comprehensive study of the aspects of a society or societies, including study of its history, culture, economy, politics, international relations and languages;

(2) the term ''international business'' means profit-oriented business relationships conducted across national boundaries and includes activities such as the buying and selling of goods, investments in industries, the licensing of processes, patents and trademarks, and the supply of services;

(3) the term ''export education'' means educating, teaching and training to provide general knowledge and specific skills pertinent to the selling of goods and services to other countries, including knowledge of market conditions, financial arrangements, laws and procedures;

(4) the term ''internationalization of curricula'' means the incorporation of international or comparative perspectives in existing courses of study or the addition of new components to the curricula to provide an international context for American business education;

(5) the term ''comprehensive language and area center'' means an administrative unit of a university that contributes significantly to the national interest in advanced research and scholarship, employs a critical mass of scholars in diverse disciplines related to a geographic concentration, offers intensive language training in languages of its area specialization, maintains important library collections related to the area, and makes training available in language and area studies to a graduate, postgraduate, and undergraduate clientele; and

(6) the term ''undergraduate language and area center'' means an administrative unit of an institution of higher education, including but not limited to 4-year colleges, that contributes significantly to the national interest through the education and training of students who matriculate into advanced language and area studies programs, professional school programs, or incorporates substantial international and foreign language content into baccalaureate degree programs, engages in research, curriculum development and community outreach activities designed to broaden international and foreign language knowledge, employs faculty with strong language, area, and international studies credentials, maintains library holdings, including basic reference works, journals, and works in translation, and makes training available predominantly to undergraduate students;

(7) the term ''critical languages'' means each of the languages contained in the list of critical languages designated by the Secretary pursuant to section 212(d) of the Education for

Economic Security Act (50 Fed. Reg. 149, 31413), except that, in the implementation of this definition, the Secretary may set priorities according to the purposes of this subchapter; and

(8) the term ''institution of higher education'' means, in addition to institutions which meet the definition of section 1141(a) of this title, institutions which meet the requirements of section 1141(a) of this title except that (1) they are not located in the United States, and (2) they apply for assistance under this title in consortia with institutions which meet the definition of 1141(a) of this title.

(b) Special conditions

All references to individuals or organizations, unless the context otherwise requires, mean individuals who are citizens or permanent residents of the United States or organizations which are organized or incorporated in the United States.

(Pub. L. 89–329, title VI, § 631, as added Pub. L. 102–325, title VI, § 601, July 23, 1992, 106 Stat. 736.)

REFERENCES IN TEXT

Section 212(d) of the Education for Economic Security Act, referred to in subsec. (a)(7), is section 212(d) of Pub. L. 98–377, title II, Aug. 11, 1984, 98 Stat. 1281, as amended, which was classified to section 3972(d) of this title and was repealed by Pub. L. 100–297, title II, § 2303, Apr. 28, 1988, 102 Stat. 324.

PRIOR PROVISIONS

A prior section 1132, Pub. L. 89–329, title VI, § 622, as added Pub. L. 96–374, title VI, § 601(a), Oct. 3, 1980, 94 Stat. 1470; amended Pub. L. 99–498, title VI, § 614, Oct. 17, 1986, 100 Stat. 1520, defined terms used in this subchapter, prior to the general revision of this subchapter by Pub. L. 102–325.

Another prior section 1132, Pub. L. 89–329, title VI, § 622, Nov. 8, 1965, 79 Stat. 1266, related to stipends for persons attending faculty development program institutes, prior to the general revision of this subchapter by Pub. L. 96–374.

EFFECTIVE DATE

Part effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as an Effective Date of 1992 Amendment note under section 1001 of this title.

§ 1132–1. Preservation of pre-1992 programs

Notwithstanding any other provision of law, amendments to this subchapter establishing new programs or expanding existing programs enacted pursuant to the Higher Education Amendments of 1992 shall not be funded in fiscal year 1993, or the 4 succeeding fiscal years, unless and until Congress enacts appropriations for programs under this subchapter enacted prior to such Amendments at a level no less than the level of funding in effect for such preexisting programs for fiscal year 1992.

(Pub. L. 89–329, title VI, § 632, as added Pub. L. 102–325, title VI, § 601, July 23, 1992, 106 Stat. 737.)

REFERENCES IN TEXT

The Higher Education Amendments of 1992, referred to in text, is Pub. L. 102–325, July 23, 1992, 106 Stat. 448. For complete classification of this Act to the Code, see Short Title of 1992 Amendment note set out under section 1001 of this title and Tables.

SUBCHAPTER VII—CONSTRUCTION, RECONSTRUCTION, AND RENOVATION OF ACADEMIC FACILITIES

CODIFICATION

Title VII of the Higher Education Act of 1965, comprising this subchapter, was originally enacted by Pub. L. 89–329, title VII, Nov. 8, 1965, 79 Stat. 1266; amended Pub. L. 92–318, June 23, 1972, 86 Stat. 235; Pub. L. 94–482, Oct. 12, 1976, 90 Stat. 2081; Pub. L. 95–43, June 15, 1977, 91 Stat. 213; Pub. L. 96–49, Aug. 13, 1979, 93 Stat. 351; Pub. L. 96–374, Oct. 3, 1980, 94 Stat. 1367. Such title (except for parts A to C) is shown herein, however, as having been added by Pub. L. 99–498, title VII, § 701, Oct. 17, 1986, 100 Stat. 1520, without reference to such intervening amendments because of the extensive revision of the title's provisions by Pub. L. 99–498.

Parts A to C of title VII, comprising parts A to C of this subchapter, were originally added to title VII by Pub. L. 92–318, title I, § 161(a), June 23, 1972, 86 Stat. 288; amended Pub. L. 94–482, Oct. 12, 1976, 90 Stat. 2081; Pub. L. 95–43, June 15, 1977, 91 Stat. 213; Pub. L. 96–49, Aug. 13, 1979, 93 Stat. 351; Pub. L. 96–374, Oct. 3, 1980, 94 Stat. 1367; Pub. L. 99–498, Oct. 17, 1986, 100 Stat. 1268; Pub. L. 100–50, June 3, 1987, 101 Stat. 335; Pub. L. 100–369, July 18, 1988, 102 Stat. 835. Such parts are shown herein, however, as having been added by Pub. L. 102–325, title VII, §§ 703–705, July 23, 1992, 106 Stat. 738–747, without reference to such intervening amendments because of the extensive revision of the provisions of parts A to C by Pub. L. 102–325.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 1069b of this title; title 40 App. section 214.

§ 1132a. Purposes

(a) In general

The Secretary shall carry out programs of financial assistance to institutions of higher education and to higher education building agencies for the construction, reconstruction, or renovation of academic facilities and the acquisition and maintenance of special research and instructional instrumentation and equipment. In making such grants, the Secretary shall include assistance to enable institutions—

(1) to bring their facilities into conformity with the requirements of—

(A) Federal, State, and local laws requiring removal of barriers to full participation by individuals with disabilities;

(B) environmental protection or health and safety programs mandated by Federal, State, or local law, if such requirements were not in effect at the time such facilities were constructed; or

(C) hazardous waste disposal, treatment, and storage requirements mandated by the Resource Conservation and Recovery Act of 1976 [42 U.S.C. 6901 et seq.], or similar State statutes;

(2) to more efficiently use available energy resources, especially coal, solar power, and other renewable energy resources;

(3) to detect, remove, or otherwise contain asbestos hazards in academic and other facilities used by students, in accordance with regulations prescribed by the Secretary;

(4) to construct, reconstruct, or renovate the Nation's academic research and instructional instrumentation and facilities, including libraries (including renovation of libraries to

promote the use of new technologies and preservation of library materials), and to acquire and maintain special research and instructional instrumentation and equipment;

(5) to provide facilities for advanced skill training programs that relate to emerging technologies and skill needs;

(6) with unusual increases in enrollment or with significant internal programmatic enrollment shifts (according to data and criteria established by the Secretary) to construct, reconstruct, or renovate their facilities; or

(7) to preserve significant architecture.

(b) Priority on renovation

In the awarding of grants under part A or B of this subchapter, priority shall be given to projects involving the renovation of facilities.

(Pub. L. 89–329, title VII, § 701, as added Pub. L. 99–498, title VII, § 701, Oct. 17, 1986, 100 Stat. 1520; amended Pub. L. 100–50, § 19(1), June 3, 1987, 101 Stat. 360; Pub. L. 102–325, title VII, § 701, July 23, 1992, 106 Stat. 737.)

REFERENCES IN TEXT

The Resource Conservation and Recovery Act of 1976, referred to in subsec. (a)(1)(C), is Pub. L. 94–580, Oct. 21, 1976, 90 Stat. 2796, as amended, which is classified generally to chapter 82 (§ 6901 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title of 1976 Amendment note set out under section 6901 of Title 42 and Tables.

PRIOR PROVISIONS

A prior section 1132a, Pub. L. 89–329, title VII, § 701, as added Pub. L. 96–374, title VII, § 701, Oct. 3, 1980, 94 Stat. 1472, related to purpose of programs of financial assistance to institutions of higher education and to higher education building agencies, prior to the general revision of this subchapter by Pub. L. 99–498.

Another prior section 1132a, Pub. L. 89–329, title VII, § 701, as added Pub. L. 92–318, title I, § 161(a), June 23, 1972, 86 Stat. 288; amended Pub. L. 94–482, title I, §§ 161(a), 162(a)(3), (b), Oct. 12, 1976, 90 Stat. 2156, 2157; Pub. L. 96–49, § 8(a), Aug. 13, 1979, 93 Stat. 353, authorized appropriations for a program of grants for the construction, reconstruction, and renovation of undergraduate facilities, prior to the general revision of this subchapter by Pub. L. 96–374.

AMENDMENTS

1992—Subsec. (a). Pub. L. 102–325, § 701(1), in introductory provisions, inserted a period after ''instructional instrumentation and equipment'' and substituted ''In making such grants, the Secretary shall include assistance to enable institutions'' for ''if the primary purpose of such assistance is to enable such institutions''.

Subsec. (a)(1)(A) to (D). Pub. L. 102–325, § 701(2), added subpar. (A), redesignated subpars. (C) and (D) as (B) and (C), respectively, and struck out former subpars. (A) and (B) which read as follows:

''(A) the Act of August 12, 1968, commonly known as the Architectural Barriers Act of 1968;

''(B) section 794 of title 29;''.

Subsec. (a)(4). Pub. L. 102–325, § 701(3), inserted ''(including renovation of libraries to promote the use of new technologies and preservation of library materials)''.

1987—Subsec. (b). Pub. L. 100–50 inserted ''part A or B of'' after ''grants under''.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

STUDY OF ENVIRONMENTAL HAZARDS IN INSTITUTIONS OF HIGHER EDUCATION

Section 1409 of Pub. L. 102–325, as amended by Pub. L. 103–208, § 2(k)(10), Dec. 20, 1993, 107 Stat. 2486, provided that:

''(a) STUDY AUTHORIZED.—The Secretary of Education, in cooperation with the Administrator of the Environmental Protection Agency, is authorized to conduct a study of the extent to which asbestos, lead in drinking water, or radon gas pose a threat to the health and safety of students and employees of institutions of higher education.

''(b) SURVEY REQUIRED.—Such study shall include a survey of a representative sample of institutions of higher education in order to assess how widespread such hazards are. A sufficient number of institutions shall be sampled and tested in order to provide reasonable estimates on—

''(1) the number of institutions which contain friable asbestos (as defined in section 202 of the Toxic Substances Control Act (15 U.S.C. 2642)) and how many students and employees may be exposed to unsafe levels of asbestos fibers,

''(2) the number of institutions that have rooms which contain more than 4 picocuries/liter of radon, and

''(3) the number of institutions which contain water fountains or faucets or water coolers which discharge water with more than 10 parts per billion of lead.

''(c) CONSULTATION.—In designing and carrying out such study, the Secretary shall consult with associations representing institutions of higher education, faculty, and other employees.

''(d) REPORT ON STUDY.—The Secretary of Education shall submit a report with the results of the assessment, including the information required by subsection (b), along with recommendations by the Secretary regarding what actions, if any, Congress and the Administration should take to ensure that environmental health hazards, if any, are eliminated. The report shall be presented to Congress not later than July 1, 1995.

''(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $3,000,000 in fiscal year 1994 for the purposes of carrying out this section.''

§ 1132a–1. Prior rights and obligations

(a) Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary for fiscal year 1993 and for each of the 4 succeeding fiscal years to pay obligations incurred prior to 1987 under parts C and D of this subchapter, as such parts were in effect before the effective date of the Higher Education Act Amendments of 1992.

(b) Legal responsibilities

Except as provided in section 1132i–2 of this title, all entities with continuing obligations incurred under parts A, B, C, and D of this subchapter, as such parts were in effect before the effective date of the Higher Education Act Amendments of 1992, shall be subject to the requirements of such part as in effect before the effective date of the Higher Education Act Amendments of 1992.

(Pub. L. 89–329, title VII, § 702, as added Pub. L. 99–498, title VII, § 701, Oct. 17, 1986, 100 Stat. 1521; amended Pub. L. 100–50, § 19(2), June 3, 1987, 101 Stat. 360; Pub. L. 102–325, title VII, § 702, July 23, 1992, 106 Stat. 738.)

REFERENCES IN TEXT

Parts A, B, C, and D of this subchapter, as such parts were in effect before the effective date of the Higher Education Act Amendments of 1992, referred to in subsecs. (a) and (b), probably means parts A, B, C, and D of this subchapter as in effect prior to the effective date of Pub. L. 102–325, the Higher Education Amendments of 1992. For the effective date of Pub. L. 102–325, see section 2 of Pub. L. 102–325, set out as an Effective Date of 1992 Amendment note under section 1001 of this title. Pub. L. 102–325, title VII, §§703 to 707(a), July 23, 1992, 106 Stat. 738–753, amended this subchapter by amending parts A to C generally, repealing part D, and redesignating former part E as D.

PRIOR PROVISIONS

A prior section 1132a–1, Pub. L. 89–329, title VII, §702, as added Pub. L. 96–374, title VII, §701, Oct. 3, 1980, 94 Stat. 1472, authorized appropriations for fiscal years 1981 to 1985 to carry out programs for construction, reconstruction, and renovation of academic facilities, prior to the general revision of this subchapter by Pub. L. 99–498.

Prior sections 1132a–1 to 1132a–7 were omitted in the general revision of this subchapter by Pub. L. 96–374.

Section 1132a–1, Pub. L. 89–329, title VII, §702, as added Pub. L. 92–318, title I, §161(a), June 23, 1972, 86 Stat. 288; amended Pub. L. 94–482, title I, §162(a)(3), Oct. 12, 1976, 90 Stat. 2156, provided for allotments of funds to public community colleges and technical institutes.

Section 1132a–2, Pub. L. 89–329, title VII, §703, as added Pub. L. 92–318, title I, §161(a), June 23, 1972, 86 Stat. 290; amended Pub. L. 94–482, title I, §162(a)(3), Oct. 12, 1976, 90 Stat. 2156, related to allotments to institutions of higher education other than public community colleges and public technical institutes.

Section 1132a–3, Pub. L. 89–329, title VII, §704, as added Pub. L. 92–318, title I, §161(a), June 23, 1972, 86 Stat. 290; amended Pub. L. 94–482, title I, §162(a)(3), (c), Oct. 12, 1976, 90 Stat. 2156, 2157, set out the requirements of State plans. See section 1132b of this title.

Section 1132a–4, Pub. L. 89–329, title VII, §705, as added Pub. L. 92–318, title I, §161(a), June 23, 1972, 86 Stat. 291; amended Pub. L. 94–482, title I, §162(a)(3), (4), (d), Oct. 12, 1976, 90 Stat. 2156, 2157, related to the eligibility of institutions for grants.

Section 1132a–5, Pub. L. 89–329, title VII, §706, as added Pub. L. 92–318, title I, §161(a), June 23, 1972, 86 Stat. 292; amended Pub. L. 94–482, title I, §162(a)(3), Oct. 12, 1976, 90 Stat. 2156, related to the basic criteria to be applied to State plans. See section 1132b–1 of this title.

Section 1132a–6, Pub. L. 89–329, title VII, §707, as added Pub. L. 92–318, title I, §161(a), June 23, 1972, 86 Stat. 292; amended Pub. L. 94–482, title I, §162(a)(3), (5), Oct. 12, 1976, 90 Stat. 2156, 2157, related to applications for grants for construction, renovation, and reconstruction of undergraduate facilities.

Section 1132a–7, Pub. L. 89–329, title VII, §708, as added Pub. L. 92–318, title I, §161(a), June 23, 1972, 86 Stat. 293, related to the disapproval of State plans and to judicial review.

AMENDMENTS

1992—Pub. L. 102–325 amended section generally, substituting provisions relating to prior rights and obligations for former provisions authorizing appropriations for fiscal years 1987 to 1991.

1987—Subsec. (a). Pub. L. 100–50, which directed amendment of subsec. (a) by inserting at end a comma and ''or for a preceding fiscal year'', was executed by making the insertion before the period at end, as the probable intent of Congress.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

CONTINUATION OF CHAPTER 21 PROGRAMS

Section 161(b)(1) of Pub. L. 92–318 provided that: ''The programs authorized by title VII of the Higher Education Act of 1965 [this subchapter] shall be deemed to be a continuation of the comparable programs authorized by the Higher Education Facilities Act of 1963 [section 701 et seq. of this title].''

PART A—IMPROVEMENT OF ACADEMIC AND LIBRARY FACILITIES

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 1132a, 1132c–5, 1132i–1, 1143 of this title.

§ 1132b. Short title

This part may be cited as the ''Higher Education Facilities Act of 1992''.

(Pub. L. 89–329, title VII, §711, as added Pub. L. 102–325, title VII, §703, July 23, 1992, 106 Stat. 738.)

PRIOR PROVISIONS

A prior section 1132b, Pub. L. 89–329, title VII, §711, as added Pub. L. 99–498, title VII, §701, Oct. 17, 1986, 100 Stat. 1522, related to State plans for construction, reconstruction, and renovation of undergraduate academic facilities, prior to the general revision of this part by Pub. L. 102–325.

Another prior section 1132b, Pub. L. 89–329, title VII, §711, as added Pub. L. 96–374, title VII, §701, Oct. 3, 1980, 94 Stat. 1473, required submission of State plans, prior to the general revision of this subchapter by Pub. L. 99–498.

Another prior section 1132b, Pub. L. 89–329, title VII, §721, as added Pub. L. 92–318, title I, §161(a), June 23, 1972, 86 Stat. 294; amended Pub. L. 94–482, title I, §§161(b), 162(e), Oct. 12, 1976, 90 Stat. 2156, 2157; Pub. L. 96–49, §8(b), Aug. 13, 1979, 93 Stat. 353, set out Congressional declaration of purpose, grant of authority, and authorization of appropriations for the program of grants for construction, reconstruction, and renovation of graduate academic facilities, prior to the general revision of this subchapter by Pub. L. 96–374.

EFFECTIVE DATE

Part effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as an Effective Date of 1992 Amendment note under section 1001 of this title.

§ 1132b–1. Findings

The Congress finds that—

(1) over the past 50 years institutions of higher education have expanded dramatically, while at the same time traditional sources of funding facilities maintenance and repair have declined and even disappeared in some instances;

(2) in order to meet the rising cost of educating students, resulting mainly from inflation and the higher costs of research, many colleges and universities made the choice to defer renovations and improvements;

(3) overall, the need for capital investment by institutions of higher education has been estimated to exceed $60,000,000,000;

(4) the deterioration of facilities has caused valuable research experiments and programs to be postponed, delayed or canceled; and

(5) the United States' competitive position within the world economy is vulnerable if the

necessary research facilities are not available to provide advanced training in the fields of science and technology.

(Pub. L. 89–329, title VII, § 712, as added Pub. L. 102–325, title VII, § 703, July 23, 1992, 106 Stat. 738.)

PRIOR PROVISIONS

A prior section 1132b–1, Pub. L. 89–329, title VII, § 712, as added Pub. L. 99–498, title VII, § 701, Oct. 17, 1986, 100 Stat. 1522, related to basic criteria for consideration of State plans, prior to the general revision of this part by Pub. L. 102–325.

Another prior section 1132b–1, Pub. L. 89–329, title VII, § 712, as added Pub. L. 96–374, title VII, § 701, Oct. 3, 1980, 94 Stat. 1473, related to basic criteria for consideration of State plans, prior to the general revision of this subchapter by Pub. L. 99–498.

Another prior section 1132b–1, Pub. L. 89–329, title VII, § 722, as added Pub. L. 92–318, title I, § 161(a), June 23, 1972, 86 Stat. 294, related to authority to make grants to eligible institutions, prior to the general revision of this subchapter by Pub. L. 96–374.

§ 1132b–2. Distribution of assistance

(a) Competitive or formula distribution

(1) Competitive grants

If the amount appropriated pursuant to section 1132b–5 of this title for a fiscal year is less than $50,000,000, then the Secretary shall award grants under this part on a competitive basis in accordance with subsection (h) of this section to institutions of higher education to carry out the activities described in section 1132b–3 of this title.

(2) Allotment formula

(A) Formula

If the amount appropriated pursuant to section 1132b–5 of this title for a fiscal year is equal to or greater than $50,000,000, then the Secretary shall allot to each State higher education agency with an approved application—

(i) 50 percent of such funds on the basis of the population of the State compared to the population of all States; and

(ii) 50 percent of such funds on the basis of the number of students attending institutions of higher education within the State compared to the number of students attending institutions of higher education in all States.

(B) Use of formula grants

Each State higher education agency receiving an allotment pursuant to subparagraph (A), shall use such allotment to award grants, on a competitive basis, to institutions of higher education within the State to enable such institutions to carry out the activities described in section 1132b–3 of this title.

(C) Reallotment

Except as provided in subsection (f) of this section, any amount that the Secretary determines will not be available to a State higher education agency because such agency elects not to participate in the program assisted under this part shall be reallotted to other States in the same manner as the original allotments were made.

(b) Matching requirements

(1) State matching requirement

(A) In general

In order to receive an allotment under subsection (a)(2)(A) of this section, each State higher education agency shall provide matching funds equal to 25 percent of the amount of any allotment received pursuant to such subsection. The Secretary may waive the requirements of the preceding sentence if the State can demonstrate to the satisfaction of the Secretary that such matching requirement would present a severe financial hardship to the State.

(B) Cash requirement

Each State higher education agency receiving funds under this part shall only provide matching funds pursuant to paragraph (1) in cash.

(2) Institutional matching requirement

In order to receive a grant under subsection (a)(1) or (a)(2)(B) of this section, each eligible institution shall provide matching funds equal to 50 percent of the amount of any grant received pursuant to such subsection. Such matching funds may be provided by the State higher education agency or the institution of higher education.

(c) Priority

In awarding grants pursuant to subsection (a) of this section, the Secretary or each State higher education agency shall give priority to institutions of higher education that serve large numbers or percentages of minority or disadvantaged students.

(d) Equitable participation

In awarding grants pursuant to subsection (a) of this section, the Secretary or each State higher education agency shall ensure the equitable participation of both public and private eligible institutions within the State.

(e) Special rule

If the Secretary determines that any eligible institution within a State has received, within the 2 preceding fiscal years, a direct, noncompetitive award of Federal funds for facilities construction, renovation, improvement or repair, then the eligible institution shall be ineligible to receive assistance under this part.

(f) Use for maintenance

An amount less than or equal to 10 percent of that portion of funds awarded under this part which is allotted by the recipient to meet costs of—

(1) research and instructional instrumentation and equipment; and

(2) equipment and structural changes necessary to ensure the proper functioning of such research or instructional instrumentation and equipment;

may be allocated by the recipient for maintenance of equipment and changes described in paragraphs (1) and (2). Part or all of this percentage may also be applied to costs of upgrading such equipment and structural changes within 3 years of the date of initial use, if the

recipient deems such upgrading essential to the continued usefulness of such research or instructional instrumentation and equipment.

(g) Supplementation

Grants awarded pursuant to subsection (a) of this section shall be used to supplement and not supplant other Federal, State, and local funds available for improvement of academic and library facilities.

(h) Peer review required

In making grants under subsection (a)(1) of this section, the Secretary shall utilize a national peer review panel. The panel shall be broadly representative of all types and classes of institutions of higher education in the United States.

(Pub. L. 89–329, title VII, § 713, as added Pub. L. 102–325, title VII, § 703, July 23, 1992, 106 Stat. 738.)

PRIOR PROVISIONS

A prior section 1132b–2, Pub. L. 89–329, title VII, § 713, as added Pub. L. 99–498, title VII, § 701, Oct. 17, 1986, 100 Stat. 1522, related to allotment of funds, prior to the general revision of this part by Pub. L. 102–325.

Another prior section 1132b–2, Pub. L. 89–329, title VII, § 713, as added Pub. L. 96–374, title VII, § 701, Oct. 3, 1980, 94 Stat. 1473, related to allotment of appropriations among States, prior to the general revision of this subchapter by Pub. L. 99–498.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1132b–4 of this title.

§ 1132b–3. Use of funds

Institutions of higher education shall use funds awarded under this part for any one or more of the following activities:

(1) The improvement, renovation, and repair of academic facilities.

(2) The improvement and renovation of library facilities.

(3) The improvement and renovation of broadcast, cable, and satellite interconnection equipment for use in postsecondary educational television and radio programming, including interactive technology and communications.

(4) The construction of academic and library facilities if the State determines such construction necessary.

(Pub. L. 89–329, title VII, § 714, as added Pub. L. 102–325, title VII, § 703, July 23, 1992, 106 Stat. 740; amended Pub. L. 103–208, § 2(j)(14), Dec. 20, 1993, 107 Stat. 2481.)

AMENDMENTS

1993—Pub. L. 103–208 struck out subsec. (a) designation and heading.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1003 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1132b–2 of this title.

§ 1132b–4. Application

(a) State higher education agency

(1) Application

Each State higher education agency desiring an allotment pursuant to section 1132b–2(a)(2)(A) of this title shall submit an application to the Secretary at such time, in such manner and accompanied by such information as the Secretary may reasonably require.

(2) Contents

Each application described in paragraph (1) shall—

(A) describe the activities and services for which assistance is sought;

(B) contain assurances that the State higher education agency will comply with the matching requirement described in section 1132b–2(b)(1) of this title;

(C) contain a description and the amount of any direct, noncompetitive appropriation of funds for facilities construction, renovation, improvement or repair which the State provides to any institution of higher education within the State; and

(D) contain such other assurances as the Secretary determines necessary to ensure compliance with the provisions of this part.

(b) Institutions of higher education

(1) Application

Each institution of higher education desiring a grant pursuant to section 1132b–2(a)(1) or 1132b–2(a)(2)(B) of this title shall submit an application to the Secretary or the State higher education agency, as appropriate, at such time, in such manner and accompanied by such information as the Secretary or such agency may reasonably require.

(2) Contents

Each application described in paragraph (1) shall—

(A) describe the activities and services for which assistance is sought;

(B) contain assurances that the eligible institution will comply with the matching requirement described in section 1132b–2(b)(2) of this title; and

(C) contain such other assurances as the Secretary or State higher education agency determines necessary to ensure compliance with the provisions of this part.

(Pub. L. 89–329, title VII, § 715, as added Pub. L. 102–325, title VII, § 703, July 23, 1992, 106 Stat. 740; amended Pub. L. 103–208, § 2(j)(15), Dec. 20, 1993, 107 Stat. 2481.)

AMENDMENTS

1993—Subsec. (b). Pub. L. 103–208 struck out par. (1) designation and heading, redesignated former par. (1)(A) as par. (1) and realigned margin, and redesignated former par. (1)(B) as par. (2), realigned margin, and redesignated cls. (i) to (iii) as subpars. (A) to (C), respectively.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of

Pub. L. 103–208, set out as a note under section 1003 of this title.

§ 1132b–5. Authorization of appropriations

There are authorized to be appropriated $350,000,000 for fiscal year 1993 and each of the 4 succeeding fiscal years to carry out the provisions of this part.

(Pub. L. 89–329, title VII, § 716, as added Pub. L. 102–325, title VII, § 703, July 23, 1992, 106 Stat. 741.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1132b–2 of this title.

PART B—HISTORICALLY BLACK COLLEGE AND UNIVERSITY CAPITAL FINANCING

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 1132a, 1132i–1 of this title.

§ 1132c. Findings

The Congress finds that—

(1) a significant part of the Federal mission in education has been to attain equal opportunity in higher education for low-income, educationally disadvantaged Americans and African Americans;

(2) the Nation's historically Black colleges and universities have played a prominent role in American history and have an unparalleled record of fostering the development of African American youth by recognizing their potential, enhancing their academic and technical skills, and honing their social and political skills through higher education;

(3) the academic and residential facilities on the campuses of all historically Black colleges and universities have suffered from neglect, deferred maintenance and are in need of capital improvements in order to provide appropriate settings for learning and social development through higher education;

(4) due to their small enrollments, limited endowments and other financial factors normally considered by lenders in construction financing, historically Black colleges and universities often lack access to the sources of funding necessary to undertake the necessary capital improvements through borrowing and bond financing;

(5) despite their track record of long-standing and remarkable institutional longevity and viability, historically Black colleges and universities often lack the financial resources necessary to gain access to traditional sources of capital financing such as bank loans and bond financing; and

(6) Federal assistance to facilitate low-cost capital basis for historically Black colleges and universities will enable such colleges and universities to continue and expand their educational mission and enhance their significant role in American higher education.

(Pub. L. 89–329, title VII, § 721, as added Pub. L. 102–325, title VII, § 704, July 23, 1992, 106 Stat. 741.)

PRIOR PROVISIONS

A prior section 1132c, Pub. L. 89–329, title VII, § 721, as added Pub. L. 99–498, title VII, § 701, Oct. 17, 1986, 100 Stat. 1524, related to grants for construction, reconstruction, and renovation of graduate academic facilities, prior to the general revision of this part by Pub. L. 102–325.

Another prior section 1132c, Pub. L. 89–329, title VII, § 721, as added Pub. L. 96–374, title VII, § 701, Oct. 3, 1980, 94 Stat. 1475, authorized grants to graduate institutions of higher education, prior to the general revision of this subchapter by Pub. L. 99–498.

Another prior section 1132c, Pub. L. 89–329, title VII, § 741, as added Pub. L. 92–318, title I, § 161(a), June 23, 1972, 86 Stat. 295; amended Pub. L. 94–482, title I, §§ 161(c), 162(a)(3), Oct. 12, 1976, 90 Stat. 2156; Pub. L. 96–49, § 8(c)(1), Aug. 13, 1979, 93 Stat. 353, set out grant of authority and authorization of appropriations for program of loans for construction, reconstruction, and renovation of academic facilities, prior to the general revision of this subchapter by Pub. L. 96–374.

EFFECTIVE DATE

Part effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as an Effective Date of 1992 Amendment note under section 1001 of this title.

§ 1132c–1. Definitions

For the purposes of this part:

(1) The term ''eligible institution'' means a ''part B institution'' as that term is defined in section 1061(2) of this title.

(2) The term ''loan'' means a loan made to an eligible institution under the provisions of this part and pursuant to an agreement with the Secretary.

(3) The term ''qualified bond'' means any obligation issued by the designated bonding authority at the direction of the Secretary, the net proceeds of which are loaned to an eligible institution for the purposes described in section 1132c–2(b) of this title.

(4) The term ''funding'' means any payment under this part from the Secretary to the eligible institution or its assignee in fulfillment of the insurance obligations of the Secretary pursuant to an agreement under section 1132c–2 of this title.

(5) The term ''capital project'' means, subject to section 1132c–3(b) of this title the repair, renovation, or, in exceptional circumstances, the construction or acquisition, of—

(A) any classroom facility, library, laboratory facility, dormitory (including dining facilities) or other facility customarily used by colleges and universities for instructional or research purposes or for housing students, faculty, and staff;

(B) instructional equipment, research instrumentation, and any capital equipment or fixture related to facilities described in subparagraph (A);

(C) any other facility, equipment or fixture which is essential to the maintaining of accreditation of the member institution by a nationally recognized accrediting agency or association; and

(D) any real property or interest therein underlying facilities described in subparagraph (A) or (C).

(6) The term ''interest'' includes accredited value or any other payment constituting interest on an obligation.

(7) The term ''outstanding'', when used with respect to bonds, shall not include bonds the payment of which shall have been provided for

by the irrevocable deposit in trust of obligations maturing as to principal and interest in such amounts and at such times as will ensure the availability of sufficient moneys to make payments on such bonds.

(8) The term ''designated bonding authority'' means the private, for-profit corporation selected by the Secretary pursuant to section 1132c–4(1) of this title for the purpose of issuing taxable construction bonds in furtherance of the purposes of this part.

(9) The term ''Advisory Board'' means the Advisory Board established by section 1132c–6 of this title.

(Pub. L. 89–329, title VII, § 722, as added Pub. L. 102–325, title VII, § 704, July 23, 1992, 106 Stat. 742.)

PRIOR PROVISIONS

A prior section 1132c–1, Pub. L. 89–329, title VII, § 742, as added Pub. L. 92–318, title I, § 161(a), June 23, 1972, 86 Stat. 295; amended Pub. L. 94–482, title I, § 162(a)(3), (6), Oct. 12, 1976, 90 Stat. 2156, 2157, related to eligibility, conditions, amounts, and terms of loans for construction, reconstruction, and renovation of academic facilities, prior to the general revision of this subchapter by Pub. L. 96–374.

§ 1132c–2. Federal insurance for bonds

(a) General rule

Subject to the limitations in section 1132c–3 of this title, the Secretary is authorized to enter into insurance agreements to provide financial insurance to guarantee the full payment of principal and interest on qualified bonds upon the conditions set forth in subsections (b), (c) and (d) of this section.

(b) Responsibilities of designated bonding authority

The Secretary may not enter into an insurance agreement described in subsection (a) of this section unless the Secretary designates a qualified bonding authority in accordance with sections 1132c–4(1) and 1132c–5 of this title and the designated bonding authority agrees in such agreement to—

(1) use the proceeds of the qualified bonds, less costs of issuance not to exceed 2 percent of the principal amount thereof, to make loans to eligible institutions or for deposit into an escrow account for repayment of the bonds;

(2) provide in each loan agreement with respect to a loan that not less than 95 percent of the proceeds of the loan will be used—

(A) to finance the repair, renovation, and, in exceptional cases, construction or acquisition, of a capital project; or

(B) to refinance an obligation the proceeds of which were used to finance the repair, renovation, and, in exceptional cases, construction or acquisition, of a capital project;

(3)(A) charge such interest on loans, and provide for such a schedule of repayments of loans, as will, upon the timely repayment of the loans, provide adequate and timely funds for the payment of principal and interest on the bonds; and

(B) require that any payment on a loan expected to be necessary to make a payment of principal and interest on the bonds be due not less than 60 days prior to the date of the payment on the bonds for which such loan payment is expected to be needed;

(4) prior to the making of any loan, provide for a credit review of the institution receiving the loan and assure the Secretary that, on the basis of such credit review, it is reasonable to anticipate that the institution receiving the loan will be able to repay the loan in a timely manner pursuant to the terms thereof;

(5) provide in each loan agreement with respect to a loan that, if a delinquency on such loan results in a funding under the insurance agreement, the institution obligated on such loan shall repay the Secretary, upon terms to be determined by the Secretary, for such funding;

(6) assign any loans to the Secretary, upon the demand of the Secretary, if a delinquency on such loan has required a funding under the insurance agreement;

(7) in the event of a delinquency on a loan, engage in such collection efforts as the Secretary shall require for a period of not less than 45 days prior to requesting a funding under the insurance agreement;

(8) establish an escrow account—

(A) into which each eligible institution shall deposit 10 percent of the proceeds of any loan made under this part, with each eligible institution required to maintain in the escrow account an amount equal to 10 percent of the outstanding principal of all loans made to such institution under this part; and

(B) the balance of which—

(i) shall be available to the Secretary to pay principal and interest on the bonds in the event of delinquency in loan repayment; and

(ii) shall be used to return to an eligible institution an amount equal to any remaining portion of such institution's 10 percent deposit of loan proceeds following scheduled repayment of such institution's loan;

(9) provide in each loan agreement with respect to a loan that, if a delinquency on such loan results in amounts being withdrawn from the escrow account to pay principal and interest on bonds, subsequent payments on such loan shall be available to replenish such escrow account;

(10) comply with the limitations set forth in section 1132c–3 of this title; and

(11) make loans only to eligible institutions under this part in accordance with conditions prescribed by the Secretary to ensure that loans are fairly allocated among as many eligible institutions as possible, consistent with making loans of amounts that will permit capital projects of sufficient size and scope to significantly contribute to the educational program of the eligible institutions.

(c) Additional agreement provisions

Any insurance agreement described in subsection (a) of this section shall provide as follows:

(1) The payment of principal and interest on bonds shall be insured by the Secretary until

such time as such bonds have been retired or canceled.

(2) The Federal liability for delinquencies and default for bonds guaranteed under this part shall only become effective upon the exhaustion of all the funds held in the escrow account described in subsection (b)(8) of this section.

(3) The Secretary shall create a letter of credit authorizing the Department of the Treasury to disburse funds to the designated bonding authority or its assignee.

(4) The letter of credit shall be drawn upon in the amount determined by paragraph (5) of this subsection upon the certification of the designated bonding authority to the Secretary or the Secretary's designee that there is a delinquency on 1 or more loans and there are insufficient funds available from loan repayments and the escrow account to make a scheduled payment of principal and interest on the bonds.

(5) Upon receipt by the Secretary or the Secretary's designee of the certification described in paragraph (4) of this subsection, the designated bonding authority may draw a funding under the letter of credit in an amount equal to—

(A) the amount required to make the next scheduled payment of principal and interest on the bonds, less

(B) the amount available to the designated bonding authority from loan repayments and the escrow account.

(6) All funds provided under the letter of credit shall be paid to the designated bonding authority within 2 business days following receipt of the certification described in paragraph (4).

(d) Full faith and credit provisions

Subject to subsection (c)(1) of this section the full faith and credit of the United States is pledged to the payment of all funds which may be required to be paid under the provisions of this section.

(Pub. L. 89–329, title VII, § 723, as added Pub. L. 102–325, title VII, § 704, July 23, 1992, 106 Stat. 743; amended Pub. L. 103–382, title III, § 360C, Oct. 20, 1994, 108 Stat. 3972.)

PRIOR PROVISIONS

A prior section 1132c–2, Pub. L. 89–329, title VII, § 743, as added Pub. L. 92–318, title I, § 161(a), June 23, 1972, 86 Stat. 296; amended Pub. L. 94–482, title I, § 162(f), Oct. 12, 1976, 90 Stat. 2157, contained general provisions covering programs of loans for construction, reconstruction, and renovation of academic facilities, prior to the general revision of this subchapter by Pub. L. 96–374.

AMENDMENTS

1994—Subsec. (b)(8)(A). Pub. L. 103–382, § 360C(1)(A), inserted before semicolon ", with each eligible institution required to maintain in the escrow account an amount equal to 10 percent of the outstanding principal of all loans made to such institution under this part".

Subsec. (b)(8)(B)(ii). Pub. L. 103–382, § 360C(1)(B), amended cl. (ii) generally. Prior to amendment, cl. (ii) read as follows: "when all bonds under this part are retired or canceled, shall be divided among the eligible institutions making deposits into such account on the basis of the amount of each such institution's deposit;".

Subsec. (b)(11). Pub. L. 103–382, § 360C(2), substituted "conditions" for "regulations".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1132c–1, 1132c–4 of this title.

§ 1132c–3. Limitations on Federal insurance for bonds issued by designated bonding authority

(a) Limit on amount

At no time shall the aggregate principal amount of outstanding bonds insured under this part together with any accrued unpaid interest thereon exceed $375,000,000, of which—

(1) not more than $250,000,000 shall be used for loans to eligible institutions that are private historically Black colleges and universities; and

(2) not more than $125,000,000 shall be used for loans to eligible institutions which are historically Black public colleges and universities.

For purposes of paragraphs (1) and (2), Lincoln University of Pennsylvania is an historically Black public institution. No institution of higher education that has received assistance under section 123 of this title shall be eligible to receive assistance under this part.

(b) Limitation on credit authority

The authority of the Secretary to issue letters of credit and insurance under this part is effective only to the extent provided in advance by appropriations Acts.

(c) Religious activity prohibition

No loan may be made under this part for any educational program, activity or service related to sectarian instruction or religious worship or provided by a school or department of divinity or to an institution in which a substantial portion of its functions is subsumed in a religious mission.

(d) Discrimination prohibition

No loan may be made to an institution under this part if the institution discriminates on account of race, color, religion, national origin, sex (to the extent provided in title IX of the Education Amendments of 1972 [20 U.S.C. 1681 et seq.]), or disabling condition; except that the prohibition with respect to religion shall not apply to an institution which is controlled by or which is closely identified with the tenets of a particular religious organization if the application of this section would not be consistent with the religious tenets of such organization.

(Pub. L. 89–329, title VII, § 724, as added Pub. L. 102–325, title VII, § 704, July 23, 1992, 106 Stat. 745.)

REFERENCES IN TEXT

The Education Amendments of 1972, referred to in subsec. (d), is Pub. L. 92–318, June 23, 1972, 86 Stat. 235, as amended. Title IX of the Act is classified principally to chapter 38 (§ 1681 et seq.) of this title. For complete classification of this Act to the Code, see Short Title of 1972 Amendment note set out under section 1001 of this title and Tables.

PRIOR PROVISIONS

A prior section 1132c–3, Pub. L. 89–329, title VII, § 744, as added Pub. L. 92–318, title I, § 161(a), June 23, 1972, 86

Stat. 296, provided for creation of Revolving Loan Fund and Insurance Fund, prior to the general revision of this subchapter by Pub. L. 96–374.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1132c–1, 1132c–2 of this title.

§ 1132c–4. Authority of Secretary

In the performance of, and with respect to, the functions vested in the Secretary by this part, the Secretary—

(1) shall, within 120 days of July 23, 1992, publish in the Federal Register a notice and request for proposals for any private for-profit organization or entity wishing to serve as the designated bonding authority under this part, which notice shall—

(A) specify the time and manner for submission of proposals; and

(B) specify any information, qualifications, criteria, or standards the Secretary determines to be necessary to evaluate the financial capacity and administrative capability of any applicant to carry out the responsibilities of the designated bonding authority under this part;

(2) shall require that the first loans for capital projects authorized under section 1132c–2 of this title be made no later than March 31, 1994;

(3) may sue and be sued in any court of record of a State having general jurisdiction or in any district court of the United States, and such district courts shall have jurisdiction of civil actions arising under this part without regard to the amount in controversy, and any action instituted under this part without regard to the amount in controversy, and any action instituted under this section by or against the Secretary shall survive notwithstanding any change in the person occupying the office of the Secretary or any vacancy in such office;

(4)(A) may foreclose on any property and bid for and purchase at any foreclosure, or any other sale, any property in connection with which the Secretary has been assigned a loan pursuant to this part; and

(B) in the event of such an acquisition, notwithstanding any other provisions of law relating to the acquisition, handling, or disposal of real property by the United States, complete, administer, remodel and convert, dispose of, lease, and otherwise deal with, such property, except that—

(i) such action shall not preclude any other action by the Secretary to recover any deficiency in the amount of a loan assigned to the Secretary; and

(ii) any such acquisition of real property shall not deprive any State or political subdivision thereof of its civil or criminal jurisdiction in and over such property or impair the civil rights under the State or local laws of the inhabitants on such property;

(5) may sell, exchange, or lease real or personal property and securities or obligations; and

(6) may include in any contract such other covenants, conditions, or provisions necessary to ensure that the purposes of this part will be achieved.

(Pub. L. 89–329, title VII, § 725, as added Pub. L. 102–325, title VII, § 704, July 23, 1992, 106 Stat. 745; amended Pub. L. 103–208, § 2(j)(16), Dec. 20, 1993, 107 Stat. 2481.)

PRIOR PROVISIONS

A prior section 1132c–4, Pub. L. 89–329, title VII, § 745, as added Pub. L. 92–318, title I, § 161(a), June 23, 1972, 86 Stat. 297; amended Pub. L. 94–482, title I, §§ 161(d), 162(a)(3), (g), Oct. 12, 1976, 90 Stat. 2156, 2157; Pub. L. 95–43, § 1(b)(6), June 15, 1977, 91 Stat. 218; Pub. L. 96–49, § 8(c)(2), Aug. 13, 1979, 93 Stat. 353, related to annual interest grants, prior to the general revision of this subchapter by Pub. L. 96–374.

AMENDMENTS

1993—Pars. (2) to (6). Pub. L. 103–208 added par. (2) and redesignated former pars. (2) to (5) as (3) to (6), respectively.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1003 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1132c–1, 1132c–2, 1132c–7 of this title.

§ 1132c–5. Prohibition

No institution that receives a loan under this part shall also receive a grant under part A of this subchapter.

(Pub. L. 89–329, title VII, § 726, as added Pub. L. 102–325, title VII, § 704, July 23, 1992, 106 Stat. 746; amended Pub. L. 103–208, § 2(j)(17), Dec. 20, 1993, 107 Stat. 2481.)

PRIOR PROVISIONS

A prior section 1132c–5, Pub. L. 89–329, title VII, § 746, as added Pub. L. 92–318, title I, § 161(a), June 23, 1972, 86 Stat. 298; amended Pub. L. 94–482, title I, § 162(a)(3), Oct. 12, 1976, 90 Stat. 2156, related to academic facilities loan insurance, prior to the general revision of this subchapter by Pub. L. 96–374.

AMENDMENTS

1993—Pub. L. 103–208 struck out before period at end ''or a loan under part D of this subchapter''.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1003 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1132c–2 of this title.

§ 1132c–6. HBCU Capital Financing Advisory Board

(a) Establishment and purpose

There is established within the Department of Education, the Historically Black College and Universities Capital Financing Advisory Board (hereinafter in this part referred to as the ''Advisory Board'') which shall provide advice and

counsel to the Secretary and the designated bonding authority as to the most effective and efficient means of implementing construction financing on African American college campuses, and advise the Congress of the United States regarding the progress made in implementing this part. The Advisory Board shall meet with the Secretary at least twice each year to advise him as to the capital needs of historically Black colleges and universities, how those needs can be met through the program authorized by this part, and what additional steps might be taken to improve the operation and implementation of the construction financing program.

(b) Board membership

(1) Composition

The Advisory Board shall be appointed by the Secretary and shall be composed of 9 members as follows:

(A) The Secretary or the Secretary's designee.

(B) Three members who are presidents of private historically Black colleges or universities.

(C) Two members who are presidents of public historically Black colleges or universities.

(D) The president of the United Negro College Fund, Inc.

(E) The president of the National Association for Equal Opportunity in Higher Education.

(F) The executive director of the White House Initiative on historically Black colleges and universities.

(2) Terms

The term of office of each member appointed under paragraphs (1)(B) and (1)(C) shall be 3 years, except that—

(A) of the members first appointed pursuant to paragraphs (1)(B) and (1)(C), 2 shall be appointed for terms of 1 year, and 3 shall be appointed for terms of 2 years;

(B) members appointed to fill a vacancy occurring before the expiration of a term of a member shall be appointed to serve the remainder of that term; and

(C) a member may continue to serve after the expiration of a term until a successor is appointed.

(c) Authorization of appropriations

There are authorized to be appropriated $50,000 for fiscal year 1993 and each of the 4 succeeding fiscal years to carry out this section.

(Pub. L. 89–329, title VII, § 727, as added Pub. L. 102–325, title VII, § 704, July 23, 1992, 106 Stat. 746.)

TERMINATION OF ADVISORY BOARDS

Advisory boards established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a board established by the President or an officer of the Federal Government, such board is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a board established by Congress, its duration is otherwise provided by law. See sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1132c–1 of this title.

§ 1132c–7. Minority business enterprise utilization

In the performance of and with respect to the Secretary's effectuation of his responsibilities under section 1132c–4(1) of this title and to the maximum extent feasible in the implementation of the purposes of this part, minority business persons, including bond underwriters and credit enhancers, bond counsel, marketers, accountants, advisors, construction contractors, and managers should be utilized.

(Pub. L. 89–329, title VII, § 728, as added Pub. L. 102–325, title VII, § 704, July 23, 1992, 106 Stat. 747.)

PART C—LOANS FOR CONSTRUCTION, RECONSTRUCTION AND RENOVATION OF ACADEMIC, HOUSING, AND OTHER EDUCATIONAL FACILITIES

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 1132i–1 of this title.

§ 1132d. Federal assistance in form of loans

(a) Authority and conditions for loans

To assist institutions of higher education and higher education building agencies in the construction, reconstruction, or renovation of housing, undergraduate and graduate academic facilities, and other educational facilities for students and faculty, the Secretary may make loans of funds to such institutions for the construction, reconstruction, or renovation of such facilities. No such assistance shall be provided unless—

(1) the educational institution involved is unable to secure the necessary funds for the construction or purchase from other sources upon terms and conditions equally as favorable as the terms and conditions applicable to loans under this subchapter; and

(2) the Secretary finds that any such construction will be undertaken in an economical manner, and that any such facilities are not or will not be of elaborate or extravagant design or materials.

(b) Amount and conditions of loans

A loan to institutions of higher education or higher education building agency—

(1) may be in an amount not exceeding the total development cost of the facility, as determined by the Secretary;

(2) shall be secured in such manner and be repaid within such period, not exceeding 50 years, as may be determined by the Secretary; and

(3) shall bear interest at a rate determined by the Secretary which shall be not more than the lower of (A) 5.5 percent per annum, or (B) the total of one-quarter of 1 percent per annum added to the rate of interest paid by the Secretary on funds obtained from the Secretary of the Treasury.

(c) Use of loans for previously made contracts

Any institution of higher education or higher education building agency which, prior to Octo-

ber 17, 1986, had contracted for housing or other educational facilities may, in connection therewith, receive loans authorized under this part, as the Secretary may determine. No such loan shall be made for any housing or other educational facilities, the construction of which was begun prior to such date, or completed prior to the filing of an application under this part.

(d) Matching requirement

The Secretary shall not make a loan under this part unless the institution of higher education or higher education building agency receiving such loan provides from non-Federal sources at least 20 percent of the development cost of the project for which the loan is made.

(Pub. L. 89–329, title VII, § 731, as added Pub. L. 102–325, title VII, § 705, July 23, 1992, 106 Stat. 747; amended Pub. L. 103–208, § 2(j)(18), (19), Dec. 20, 1993, 107 Stat. 2481.)

PRIOR PROVISIONS

A prior section 1132d, Pub. L. 89–329, title VII, § 731, as added Pub. L. 99–498, title VII, § 701, Oct. 17, 1986, 100 Stat. 1525; amended Pub. L. 100–50, § 19(3), June 3, 1987, 101 Stat. 360, related to eligibility conditions, amounts, and terms of loans for construction, reconstruction, and renovation of academic facilities, prior to the general revision of this part by Pub. L. 102–325.

Another prior section 1132d, Pub. L. 89–329, title VII, § 731, as added Pub. L. 96–374, title VII, § 701, Oct. 3, 1980, 94 Stat. 1475, related to eligibility conditions, amounts, and terms of loans for construction, reconstruction, and renovation of academic facilities, prior to the general revision of this subchapter by Pub. L. 99–498.

Another prior section 1132d, Pub. L. 89–329, title VII, § 761, as added Pub. L. 92–318, title I, § 161(a), June 23, 1972, 86 Stat. 299, authorized appropriations for the program of assistance to major disaster areas, prior to the general revision of this subchapter by Pub. L. 96–374.

AMENDMENTS

1993—Subsec. (a). Pub. L. 103–208, § 2(j)(18), substituted ''faculty'' for ''faculties'' in introductory provisions.

Subsec. (c). Pub. L. 103–208, § 2(j)(19), struck out ''enactment of'' before ''such date''.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1003 of this title.

EFFECTIVE DATE

Part effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as an Effective Date of 1992 Amendment note under section 1001 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1132d–3 of this title.

§ 1132d–1. General provisions

(a) Budget and accounting

In the performance of, and with respect to, the functions, powers, and duties under this part, the Secretary, notwithstanding the provisions of any other law, shall—

(1) prepare annually and submit a budget program as provided for wholly owned Government corporations by chapter 91 of title 31; and

(2) maintain a set of accounts which shall be audited by the Comptroller General in accordance with the provisions of chapter 35 of title 31, but such financial transactions of the Secretary, as the making of loans and vouchers approved by the Secretary, in connection with such financial transactions shall be final and conclusive upon all officers of the Government.

(b) Use of funds

Funds made available to the Secretary pursuant to the provisions of this part shall be deposited in a checking account or accounts with the Treasurer of the United States. Receipts and assets obtained or held by the Secretary in connection with the performance of functions under this part, and all funds available for carrying out the functions of the Secretary under this part (including appropriations therefor, which are hereby authorized), shall be available, in such amounts as may from year to year be authorized by the Congress, for the administrative expenses of the Secretary in connection with the performance of such functions.

(c) Legal powers

In the performance of, and with respect to, the functions, powers, and duties under this part, the Secretary, notwithstanding the provisions of any other law, may—

(1) prescribe such rules and regulations as may be necessary to carry out the purposes of this part;

(2) sue and be sued;

(3) foreclose on any property or commence any action to protect or enforce any right conferred upon the Secretary by any law, contract, or other agreement, and bid for and purchase at any foreclosure or any other sale any property in connection with which the Secretary has made a loan pursuant to this part;

(4) in the event of any such acquisition, notwithstanding any other provision of law relating to the acquisition, handling, or disposal of real property by the United States, complete, administer, remodel and convert, dispose of, lease, and otherwise deal with, such property, but any such acquisition of real property shall not deprive any State or political subdivision thereof of its civil or criminal jurisdiction in and over such property or impair the civil rights under the State or local laws of the inhabitants on such property;

(5) sell or exchange at public or private sale, or lease, real or personal property, and sell or exchange any securities or obligations, upon such terms as the Secretary may fix;

(6) obtain insurance against loss in connection with property and other assets held;

(7) subject to the specific limitations in this part, consent to the modification, with respect to the rate of interest, time of payment of any installment of principal or interest, security, or any other term of any contract or agreement to which the Secretary is a party or which has been transferred to the Secretary pursuant to this part, granting to a borrower of a loan made before October 1, 1992, the option of repaying the loan at a discount computed in accordance with subsection (d) of this section if the repayment is (A) made from non-Federal sources, (B) not derived from proceeds of obligations the income of which is exempt

from taxation under title 26, and (C) made on a loan that has been outstanding for at least 5 years; and

(8) include in any contract or instrument made pursuant to this part such other covenants, conditions, or provisions as may be necessary to assure that the purposes of this part will be achieved.

(d) Computation of allowable discounts

The Secretary shall compute the discount which may be offered to a borrower as an inducement to early repayment under subsection (c)(7) of this section in an amount determined by the Secretary to be in the best financial interests of the Government, taking into account the yield on outstanding marketable obligations of the United States having maturities comparable to the remaining term of such loan.

(e) Nondiscrimination between borrowers in offering discounted prepayment

(1) General rule

If the Secretary offers a discount as an inducement to early repayment under subsection (c)(7) of this section, such offer shall be available without regard to whether the borrower is delinquent or in default on the loan on or before October 1, 1992, but the Secretary shall refuse to make such offer to a borrower that becomes delinquent or goes into default after that date.

(2) Applicability

The discount offered shall apply, in the case of a borrower that complies with paragraph (1), to the entire amount outstanding on the loan (including any amount owed with respect to payments that are overdue).

(f) Contracts for supplies or services

Section 5 of title 41 shall not apply to any contract for services or supplies on account of any property acquired pursuant to this part if the amount of such contract does not exceed $1,000.

(g) Applicability of Government Corporation Control Act

The provisions of section 9107(a) of title 31, which are applicable to corporations or agencies subject to chapter 91 of such title, shall also be applicable to the activities of the Secretary under this part.

(h) Wage rates

The Secretary shall take such action as may be necessary to ensure that all laborers and mechanics employed by contractors or subcontractors on any project assisted under this part—

(1) shall be paid wages at rates not less than those prevailing on the same type of work on similar construction in the immediate locality as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (Davis-Bacon Act) [40 U.S.C. 276a et seq.], as amended; and

(2) shall be employed not more than 40 hours in any one week unless the employee receives wages for the employee's employment in excess of the hours specified above at a rate not less than one and one-half times the regular rate at which the employee is employed,

but the Secretary may waive the application of this subsection in cases or classes of cases where laborers or mechanics, not otherwise employed at any time in the construction of such project, voluntarily donate their services without full compensation for the purpose of lowering the costs of construction and the Secretary determines that any amounts saved thereby are fully credited to the educational institution undertaking the construction.

(i) Limitation

No loan may be made under this part for any facility on the campus of any postsecondary educational institution until 5 years after the date on which a previous loan for another facility on such campus was made under this part, unless the loan is intended to be used to construct or reconstruct a facility damaged as a result of a national disaster, as declared by the President.

(Pub. L. 89–329, title VII, § 732, as added Pub. L. 102–325, title VII, § 705, July 23, 1992, 106 Stat. 748.)

REFERENCES IN TEXT

The Act of March 3, 1931 (Davis-Bacon Act), referred to in subsec. (h)(1), is act Mar. 3, 1931, ch. 411, 46 Stat. 1494, as amended, which is classified generally to sections 276a to 276a–5 of Title 40, Public Buildings, Property, and Works. For complete classification of this Act to the Code, see Short Title note set out under section 276a of Title 40 and Tables.

PRIOR PROVISIONS

A prior section 1132d–1, Pub. L. 89–329, title VII, § 732, as added Pub. L. 99–498, title VII, § 701, Oct. 17, 1986, 100 Stat. 1526; amended Pub. L. 100–369, § 7(c), July 18, 1988, 102 Stat. 837, set out general provisions for loan program, prior to the general revision of this part by Pub. L. 102–325.

Another prior section 1132d–1, Pub. L. 89–329, title VII, § 732, as added Pub. L. 96–374, title VII, § 701, Oct. 3, 1980, 94 Stat. 1475, set out general provisions for program of loans for construction, reconstruction, and renovation of academic facilities, prior to the general revision of this subchapter by Pub. L. 99–498.

Another prior section 1132d–1, Pub. L. 89–329, title VII, § 762, as added Pub. L. 92–318, title I, § 161(a), June 23, 1972, 86 Stat. 299; amended Pub. L. 94–482, title I, §§ 161(e), 162(h), Oct. 12, 1979, 90 Stat. 2156, 2157, provided for disaster assistance for replacement or restoration of academic facilities, prior to the general revision of this subchapter by Pub. L. 96–374.

§ 1132d–2. Apportionment

(a) Limitation

Not more than 12.5 percent of the amount of the funds provided for in this part in the form of loans shall be made available to educational institutions within any one State.

(b) Priorities

In awarding loans under this part, the Secretary shall give priority—

(1) to loans for renovation or reconstruction of undergraduate and graduate academic facilities; and

(2) to loans for renovation or reconstruction of older undergraduate and graduate academic facilities that have gone without major renovation or reconstruction for an extended period.

(Pub. L. 89–329, title VII, § 733, as added Pub. L. 102–325, title VII, § 705, July 23, 1992, 106 Stat. 750.)

PRIOR PROVISIONS

A prior section 1132d–2, Pub. L. 89–329, title VII, § 733, as added Pub. L. 99–498, title VII, § 701, Oct. 17, 1986, 100 Stat. 1527; amended Pub. L. 100–50, § 19(4), June 3, 1987, 101 Stat. 360, related to revolving loan fund, prior to the general revision of this part by Pub. L. 102–325.

Another prior section 1132d–2, Pub. L. 89–329, title VII, § 733, as added Pub. L. 96–374, title VII, § 701, Oct. 3, 1980, 94 Stat. 1476, related to revolving loan and insurance fund, prior to the general revision of this subchapter by Pub. L. 99–498.

Another prior section 1132d–2, Pub. L. 89–329, title VII, § 763, as added Pub. L. 92–318, title I, § 161(a), June 23, 1972, 86 Stat. 300, related to grants for the purchase of equipment and supplies, prior to the general revision of this subchapter by Pub. L. 96–374.

§ 1132d–3. Definitions

For the purpose of this part:

(a) Housing

The term ''housing'' means—

(1) new or existing structures suitable for dwelling use, including single-room dormitories and apartments; and

(2) dwelling facilities provided for rehabilitation, alteration, conversion, or improvement of existing structures which are otherwise inadequate for the proposed dwelling use.

(b) Educational institution

The term ''institution of higher education or higher education building agency'' means—

(1)(A) any educational institution which offers, or provides satisfactory assurance to the Secretary that it will offer within a reasonable time after completion of a facility for which assistance is requested under this part, at least a 2-year program acceptable for full credit toward a baccalaureate degree (including any public educational institution, or any private educational institution no part of the net earnings of which inures to the benefit of any private shareholder or individual); or

(B) any public educational institution which—

(i) is administered by a college or university which is accredited by a nationally recognized accrediting agency or association;

(ii) offers technical or vocational instruction; and

(iii) provides residential facilities for some or all of the students receiving such instruction;

(2) any hospital operating a school of nursing beyond the level of high school approved by the appropriate State authority, or any hospital approved for internships, by recognized authority, if such hospital is either a public hospital or a private hospital, no part of the net earnings of which inures to the benefit of any private shareholder or individual;

(3) any corporation (no part of the net earnings of which inures to the benefit of any private shareholder or individual)—

(A) established for the sole purpose of providing housing or other educational facilities for students or students and faculty of one or more institutions included in paragraph (1) without regard to their membership in or affiliation with any social, fraternal, or honorary society or organization; and

(B) upon dissolution of which all title to any property purchased or built from the proceeds of any loan which is made under section 1132d of this title (as such section was in effect prior to July 23, 1992), will pass to such institution (or to any one or more of such institutions) unless it is shown to the satisfaction of the Secretary that such property or the proceeds from its sale will be used for some other nonprofit educational purpose;

(4) any agency, public authority, or other instrumentality of any State, established for the purpose of providing or financing housing or other educational facilities for students or faculty of any educational institution included in paragraph (1), but nothing in this paragraph shall require an institution included in paragraph (1) to obtain loans or grants through any instrumentality included in this paragraph; and

(5) any nonprofit student housing cooperative corporation established for the purpose of providing housing for students or students and faculty of any institution included in paragraph (1).

In the case of any loan made under section 1132d of this title (as such section was in effect prior to July 23, 1992) to a corporation described in paragraph (3) which was not established by the institution or institutions for whose students or students and faculty it would provide housing, or to a student housing cooperative corporation described in paragraph (5), and in the case of any loan which is obtained from other sources by such a corporation, the Secretary shall require that the note securing such loan be cosigned by such institution (or by any one or more of such institutions). Where the law of any State in effect on September 2, 1964, prevents the institution or institutions, for whose students or students and faculty housing is to be provided, from cosigning the note, the Secretary shall require the corporation and the proposed project to be approved by such institution (or by any one or more of such institutions) in lieu of such cosigning.

(c) Undergraduate and graduate academic facilities

(1) In general

Except as provided in paragraph (2), the term ''undergraduate and graduate academic facilities'' means structures suitable for use as classrooms, laboratories, libraries, and related facilities, the primary purpose of which is the instruction of students pursuing at least a 2-year program acceptable for full credit toward a baccalaureate degree, or for administration of the educational programs serving such students, of an institution of higher education, and maintenance, storage, or utility facilities essential to operation of the foregoing facilities, as well as infirmaries or other facilities designed to provide primarily for outpatient care of student and instructional personnel. Plans for such facilities shall be in compliance with such standards as the Secretary may prescribe or approve in order to ensure that projects assisted with the use of Federal funds

under this part shall be, to the extent appropriate in view of the uses to be made of the facilities, accessible to and usable by individuals with disabilities.

(2) Exceptions

The term ''undergraduate and graduate academic facilities'' shall not include (A) any facility intended primarily for events for which admission is to be charged to the general public, (B) any gymnasium or other facility specially designed for athletic or recreational activities, other than for an academic course in physical education or where the Secretary finds that the physical integration of such facilities with other undergraduate academic facilities included under this part is required to carry out the objectives of this part, (C) any facility used or to be used for sectarian instruction or as a place for religious worship, or (D) any facility which (although not a facility described in the preceding clause) is used or to be used primarily in connection with any part of the program of a school or department of divinity.

(d) Development cost

The term ''development cost'' means costs of the construction of the housing or other educational facilities and the land on which it is located, including necessary site improvements to permit its use for housing, academic facilities, or other educational facilities, except that in the case of the purchase of facilities such term means the cost as approved by the Secretary.

(e) Faculty

The term ''faculty'' means members of the faculty and their families.

(f) Other educational facilities

The term ''other educational facilities'' means (1) new or existing structures suitable for use as cafeterias or dining halls, student centers or student unions, infirmaries or other inpatient or outpatient health facilities, or for other essential service facilities, and (2) structures suitable for the above uses provided by rehabilitation, alteration, conversion, or improvement of existing structures which are otherwise inadequate for such uses.

(Pub. L. 89–329, title VII, § 734, as added Pub. L. 102–325, title VII, § 705, July 23, 1992, 106 Stat. 751; amended Pub. L. 103–208, § 2(j)(20), Dec. 20, 1993, 107 Stat. 2481.)

PRIOR PROVISIONS

A prior section 1132d–3, Pub. L. 89–329, title VII, § 734, as added Pub. L. 96–374, title VII, § 701, Oct. 3, 1980, 94 Stat. 1477, related to annual interest grants to assist institutions of higher education and higher education building agencies, prior to the general revision of this subchapter by Pub. L. 99–498.

Another prior section 1132d–3, Pub. L. 89–329, title VII, § 764, as added Pub. L. 92–318, title I, § 161(a), June 23, 1972, 86 Stat. 300, related to repayable assistance in lieu of a grant, prior to the general revision of this subchapter by Pub. L. 96–374.

AMENDMENTS

1993—Subsec. (e). Pub. L. 103–208 substituted ''Faculty'' for ''Faculties'' in heading and ''faculty'' for ''faculties'' as the defined term.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1003 of this title.

§ 1132d–4. Authorization of appropriations

There are authorized to be appropriated to carry out this part, $50,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(Pub. L. 89–329, title VII, § 735, as added Pub. L. 102–325, title VII, § 705, July 23, 1992, 106 Stat. 753.)

PRIOR PROVISIONS

A prior section 1132d–4, Pub. L. 89–329, title VII, § 735, as added Pub. L. 96–374, title VII, § 701, Oct. 3, 1980, 94 Stat. 1477, related to academic facilities loan insurance, prior to the general revision of this subchapter by Pub. L. 99–498.

Another prior section 1132d–4, Pub. L. 89–329, title VII, § 765, as added Pub. L. 92–318, title I, § 161(a), June 23, 1972, 86 Stat. 300, related to applications for assistance to institutions of higher education, prior to the general revision of this subchapter by Pub. L. 96–374.

Prior sections 1132d–5 and 1132d–11 were omitted in the general revision of this subchapter by Pub. L. 96–374.

Section 1132d–5, Pub. L. 89–329, title VII, § 766, as added Pub. L. 92–318, title I, § 161(a), June 23, 1972, 86 Stat. 300, defined ''major disaster'' and ''public institution of higher education''.

Section 1132d–11, Pub. L. 89–329, title VII, § 771, as added Pub. L. 94–482, title I, § 162(i), Oct. 12, 1976, 90 Stat. 2157; amended Pub. L. 95–43, § 1(a)(43), June 15, 1977, 91 Stat. 217, provided for a program of grants or loans for reconstruction or renovation of academic facilities.

A prior section 1132e, Pub. L. 89–329, title VII, § 741, as added Pub. L. 99–498, title VII, § 701, Oct. 17, 1986, 100 Stat. 1528, provided for annual interest grants to assist institutions of higher education in reducing the cost of borrowing money, prior to repeal by Pub. L. 102–325, § 2, title VII, § 706, July 23, 1992, 106 Stat. 458, 753, effective Oct. 1, 1992.

Another prior section 1132e, Pub. L. 89–329, title VII, § 741, as added Pub. L. 96–374, title VII, § 701, Oct. 3, 1980, 94 Stat. 1478, related to recovery of payments of grants and use of projects, prior to the general revision of this subchapter by Pub. L. 99–498. See section 1132i of this title.

Another prior section 1132e, Pub. L. 89–329, title VII, § 781, as added Pub. L. 92–318, title I, § 161(a), June 23, 1972, 86 Stat. 300; amended Pub. L. 94–482, title I, § 162(a)(3), (4), Oct. 12, 1976, 90 Stat. 2156, 2157; Pub. L. 95–43, § 1(a)(44), June 15, 1977, 91 Stat. 218, related to the recovery of payments, prior to the general revision of this subchapter by Pub. L. 96–374.

A prior section 1132e–1, Pub. L. 89–329, title VII, § 742, as added Pub. L. 96–374, title VII, § 701, Oct. 3, 1980, 94 Stat. 1479, defined terms used in this subchapter, prior to the general revision of this subchapter by Pub. L. 99–498. See section 1132i–1 of this title.

Another prior section 1132e–1, Pub. L. 89–329, title VII, § 782, as added Pub. L. 92–318, title I, § 161(a), June 23, 1972, 86 Stat. 301; amended Pub. L. 94–482, title I, § 162(a)(3), (4), (j), Oct. 12, 1976, 90 Stat. 2156–2158, defined terms used in this subchapter, prior to the general revision of this subchapter by Pub. L. 96–374.

PART D—COLLEGE CONSTRUCTION LOAN INSURANCE ASSOCIATION

§§ 1132f to 1132f–9. Repealed. Pub. L. 104–208, div. A, title I, § 101(e) [title VI, § 603(d)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–293

Section 1132f, Pub. L. 89–329, title VII, § 751, as added Pub. L. 99–498, title VII, § 701, Oct. 17, 1986, 100 Stat. 1528, related to congressional declaration of purpose of this part to authorize participation of United States Government and Student Loan Marketing Association in private, for profit corporation known as College Construction Loan Insurance Association, and defined ''education facilities purpose''.

Section 1132f–1, Pub. L. 89–329, title VII, § 752, as added Pub. L. 99–498, title VII, § 701, Oct. 17, 1986, 100 Stat. 1529; amended Pub. L. 102–325, title VII, § 707(b), July 23, 1992, 106 Stat. 753, related to criteria used by Corporation for providing guarantees and insurance on obligations issued for education facilities purposes.

Section 1132f–2, Pub. L. 89–329, title VII, § 753, as added Pub. L. 99–498, title VII, § 701, Oct. 17, 1986, 100 Stat. 1530, related to process of organizing Corporation.

Section 1132f–3, Pub. L. 89–329, title VII, § 754, as added Pub. L. 99–498, title VII, § 701, Oct. 17, 1986, 100 Stat. 1531, related to operation and election of Corporation's Board of Directors.

Section 1132f–4, Pub. L. 89–329, title VII, § 755, as added Pub. L. 99–498, title VII, § 701, Oct. 17, 1986, 100 Stat. 1531, related to initial capitalization of Corporation.

Section 1132f–5, Pub. L. 89–329, title VII, § 756, as added Pub. L. 99–498, title VII, § 701, Oct. 17, 1986, 100 Stat. 1532, related to issuance of nonvoting stock and debt to public.

Section 1132f–6, Pub. L. 89–329, title VII, § 757, as added Pub. L. 99–498, title VII, § 701, Oct. 17, 1986, 100 Stat. 1532, provided that no obligation which is insured, guaranteed, or otherwise backed by Corporation be deemed to be guaranteed by full faith and credit of United States or guaranteed by Student Loan Marketing Association, with provision that this section not affect determination of whether such obligation is guaranteed for purposes of Federal income taxes.

Section 1132f–7, Pub. L. 89–329, title VII, § 758, as added Pub. L. 99–498, title VII, § 701, Oct. 17, 1986, 100 Stat. 1532, related to authority of Secretary to sell common stock of Corporation and Student Loan Marketing Association's right of first refusal.

Section 1132f–8, Pub. L. 89–329, title VII, § 759, as added Pub. L. 99–498, title VII, § 701, Oct. 17, 1986, 100 Stat. 1533, related to use of stock sale proceeds.

Section 1132f–9, Pub. L. 89–329, title VII, § 760, as added Pub. L. 99–498, title VII, § 701, Oct. 17, 1986, 100 Stat. 1533, provided for audits and reports to President and Congress.

§ 1132f–10. Connie Lee privatization

(a) Status of Corporation and corporate powers; obligations not federally guaranteed

(1) Status of the Corporation

The Corporation shall not be an agency, instrumentality, or establishment of the United States Government, nor a Government corporation, nor a Government controlled corporation, as such terms are defined in section 103 of title 5. No action under section 1491 of title 28 (commonly known as the Tucker Act) shall be allowable against the United States based on the actions of the Corporation.

(2) Corporate powers

The Corporation shall be subject to the provisions of this section, and, to the extent not inconsistent with this section, to the District of Columbia Business Corporation Act (or the comparable law of another State, if applicable). The Corporation shall have the powers conferred upon a corporation by the District of Columbia Business Corporation Act (or such other applicable State law) as from time to time in effect in order to conduct the Corporation's affairs as a private, for-profit corporation and to carry out the Corporation's purposes and activities incidental thereto. The Corporation shall have the power to enter into contracts, to execute instruments, to incur liabilities, to provide products and services, and to do all things as are necessary or incidental to the proper management of the Corporation's affairs and the efficient operation of a private, for-profit business.

(3) Limitation on ownership of stock

(A) Student Loan Marketing Association

The Student Loan Marketing Association shall not increase its share of the ownership of the Corporation in excess of 42 percent of the shares of stock of the Corporation outstanding on September 30, 1996. The Student Loan Marketing Association shall not control the operation of the Corporation, except that the Student Loan Marketing Association may participate in the election of directors as a shareholder, and may continue to exercise the Student Loan Marketing Association's right to appoint directors under section 1132f–3 of this title as long as that section is in effect.

(B) Prohibition

Until such time as the Secretary of the Treasury sells the stock of the Corporation owned by the Secretary of Education pursuant to subsection (c) of this section, the Student Loan Marketing Association shall not provide financial support or guarantees to the Corporation.

(C) Financial support or guarantees

After the Secretary of the Treasury sells the stock of the Corporation owned by the Secretary of Education pursuant to subsection (c) of this section, the Student Loan Marketing Association may provide financial support or guarantees to the Corporation, if such support or guarantees are subject to terms and conditions that are no more advantageous to the Corporation than the terms and conditions the Student Loan Marketing Association provides to other entities, including, where applicable, other monoline financial guaranty corporations in which the Student Loan Marketing Association has no ownership interest.

(4) No Federal guarantee

(A) Obligations insured by the Corporation

(i) Full faith and credit of the United States

No obligation that is insured, guaranteed, or otherwise backed by the Corporation shall be deemed to be an obligation that is guaranteed by the full faith and credit of the United States.

(ii) Student Loan Marketing Association

No obligation that is insured, guaranteed, or otherwise backed by the Corpora-

tion shall be deemed to be an obligation that is guaranteed by the Student Loan Marketing Association.

(iii) Special rule

This paragraph shall not affect the determination of whether such obligation is guaranteed for purposes of Federal income taxes.

(B) Securities offered by the Corporation

No debt or equity securities of the Corporation shall be deemed to be guaranteed by the full faith and credit of the United States.

(5) "Corporation" defined

The term ''Corporation'' as used in this section means the College Construction Loan Insurance Association as in existence on the day before September 30, 1996, and any successor corporation.

(b) Related privatization requirements

(1) Notice requirements

(A) In general

During the six-year period following September 30, 1996, the Corporation shall include, in each of the Corporation's contracts for the insurance, guarantee, or reinsurance of obligations, and in each document offering debt or equity securities of the Corporation, a prominent statement providing notice that—

(i) such obligations or such securities, as the case may be, are not obligations of the United States, nor are such obligations or such securities, as the case may be, guaranteed in any way by the full faith and credit of the United States; and

(ii) the Corporation is not an instrumentality of the United States.

(B) Additional notice

During the five-year period following the sale of stock pursuant to subsection (c)(1) of this section, in addition to the notice requirements in subparagraph (A), the Corporation shall include, in each of the contracts and documents referred to in such subparagraph, a prominent statement providing notice that the United States is not an investor in the Corporation.

(2) Corporate charter

The Corporation's charter shall be amended as necessary and without delay to conform to the requirements of this section.

(3) Corporate name

The name of the Corporation, or of any direct or indirect subsidiary thereof, may not contain the term ''College Construction Loan Insurance Association'', or any substantially similar variation thereof.

(4) Articles of incorporation

The Corporation shall amend the Corporation's articles of incorporation without delay to reflect that one of the purposes of the Corporation shall be to guarantee, insure, and reinsure bonds, leases, and other evidences of debt of educational institutions, including Historically Black Colleges and Universities and other academic institutions which are ranked in the lower investment grade category using a nationally recognized credit rating system.

(5) Requirements until stock sale

Notwithstanding subsection (d) of this section, the requirements of sections 1132f–3 and 1132f–9 of this title, as such sections were in effect on the day before September 30, 1996, shall continue to be effective until the day immediately following the date of closing of the purchase of the Secretary of Education's stock (or the date of closing of the final purchase, in the case of multiple transactions) pursuant to subsection (c)(1) of this Act.[1]

(c) Sale of federally owned stock

(1) Purchase by the Corporation

The Secretary of the Treasury shall sell and the Corporation shall purchase, within 90 days after September 30, 1996, the stock of the Corporation held by the Secretary of Education at a price determined by the binding, independent appraisal of a nationally recognized financial firm, except that the 90-day period may be extended by mutual agreement of the Secretary of the Treasury and the Corporation to not more than 150 days after September 30, 1996. The appraiser shall be jointly selected by the Secretary of the Treasury and the Corporation. In the event that the Secretary of the Treasury and the Corporation cannot agree on the appraiser, then the Secretary of the Treasury and the Corporation shall name an independent third party to select the appraiser.

(2) Reimbursement of costs and expenses of sale

The Secretary of the Treasury shall be reimbursed from the proceeds of the sale of the stock under this subsection for all reasonable costs and expenses related to such sale, except that one-half of all reasonable costs and expenses relating to the independent appraisal under paragraph (1) shall be borne by the Corporation.

(3) Deposit into account

Amounts collected from the sale of stock pursuant to this subsection that are not used to reimburse the Secretary of the Treasury pursuant to paragraph (2) shall be deposited into the account established under subsection (e) of this section.

(4) Assistance by the Corporation

The Corporation shall provide such assistance as the Secretary of the Treasury and the Secretary of Education may require to facilitate the sale of the stock under this subsection.

(5) Report to Congress

Not later than 6 months after September 30, 1996, the Secretary of the Treasury shall report to the appropriate committees of Congress on the completion and terms of the sale of stock of the Corporation pursuant to this subsection.

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[1] So in original. Probably should be ''section.''

(d) Omitted

(e) Establishment of account

(1) In general

Notwithstanding any other provision of law, the District of Columbia Financial Responsibility and Management Assistance Authority shall establish an account to receive—

(A) amounts collected from the sale and proceeds resulting from the exercise of stock warrants pursuant to section 1087–3(c)(9) of this title;

(B) amounts and proceeds remitted as compensation for the right to assign the ''Sallie Mae'' name as a trademark or service mark pursuant to section 1087–3(e)(3) of this title; and

(C) amounts and proceeds collected from the sale of the stock of the Corporation and deposited pursuant to subsection (c)(3) of this section.

(2) Amounts and proceeds

(A) Amounts and proceeds relating to Sallie Mae

The amounts and proceeds described in subparagraphs (A) and (B) of paragraph (1) shall be used to finance public elementary and secondary school facility construction and repair within the District of Columbia or to carry out the District of Columbia School Reform Act of 1995.

(B) Amounts and proceeds relating to Connie Lee

The amounts and proceeds described in subparagraph (C) of paragraph (1) shall be used to finance public elementary and secondary school facility construction and repair within the District of Columbia.

(Pub. L. 104–208, div. A, title I, §101(e) [title VI, §603], Sept. 30, 1996, 110 Stat. 3009–233, 3009–290.)

REFERENCES IN TEXT

The District of Columbia Business Corporation Act, referred to in subsec. (a)(2), is act June 8, 1954, ch. 269, 68 Stat. 179, as amended, which appears in chapter 3 (§29–301 et seq.) of Title 29, Corporations, of the District of Columbia Code.

Sections 1132f–3 and 1132f–9 of this title, referred to in subsecs. (a)(3)(A) and (b)(5), were repealed by subsec. (d) of this section.

The District of Columbia School Reform Act of 1995, referred to in subsec. (e)(2)(A), is Pub. L. 104–134, title I, §101(b) [title II], Apr. 26, 1996, 110 Stat. 1321–77, 1321–107, which is not classified to the Code.

CODIFICATION

Section enacted as part of the Student Loan Marketing Association Reorganization Act of 1996, and not as part of the Higher Education Act of 1965 which comprises this chapter.

Section is comprised of section 101(e) [title VI, §603] of div. A of Pub. L. 104–208. Subsec. (d) of section 603 of title VI of section 101(e) of Pub. L. 104–208, repealed sections 1132f to 1132f–9 of this title.

PRIOR PROVISIONS

Prior sections 1132g to 1132g–3 and 1132h to 1132h–6 were repealed by Pub. L. 102–325, §2, title VII, §706, July 23, 1992, 106 Stat. 458, 753, effective Oct. 1, 1992.

Section 1132g, Pub. L. 89–329, title VII, §761, as added Pub. L. 99–498, title VII, §701, Oct. 17, 1986, 100 Stat. 1533, related to Federal assistance to undergraduate postsecondary educational institutions in form of loans.

Section 1132g–1, Pub. L. 89–329, title VII, §762, as added Pub. L. 99–498, title VII, §701, Oct. 17, 1986, 100 Stat. 1535; amended Pub. L. 100–369, §7(c), July 18, 1988, 102 Stat. 837, set out general provisions applicable to loans, including budget and accounting, use of funds, legal powers of Secretary in loan program, and limitations.

Section 1132g–2, Pub. L. 89–329, title VII, §763, as added Pub. L. 99–498, title VII, §701, Oct. 17, 1986, 100 Stat. 1537, directed that not more than 12.5 percent of loan funds be made available in any one State and set priorities as to types of projects to be approved.

Section 1132g–3, Pub. L. 89–329, title VII, §764, as added Pub. L. 99–498, title VII, §701, Oct. 17, 1986, 100 Stat. 1537; amended Pub. L. 100–50, §19(5), June 3, 1987, 101 Stat. 360, defined terms used in sections 1132g to 1132g–3 of this title.

Section 1132h, Pub. L. 89–329, title VII, §771, as added Pub. L. 99–498, title VII, §701, Oct. 17, 1986, 100 Stat. 1539, provided for financial assistance to Eastern Michigan University in Ypsilanti, Michigan, for renovation and restoration of Welch Hall.

Section 1132h–1, Pub. L. 89–329, title VII, §772, as added Pub. L. 99–498, title VII, §701, Oct. 17, 1986, 100 Stat. 1539, provided for financial assistance to Rochester Institute of Technology in Rochester, New York, for Federal share of construction and related costs of Academic Health Education Center facility.

Section 1132h–2, Pub. L. 89–329, title VII, §773, as added Pub. L. 99–498, title VII, §701, Oct. 17, 1986, 100 Stat. 1540, provided financial assistance to Shaw University of Raleigh, North Carolina, for renovation and restoration of Estey Hall.

Section 1132h–3, Pub. L. 89–329, title VII, §774, as added Pub. L. 99–498, title VII, §701, Oct. 17, 1986, 100 Stat. 1540, provided for an electronic instructional network for gifted and talented students.

Section 1132h–4, Pub. L. 89–329, title VII, §775, as added Pub. L. 99–498, title VII, §701, Oct. 17, 1986, 100 Stat. 1541, provided for financial assistance to Bethune-Cookman College in Volusia County, Florida, for establishment of Mary McLeod Bethune Memorial Fine Arts Center.

Section 1132h–5, Pub. L. 89–329, title VII, §776, as added Pub. L. 99–498, title VII, §701, Oct. 17, 1986, 100 Stat. 1541, provided for financial assistance for University of Connecticut Behavioral Science Facility at Storrs, Connecticut.

Section 1132h–6, Pub. L. 89–329, title VII, §777, as added Pub. L. 99–498, title VII, §701, Oct. 17, 1986, 100 Stat. 1541, provided for financial assistance for the establishment of a business administration program at University of Rhode Island in Kingston, Rhode Island.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1087–3 of this title.

PART E—GENERAL

CODIFICATION

Pub. L. 102–325, title VII, §708(a), July 23, 1992, 106 Stat. 754, redesignated part H of this subchapter as part E.

PRIOR PROVISIONS

A prior part E, comprising sections 1132f to 1132f–9 of this title, was redesignated part D of this subchapter.

§ 1132i. Recovery of payments

(a) Public benefit

The Congress declares that, if a facility constructed with the aid of a grant under part A of this subchapter, or part B of this subchapter as such part was in effect prior to July 23, 1992, is

used as an academic facility for 20 years following completion of such construction, the public benefit accruing to the United States will equal in value the amount of the grant. The period of 20 years after completion of such construction shall therefore be deemed to be the period of Federal interest in such facility for the purposes of this subchapter.

(b) Recovery upon cessation of public benefit

If, within 20 years after completion of construction of an academic facility which has been constructed, in part with a grant under part A of this subchapter, or part B of this subchapter as such part was in effect prior to July 23, 1992—

(1) the applicant (or its successor in title or possession) ceases or fails to be a public or nonprofit institution, or

(2) the facility ceases to be used as an academic facility, or the facility is used as a facility excluded from the term ''academic facility'', unless the Secretary determines that there is good cause for releasing the institution from its obligation,

the United States shall be entitled to recover from such applicant (or successor) an amount which bears to the value of the facility at that time (or so much thereof as constituted an approved project or projects) the same ratio as the amount of Federal grant bore to the cost of the facility financed with the aid of such grant. The value shall be determined by agreement of the parties or by action brought in the United States district court for the district in which such facility is situated.

(c) Prohibition on use for religion

Notwithstanding the provisions of subsections (a) and (b) of this section, no project assisted with funds under this subchapter shall ever be used for religious worship or a sectarian activity or for a school or department of divinity.

(Pub. L. 89–329, title VII, § 781, as added Pub. L. 99–498, title VII, § 701, Oct. 17, 1986, 100 Stat. 1542; amended Pub. L. 102–325, title VII, § 708(b), July 23, 1992, 106 Stat. 754; Pub. L. 103–208, § 2(j)(21), Dec. 20, 1993, 107 Stat. 2481.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in section 1132e of this title, prior to the general revision of this subchapter by Pub. L. 99–498.

AMENDMENTS

1993—Subsec. (b). Pub. L. 103–208 struck out the comma after ''July 23, 1992''.

1992—Subsecs. (a), (b). Pub. L. 102–325 substituted ''part A of this subchapter, or part B of this subchapter as such part was in effect prior to July 23, 1992,'' for ''part A or B of this subchapter''.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1003 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

§ 1132i–1. Definitions

The following definitions apply to terms used in this subchapter:

(1)(A) Except as provided in subparagraph (B), the term ''academic facilities'' means structures suitable for use as classrooms, laboratories, libraries, and related facilities necessary or appropriate for instruction of students, or for research, or for administration of the educational or research programs, of an institution of higher education, and maintenance, storage, or utility facilities essential to operation of the foregoing facilities. For the purpose of part A or C of this subchapter, such term includes infirmaries or other facilities designed to provide primarily for outpatient care of students and instructional personnel. Plans for such facilities shall be in compliance with such standards as the Secretary may prescribe or approve in order to ensure that projects assisted with the use of Federal funds under this subchapter shall be, to the extent appropriate in view of the uses to be made of the facilities, accessible to and usable by handicapped persons.

(B) The term ''academic facilities'' shall not include (i) any facility intended primarily for events for which admission is to be charged to the general public, or (ii) any gymnasium or other facility specially designed for athletic or recreational activities, other than for an academic course in physical education or where the Secretary finds that the physical integration of such facilities with other academic facilities included under this subchapter is required to carry out the objectives of this subchapter, or (iii) any facility used or to be used for sectarian instruction or as a place for religious worship, or (iv) any facility which (although not a facility described in the preceding clause) is used or to be used primarily in connection with any part of the program of a school or department of divinity, or (v) any facility used or to be used by a school of medicine, school of dentistry, school of osteopathy, school of pharmacy, school of optometry, school of podiatry, or school of public health as these terms are defined in section 292a[1] of title 42, or a school of nursing as defined in section 298b of title 42, except that the term ''academic facilities'' may include any facility described in clause (v) to the degree that such facility is owned, operated, and maintained by the institution of higher education requesting the approval of a project; and that funds available for such facility under such project shall be used solely for the purpose of conversion or modernization of energy utilization techniques to economize on the use of energy resources; and that such project is not limited to facilities described in clause (v).

(2)(A) The term ''construction'' means (i) erection of new or expansion of existing structures, and the acquisition and installation of initial equipment therefor; or (ii) acquisition of existing structures not owned by the institution involved; or (iii) a combination of either of the foregoing. For the purpose of the

[1] See References in Text note below.

preceding sentence, the term ''equipment'' includes, in addition to machinery, utilities, and built-in equipment and any necessary enclosures or structures to house them, all other items necessary for the functioning of a particular facility as an academic facility, including necessary furniture, but not including books, curricular, and program materials, and items of current and operating expense such as fuel, supplies, and the like; the term ''initial equipment'' means equipment acquired and installed in connection with construction; and the terms ''equipment'', ''initial equipment'', and ''built-in equipment'', shall be more particularly defined by the Secretary by regulation.

(B) The term ''reconstruction or renovation'' means rehabilitation, alteration, conversion, or improvement (including the acquisition and installation of initial equipment, or modernization or replacement of such equipment) of existing structures. For the purpose of the preceding sentence, the term ''equipment'' includes, in addition to machinery, utilities, and built-in equipment and any necessary enclosures or structures to house them, all other items necessary for the functioning of a particular facility as an academic facility, including necessary furniture, but not including books, curricular, and program materials, and items of current and operating expense such as fuel, supplies, and the like; the term ''initial equipment'' means equipment acquired and installed either in connection with construction as defined in paragraph (2)(A), or as part of the rehabilitation, alteration, conversion, or improvement of an existing structure, which structure would otherwise not be adequate for use as an academic facility; the terms ''equipment'', ''initial equipment'', and ''built-in equipment'' shall be more particularly defined by the Secretary by regulation; and the term ''rehabilitation, alteration, conversion, or improvement'' includes such action as may be necessary to provide for the architectural needs of, or to remove architectural barriers to, handicapped persons with a view toward increasing the accessibility to, and use of, academic facilities by such persons.

(3)(A) The term ''development cost'', with respect to an academic facility, means the amount found by the Secretary to be the cost, to the applicant for a grant or loan under this subchapter, of the construction, reconstruction, or renovation involved and the cost of necessary acquisition of the land on which the facility is located and of necessary site improvements to permit its use for such facility. There shall be excluded from the development cost—

(i) in determining the amount of any grant under part A or B of this subchapter, an amount equal to the sum of (I) any Federal grant which the institution has obtained or is assured of obtaining, under any law other than this subchapter, with respect to the construction, reconstruction, or renovation that is to be financed with the aid of a grant under part A or B of this subchapter, and (II) the amount of any non-Federal funds required to be expended as a condition of such other Federal grant; and

(ii) in determining the amount of any loan under part C of this subchapter, an amount equal to the amount of any Federal financial assistance which the institution has obtained, or is assured of obtaining, under any law other than this subchapter, with respect to the construction, reconstruction, or renovation that is to be financed with the aid of a loan under part C of this subchapter.

(B) In determining the development cost with respect to an academic facility, the Secretary may include expenditures for works of art for the facility not to exceed 1 percent of the total cost (including such expenditures) to the applicant of construction, reconstruction, or renovation of, and land acquisition and site improvements for, such facility.

(4) The term ''maintenance'', with respect to instructional and research equipment obtained with funding under this subchapter, shall mean the care necessary to the optimal functioning of such equipment. With respect to the equipment and structural changes related to obtaining and sustaining the necessary environment (ventilation, etc.) for proper functioning of instructional and research equipment, ''maintenance'' shall mean that portion of care above and beyond normal overhead costs.

(5) The term ''higher education building agency'' means (A) an agency, public authority, or other instrumentality of a State authorized to provide, or finance the construction, reconstruction, or renovation of, academic facilities for institutions of higher education (whether or not also authorized to provide or finance other facilities for such or other educational institutions, or for their students or faculty), or (B) any corporation (no part of the net earnings of which inures or may lawfully inure to the benefit of any private shareholder or individual (i) established by an institution of higher education for the sole purpose of providing academic facilities for the use of such institution, and (ii) upon dissolution of which, all title to any property purchased or built from the proceeds of any loan made under part C of this subchapter will pass to such institution), or (C) an institution of postsecondary education.

(6) The term ''public educational institution'' does not include a school or institution of any agency of the United States.

(7) The term ''State'' includes in addition to the several States of the Union, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(Pub. L. 89–329, title VII, §782, as added Pub. L. 99–498, title VII, §701, Oct. 17, 1986, 100 Stat. 1542; amended Pub. L. 100–50, §19(6), June 3, 1987, 101 Stat. 360; Pub. L. 102–325, title VII, §708(c), July 23, 1992, 106 Stat. 754; Pub. L. 103–208, §2(j)(22), Dec. 20, 1993, 107 Stat. 2481.)

REFERENCES IN TEXT

Section 292a of title 42, referred to in par. (1)(B), was in the original a reference to section 701 of the Public Health Service Act, or section 701 of act July 1, 1944.

Section 701 of that Act was omitted in the general revision of subchapter V of chapter 6A of Title 42, The Public Health and Welfare by Pub. L. 102–408, title I, §102, Oct. 13, 1992, 106 Stat. 1994. Pub. L. 102–408 enacted a new section 701 of act July 1, 1944, relating to statement of purpose, and a new section 702, relating to scope and duration of loan insurance program, which are classified to sections 292 and 292a, respectively, of Title 42. For provisions relating to definitions, see section 295p of Title 42.

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in section 1132e–1 of this title, prior to the general revision of this subchapter by Pub. L. 99–498.

AMENDMENTS

1993—Par. (1)(A). Pub. L. 103–208 substituted ''outpatient care of students'' for ''outpatient care of student''.

1992—Pars. (5) to (9). Pub. L. 102–325 redesignated pars. (6), (8), and (9) as pars. (5), (6), and (7), respectively, and struck out former pars. (5) and (7) which defined ''Federal share'' and ''public community college and public technical institute'', respectively.

1987—Par. (1)(B). Pub. L. 100–50, §19(6), made technical amendments to the references to sections 292a and 298b of title 42, substituting in the original ''section 701 of the Public Health Service Act'' for ''section 724 of the Public Health Service Act'' and ''section 853 of that Act'' for ''section 843 of that Act''. Since the references to sections 724 and 843 of the Act had been translated as if they read sections 701 and 853 of the Act to reflect the renumbering of those sections by Pub. L. 94–484 and Pub. L. 94–63, respectively, no change in text was required.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1003 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

§ 1132i–2. Forgiveness of certain loans

(a) Forgiveness authorized

The Secretary may forgive the entire balance due, or any portion thereof, on any loan made under part C or part F of this subchapter (as in effect on the day before July 23, 1992), or under the College Housing and Academic Facilities Loan program, or any other federally subsidized, insured, or authorized loan program designed to assist institutions of higher education to construct academic or dormitory facilities, whenever the Secretary determines that—

(1) the institution of higher education is current in its payments to the Department or has entered into a moratorium agreement with the Secretary with respect to such payments; and

(2) the outstanding indebtedness on all such loans owed by such institution equals at least one-quarter of the annual budget for the most recent fiscal year of the institution of higher education seeking forgiveness of its housing loan indebtedness, exclusive of funds provided under subchapters III and IV of this chapter and part C of subchapter I of chapter 34 of title 42, and in the judgment of the Secretary the survival of the institution of higher education is threatened.

(b) "Institution of higher education" defined

For the purpose of this section the term ''institution of higher education'' includes a postsecondary educational institution.

(c) Application

Each institution of higher education requesting forgiveness of any loan under this section shall submit an application to the Secretary at such time, in such manner and containing or accompanied by such information, as the Secretary may reasonably require.

(d) Reduction of amounts owed to Treasurer

If the Secretary forgives all or part of a loan described in subsection (a) of this section, the outstanding balance remaining on the notes of the Secretary that were issued to the Secretary of the Treasury under section 1132g(d) of this title as in effect prior to July 23, 1992, or under any provision of this subchapter as in effect at the time such note was issued, shall be reduced by such amount forgiven.

(Pub. L. 89–329, title VII, §783, as added Pub. L. 99–498, title VII, §701, Oct. 17, 1986, 100 Stat. 1545; amended Pub. L. 100–203, title III, §3101, Dec. 22, 1987, 101 Stat. 1330–39; Pub. L. 102–325, title VII, §708(d), July 23, 1992, 106 Stat. 754; Pub. L. 103–208, §2(j)(23), Dec. 20, 1993, 107 Stat. 2481.)

REFERENCES IN TEXT

Section 1132g of this title, referred to in subsec. (d), was repealed by Pub. L. 102–325, title VII, §706, July 23, 1992, 106 Stat. 753.

PRIOR PROVISIONS

A prior section 1132j, Pub. L. 89–329, title VII, §795, as added Pub. L. 100–418, title VI, §6211, Aug. 23, 1988, 102 Stat. 1517, provided for a program of agricultural, strategic metals, minerals, forestry, and oceans college and university research facilities and instrumentation modernization, prior to repeal by Pub. L. 102–325, §2, title VII, §706, July 23, 1992, 106 Stat. 458, 753, effective Oct. 1, 1992.

AMENDMENTS

1993—Subsec. (a)(2). Pub. L. 103–208, §2(j)(23)(A), inserted ''on all such loans owed by such institution'' after ''outstanding indebtedness''.

Subsec. (d). Pub. L. 103–208, §2(j)(23)(B), added subsec. (d).

1992—Pub. L. 102–325 amended section generally, substituting provisions authorizing forgiveness of certain loans for provisions requiring sale of obligations.

1987—Pub. L. 100–203 inserted at end ''Notwithstanding any other provision of this subchapter, after September 30, 1988, the Secretary shall not sell any of such obligations. Any agreement providing for delaying payment (with respect to obligations sold) until after Sep-

tember 30, 1988, or for delaying delivery of such obligations or delaying taking other actions in furtherance of such a sale until after such date, shall be considered to be a violation of the preceding sentence.''

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1003 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1132a–1 of this title.

SUBCHAPTER VIII—COOPERATIVE EDUCATION

CODIFICATION

Title VIII of the Higher Education Act of 1965, comprising this subchapter, was originally enacted by Pub. L. 89–329, title VIII, as added Pub. L. 90–575, title II, § 251, Oct. 16, 1968, 82 Stat. 1042; amended Pub. L. 92–318, June 23, 1972, 86 Stat. 235; Pub. L. 94–482, Oct. 12, 1976, 90 Stat. 2081; Pub. L. 96–374, Oct. 3, 1980, 94 Stat. 1367. Such title is shown herein, however, as having been added by Pub. L. 99–498, title VIII, § 801, Oct. 17, 1986, 100 Stat. 1546, without reference to such intervening amendments because of the extensive revision of title VIII by Pub. L. 99–498.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 1069b of this title.

§ 1133. Statement of purpose; definition

(a) Purpose

It is the purpose of this subchapter to award grants to institutions of higher education or combinations of such institutions to encourage such institutions to develop and make available to as many of their students as possible work experience that will aid such students in future careers and will enable such students to support themselves financially while in school.

(b) "Cooperative education" defined

For the purpose of this subchapter the term ''cooperative education'' means the provision of alternating or parallel periods of academic study and public or private employment in order to give students work experiences related to their academic or occupational objectives and an opportunity to earn the funds necessary for continuing and completing their education.

(Pub. L. 89–329, title VIII, § 801, as added Pub. L. 99–498, title VIII, § 801, Oct. 17, 1986, 100 Stat. 1546; amended Pub. L. 102–325, title VIII, § 801, July 23, 1992, 106 Stat. 755.)

PRIOR PROVISIONS

A prior section 1133, Pub. L. 89–329, title VIII, § 801, as added Pub. L. 94–482, title I, § 129(b), Oct. 12, 1976, 90 Stat. 2144; amended Pub. L. 96–374, title VIII, § 801(a), (b), title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1481, 1482, 1503, authorized appropriations for fiscal years 1976 to 1985 for grants and contracts for cooperative education, prior to the general revision of this subchapter by Pub. L. 99–498.

Another prior section 1133, Pub. L. 89–329, title VIII, § 801, as added Pub. L. 90–575, title II, § 251, Oct. 16, 1968, 82 Stat. 1042; amended Pub. L. 92–318, title I, § 172(a), June 23, 1972, 86 Stat. 304, authorized projects and grants for sharing educational and related resources by institutions of higher education, prior to the general revision of this subchapter by Pub. L. 94–482.

AMENDMENTS

1992—Pub. L. 102–325 amended section generally, substituting provisions relating to statement of purpose and defining term ''cooperative education'' for provisions authorizing appropriations to carry out this subchapter for fiscal years 1987 to 1991 and specifying their availability.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

§ 1133a. Authorization of appropriations; reservations

(a) Appropriations authorized

There are authorized to be appropriated to carry out this subchapter $30,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(b) Reservations

Of the amounts appropriated in each fiscal year the Secretary shall reserve such amount as is necessary to make continuing awards to institutions of higher education that were, on July 23, 1992, operating an existing cooperative education program under a multiyear project award and to continue to pay to such institutions the Federal share in effect on the day before July 23, 1992. Of the remainder of the amount appropriated in such fiscal year—

(1) not less than 50 percent shall be available for carrying out grants to institutions of higher education and combinations of such institutions described in section 1133b(a)(1)(A) of this title for cooperative education under section 1133b of this title;

(2) not less than 25 percent shall be available for carrying out grants to institutions of higher education described in section 1133b(a)(1)(B) of this title for cooperative education under section 1133b of this title;

(3) not to exceed 11 percent shall be available for demonstration projects under paragraph (1) of section 1133c(a) of this title;

(4) not to exceed 11 percent shall be available for training and resource centers under paragraph (2) of section 1133c(a) of this title; and

(5) not to exceed 3 percent shall be available for research under paragraph (3) of section 1133c(a) of this title.

(c) Availability of appropriations

Appropriations under this subchapter shall not be available for the payment of compensation of students for employment by employers under arrangements pursuant to this subchapter.

(Pub. L. 89–329, title VIII, § 802, as added Pub. L. 99–498, title VIII, § 801, Oct. 17, 1986, 100 Stat. 1546; amended Pub. L. 102–325, title VIII, § 801, July 23, 1992, 106 Stat. 755; Pub. L. 103–208, § 2(j)(24), Dec. 20, 1993, 107 Stat. 2482.)

PRIOR PROVISIONS

A prior section 1133a, Pub. L. 89–329, title VIII, § 802, as added Pub. L. 94–482, title I, § 129(b), Oct. 12, 1976, 90

Stat. 2145; amended Pub. L. 96–374, title VIII, § 801(c), (d), title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1482, 1503, authorized grants for programs of cooperative education, prior to the general revision of this subchapter by Pub. L. 99–498.

Another prior section 1133a, Pub. L. 89–329, title VIII, § 802, as added Pub. L. 90–575, title II, § 251, Oct. 16, 1968, 82 Stat. 1043; amended Pub. L. 92–318, title I, § 171, June 23, 1972, 86 Stat. 304, authorized appropriations for projects and grants for sharing educational and related resources, prior to the general revision of this subchapter by Pub. L. 94–482.

AMENDMENTS

1993—Subsec. (b). Pub. L. 103–208, inserted ''the Secretary shall reserve such amount as is necessary to make continuing awards to institutions of higher education that were, on July 23, 1992, operating an existing cooperative education program under a multiyear project award and to continue to pay to such institutions the Federal share in effect on the day before July 23, 1992. Of the remainder of the amount appropriated in such fiscal year'' after ''fiscal year'' in introductory provisions.

1992—Pub. L. 102–325 amended section generally, substituting provisions authorizing appropriations, reserving funds for various programs, and prohibiting use of funds for payment of compensation of students for employment by employers for provisions relating to grants for cooperative education programs.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1003 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1133b, 1133c of this title.

§ 1133b. Grants for cooperative education

(a) Grants authorized

(1) In general

The Secretary is authorized—

(A) from the amount available under section 1133a(b)(1) of this title in each fiscal year and in accordance with the provisions of this subchapter, to make grants to institutions of higher education or combinations of such institutions that have not received a grant under this paragraph in the 10-year period preceding the date for which a grant under this section is requested to pay the Federal share of the cost of planning, establishing, expanding, or carrying out programs of cooperative education by such institutions or combinations of institutions; and

(B) from the amount available under section 1133a(b)(2) of this title in each fiscal year and in accordance with the provisions of this subchapter, to make grants to institutions of higher education that are operating an existing cooperative education program as determined by the Secretary to pay the cost of planning, establishing, expanding, or carrying out programs of cooperative education by such institutions.

(2) Program requirement

Cooperative education programs assisted under this section shall provide alternating or parallel periods of academic study and of public or private employment, giving students work experience related to their academic or occupational objectives and the opportunity to earn the funds necessary for continuing and completing their education.

(3) Amount of grants

(A) The amount of each grant awarded pursuant to paragraph (1)(A) to any institution of higher education or combination of such institutions in any fiscal year shall not exceed $500,000.

(B)(i) Except as provided in clauses (ii) and (iii), the Secretary shall award grants in each fiscal year to each institution of higher education described in paragraph (1)(B) that has an application approved under subsection (b) of this section in an amount which bears the same ratio to the amount reserved pursuant to section 1133a(b)(2) of this title for such fiscal year as the number of unduplicated students placed in cooperative education jobs during the preceding fiscal year (other than cooperative education jobs under section 1133c of this title and as determined by the Secretary) by such institution of higher education bears to the total number of all such students placed in such jobs during the preceding fiscal year by all such institutions.

(ii) No institution of higher education shall receive a grant pursuant to paragraph (1)(B) in any fiscal year in an amount which exceeds 25 percent of such institution's cooperative education program's personnel and operating budget for the preceding fiscal year.

(iii) The minimum annual grant amount which an institution of higher education is eligible to receive under paragraph (1)(B) is $1,000 and the maximum annual grant amount is $75,000.

(4) Limitation

The Secretary shall not award grants pursuant to paragraphs (1)(A) and (1)(B) to the same institution of higher education or combination of such institution in any one fiscal year.

(5) Uses

Grants under paragraph (1)(B) shall be used exclusively—

(A) to expand the quality and participation of a cooperative education program;

(B) for outreach in new curricular areas; and

(C) for outreach to potential participants including underrepresented and nontraditional populations.

(b) Applications

Each institution of higher education or combination of such institutions desiring to receive a grant under this section shall submit an application to the Secretary at such time and in such manner as the Secretary shall prescribe. Each such application shall—

(1) set forth the program or activities for which a grant is authorized under this section;

(2) specify each portion of such program or activities which will be performed by a non-

profit organization or institution other than the applicant and the compensation to be paid for such performance;

(3) provide that the applicant will expend during such fiscal year for the purpose of such program or activities not less than the amount expended for such purpose during the previous fiscal year;

(4) describe the plans which the applicant will carry out to assure, and contain a formal statement of the institution's commitment which assures, that the applicant will continue the cooperative education program beyond the 5-year period of Federal assistance described in subsection (c)(1) of this section at a level which is not less than the total amount expended for such program during the first year such program was assisted under this section;

(5) provide that, in the case of an institution of higher education that provides a 2-year program which is acceptable for full credit toward a bachelor's degree, the cooperative education program will be available to students who are certificate or associate degree candidates and who carry at least one-half the normal full-time academic workload;

(6) provide that the applicant will—

(A) make such reports as may be essential to ensure that the applicant is complying with the provisions of this section, including the reports for the second and each succeeding fiscal year for which the applicant receives a grant with respect to the impact of the cooperative education program in the previous fiscal year, including—

(i) the number of unduplicated student applicants in the cooperative education program;

(ii) the number of unduplicated students placed in cooperative education jobs;

(iii) the number of employers who have hired cooperative education students;

(iv) the income for students derived from working in cooperative education jobs; and

(v) the increase or decrease in the number of unduplicated students placed in cooperative education jobs in each fiscal year compared to the previous fiscal year; and

(B) keep such records as are essential to ensure that the applicant is complying with the provisions of this subchapter, including the notation of cooperative education employment on the student's transcript;

(7) describe the extent to which programs in the academic discipline for which the application is made have had a favorable reception by public and private sector employers;

(8) describe the extent to which the institution is committed to extending cooperative education on an institution-wide basis for all students who can benefit;

(9) describe the plans that the applicant will carry out to evaluate the applicant's cooperative education program at the end of the grant period;

(10) provide for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid to the applicant under this subchapter;

(11) demonstrate a commitment to serving special populations such as women, individuals with disabilities, and African American, Mexican-American, Puerto Rican, Cuban, other Hispanic, American Indian, Alaska Native, Aleut, Native Hawaiian, American Samoan, Micronesian, Guamanian (Chamorro), and Northern Marianian students; and

(12) include such other information as is essential to carry out the provisions of this subchapter.

(c) Duration of grants; Federal share

(1) Duration of grants

No individual institution of higher education may receive, individually or as a participant in a combination of such institutions—

(A) a grant pursuant to subsection (a)(1)(A) of this section for more than 5 fiscal years; or

(B) a grant pursuant to subsection (a)(1)(B) of this section for more than 5 fiscal years.

(2) Federal share

The Federal share of a grant under subsection (a)(1)(A) of this section may not exceed—

(A) 85 percent of the cost of carrying out the program or activities described in the application in the first year the applicant receives a grant under this section;

(B) 70 percent of such cost in the second such year;

(C) 55 percent of such cost in the third such year;

(D) 40 percent of such cost in the fourth such year; and

(E) 25 percent of such cost in the fifth such year.

(3) Special rule

Any provision of law to the contrary notwithstanding, the Secretary shall not waive the provisions of this subsection.

(d) Maintenance of effort

If the Secretary determines that a recipient of funds under this section has failed to maintain the fiscal effort described in subsection (b)(3) of this section, then the Secretary may elect not to make grant payments under this section to such recipient.

(e) Factors for special consideration of applications

(1) In general

In approving applications under this section, the Secretary shall give special consideration to applications from institutions of higher education or combinations of such institutions for programs which show the greatest promise of success because of—

(A) the extent to which programs in the academic discipline with respect to which the application is made have had a favorable reception by public and private sector employers;

(B) the strength of the commitment of the institution of higher education or combina-

tion of such institutions to cooperative education as demonstrated by the plans and formalized institutional commitment statement which such institution or combination has made to continue the program after the termination of Federal financial assistance,

(C) the extent to which the institution or combination is committed to extending cooperative education for all students who can benefit, and

(D) such other factors as are consistent with the purposes of this section.

(2) Additional special consideration

The Secretary shall also give special consideration to applications from institutions of higher education or combinations of such institutions which demonstrate a commitment to serving special populations such as women, individuals with disabilities, and African American, Mexican-American, Puerto Rican, Cuban, other Hispanic, American Indian, Alaska Native, Aleut, Native Hawaiian, American Samoan, Micronesian, Guamanian (Chamorro), and Northern Marianian students.

(Pub. L. 89–329, title VIII, § 803, as added Pub. L. 99–498, title VIII, § 801, Oct. 17, 1986, 100 Stat. 1548; amended Pub. L. 102–325, title VIII, § 801, July 23, 1992, 106 Stat. 756; Pub. L. 103–208, § 2(j)(25), (26), Dec. 20, 1993, 107 Stat. 2482.)

PRIOR PROVISIONS

A prior section 1133b, Pub. L. 89–329, title VIII, § 803, as added Pub. L. 94–482, title I, § 129(b), Oct. 12, 1976, 90 Stat. 2146; amended Pub. L. 96–374, title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1503, authorized grants and contracts for training and research related to cooperative education, prior to the general revision of this subchapter by Pub. L. 99–498.

Another prior section 1133b, Pub. L. 89–329, title VIII, § 803, as added Pub. L. 90–575, title II, § 251, Oct. 16, 1968, 82 Stat. 1043, authorized free or reduced rates for sharing educational or related resources by institutions of higher education, prior to the general revision of this subchapter by Pub. L. 94–482.

AMENDMENTS

1993—Subsec. (b)(6)(A). Pub. L. 103–208, § 2(j)(25), struck out ''data'' after ''for which the applicant receives a grant''.

Subsec. (e)(2). Pub. L. 103–208, § 2(j)(26), substituted ''Mexican-American'' for ''Mexican American'' and ''Northern Marianian'' for ''Northern Mariana''.

1992—Pub. L. 102–325 amended section generally, substituting provisions relating to grants and contracts for cooperative education programs for provisions relating to demonstration and innovation projects, training and resource centers, and research.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1003 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1133a of this title.

§ 1133c. Demonstration and innovation projects; training and resource centers; and research

(a) Authorization

The Secretary is authorized, in accordance with the provisions of this section, to make grants and enter into contracts for—

(1) the conduct of demonstration projects designed to demonstrate or determine the feasibility or value of innovative methods of cooperative education from the amounts available in each fiscal year under section 1133a(b)(3) of this title;

(2) the conduct of training and resource centers designed to—

(A) train personnel in the field of cooperative education;

(B) improve materials used in cooperative education programs if such improvement is conducted in conjunction with other activities described in this paragraph;

(C) furnish technical assistance to institutions of higher education to increase the potential of the institution to continue to conduct a cooperative education program without Federal assistance;

(D) encourage model cooperative education programs which furnish education and training in occupations in which there is a national need;

(E) support partnerships under which an institution carrying out a comprehensive cooperative education program joins with one or more institutions of higher education in order to (i) assist the institution other than the comprehensive cooperative education institution to develop and expand an existing program of cooperative education, or (ii) establish and improve or expand comprehensive cooperative education programs; and

(F) encourage model cooperative education programs in the fields of science and mathematics for women and minorities who are underrepresented in such fields

from the amounts available in each fiscal year under section 1133a(b)(4) of this title; and

(3) the conduct of research relating to cooperative education, from the amounts available in each fiscal year under section 1133a(b)(5) of this title.

(b) Administrative provision

(1) In general

To carry out this section, the Secretary may—

(A) make grants to or contracts with institutions of higher education, or combinations of such institutions; and

(B) make grants to or contracts with other public or private nonprofit agencies or organizations, whenever such grants or contracts will make an especially significant contribution to attaining the objectives of this section.

(2) Limitation

(A) The Secretary may not use more than 3 percent of the amount appropriated to carry out this section in each fiscal year to enter into contracts described in paragraph (1)(A).

(B) The Secretary may use not more than 3 percent of the amount appropriated to carry

out this section in each fiscal year to enter into contracts described in paragraph (1)(B).

(c) Supplement not supplant

A recipient of a grant or contract under this section may use the funds provided only so as to supplement and, to the extent possible, increase the level of funds that would, in the absence of such funds, be made available from non-Federal sources to carry out the activities supported by such grant or contract, and in no case to supplant such funds from non-Federal sources.

(Pub. L. 89–329, title VIII, § 804, as added Pub. L. 102–325, title VIII, § 801, July 23, 1992, 106 Stat. 759.)

EFFECTIVE DATE

Section effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as an Effective Date of 1992 Amendment note under section 1001 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1133a, 1133b of this title.

SUBCHAPTER IX—GRADUATE PROGRAMS

CODIFICATION

Title IX of the Higher Education Act of 1965, comprising this subchapter, was originally enacted by Pub. L. 89–329, title IX, as added by Pub. L. 90–575, title II, § 261, Oct. 16, 1968, 82 Stat. 1043, and amended by Pub. L. 92–318, June 23, 1972, 86 Stat. 235; Pub. L. 93–380, Aug. 21, 1974, 88 Stat. 484; Pub. L. 94–482, Oct. 12, 1976, 90 Stat. 2081; Pub. L. 96–49, Aug. 13, 1979, 93 Stat. 351; Pub. L. 96–374, Oct. 3, 1980, 94 Stat. 1367; Pub. L. 96–470, Oct. 19, 1980, 94 Stat. 2237; Pub. L. 99–159, Nov. 22, 1985, 99 Stat. 887. Such title (except for part A) is shown herein, however, as having been added by Pub. L. 99–498, title IX, § 901(a), Oct. 17, 1986, 100 Stat. 1549, without reference to such intervening amendments because of the extensive revision of title IX by Pub. L. 99–498. Part A of such title is shown as having been added by Pub. L. 102–325, title IX, § 901, July 23, 1992, 106 Stat. 761, without reference to intervening amendments because of the extensive revision of part A by Pub. L. 102–325.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in title 8 section 1613; title 42 section 4746.

§ 1134. Purpose and administrative provisions

(a) Purpose

It is the purpose of this subchapter to—

(1) foster and support graduate and professional education;

(2) provide incentives and support for United States citizens to complete doctoral degree programs leading to academic careers, especially women and students from underrepresented groups; and

(3) provide support for students from underrepresented groups to complete masters and professional degree programs.

(b) Administrative provisions

(1) Coordinated administration

In carrying out the purposes of this subchapter, the Secretary shall provide for coordinated administration and regulation of graduate programs under this subchapter to ensure that the programs are carried out in a manner most compatible with academic practices.

(2) Hiring authority

For purposes of carrying out this subchapter, the Secretary shall appoint, without regard to the provisions of title 5 governing appointments in the competitive service, such administrative and technical employees, with the appropriate educational background, as shall be needed to assist in the administration of such subchapter. Such employees shall be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(3) Use for religious purposes prohibited

No fellowship shall be awarded under this subchapter for study at a school or department of divinity.

(Pub. L. 89–329, title IX, § 901, as added Pub. L. 99–498, title IX, § 901(a), Oct. 17, 1986, 100 Stat. 1549; amended Pub. L. 102–325, title IX, § 901, July 23, 1992, 106 Stat. 760; Pub. L. 103–208, § 2(j)(27), Dec. 20, 1993, 107 Stat. 2482.)

REFERENCES IN TEXT

The provisions of title 5 governing appointments in the competitive service, referred to in subsec. (b)(2), are classified generally to section 3301 et seq. of Title 5, Government Organization and Employees.

PRIOR PROVISIONS

A prior section 1134, Pub. L. 89–329, title IX, § 901, as added Pub. L. 92–318, title I, § 181(a), June 23, 1972, 86 Stat. 304; amended Pub. L. 94–482, title I, § 171(a)(1), (2), Oct. 12, 1976, 90 Stat. 2159; Pub. L. 96–49, § 9(a), Aug. 13, 1979, 93 Stat. 353; Pub. L. 96–374, title IX, § 901(a), title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1482, 1503, set forth Congressional declaration of purpose and authorized appropriations for grants to institutions of higher education, prior to the general revision of this subchapter by Pub. L. 99–498.

Another prior section 1134, Pub. L. 89–329, title IX, § 901, as added Pub. L. 90–575, title II, § 261, Oct. 16, 1968, 82 Stat. 1043, set forth Congressional declaration of purpose respecting education for the public service, prior to repeal by Pub. L. 92–318.

AMENDMENTS

1993—Subsec. (b)(2). Pub. L. 103–208 substituted ''such subchapter'' for ''such part''.

1992—Pub. L. 102–325 amended section generally, substituting provisions relating to purpose and administration of this subchapter for provisions authorizing programs under former part A of this subchapter.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1003 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

INFORMATION ON GRADUATE EDUCATION

Section 1408 of Pub. L. 102–325 provided that:

''(a) ASSESSMENT REQUIRED.—The Secretary of Education shall conduct a study which will provide an assessment of the information currently collected on graduate education and will identify what additional information should be generated to guide the Department of Education in defining and executing its role in the support of graduate education.

''(b) SUBJECT OF ASSESSMENT.—The assessment required by subsection (a) shall include the assessment of the total amount of Federal, State, private, foundation, and institutional fellowships, assistantships, loans, or any other forms of financial assistance to all graduate students, including both American and foreign students; and how these amounts are distributed by race, by sex, to nontraditional students, and to students with disabilities. In addition, the assessment shall determine the number of graduate students, cross-referenced by race, sex, and national origin, part-time, full-time, independent versus dependent status, and individuals with disabilities who enrolled and completed all requirements for the degrees master of arts, master of science, master in business administration, doctor of philosophy, doctor of education, juris doctor, medical doctor, doctor in veterinary medicine, and doctor of dental science.

''(c) CONSULTATION.—In conducting such study, the Secretary of Education shall consult with other agencies and organizations involved in graduate education policy, including the Congressional Office of Technology Assessment, the President's Office of Science and Technology Policy, the National Science Foundation and the other Federal agencies supporting academic research and graduate education, the National Academy of Sciences and other public and private organizations which participate in the formulation and implementation of national graduate education policies and programs.

''(d) DATE FOR COMPLETION.—The study shall be completed within 2 years of the date of enactment of this Act [July 23, 1992].''

PART A—GRANTS TO INSTITUTIONS AND CONSORTIA TO ENCOURAGE WOMEN AND MINORITY PARTICIPATION IN GRADUATE EDUCATION

§ 1134a. Grants authorized

The Secretary shall make grants to institutions of higher education and consortia of such institutions to enable such institutions and consortia—

(1) to identify talented undergraduate students who—

(A) demonstrate financial need; and

(B) are individuals from minority groups underrepresented in graduate education or are women underrepresented in fields of study in graduate education such as the fields of science and mathematics; and

(2) to provide such students with an opportunity to participate in a program of research and scholarly activities at such institutions or consortia designed to provide such students with effective preparation for graduate study in such fields or related fields.

(Pub. L. 89–329, title IX, § 911, as added Pub. L. 102–325, title IX, § 901, July 23, 1992, 106 Stat. 761.)

PRIOR PROVISIONS

A prior section 1134a, Pub. L. 89–329, title IX, § 902, as added Pub. L. 99–498, title IX, § 901(a), Oct. 17, 1986, 100 Stat. 1550, related to submission and contents of applications, prior to the general revision of this part by Pub. L. 102–325.

Another prior section 1134a, Pub. L. 89–329, title IX, § 902, as added Pub. L. 92–318, title I, § 181(a), June 23, 1972, 86 Stat. 305; amended Pub. L. 94–482, title I, § 171(a)(3), Oct. 12, 1976, 90 Stat. 2159; Pub. L. 96–374, title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1503, related to applications for grants to institutions of higher education, prior to the general revision of this subchapter by Pub. L. 99–498.

Another prior section 1134a, Pub. L. 89–329, title IX, § 903, as added Pub. L. 90–575, title II, § 261, Oct. 16, 1968, 82 Stat. 1043, related to project grants and contracts to strengthen and improve education for the public service, prior to repeal by Pub. L. 92–318.

EFFECTIVE DATE

Part effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as an Effective Date of 1992 Amendment note under section 1001 of this title.

§ 1134b. Submission and contents of application

(a) Required information

Each institution of higher education or consortium desiring assistance under this part shall submit an application to the Secretary in such form and containing such information as the Secretary may by regulation prescribe. Each such application shall provide information regarding—

(1) the program of study, to take the form of summer research internships, seminars, and other educational experiences;

(2) the institution's or consortium's plan for identifying and recruiting talented women and minority undergraduates, especially those interested in entering fields in which such women and minority undergraduates are underrepresented;

(3) the participation of faculty in the program and a detailed description of the research in which students will be involved;

(4) a plan for the evaluation of the effectiveness of the program; and

(5) such other assurances and information as the Secretary may require by regulation.

(b) Selection requirements

In making awards to institutions and consortia—

(1) the Secretary shall consider the quality of the research in which students will be involved as well as the recruitment program and program of study; and

(2) the Secretary shall ensure an equitable geographic distribution among public and private institutions of higher education and consortia.

(Pub. L. 89–329, title IX, § 912, as added Pub. L. 102–325, title IX, § 901, July 23, 1992, 106 Stat. 761.)

PRIOR PROVISIONS

A prior section 1134b, Pub. L. 89–329, title IX, § 903, as added Pub. L. 99–498, title IX, § 901(a), Oct. 17, 1986, 100 Stat. 1550, related to use of award funds, prior to the general revision of this part by Pub. L. 102–325.

Another prior section 1134b, Pub. L. 89–329, title IX, § 903, as added Pub. L. 92–318, title I, § 181(a), June 23, 1972, 86 Stat. 305; amended Pub. L. 94–482, title I, § 171(a)(4), Oct. 12, 1976, 90 Stat. 2160; Pub. L. 96–374, title IX, § 901(b), title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1482, 1503, related to the uses of funds appropriated to make grants to institutions of higher education, prior to the general revision of this subchapter by Pub. L. 99–498.

Another prior section 1134b, Pub. L. 89–329, title IX, § 904, as added Pub. L. 90–575, title II, § 261, Oct. 16, 1968, 82 Stat. 1044, related to application for grants or contracts to strengthen and improve education for the public service, providing in subsec. (a) for requisites of application, subsec. (b) for allocation of grants and contracts, and subsec. (c) for payment of compensation of students employed in public service and participation of Federal agencies and departments, prior to repeal by Pub. L. 92–318.

§ 1134c. Use of funds

Awards made to institutions or consortia under this part shall be used exclusively to provide direct fellowship aid which may include need-based stipends, room and board costs, transportation costs, and tuition for courses for which credit is given by the institution or consortium as approved by the Secretary.

(Pub. L. 89–329, title IX, § 913, as added Pub. L. 102–325, title IX, § 901, July 23, 1992, 106 Stat. 762.)

PRIOR PROVISIONS

A prior section 1134c, Pub. L. 89–329, title IX, § 904, as added Pub. L. 92–318, title I, § 181(a), June 23, 1972, 86 Stat. 306; amended Pub. L. 96–374, title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1503, authorized studies and research activities on the need for, and improvement of, graduate programs, prior to the general revision of this subchapter by Pub. L. 99–498.

Another prior section 1134c, Pub. L. 89–329, title IX, § 911, as added Pub. L. 90–575, title II, § 261, Oct. 16, 1968, 82 Stat. 1044, provided for authorization to award public service fellowships, prior to repeal by Pub. L. 92–318.

§ 1134c–1. Information collection

In order to assist institutions of higher education or consortia to identify talented women and minority undergraduates for graduate study, institutions or consortia receiving awards under this part shall provide to the Secretary such information as the Secretary determines is necessary to carry out this section. With respect to students participating in a summer internship under this part, the Secretary shall collect information submitted by such institutions or consortia, such as the students' names, addresses, and institutions attended for undergraduate study. The Secretary shall, subject to the authorization of each student, make the information available to institutions of higher education or consortia offering graduate programs seeking to identify talented women and minority undergraduates for graduate study.

(Pub. L. 89–329, title IX, § 914, as added Pub. L. 102–325, title IX, § 901, July 23, 1992, 106 Stat. 762.)

§ 1134c–2. Authorization of appropriations

There are authorized to be appropriated to carry out this part $25,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(Pub. L. 89–329, title IX, § 915, as added Pub. L. 102–325, title IX, § 901, July 23, 1992, 106 Stat. 762.)

PART B—PATRICIA ROBERTS HARRIS FELLOWSHIP PROGRAM

§ 1134d. Statement of purpose; designation

(a) Purpose

It is the purpose of this part to provide, through institutions of higher education, a program of grants to assist in making available the benefits of master's level, professional, and doctoral education programs to individuals from minority groups and women who are underrepresented in such programs.

(b) Designation

Each recipient of such an award under this part shall be known as a ''Patricia Roberts Harris Graduate Fellow''.

(Pub. L. 89–329, title IX, § 921, as added Pub. L. 99–498, title IX, § 901(a), Oct. 17, 1986, 100 Stat. 1550; amended Pub. L. 102–325, title IX, § 901, July 23, 1992, 106 Stat. 762.)

PRIOR PROVISIONS

A prior section 1134d, Pub. L. 89–329, title IX, § 921, as added Pub. L. 96–374, title IX, § 902(a), Oct. 3, 1980, 94 Stat. 1482, set forth Congressional statement of purpose, prior to the general revision of this subchapter by Pub. L. 99–498.

Another prior section 1134d, Pub. L. 89–329, title IX, § 921, as added Pub. L. 92–318, title I, § 181(a), June 23, 1972, 86 Stat. 306; amended Pub. L. 94–482, title I, § 171(b), Oct. 12, 1976, 90 Stat. 2160, authorized appropriations for carrying out the program of fellowships for graduate and professional study, prior to the general revision of this part by Pub. L. 96–374.

Another prior section 1134d, Pub. L. 89–329, title IX, § 912, as added Pub. L. 90–575, title II, § 261, Oct. 16, 1968, 82 Stat. 1045, provided for allocation of public service fellowships, prior to repeal by Pub. L. 92–318, title I, § 181(a), June 23, 1972, 86 Stat. 304.

AMENDMENTS

1992—Pub. L. 102–325 amended section generally, striking out ''of awards'' after ''designation'' in section catchline, substituting ''master's level, professional, and doctoral education programs to individuals from minority groups and women who are underrepresented in such programs'' for ''a post-baccalaureate education to graduate and professional students who demonstrate financial need'' in subsec. (a), and inserting ''Graduate'' before ''Fellow'' in subsec. (b).

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

§ 1134e. Program authorized

(a) Grants by Secretary

(1) In general

The Secretary shall make grants to institutions of higher education to enable such institutions to make grants in accordance with the provisions of this part.

(2) Reservations

The Secretary shall reserve—

(A) 50 percent of the amount appropriated pursuant to the authority of section 1134g of this title to award grants to institutions of higher education to enable such institutions to make awards for master's level and professional study; and

(B) 50 percent of such amount to award grants to such institutions to enable such institutions to make awards for doctoral study.

(b) Distribution and amounts of grants

(1) Equitable distribution

In making such grants the Secretary shall, to the maximum extent feasible, ensure an equitable geographic distribution of awards and an equitable distribution among eligible public and independent institutions of higher education.

(2) Reallotment

Whenever the Secretary determines that an institution of higher education is unable to use all of the amounts available to it under

this part, the Secretary shall, on such dates during each fiscal year as the Secretary may fix, reallot such amounts not needed to institutions which can use the grants authorized by this part.

(c) Applications

Any eligible institution of higher education offering a program of postbaccalaureate study leading to a master's level, professional, or doctoral degree may apply for grants under this part. Each such institution may make an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require. Such application may be made on behalf of professional schools, academic departments, or similar organizational units within such institution meeting the requirements of this subsection, including interdisciplinary or interdepartmental programs.

(d) Selection of applications

In making grants to institutions of higher education, the Secretary shall—

(1) take into account present and projected needs for highly trained individuals in academic career fields of high national priority;

(2) consider the need to prepare a larger number of women and individuals from minority groups, especially from among such groups which have been traditionally underrepresented in professional and academic careers requiring master's level, professional, or doctoral degrees, but nothing contained in this paragraph shall be interpreted to require any institution to grant preference or disparate treatment to the members of one minority group on account of an imbalance which may exist with respect to the total number or percentage of individuals of such group participating in or receiving the benefits of the program authorized in this section, in comparison with the total number or percentage of individuals of such group in any community, State, section, or other area;

(3) take into account the need to expand access by women and minority groups to careers heretofore lacking adequate representation of women and minority groups; and

(4) take into account the success of the applicant in providing students with access to careers in which women and minority groups are underrepresented.

(e) Priorities for fellowships

The Secretary shall assure that, in making grants under this part, a priority for awards is accorded to—

(1) individuals from minority groups and women who are pursuing master's level or professional study in fields in which they are underrepresented;

(2) individuals from minority groups and women who are pursuing master's level study leading to careers that serve the public interest; and

(3) women and individuals from traditionally underrepresented groups undertaking doctoral study, including those interested in entering the fields of science and mathematics.

(f) Institutional payments

(1) The Secretary shall pay to the institution of higher education, for each individual awarded a fellowship under this part at such institution, an institutional allowance. Except as provided in paragraph (2), such allowance shall be—

(A) $6,000 annually with respect to individuals who first received fellowships under this part prior to academic year 1993–1994; and

(B) with respect to individuals who first receive fellowships during or after academic year 1993–1994—

(i) $9,000 for the academic year 1993–1994; and

(ii) for succeeding academic years, $9,000 adjusted annually thereafter in accordance with inflation as determined by the Department of Labor's Consumer Price Index for the previous calendar year.

(2) The institutional allowance paid under paragraph (1) shall be reduced by the amount the institution charges and collects from a fellowship recipient for tuition and other expenses as part of the recipient's instructional program.

(Pub. L. 89–329, title IX, § 922, as added Pub. L. 99–498, title IX, § 901(a), Oct. 17, 1986, 100 Stat. 1550; amended Pub. L. 102–325, title IX, § 901, July 23, 1992, 106 Stat. 763; Pub. L. 103–208, § 2(j)(28), Dec. 20, 1993, 107 Stat. 2482.)

PRIOR PROVISIONS

A prior section 1134e, Pub. L. 89–329, title IX, § 922, as added Pub. L. 96–374, title IX, § 902(a), Oct. 3, 1980, 94 Stat. 1482, authorized program of grants to assist graduate and professional study, prior to the general revision of this subchapter by Pub. L. 99–498.

Another prior section 1134e, Pub. L. 89–329, title IX, § 922, as added Pub. L. 92–318, title I, § 181(a), June 23, 1972, 86 Stat. 306; amended Pub. L. 94–482, title I, § 171(b), Oct. 12, 1976, 90 Stat. 2160; Pub. L. 96–49, § 9(b), Aug. 13, 1979, 93 Stat. 353, related to the authorization, duration, and extension of the period of fellowships, the awarding of vacated fellowships, and the question of the interruption of studies of fellowship recipients, prior to the general revision of this part by Pub. L. 96–374.

Another prior section 1134e, Pub. L. 89–329, title IX, § 913, as added Pub. L. 90–575, title II, § 261, Oct. 16, 1968, 82 Stat. 1045, provided for approval of programs, prior to repeal by Pub. L. 92–318, title I, § 181(a), June 23, 1972, 86 Stat. 304.

AMENDMENTS

1993—Subsec. (f). Pub. L. 103–208 amended subsec. (f) generally. Prior to amendment, subsec. (f) read as follows: ''The Secretary shall (in addition to stipends paid to individuals under this part) pay to the institution of higher education, for each individual awarded a fellowship under this part at such institution, $9,000 with respect to such awards made for the academic year 1993–1994, to be adjusted annually thereafter in accordance with inflation as determined by the Department of Labor's Consumer Price Index for the previous calendar year.''

1992—Pub. L. 102–325 amended section generally, in subsec. (a) redesignating existing provisions as par. (1) and adding par. (2); in subsec. (b) inserting par. headings; in subsec. (c) inserting provisions relating to master's degree; in subsec. (d) striking out par. (1), which read, ''take into account present and projected needs for highly trained individuals in all areas of education beyond secondary school;'', redesignating par. (2) as (1) and substituting ''academic career fields'' for ''other than academic career fields'', redesignating par. (3) as

(2), inserting provisions relating to women, and substituting provisions relating to professional and academic careers requiring master's level, professional, or doctoral degrees for provisions relating to colleges and universities, and adding pars. (3) and (4); in subsec. (e) striking out provisions requiring expenditures under former pars. (1) and (2) be not less than amounts expended in fiscal year 1985, in par. (1), substituting provisions relating to individuals from minority groups and women pursuing master's level or professional study in fields in which they are underrepresented for provisions relating to individuals planning to pursue careers in public service, in par. (2), substituting provisions relating to individuals from minority groups and women pursuing master's level study leading to careers serving public interest for provisions relating to individuals from traditionally underrepresented groups undertaking graduate or professional study, and adding par. (3); in subsec. (f) substituting provisions requiring Secretary to pay to institutions, for each individual at such institution awarded a fellowship, $9,000 for academic year 1993–1994, to be adjusted annually thereafter in accordance with inflation as determined under Consumer Price Index for provisions requiring Secretary, from sums required to be expended under former subsec. (e), to pay to institutions which individuals receiving awards were attending, such amounts as were paid under similar fellowship programs administered through National Science Foundation and similar agencies, except that amount charged to fellowship recipient by institution for tuition and other required expenses was to be deducted from payments to institution; and by striking out subsec. (g) which prohibited award of fellowship under this part for study at school or department of divinity.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective on and after Oct. 1, 1993, see section 5(b)(1) of Pub. L. 103–208, set out as a note under section 1003 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

§ 1134f. Award of fellowships

(a) Awards

The Secretary shall make payments to institutions of higher education for the purpose of paying stipends to individuals who are awarded fellowships under this part. The stipends the Secretary may establish shall reflect the purpose of this program to encourage students to undertake master's level, professional, and doctoral study as described in this part. In the case of an individual who receives such individual's first stipend under this part in academic year 1993–1994 or any succeeding academic year, such stipend shall be set at a level of support equal to that provided by the National Science Foundation graduate fellowships, except such amount shall be adjusted as necessary so as not to exceed the fellow's demonstrated level of need according to measurements of need approved by the Secretary.

(b) Requirements for awards

(1) Master's or professional degree

No student enrolled in graduate study leading to a master's or professional degree shall receive an award except during periods in which such student is maintaining satisfactory progress in, and devoting essentially full time to study or research (including acting as a teaching assistant or research assistant as may be required as a condition to award a degree), in the field in which such fellowship was awarded and is not engaging in gainful employment, other than part-time employment by the institution of higher education involved in teaching, research, or similar activities, approved by the Secretary. Such period shall not exceed the normal period for completing the program in which the student is enrolled or a total of 3 years, whichever is less, except that the Secretary may provide by regulation for the granting of such fellowships for an additional period of study not to exceed one 12-month period, under special circumstances which the Secretary determines would most effectively serve the purposes of this part. The Secretary shall make a determination to provide such 12-month extension of an award to an individual fellowship recipient for study or research upon review of an application for such extension by the recipient.

(2) Doctoral degree

No student enrolled in graduate study leading to a doctoral degree shall receive an award under this part except during periods in which such student is maintaining satisfactory progress in, and devoting essentially full time to study, research (including acting as a teaching assistant or research assistant as may be required as a condition to award a degree), or dissertation work in the field in which such fellowship was awarded and is not engaging in gainful employment, other than part-time employment by the institution of higher education involved in teaching, research, or similar activities, approved by the Secretary. Such period shall not exceed a total of 3 years, consisting of not more than 2 years of support for study or research, and not more than 1 year of support for dissertation work, provided that the student has attained satisfactory progress prior to the dissertation stage, except that the Secretary may provide by regulation for the granting of such fellowships for an additional period of study not to exceed one 12-month period, under special circumstances which the Secretary determines would most effectively serve the purposes of this part. The Secretary shall make a determination to provide such 12-month extension of an award to an individual fellowship recipient for study or research upon review of an application for such extension by the recipient. The institution shall provide 2 years of support for each student following the years of Federal predissertation support under this part. Any student receiving an award for graduate study leading to a doctoral degree shall receive at least 1 year of supervised training in instruction during such student's doctoral program.

(3) Continuation of awards under prior law

Notwithstanding any other provision of law, in the case of an individual who was awarded a multiyear fellowship under this part before July 23, 1992, awards to such individual for the remainder of such fellowship may, at the discretion of the institution of higher education attended by such individual, be subject to the

requirements of this subsection as in effect prior to July 23, 1992. The institution shall be required to exercise such discretion at the time that its application to the Secretary for a grant under this part, and the amount of any such grant, are being considered by the Secretary.

(Pub. L. 89–329, title IX, § 923, as added Pub. L. 99–498, title IX, § 901(a), Oct. 17, 1986, 100 Stat. 1552; amended Pub. L. 102–325, title IX, § 901, July 23, 1992, 106 Stat. 764; Pub. L. 103–208, § 2(j)(29)–(31), Dec. 20, 1993, 107 Stat. 2482, 2483.)

PRIOR PROVISIONS

A prior section 1134f, Pub. L. 89–329, title IX, § 923, as added Pub. L. 96–374, title IX, § 902(a), Oct. 3, 1980, 94 Stat. 1484, related to award of fellowships to graduate and professional students, prior to the general revision of this subchapter by Pub. L. 99–498.

Another prior section 1134f, Pub. L. 89–329, title IX, § 923, as added Pub. L. 92–318, title I, § 181(a), June 23, 1972, 86 Stat. 306; amended Pub. L. 94–482, title I, § 171(b), Oct. 12, 1976, 90 Stat. 2160, related to the award of fellowships and the approval of graduate programs, prior to the general revision of this part by Pub. L. 96–374.

Another prior section 1134f, Pub. L. 89–329, title IX, § 914, as added Pub. L. 90–575, title II, § 261, Oct. 16, 1968, 82 Stat. 1045, provided for stipends for public service fellowships, prior to repeal by Pub. L. 92–318, title I, § 181(a), June 23, 1972, 86 Stat. 304.

AMENDMENTS

1993—Subsec. (b)(1). Pub. L. 103–208, § 2(j)(29), in second sentence, substituted ''granting of such fellowships for an additional period of study not to exceed one 12-month period,'' for ''granting of such fellowships for a period of study not to exceed one 12-month period, in addition to the 3-year period for study or research set forth in this section,''.

Subsec. (b)(2). Pub. L. 103–208, § 2(j)(30), inserted second to fifth sentences and struck out former second and third sentences which read as follows: ''Such period shall not exceed a total of 3 years, consisting of not more than 2 years of support for study or research, and not more than 1 year of support for dissertation work provided that the student has attained satisfactory progress prior to the dissertation stage. The institution shall provide 2 years of support for each student, including at least 1 year of supervised teaching, following the 2 years of predissertation support under this part.''

Subsec. (b)(3). Pub. L. 103–208, § 2(j)(31), added par. (3).

1992—Pub. L. 102–325 amended section generally, in subsec. (a), in heading striking out ''based on need'' after ''Awards'' and in text substituting provisions requiring Secretary to make payments to institutions for purpose of paying individual stipends and to set level of stipend to encourage master's professional, and doctoral studies, and to equal amount of National Science Foundation graduate fellowship, not to exceed need of fellow, for provisions requiring institution to make available to needy graduate and professional students awards determined by such institution, except that no award could exceed lesser of $10,000 or demonstrated level of need as determined under part E of subchapter IV of this chapter and in subsec. (b), in heading substituting ''awards'' for ''award'' and in text redesignating existing provisions as par. (1) and inserting provisions restricting applicability to students pursuing master's or professional degrees and provisions limiting period to normal period for completing the program of study, and adding par. (2).

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1003 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1134g of this title.

§ 1134g. Authorization of appropriations

There are authorized to be appropriated $60,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out this part. Notwithstanding any other provision of law, the Secretary may use funds appropriated pursuant to this section for fiscal year 1994 to make continuation awards under section 1134f(b)(3) of this title to individuals who would have been eligible for such awards in fiscal year 1993 if such section had been in effect.

(Pub. L. 89–329, title IX, § 924, as added Pub. L. 102–325, title IX, § 901, July 23, 1992, 106 Stat. 765; amended Pub. L. 103–208, § 2(j)(32), Dec. 20, 1993, 107 Stat. 2483.)

PRIOR PROVISIONS

A prior section 1134g, Pub. L. 89–329, title IX, § 924, as added Pub. L. 96–374, title IX, § 902(a), Oct. 3, 1980, 94 Stat. 1484, authorized appropriations for fiscal years 1981 to 1985 for grant program to assist graduate and professional students, prior to the general revision of this subchapter by Pub. L. 99–498. See section 1134u(b) of this title.

Another prior section 1134g, Pub. L. 89–329, title IX, § 924, as added Pub. L. 92–318, title I, § 181(a), June 23, 1972, 86 Stat. 307; amended Pub. L. 94–482, title I, § 171(b), Oct. 12, 1976, 90 Stat. 2161, related to fellowship stipends, additional allowances to institutions of higher education, and deductions, prior to the general revision of this part by Pub. L. 96–374.

Another prior section 1134g, Pub. L. 89–329, title IX, § 915, as added Pub. L. 90–575, title II, § 261, Oct. 16, 1968, 82 Stat. 1045, provided for public service fellowship conditions, prior to repeal by Pub. L. 92–318, title I, § 181(a), June 23, 1972, 86 Stat. 304.

AMENDMENTS

1993—Pub. L. 103–208 inserted at end ''Notwithstanding any other provision of law, the Secretary may use funds appropriated pursuant to this section for fiscal year 1994 to make continuation awards under section 1134f(b)(3) of this title to individuals who would have been eligible for such awards in fiscal year 1993 if such section had been in effect.''

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1003 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as an Effective Date of 1992 Amendment note under section 1001 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1134e of this title.

PART C—JACOB K. JAVITS FELLOWSHIP PROGRAM

§ 1134h. Award of Jacob K. Javits fellowships

(a) Authority and timing of awards

The Secretary is authorized to award fellowships in accordance with the provisions of this part for graduate study in the arts, humanities, and social sciences by students of superior ability selected on the basis of demonstrated achievement and exceptional promise. These fellowships shall be awarded to students intending to pursue a doctoral degree, except that fellowships may be granted to students pursuing a master's degree in those fields in which the master's degree is commonly accepted as the appropriate degree for a tenured-track faculty position in a baccalaureate degree-granting institution. All funds appropriated in a fiscal year shall be obligated and expended to the students for fellowships for use in the academic year beginning after July 1 of the fiscal year for which the funds were appropriated. The fellowships shall be awarded for only 1 academic year of study and shall be renewable for a period not to exceed 4 years of study.

(b) Designation of fellows

Students receiving awards under this part shall be known as ''Jacob K. Javits Fellows''.

(c) Interruptions of study

The institution of higher education may allow a fellowship recipient to interrupt periods of study for a period not to exceed 12 months for the purpose of work, travel, or independent study away from the campus, if such independent study is supportive of the fellowship recipient's academic program and shall continue payments for those 12-month periods during which the student is pursuing travel or independent study supportive of the recipient's academic program.

(Pub. L. 89–329, title IX, § 931, as added Pub. L. 99–498, title IX, § 901(a), Oct. 17, 1986, 100 Stat. 1552; amended Pub. L. 100–50, § 20(1), June 3, 1987, 101 Stat. 360; Pub. L. 102–325, title IX, § 901, July 23, 1992, 106 Stat. 765; Pub. L. 103–208, § 2(j)(33), Dec. 20, 1993, 107 Stat. 2483.)

PRIOR PROVISIONS

A prior section 1134h, Pub. L. 89–329, title IX, § 931, as added Pub. L. 96–374, title IX, § 903, Oct. 3, 1980, 94 Stat. 1484; amended Pub. L. 99–159, title VIII, § 802, Nov. 22, 1985, 99 Stat. 908, authorized award of fellowships for graduate study in arts, humanities, and social sciences, prior to the general revision of this subchapter by Pub. L. 99–498.

Another prior section 1134h, Pub. L. 89–329, title IX, § 925, as added Pub. L. 92–318, title I, § 181(a), June 23, 1972, 86 Stat. 307; amended Pub. L. 94–482, title I, § 171(b), Oct. 12, 1976, 90 Stat. 2162, set out conditions attached to fellowships for graduate and professional study, prior to the general revision of part B of of this subchapter by Pub. L. 96–374.

Another prior section 1134h, Pub. L. 89–329, title IX, § 921, as added Pub. L. 90–575, title II, § 261, Oct. 16, 1968, 82 Stat. 1046, defined ''State'', ''institution of higher education'', ''public service'' and ''academic year'', prior to repeal by Pub. L. 92–318, title I, § 181(a), June 23, 1972, 86 Stat. 304.

AMENDMENTS

1993—Subsec. (a). Pub. L. 103–208 inserted after first sentence ''These fellowships shall be awarded to students intending to pursue a doctoral degree, except that fellowships may be granted to students pursuing a master's degree in those fields in which the master's degree is commonly accepted as the appropriate degree for a tenured-track faculty position in a baccalaureate degree-granting institution.''

1992—Pub. L. 102–325 amended section generally, in subsec. (a) substituting ''Authority'' for ''Number'' in heading and substituting ''fellowships in'' for ''not more than 450 fellowships per year in'' and ''only 1'' for ''only one'' in text and reenacting subsecs. (b) and (c) without change.

1987—Pub. L. 100–50 substituted ''Jacob K. Javits Fellowships'' for ''national graduate fellowship'' in section catchline.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1003 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

§ 1134i. Allocation of fellowships

(a) Fellowship Board

(1) Appointment

The Secretary shall appoint a Jacob K. Javits Fellows Program Fellowship Board (hereinafter in this part referred to as the ''Board'') consisting of 9 individuals representative of both public and private institutions of higher education who are especially qualified to serve on the Board. In making appointments, the Secretary shall give due consideration to the appointment of individuals who are highly respected in the academic community. The Secretary shall assure that individuals appointed to the Board are broadly knowledgeable about and have experience in graduate education in arts, humanities, and social sciences.

(2) Duties

The Board shall—

(A) establish general policies for the program established by this part and oversee its operation;

(B) establish general criteria for the distribution of fellowships among eligible academic fields identified by the Board;

(C) appoint panels of academic scholars with distinguished backgrounds in the arts, humanities, and social sciences for the purpose of selecting fellows; and

(D) prepare and submit to the Congress at least once in every 3-year period a report on any modifications in the program that the Board determines are appropriate.

(3) Consultations

In carrying out its responsibilities, the Board shall consult on a regular basis with representatives of the National Science Foundation, the National Endowment for the Hu-

manities, the National Endowment for the Arts, and representatives of institutions of higher education and associations of such institution, learned societies, and professional organizations.

(4) Term

The term of office of each member of the Board shall be 4 years, except that any member appointed to fill a vacancy shall serve for the remainder of the term for which the predecessor of the member was appointed. No member may serve for a period in excess of 6 years.

(5) Initial meeting; vacancy

The Secretary shall call the first meeting of the Board, at which the first order of business shall be the election of a Chairperson and a Vice Chairperson, who shall serve until 1 year after the date of their appointment. Thereafter each officer shall be elected for a term of 2 years. In case a vacancy occurs in either office, the Board shall elect an individual from among the members of the Board to fill such vacancy.

(6) Quorum; additional meetings

(A) A majority of the members of the Board shall constitute a quorum.

(B) The Board shall meet at least once a year or more frequently, as may be necessary, to carry out its responsibilities.

(7) Compensation

Members of the Board, while serving on the business of the Board, shall be entitled to receive compensation at rates fixed by the Secretary, but not exceeding the rate of basic pay payable for level IV of the Executive Schedule, including traveltime, and while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5 for persons in Government service employed intermittently.

(b) Use of selection panels

The recipients of fellowships shall be selected in each designated field from among all applicants nationwide in each field by distinguished panels appointed by the Board to make such selections under criteria established by the Board. The number of recipients in each field in each year shall not exceed the number of fellows allocated to that field for that year by the Board.

(c) Fellowship portability

Each recipient shall be entitled to use the fellowship in a graduate program at any accredited institution of higher education in which the recipient may decide to enroll.

(Pub. L. 89–329, title IX, § 932, as added Pub. L. 99–498, title IX, § 901(a), Oct. 17, 1986, 100 Stat. 1553; amended Pub. L. 100–50, § 20(2), (3), June 3, 1987, 101 Stat. 360; Pub. L. 102–325, title IX, § 901, July 23, 1992, 106 Stat. 766; Pub. L. 103–208, § 2(j)(34), (35), Dec. 20, 1993, 107 Stat. 2483.)

REFERENCES IN TEXT

Level IV of the Executive Schedule, referred to in subsec. (a)(7), is set out in section 5315 of Title 5, Government Organization and Employees.

PRIOR PROVISIONS

A prior section 1134i, Pub. L. 89–329, title IX, § 932, as added Pub. L. 96–374, title IX, § 903, Oct. 3, 1980, 94 Stat. 1485, related to allocation of fellowships for graduate study in arts, humanities, and social sciences, prior to the general revision of this subchapter by Pub. L. 99–498.

Another prior section 1134i, Pub. L. 89–329, title IX, § 941, as added Pub. L. 92–318, title I, § 181(a), June 23, 1972, 86 Stat. 308; amended Pub. L. 94–482, title I, § 171(c)(1), Oct. 12, 1976, 90 Stat. 2162; Pub. L. 96–49, § 9(c), Aug. 13, 1979, 93 Stat. 353, related to award of public service fellowships, prior to repeal by section 902(b) of Pub. L. 96–374.

Another prior section 1134i, Pub. L. 89–329, title IX, § 922, as added Pub. L. 90–575, title II, § 261, Oct. 16, 1968, 82 Stat. 1046, related to coordination of Federal assistance respecting education for the public service, prior to repeal by Pub. L. 92–318, title I, § 181(a), June 23, 1972, 86 Stat. 304.

AMENDMENTS

1993—Subsec. (a)(1). Pub. L. 103–208, § 2(j)(34), substituted ''graduate education'' for ''doctoral education'' in third sentence.

Subsec. (c). Pub. L. 103–208, § 2(j)(35), substituted ''graduate program'' for ''doctoral program''.

1992—Pub. L. 102–325 amended section generally, in subsec. (a), inserting par. headings, in par. (1), substituting provisions relating to 9 members for provisions relating to not less than 9 and not more than 15 members prior to July 31, 1987, 13 members prior to Aug. 1, 1989, 11 members prior to Aug. 1, 1991, and 9 members after July 31, 1991, and in par. (7), substituting provisions relating to level IV of Executive Schedule for provisions relating to section 5332 of title 5 and in subsec. (b), substituting ''Board'' for ''Fellowship Board'' after ''appointed by the'' and after ''year by the''.

1987—Subsec. (a)(1). Pub. L. 100–50, § 20(2), substituted ''Jacob K. Javits'' for ''National Graduate''.

Subsec. (a)(2)(C). Pub. L. 100–50, § 20(3), substituted ''selecting'' for ''directing''.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1003 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

EFFECTIVE DATE

Section effective Oct. 17, 1986, see section 2 of Pub. L. 99–498, set out as a note under section 1001 of this title.

Section 901(b) of Pub. L. 99–498 provided that: ''The amendments made to section 932(a) and (c) of the Act [subsecs. (a) and (c) of this section] by this section shall take effect with respect to individuals appointed to the Fellowship Board to fill vacancies occurring after the date of enactment of this Act [Oct. 17, 1986] on the Fellowship Board as constituted prior to the amendments made by this section [enacting this subchapter]. The Secretary shall make initial appointments under this subsection so that the terms of 3 members expire at the end of 2 years, 3 members expire at the end of 3 years, and 3 members expire at the end of 4 years.''

REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, § 101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

§ 1134j. Stipends

(a) Award by Secretary

The Secretary shall pay to individuals awarded fellowships under this part such stipends as the Secretary may establish, reflecting the purpose of this program to encourage highly talented students to undertake graduate study as described in this part. In the case of an individual who receives such individual's first stipend under this part in academic year 1993–1994 or any succeeding academic year, such stipend shall be set at a level of support equal to that provided by the National Science Foundation graduate fellowships, except such amount shall be adjusted as necessary so as not to exceed the fellow's demonstrated level of need according to measurements of need approved by the Secretary.

(b) Institutional payments

(1) In general

(A) The Secretary shall (in addition to stipends paid to individuals under this part) pay to the institution of higher education, for each individual awarded a fellowship under this part at such institution, an institutional allowance. Except as provided in subparagraph (B), such allowance shall be—

(i) $6,000 annually with respect to individuals who first received fellowships under this part prior to academic year 1993–1994; and

(ii) with respect to individuals who first receive fellowships during or after academic year 1993–1994—

(I) $9,000 for the academic year 1993–1994; and

(II) for succeeding academic years, $9,000 adjusted annually thereafter in accordance with inflation as determined by the Department of Labor's Consumer Price Index for the previous calendar year.

(B) The institutional allowance paid under subparagraph (A) shall be reduced by the amount the institution charges and collects from a fellowship recipient for tuition and other expenses as part of the recipient's instructional program.

(2) Special rules

(A) Beginning March 1, 1992, any applicant for a fellowship under this part who has been notified in writing by the Secretary that such applicant has been selected to receive such a fellowship and is subsequently notified that the fellowship award has been withdrawn, shall receive such fellowship unless the Secretary subsequently makes a determination that such applicant submitted fraudulent information on the application.

(B) Subject to the availability of appropriations, amounts payable to an institution by the Secretary pursuant to this subsection shall not be reduced for any purpose other than the purposes specified under paragraph (1).

(Pub. L. 89–329, title IX, § 933, as added Pub. L. 99–498, title IX, § 901(a), Oct. 17, 1986, 100 Stat. 1554; amended Pub. L. 100–50, § 20(4), June 3, 1987, 101 Stat. 360; Pub. L. 102–325, title IX, § 901, July 23, 1992, 106 Stat. 767; Pub. L. 103–208, § 2(j)(36), Dec. 20, 1993, 107 Stat. 2483.)

PRIOR PROVISIONS

A prior section 1134j, Pub. L. 89–329, title IX, § 933, as added Pub. L. 96–374, title IX, § 903, Oct. 3, 1980, 94 Stat. 1486, related to stipends paid to individuals awarded fellowships for graduate study in arts, humanities, and social sciences, prior to the general revision of this subchapter by Pub. L. 99–498.

Another prior section 1134j, Pub. L. 89–329, title IX, § 942, as added Pub. L. 92–318, title I, § 181(a), June 23, 1972, 86 Stat. 308; amended Pub. L. 94–482, title I, § 171(c)(2), Oct. 12, 1976, 90 Stat. 2163, related to the allocation of public service fellowships, prior to repeal by section 902(b) of Pub. L. 96–374.

Another prior section 1134j, Pub. L. 89–329, title IX, § 923, as added Pub. L. 90–575, title II, § 261, Oct. 16, 1968, 82 Stat. 1046; amended Pub. L. 92–318, title I, § 131(d)(2)(E), June 23, 1972, 86 Stat. 260, prohibited any grant, contract, or fellowship for study at schools or departments of divinity, prior to repeal by Pub. L. 92–318, title I, § 181(a), June 23, 1972, 86 Stat. 304.

AMENDMENTS

1993—Subsec. (b)(1). Pub. L. 103–208 amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''The Secretary shall (in addition to the stipends paid to individuals under subsection (a) of this section) pay to the institution of higher education, for each individual awarded a fellowship for pursuing a course at such institution, $9,000 with respect to such awards made for the academic year 1993–1994, to be adjusted annually thereafter in accordance with inflation as determined by the Department of Labor's Consumer Price Index for the previous calendar year, except that such amount charged to a fellowship recipient and collected from such recipient for tuition and other expenses required by the institution as part of the recipient's instructional program shall be deducted from the payment to the institution under this subsection.''

1992—Pub. L. 102–325 amended section generally, in subsec. (a), substituting provisions relating to stipends Secretary may establish for provisions relating to stipends, including allowances for subsistence and other expenses of fellowship recipients and their dependents, as Secretary may determine to be appropriate and provisions requiring stipends in academic year 1993–1994 or later to match level of support of National Science Foundation graduate fellowships for provisions requiring level of support comparable to that provided by federally funded graduate fellowships in science and engineering fields; and in subsec. (b), inserting par. headings, substituting provisions relating to $9,000 payment in academic year 1993–1994, to be adjusted annually thereafter for inflation as determined by Consumer Price Index, for provisions relating to $6,000 payment in par. (1), adding par. (2)(A), and redesignating former par. (2) as (2)(B).

1987—Subsec. (b)(1). Pub. L. 100–50 inserted '', except that such amount charged to a fellowship recipient and collected from such recipient for tuition and other expenses required by the institution as part of the recipient's instructional program shall be deducted from the payment to the institution under this subsection'' after ''$6,000''.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective on and after Oct. 1, 1993, see section 5(b)(1) of Pub. L. 103–208, set out as a note under section 1003 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1134k of this title.

§ 1134k. Fellowship conditions

(a) Requirements for receipt

An individual awarded a fellowship under the provisions of this part shall continue to receive payments provided in section 1134j of this title only during such periods as the Secretary finds that such individual is maintaining satisfactory proficiency in, and devoting essentially full time to, study or research in the field in which such fellowship was awarded, in an institution of higher education, and is not engaging in gainful employment other than part-time employment by such institution in teaching, research, or similar activities, approved by the Secretary.

(b) Reports from recipients

The Secretary is authorized to require reports containing such information in such form and filed at such times as the Secretary determines necessary from any person awarded a fellowship under the provisions of this part. The reports shall be accompanied by a certificate from an appropriate official at the institution of higher education, library, archive, or other research center approved by the Secretary, stating that such individual is making satisfactory progress in, and is devoting essentially full time to the program for which the fellowship was awarded.

(Pub. L. 89–329, title IX, § 934, as added Pub. L. 99–498, title IX, § 901(a), Oct. 17, 1986, 100 Stat. 1554; amended Pub. L. 102–325, title IX, § 901, July 23, 1992, 106 Stat. 767.)

PRIOR PROVISIONS

A prior section 1134k, Pub. L. 89–329, title IX, § 934, as added Pub. L. 96–374, title IX, § 903, Oct. 3, 1980, 94 Stat. 1486, related to conditions on continuance of fellowships for graduate study in arts, humanities, and social sciences, prior to the general revision of this subchapter by Pub. L. 99–498.

Another prior section 1134k, Pub. L. 89–329, title IX, § 943, as added Pub. L. 92–318, title I, § 181(a), June 23, 1972, 86 Stat. 308; amended Pub. L. 94–482, title I, § 171(c)(3), Oct. 12, 1976, 90 Stat. 2163, related to requisite approval of programs of graduate or professional study, prior to repeal by section 902(b) of Pub. L. 96–374.

Another prior section 1134k, Pub. L. 89–329, title IX, § 924, as added Pub. L. 90–575, title II, § 261, Oct. 16, 1968, 82 Stat. 1046, provided for annual report of the Secretary to Congress of activities relating to education for public service, prior to repeal by Pub. L. 92–318, title I, § 181(a), June 23, 1972, 86 Stat. 304.

AMENDMENTS

1992—Pub. L. 102–325 amended section generally, substituting ''such individual'' for ''he'' in subsec. (a).

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

§ 1134k–1. Authorization of appropriations

There are authorized to be appropriated $30,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out this part.

(Pub. L. 89–329, title IX, § 935, as added Pub. L. 102–325, title IX, § 901, July 23, 1992, 106 Stat. 768.)

EFFECTIVE DATE

Section effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as an Effective Date of 1992 Amendment note under section 1001 of this title.

PART D—GRADUATE ASSISTANCE IN AREAS OF NATIONAL NEED

§ 1134*l*. Purpose

In order to sustain and enhance the capacity for teaching and research in areas of national need, it is the purpose of this part to provide, through academic departments and programs of institutions of higher education, a fellowship program to assist graduate students of superior ability who demonstrate financial need.

(Pub. L. 89–329, title IX, § 941, as added Pub. L. 99–498, title IX, § 901(a), Oct. 17, 1986, 100 Stat. 1555; amended Pub. L. 102–325, title IX, § 901, July 23, 1992, 106 Stat. 768; Pub. L. 103–208, § 2(j)(37), Dec. 20, 1993, 107 Stat. 2484.)

PRIOR PROVISIONS

A prior section 1134*l*, Pub. L. 89–329, title IX, § 941, as added Pub. L. 96–374, title IX, § 904, Oct. 3, 1980, 94 Stat. 1486, authorized assistance for training in legal profession, prior to the general revision of this subchapter by Pub. L. 99–498.

Another prior section 1134*l*, Pub. L. 89–329, title IX, § 944, as added Pub. L. 92–318, title I, § 181(a), June 23, 1972, 86 Stat. 309; amended Pub. L. 94–482, title I, § 171(c)(4), Oct. 12, 1976, 90 Stat. 2163, related to payments to persons awarded public service fellowships, prior to repeal by section 902(b) of Pub. L. 96–374.

Another prior section 1134*l*, Pub. L. 89–329, title IX, § 925, as added Pub. L. 90–575, title II, § 261, Oct. 16, 1968, 82 Stat. 1046, authorized appropriations for education for the public service, prior to repeal by Pub. L. 92–318, title I, § 181(a), June 23, 1972, 86 Stat. 304.

AMENDMENTS

1993—Pub. L. 103–208 substituted ''this part'' for ''the part''.

1992—Pub. L. 102–325 amended section generally, substituting ''the part'' for ''this part''.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1003 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

§ 1134m. Grants to academic departments and programs of institutions

(a) Grant authority

(1) In general

The Secretary shall make grants to academic departments and programs and other

academic units of institutions of higher education that provide courses of study leading to a graduate degree in order to enable such institutions to provide assistance to graduate students in accordance with this part.

(2) Additional grants

The Secretary may also make grants to such departments and programs and to other units of institutions of higher education granting graduate degrees which submit joint proposals involving nondegree granting institutions which have formal arrangements for the support of doctoral dissertation research with degree-granting institutions. Nondegree granting institutions eligible for awards as part of such joint proposals include any organization which—

(A) is described in section 501(c)(3) of title 26, and is exempt from tax under section 501(a) of such title;

(B) is organized and operated substantially to conduct scientific and cultural research and graduate training programs;

(C) is not a private foundation;

(D) has academic personnel for instruction and counseling who meet the standards of the institution of higher education in which the students are enrolled; and

(E) has necessary research resources not otherwise readily available in such institutions to such students.

(b) Award and duration of grants

(1) Awards

The principal criterion for the allocation of awards shall be the relative quality of the graduate programs presented in competing applications. Consistent with an allocation of awards based on quality of competing applications, the Secretary shall, in making such grants, promote an equitable geographic distribution among eligible public and private institutions of higher education.

(2) Duration

The Secretary shall approve a grant recipient under this part for a 3-year period. From the sums appropriated under this part for any fiscal year, the Secretary shall not make a grant to any academic department or program of an institution of higher education of less than $100,000 or greater than $750,000 per fiscal year.

(3) Reallotment

Whenever the Secretary determines that an academic department or program of an institution of higher education is unable to use all of the amounts available to it under this part, the Secretary shall, on such dates during each fiscal year as the Secretary may fix, reallot the amounts not needed to academic departments and programs of institutions which can use the grants authorized by this part.

(c) Preference to continuing grant recipients

(1) In general

The Secretary shall make new grant awards under this part only to the extent that each previous grant recipient has received continued funding in accordance with subsection (b)(2) of this section.

(2) Ratable reduction

To the extent that appropriations under this part are insufficient to comply with paragraph (1), available funds shall be distributed by ratably reducing the amounts required to be awarded by subsection (b)(2) of this section.

(Pub. L. 89–329, title IX, § 942, as added Pub. L. 99–498, title IX, § 901(a), Oct. 17, 1986, 100 Stat. 1555; amended Pub. L. 100–369, § 7(c), July 18, 1988, 102 Stat. 837; Pub. L. 102–325, title IX, § 901, July 23, 1992, 106 Stat. 768.)

PRIOR PROVISIONS

A prior section 1134m, Pub. L. 89–329, title IX, § 942, as added Pub. L. 96–374, title IX, § 904, Oct. 3, 1980, 94 Stat. 1487, authorized appropriations for fiscal years 1981 to 1985 for program of assistance for training in legal profession, prior to the general revision of this subchapter by Pub. L. 99–498.

Another prior section 1134m, Pub. L. 89–329, title IX, § 945, as added Pub. L. 92–318, title I, § 181(a), June 23, 1972, 86 Stat. 309, related to conditions attached to public service fellowships, prior to repeal by section 902(b) of Pub. L. 96–374.

AMENDMENTS

1992—Pub. L. 102–325 amended section generally, inserting par. headings and in subsec. (b)(2) substituting ''$750,000 per fiscal year.'' for ''$500,000 per fiscal year''.

1988—Subsec. (a)(2)(A). Pub. L. 100–369 substituted ''Internal Revenue Code of 1986'' for ''Internal Revenue Code of 1954'', which for purposes of codification was translated as ''title 26'' thus requiring no change in text.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

§ 1134n. Institutional eligibility

(a) Eligibility criteria

Any academic department or program of an institution of higher education that offers a program of postbaccalaureate study leading to a graduate degree in an area of national need (as designated under subsection (b) of this section) may apply for a grant under this part. No department or program shall be eligible for a grant unless the program of postbaccalaureate study has been in existence for at least 4 years at the time of application for assistance under this part.

(b) Designation of areas of national need

After consultation with the National Science Foundation, the National Academy of Sciences, the National Endowments for the Arts and the Humanities, and other appropriate Federal and nonprofit agencies and organizations, the Secretary shall designate areas of national need, such as mathematics, biology, physics, chemistry, engineering, geosciences, computer science, or foreign languages and area studies. In making such designations, the Secretary shall take into account the extent to which the interest is compelling and the extent to which other Federal programs support postbaccalaureate study in the area concerned.

(Pub. L. 89–329, title IX, § 943, as added Pub. L. 99–498, title IX, § 901(a), Oct. 17, 1986, 100 Stat. 1556; amended Pub. L. 102–325, title IX, § 901, July

23, 1992, 106 Stat. 769; Pub. L. 103–208, § 2(j)(38), Dec. 20, 1993, 107 Stat. 2484.)

PRIOR PROVISIONS

A prior section 1134n, Pub. L. 89–329, title IX, § 951, as added Pub. L. 96–374, title IX, § 905, Oct. 3, 1980, 94 Stat. 1487, authorized assistance for law school clinical experience programs, prior to the general revision of this subchapter by Pub. L. 99–498.

Another prior section 1134n, Pub. L. 89–329, title IX, § 961, as added Pub. L. 92–318, title I, § 181(a), June 23, 1972, 86 Stat. 309; amended Pub. L. 94–482, title I, § 171(d)(1)–(3), Oct. 12, 1976, 90 Stat. 2163; Pub. L. 96–49, § 9(d), Aug. 13, 1979, 93 Stat. 353, provided for a program of fellowships for other purposes, prior to repeal by section 902(b) of Pub. L. 96–374.

AMENDMENTS

1993—Subsec. (b). Pub. L. 103–208 substituted ''foreign languages and area studies'' for ''foreign languages or area studies''.

1992—Pub. L. 102–325 amended section generally, substituting ''postbaccalaureate'' for ''post-baccalaureate'' wherever appearing.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1003 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

§ 1134*o*. Criteria for applications

(a) Selection of applications

The Secretary shall make grants to academic departments and programs of institutions of higher education on the basis of applications submitted in accordance with subsection (b) of this section. Applications shall be ranked on program quality by geographically balanced review panels of nationally recognized scholars. To the extent possible (consistent with other provisions of this section), the Secretary shall make awards that are consistent with recommendations of the review panels.

(b) Contents of applications

An academic department or program of an institution of higher education, in its application for a grant, shall—

(1) describe the current academic program of the applicant for which the grant is sought;

(2) provide assurances that the applicant will provide, from other non-Federal funds, for the purposes of the fellowship program under this part an amount equal to at least 25 percent of the amount of the grant received under this part;

(3) set forth policies and procedures to assure that, in making fellowship awards under this part the institution will seek talented students from traditionally underrepresented backgrounds, as determined by the Secretary;

(4) set forth policies and procedures to assure that, in making fellowship awards under this part, the institution will make awards to individuals who—

(A) have financial need, as determined under criteria developed by the institution;

(B) have excellent academic records in their previous programs of study;

(C) plan teaching or research careers; and

(D) plan to pursue the highest possible degree available in their course of study;

(5) set forth policies and procedures to ensure that Federal funds made available under this part for any fiscal year will be used to supplement and, to the extent practical, increase the funds that would otherwise be made available for the purpose of this part and in no case to supplant those funds;

(6) provide assurances that, in the event that funds made available to the academic department or program under this part are insufficient to provide the assistance due a student under the commitment entered into between the academic department or program and the student, the academic department or program will endeavor, from any funds available to it, to fulfill the commitment to the student;

(7) provide that the applicant will comply with the limitations set forth in section 1134p of this title;

(8) provide assurances that the academic department will provide at least 1 year of supervised training in instruction for students; and

(9) include such other information as the Secretary may prescribe.

(Pub. L. 89–329, title IX, § 944, as added Pub. L. 99–498, title IX, § 901(a), Oct. 17, 1986, 100 Stat. 1556; amended Pub. L. 102–325, title IX, § 901, July 23, 1992, 106 Stat. 770.)

PRIOR PROVISIONS

A prior section 1134*o*, Pub. L. 89–329, title IX, § 952, as added Pub. L. 96–374, title IX, § 905, Oct. 3, 1980, 94 Stat. 1488, related to applications for assistance for law school clinical experience programs, prior to the general revision of this subchapter by Pub. L. 99–498.

Another prior section 1134*o*, Pub. L. 89–329, title IX, § 962, as added Pub. L. 92–318, title I, § 181(a), June 23, 1972, 86 Stat. 310, related to the award of fellowships for other purposes, prior to repeal by section 902(b) of Pub. L. 96–374.

AMENDMENTS

1992—Pub. L. 102–325 amended section generally, adding par. (8) and redesignating former par. (8) as (9).

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1134p of this title.

§ 1134p. Awards to graduate students

(a) Commitments to graduate students

(1) In general

An academic department or program of an institution of higher education shall make commitments to graduate students (including students pursuing a doctoral degree after having completed a master's degree program at an institution of higher education) at any point in their graduate study to provide stipends for the length of time necessary for a student to complete the course of graduate study, but in no case longer than 5 years.

(2) Special rule

No such commitments shall be made to students under this part unless the academic department or program has determined adequate funds are available to fulfill the commitment either from funds received or anticipated under this part, or from institutional funds.

(b) Amount of stipends

The Secretary shall make payments to institutions of higher education for the purpose of paying stipends to individuals who are awarded fellowships under this part. The stipends the Secretary establishes shall reflect the purpose of this program to encourage highly talented students to undertake graduate study as described in this part. In the case of an individual who receives such individual's first stipend under this part in academic year 1993–1994 or any succeeding academic year, such stipend shall be set at a level of support equal to that provided by the National Science Foundation graduate fellowships, except such amount shall be adjusted as necessary so as not to exceed the fellow's demonstrated level of need according to measurements of need approved by the Secretary.

(c) Treatment of institutional payments

An institution of higher education that makes institutional payments for tuition and fees on behalf of individuals supported by fellowships under this part in amounts that exceed the institutional payments made by the Secretary pursuant to section 1134q(a) of this title may count such payments toward the amounts the institution is required to provide pursuant to section 1134*o*(b)(2) of this title.

(d) Academic progress required

Notwithstanding the provisions of subsection (a) of this section, no student shall receive an award—

(1) except during periods in which such student is maintaining satisfactory progress in, and devoting essentially full time to, study or research in the field in which such fellowship was awarded, or

(2) if the student is engaging in gainful employment other than part-time employment involved in teaching, research, or similar activities determined by the institution to be in support of the student's progress towards a degree.

(Pub. L. 89–329, title IX, § 945, as added Pub. L. 99–498, title IX, § 901(a), Oct. 17, 1986, 100 Stat. 1557; amended Pub. L. 102–325, title IX, § 901, July 23, 1992, 106 Stat. 770; Pub. L. 103–208, § 2(j)(39), Dec. 20, 1993, 107 Stat. 2484.)

PRIOR PROVISIONS

A prior section 1134p, Pub. L. 89–329, title IX, § 953, as added Pub. L. 96–374, title IX, § 905, Oct. 3, 1980, 94 Stat. 1488, authorized appropriations for fiscal years 1981 to 1985 for providing assistance for law school clinical experience programs, prior to the general revision of this subchapter by Pub. L. 99–498.

Another prior section 1134p, Pub. L. 89–329, title IX, § 963, as added Pub. L. 92–318, title I, § 181(a), June 23, 1972, 86 Stat. 310; amended Pub. L. 94–482, title I, § 171(d)(4), Oct. 12, 1976, 90 Stat. 2163, related to the amount of payments to persons awarded fellowships for other purposes, prior to repeal by section 902(b) of Pub. L. 96–374.

AMENDMENTS

1993—Subsec. (c). Pub. L. 103–208 amended heading and text of subsec. (c) generally. Prior to amendment, text read as follows: ''Notwithstanding the provisions of section 1134*o*(b)(6) of this title, any non-Federal funds provided to a student in accordance with section 1134*o*(b)(2) of this title by the academic department or program of an institution of higher education for tuition and fees under subsection (a) of this section, may be used to supplement stipends awarded under this part.''

1992—Pub. L. 102–325 amended section generally, in subsec. (a) inserting par. headings and in par. (1), inserting provisions relating to students pursuing doctoral degree after completing master's degree program and striking out provisions requiring expenditure by institution under this section of at least 60 percent of funds received under this part, in subsec. (b) substituting provisions requiring Secretary to make payments to institutions for purpose of paying stipends, provisions relating to purpose of program, and provisions setting level of support for academic year 1993–1994 and thereafter at same level as National Science Foundation graduate fellowships, except as adjusted so as not to exceed level of need, for provisions setting level of stipend at amount determined by institution, except that stipend not exceed lesser of $10,000 or level of need, adding subsec. (c), and redesignating former subsec. (c) as (d).

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1003 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1134*o* of this title.

§ 1134q. Additional assistance for cost of education

(a) Institutional payments

(1) The Secretary shall (in addition to stipends paid to individuals under this part) pay to the institution of higher education, for each individual awarded a fellowship under this part at such institution, an institutional allowance. Except as provided in paragraph (2), such allowance shall be—

(A) $6,000 annually with respect to individuals who first received fellowships under this part prior to academic year 1993–1994; and

(B) with respect to individuals who first receive fellowships during or after academic year 1993–1994—

(i) $9,000 for the academic year 1993–1994; and

(ii) for succeeding academic years, $9,000 adjusted annually thereafter in accordance with inflation as determined by the Department of Labor's Consumer Price Index for the previous calendar year.

(2) The institutional allowance paid under paragraph (1) shall be reduced by the amount the institution charges and collects from a fellowship recipient for tuition and other expenses as part of the recipient's instructional program.

(b) Use for overhead prohibited

Funds made available pursuant to this part may not be used for the general operational overhead of the academic department or program.

(Pub. L. 89–329, title IX, § 946, as added Pub. L. 99–498, title IX, § 901(a), Oct. 17, 1986, 100 Stat. 1558; amended Pub. L. 102–325, title IX, § 901, July 23, 1992, 106 Stat. 771; Pub. L. 103–208, § 2(j)(40), Dec. 20, 1993, 107 Stat. 2484.)

PRIOR PROVISIONS

A prior section 1134q, Pub. L. 89–329, title IX, § 964, as added Pub. L. 92–318, title I, § 181(a), June 23, 1972, 86 Stat. 311, related to fellowship conditions in program of fellowships other than public service fellowships or fellowships for graduate and professional study, prior to repeal by Pub. L. 96–374, title IX, § 902(b), Oct. 3, 1980, 94 Stat. 1484, eff. Oct. 1, 1980.

AMENDMENTS

1993—Subsec. (a). Pub. L. 103–208 amended heading and text of subsec. (a) generally. Prior to amendment, text read as follows: ''The Secretary shall (in addition to stipends paid to individuals under this subpart) pay to the institution of higher education, for each individual awarded a fellowship at such institution, $9,000 with respect to such awards made for the academic year 1993–1994, to be adjusted annually thereafter in accordance with inflation as determined by the Department of Labor's Consumer Price Index for the previous calendar year.''

1992—Pub. L. 102–325 amended section generally, substituting provisions requiring Secretary to pay to institution, for each individual awarded fellowship at such institution, $9,000 for academic year 1993–1994, to be adjusted annually thereafter for inflation as determined under Consumer Price Index, for provisions authorizing academic department or program of institution, after complying with requirements of section 1134p of this title, to use funds under this part to pay additional amounts to fellowship recipients for tuition, fees and other costs of education.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective on and after Oct. 1, 1993, see section 5(b)(1) of Pub. L. 103–208, set out as a note under section 1003 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1134p of this title.

§ 1134q–1. Authorization of appropriations

There are authorized to be appropriated $40,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out this part.

(Pub. L. 89–329, title IX, § 947, as added Pub. L. 102–325, title IX, § 901, July 23, 1992, 106 Stat. 771.)

EFFECTIVE DATE

Section effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as an Effective Date of 1992 Amendment note under section 1001 of this title.

PART E—FACULTY DEVELOPMENT FELLOWSHIP PROGRAM

§ 1134r. Fellowships authorized

(a) Fellowship program authorization

The Secretary shall make grants to institutions of higher education or consortia of such institutions and nonprofit organizations associated with institutions of higher education, with a demonstrated record of enhancing the access of individuals from underrepresented groups including African Americans, Asian Americans, Hispanic Americans, Native Americans, Pacific Islanders, and Native Hawaiians, to enable such institutions or consortia to—

(1) identify talented faculty from underrepresented groups who wish to—

(A) continue in the higher education professorate and obtain a doctoral degree; or

(B) participate in faculty professional development programs specifically designed to advance the careers of underrepresented minorities;

(2) identify talented baccalaureate degree recipients from underrepresented groups who have financial need and who wish to obtain a doctoral degree and enter the higher education professorate; and

(3) provide the individuals described in paragraphs (1) and (2) with a fellowship to assist such students in obtaining a doctoral degree or to participate in a faculty development program.

(b) Geographic distribution

In awarding grants pursuant to subsection (a) of this section, the Secretary shall ensure—

(1) an equitable geographic distribution of such grants; and

(2) that both public and private institutions of higher education are fairly represented among the grant recipients.

(c) Special rule

(1) Equitable distribution

Each institution of higher education or consortium receiving a grant under this part shall ensure that during the period of the grant there is an equitable distribution of fellowships under this part among underrepresented groups.

(2) Construction

Nothing in this section shall be interpreted to require any institution of higher education or consortium to grant preference or disparate treatment to the members of one group on account of an imbalance which may exist with respect to the total number or percentage of individuals of such group participating in or receiving the benefits of the program authorized in this part, in comparison with the total number or percentage of individuals of such group in any community, State, section, or other area.

(d) Waiver by Secretary

The Secretary may waive all or any portion of the requirement under subsection (b) of this section upon application of any institution which is eligible for funds under subchapter III of this

chapter, pursuant to criteria established by the Secretary by regulation.

(e) Selection requirements

In awarding grants under subsection (a) of this section, the Secretary shall give priority to applications describing programs that—

(1) provide to each fellowship recipient—

(A) a tuition waiver; and

(B)(i) a minimum $2,000 stipend; or

(ii) additional financial support in conjunction with teaching or research activities that are part of such recipient's doctoral program;

(2) provide additional financial support to each fellowship recipient from non-Federal resources, either in cash or in kind, such as contributions from the business community and civic organizations;

(3) emphasize courses of study leading to the doctoral degrees in disciplines where minorities are underrepresented; and

(4) describe steps to ensure that a fellowship recipient will teach at an institution of higher education where minority undergraduate students are likely to benefit from the educational experience and academic achievement of such recipient.

(f) Designation

Students receiving fellowship awards under this part shall be known as ''Faculty Development Fellows''.

(Pub. L. 89–329, title IX, § 951, as added Pub. L. 99–498, title IX, § 901(a), Oct. 17, 1986, 100 Stat. 1558; amended Pub. L. 102–325, title IX, § 901, July 23, 1992, 106 Stat. 772; Pub. L. 103–208, § 2(j)(41), Dec. 20, 1993, 107 Stat. 2484.)

PRIOR PROVISIONS

A prior section 1134r, Pub. L. 89–329, title IX, § 965, as added Pub. L. 92–318, title I, § 181(a), June 23, 1972, 86 Stat. 311, authorized appropriations for program of fellowships other than public service fellowships or fellowships for graduate and professional study, prior to repeal by Pub. L. 96–374, title IX, § 902(b), Oct. 3, 1980, 94 Stat. 1484, eff. Oct. 1, 1980.

A prior section 951 of Pub. L. 89–329, title IX, as added Pub. L. 96–374, title IX, § 905, Oct. 3, 1980, 94 Stat. 487, provided for program authorization relating to law school clinical experience programs and was classified to section 1134n of this title, prior to the general revision of this subchapter by Pub. L. 99–498.

AMENDMENTS

1993—Subsec. (a). Pub. L. 103–208 inserted ''Pacific Islanders,'' after ''Native Americans,''.

1992—Pub. L. 102–325 amended section generally, substituting provisions authorizing fellowships under faculty development fellowship program for provisions authorizing program for assistance for training in legal profession.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1003 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1134r–3 of this title.

§ 1134r–1. Fellowships

Each institution of higher education or consortium receiving a grant under this part shall award fellowships in an amount equal to the amount awarded to National Science Foundation graduate fellowship recipients for that year, or an amount based on the financial need of the recipient (as determined by the institution in accordance with measurements of need approved by the Secretary) whichever is less.

(Pub. L. 89–329, title IX, § 952, as added Pub. L. 102–325, title IX, § 901, July 23, 1992, 106 Stat. 773.)

PRIOR PROVISIONS

A prior section 1134r–1, Pub. L. 89–329, title IX, § 966, as added Pub. L. 93–380, title VIII, § 836(a), Aug. 21, 1974, 88 Stat. 605; amended Pub. L. 94–482, title I, § 171(d)(5), Oct. 12, 1976, 90 Stat. 2164; Pub. L. 96–49, § 9(e), Aug. 13, 1979, 93 Stat. 353, related to a program of assistance for training in legal profession, prior to repeal by Pub. L. 96–374, title IX, § 902(b), Oct. 3, 1980, 94 Stat. 1484, eff. Oct. 1, 1980.

A prior section 952 of Pub. L. 89–329, title IX, as added Pub. L. 96–374, title IX, § 905, Oct. 3, 1980, 94 Stat. 1488, related to applications for assistance in connection with law school clinical experience programs and was classified to section 1134*o* of this title, prior to the general revision of this subchapter by section 901(a) of Pub. L. 99–498.

EFFECTIVE DATE

Section effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as an Effective Date of 1992 Amendment note under section 1001 of this title.

§ 1134r–2. Application

(a) Application required

Each institution of higher education or consortium desiring a grant under this part shall submit an application to the Secretary at such time, in such manner and containing such information as the Secretary may by regulation reasonably require.

(b) Contents

Each application submitted pursuant to subsection (a) of this section shall contain—

(1) the institution of higher education's or consortium's plan for identifying and recruiting faculty and baccalaureate degree recipients who may participate in the program assisted under this part;

(2) a description of the program or programs of doctoral study that the institution of higher education or consortium plans to offer in the institution's doctoral program;

(3) the institution of higher education's or consortium's plan for using minority faculty and other faculty as advisors and academic resources in support of the program assisted under this part;

(4) a description of other resources of the institution of higher education or consortium, including tuition waivers, assistantships or financial aid other than loans, that such institution or consortium shall make available to fellowship recipients;

(5) a description of the method such institution or consortium shall use to determine a student's financial need;

(6) the names of those undergraduate institutions which are historically or predominantly black colleges and universities or other institutions with significant enrollments of African Americans, Asian Americans, Hispanic Americans, Native Hawaiians, Pacific Islanders, and Native Americans which have agreed to cooperate with the applicant institution to carry out the purposes of this part; and

(7) such other assurances and information as the Secretary may reasonably require by regulation.

(Pub. L. 89–329, title IX, § 953, as added Pub. L. 102–325, title IX, § 901, July 23, 1992, 106 Stat. 773.)

PRIOR PROVISIONS

A prior section 1134r–2, Pub. L. 89–329, title IX, § 971, as added Pub. L. 94–482, title I, § 171(e), Oct. 12, 1976, 90 Stat. 2164, related to an annual report on graduate and assistance program, prior to repeal by Pub. L. 96–374, title IX, § 902(b), Oct. 3, 1980, 94 Stat. 1484, eff. Oct. 1, 1980, and also by Pub. L. 96–470, title I, § 106(b), Oct. 19, 1980, 94 Stat. 2238.

A prior section 953 of Pub. L. 89–329, title IX, as added Pub. L. 96–374, title IX, § 905, Oct. 3, 1980, 94 Stat. 1488, authorized appropriations for fiscal years 1981 to 1985 for providing assistance for law school clinical experience programs and was classified to section 1134p of this title, prior to the general revision of this subchapter by section 901(a) of Pub. L. 99–498.

EFFECTIVE DATE

Section effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as an Effective Date of 1992 Amendment note under section 1001 of this title.

§ 1134r–3. Fellowship agreement

Each recipient of a fellowship under this part shall enter into an agreement with the institution of higher education or consortium awarding such fellowship under which the fellowship recipient shall—

(1) in the case of a fellowship recipient described in section 1134r(a)(1) of this title, within a 5-year period after completing the doctoral degree for which the fellowship under this part was awarded, teach, for a period of not less than 1 year for each year for which financial assistance under this part was received, in a public or private nonprofit institution of higher education that has a significant minority enrollment;

(2) in the case of a fellowship recipient described in section 1134r(a)(2) of this title, within a 5-year period after completing the doctoral degree for which the fellowship under this part was awarded, teach, for a period of not less than 1 year for each year for which financial assistance under this part was received, in a public or private nonprofit institution of higher education;

(3) agree to provide the Secretary with evidence of compliance, determined pursuant to regulations issued by the Secretary, with the provisions of paragraph (1) or (2); and

(4) repay all or part of the fellowship received, plus interest, and if applicable reasonable collection fees, under regulations issued by the Secretary, in the event the conditions of paragraph (1) or (2) are not complied with, except as provided in section 1134r–5 of this title.

(Pub. L. 89–329, title IX, § 954, as added Pub. L. 102–325, title IX, § 901, July 23, 1992, 106 Stat. 774.)

EFFECTIVE DATE

Section effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as an Effective Date of 1992 Amendment note under section 1001 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1134r–4, 1134r–5 of this title.

§ 1134r–4. Fellowship repayment provisions

A recipient of a fellowship under this part found by the Secretary to be in noncompliance with the agreement entered into under section 1134r–3(1) or 1134r–3(2) of this title shall be required to repay a pro rata amount of such fellowship assistance received, plus interest (but in no event at an interest rate higher than the rate applicable to loans in the applicable period under part B of subchapter IV of this chapter) and, where applicable, reasonable collection fees, on a schedule and at a rate of interest to be prescribed by the Secretary by regulations issued pursuant to this part.

(Pub. L. 89–329, title IX, § 955, as added Pub. L. 102–325, title IX, § 901, July 23, 1992, 106 Stat. 774.)

EFFECTIVE DATE

Section effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as an Effective Date of 1992 Amendment note under section 1001 of this title.

§ 1134r–5. Exceptions to repayment provisions

(a) Deferral during certain periods

A recipient shall not be considered in violation of the agreement entered into pursuant to section 1134r–3(1) or (2) of this title during any period in which the recipient—

(1) is pursuing a full-time course of study related to the field of teaching at an eligible institution;

(2) is serving, not in excess of 3 years, as a member of the armed services of the United States;

(3) is temporarily totally disabled for a period of time not to exceed 3 years as established by sworn affidavit of a qualified physician;

(4) is unable to secure employment for a period not to exceed 12 months by reason of the care required by a spouse who is disabled;

(5) is seeking and unable to find full-time employment for a single period not to exceed 12 months;

(6) is engaged in full-time employment as a teacher in a public or private nonprofit preschool, elementary or secondary school, or a public or private nonprofit preschool, education program; or

(7) satisfies the provisions of additional repayment exceptions that may be prescribed by the Secretary in regulations issued pursuant to this part.

(b) Forgiveness if permanently totally disabled

A recipient shall be excused from repayment of any fellowship assistance received under this part if the recipient becomes permanently totally disabled as established by sworn affidavit of a qualified physician.

(Pub. L. 89–329, title IX, § 956, as added Pub. L. 102–325, title IX, § 901, July 23, 1992, 106 Stat. 774.)

EFFECTIVE DATE

Section effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as an Effective Date of 1992 Amendment note under section 1001 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1134r–3 of this title.

§ 1134r–6. Authorization of appropriations

There are authorized to be appropriated to carry out this part $25,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(Pub. L. 89–329, title IX, § 957, as added Pub. L. 102–325, title IX, § 901, July 23, 1992, 106 Stat. 775.)

EFFECTIVE DATE

Section effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as an Effective Date of 1992 Amendment note under section 1001 of this title.

PART F—ASSISTANCE FOR TRAINING IN LEGAL PROFESSION

§ 1134s. Program requirements

(a) Program authority

The Secretary shall carry out a program to assist minority, low-income, or educationally disadvantaged college graduates to successfully pursue a law degree and service in the legal profession through an annual grant or contract with the Council on Legal Education Opportunity (hereinafter CLEO). A grant or contract under this part shall permit CLEO to use up to 6 percent of the funds provided for administrative costs of the grant or contract.

(b) Services authorized

A legal training project under this part may provide the following services:

(1) Assistance and counseling in gaining admission to accredited law schools.

(2) A 6-week intensive summer program designed to prepare minority, low-income or educationally disadvantaged individuals for the successful completion of legal studies.

(3) An academic-year program of tutorial services, academic advice and counseling designed to assist eligible participants successfully complete their legal training, which may include—

(A) instruction in reading, legal research, legal writing skills and problem analysis;

(B) academic advice and assistance in course selection;

(C) advisement about financing their legal education and available student financial aid;

(D) personal and professional counseling relative to career alternatives in the legal profession and bar examination preparation; and

(E) any other activity consistent with subparagraphs (A) through (D) which furthers the objectives of this part which the Secretary may, by regulation, reasonably require.

(c) Use of funds

The Secretary shall by grant or contract on a biennial basis, with the Council on Legal Education Opportunity, cover all or part of the cost of—

(1) publicizing the existence and availability of program funds to assist minority, low-income, and educationally disadvantaged individuals to pursue a legal education;

(2) selecting minority, low-income and educationally disadvantaged individuals for training for the legal profession;

(3) facilitating the entry of such individuals into law schools at institutions of higher education for the purpose of pursuing a legal education;

(4) selecting from among all qualified applicants, which shall provide the services authorized by subsection (b)(2) or (3) of this section;

(5) evaluating the quality, impact and continuing feasibility of the programs implemented under subsection (b) of this section;

(6) providing, through the institutions, agencies, and organizations selected under paragraph (4), for not more than 6 months prior to entry of such individuals upon their course of training for the legal profession, or following entry, training designed to assist them to complete successfully such training for the legal profession;

(7) paying such stipends (including allowances for participant travel and for their dependents) as the Secretary may determine for such individuals for any such period of preliminary training for the legal profession during which such individuals maintain satisfactory academic progress toward the J.D. or LL.B. degree, as determined by the respective institution; and

(8) paying for administrative activities of the institutions of higher education, agencies, or organizations which receive subgrants or contracts under paragraph (6), or with which such contracts are entered into, to the extent that such activities are for the purpose of furthering the activities described in paragraphs (1) through (7).

(Pub. L. 89–329, title IX, § 961, as added Pub. L. 99–498, title IX, § 901(a), Oct. 17, 1986, 100 Stat. 1558; amended Pub. L. 102–325, title IX, § 901, July 23, 1992, 106 Stat. 775.)

PRIOR PROVISIONS

A prior section 1134s, Pub. L. 89–329, title IX, § 981, as added Pub. L. 92–318, title X, § 1001(b), June 23, 1972, 86 Stat. 380, related to a program of general assistance to graduate schools, prior to repeal by Pub. L. 96–374, title IX, § 902(b), Oct. 3, 1980, 94 Stat. 1484, eff. Oct. 1, 1980. Subsequent to repeal of this section, subsec. (f) of this section was repealed by Pub. L. 96–470, title I, § 106(c), Oct. 19, 1980, 94 Stat. 2238.

AMENDMENTS

1992—Pub. L. 102–325 amended section generally, substituting provisions relating to requirements of assistance for training in legal profession program for provisions authorizing law school clinical experience program.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

§ 1134t. Authorization of appropriations

There are authorized to be appropriated to carry out this part $7,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(Pub. L. 89–329, title IX, § 962, as added Pub. L. 99–498, title IX, § 901(a), Oct. 17, 1986, 100 Stat. 1559; amended Pub. L. 102–325, title IX, § 901, July 23, 1992, 106 Stat. 776.)

AMENDMENTS

1992—Pub. L. 102–325 amended section generally, substituting provisions authorizing appropriations for assistance for training in legal profession program for provisions relating to applications for grants or contracts under law school clinical experience programs.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

PART G—LAW SCHOOL CLINICAL EXPERIENCE PROGRAMS

§ 1134u. Program authorized

(a) Grant and contract purposes

The Secretary is authorized to enter into grants or contracts with accredited law schools in the States for the purpose of paying not to exceed 90 percent of the costs of continuing, expanding, or establishing programs in such schools to provide clinical experience to students in the practice of law, which includes any form of law student work involving performance in the role of a lawyer exercising legal skills and roles such as those of an advocate, counselor, negotiator, investigator, and ethical practitioner, whether by way of the provision of representation of or services to an identifiable client in actual cases or situations (subject to existing State or local limitations upon such provision) or by way of simulation of such provision through appropriate exercises. Preference shall be given to those programs providing legal experience in the preparation and trial of actual cases, including administrative cases and the settlement of controversies outside the courtroom. The cases and situations handled in actuality or by simulation may encompass any one or more of the following:

(1) Judicial, administrative, executive, or legislative proceedings, including the full range of preparation therefor.

(2) Office or house counsel problems.

(3) Factual investigation, empirical research, or policy or legal analysis.

(b) Use of funds

Such costs may include necessary expenditures incurred for—

(1) planning;

(2) training of faculty members and salary for additional faculty members;

(3) travel and per diem for faculty and students;

(4) reasonable stipends for students for work in the public service performed as part of any such program at a time other than during the regular academic year;

(5) equipment and library resources;

(6) involving practicing lawyers in the process of training law students to perform as lawyers; and

(7) such other items as are allowed pursuant to regulations issued by the Secretary.

(c) Limitations on amounts

No law school may receive more than $250,000 in any fiscal year pursuant to this part, no part of which may be used to pay for indirect costs or charges.

(d) "Accredited law school" defined

For the purpose of this part, the term ''accredited law school'' means any law school which is accredited by a nationally recognized accrediting agency or association approved by the Secretary for this purpose, including any combination or consortium of such schools.

(Pub. L. 89–329, title IX, § 971, as added Pub. L. 99–498, title IX, § 901(a), Oct. 17, 1986, 100 Stat. 1560; amended Pub. L. 102–325, title IX, § 901, July 23, 1992, 106 Stat. 776.)

AMENDMENTS

1992—Pub. L. 102–325 amended section generally, substituting provisions authorizing law school clinical experience programs for provisions authorizing appropriations for this subchapter.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

§ 1134v. Applications

(a) Requirements

A grant or contract authorized by this part may be made by the Secretary upon application which—

(1) is made at such time or times and contains such information as the Secretary may prescribe;

(2) provides for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant under this part; and

(3) provides for making such reports, in such form and containing such information as the Secretary may require to carry out functions under this part, and for keeping such records and for affording such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports.

(b) Distribution of grants and contracts

The Secretary shall allocate grants or contracts under this part in such manner as will provide an equitable distribution of such grants or contracts throughout the United States among law schools which show promise of being able to use funds effectively for the purposes of this part.

(Pub. L. 89–329, title IX, § 972, as added Pub. L. 102–325, title IX, § 901, July 23, 1992, 106 Stat. 777.)

EFFECTIVE DATE

Section effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as an Effective Date of 1992 Amendment note under section 1001 of this title.

§ 1134w. Authorization of appropriations

There are authorized to be appropriated to carry out this part $10,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(Pub. L. 89–329, title IX, § 973, as added Pub. L. 102–325, title IX, § 901, July 23, 1992, 106 Stat. 777.)

EFFECTIVE DATE

Section effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as an Effective Date of 1992 Amendment note under section 1001 of this title.

SUBCHAPTER X—POSTSECONDARY IMPROVEMENT PROGRAMS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in title 8 section 1613.

PART A—FUND FOR THE IMPROVEMENT OF POSTSECONDARY EDUCATION

PRIOR PROVISIONS

A prior part A, comprising section 1135 of this title, was repealed by Pub. L. 96–374, title X, § 1001(a), Oct. 3, 1980, 94 Stat. 1489.

SUBPART 1—PROGRAM AUTHORITY

§ 1135. Fund for the Improvement of Postsecondary Education

(a) Authority

The Secretary is authorized to make grants to, or enter into contracts with, institutions of higher education or combinations of such institutions and other public and private nonprofit institutions and agencies, to enable such institutions and combinations of such institutions to improve postsecondary education opportunities by—

(1) encouraging the reform, innovation, and improvement of postsecondary education, and providing equal educational opportunity for all;

(2) the creation of institutions and programs involving new paths to career and professional training, and new combinations of academic and experiential learning;

(3) the establishment of institutions and programs based on the technology of communications;

(4) the carrying out in postsecondary educational institutions of changes in internal structure and operations designed to clarify institutional priorities and purposes;

(5) the design and introduction of cost-effective methods of instruction and operation;

(6) the introduction of institutional reforms designed to expand individual opportunities for entering and reentering institutions and pursuing programs of study tailored to individual needs;

(7) the introduction of reforms in graduate education, in the structure of academic professions, and in the recruitment and retention of faculties; and

(8) the creation of new institutions and programs for examining and awarding credentials to individuals, and the introduction of reforms in current institutional practices related thereto.

(b) Planning grants

The Secretary is authorized to make planning grants to institutions of higher education for the development and testing of innovative techniques in postsecondary education. Such grants shall not exceed $20,000.

(Pub. L. 89–329, title X, § 1001, as added Pub. L. 96–374, title X, § 1001(a), Oct. 3, 1980, 94 Stat. 1489; amended Pub. L. 102–325, title X, § 1001, July 23, 1992, 106 Stat. 778.)

PRIOR PROVISIONS

A prior section 1135, Pub. L. 89–329, title X, § 1001, as added Pub. L. 92–318, title I, § 186(a)(1), June 23, 1972, 86 Stat. 312; amended Pub. L. 93–380, title VIII, § 837, Aug. 21, 1974, 88 Stat. 606; Pub. L. 94–482, title I, § 176(a)(3)–(5), title V, § 501(a)(20), Oct. 12, 1976, 90 Stat. 2165, 2236; Pub. L. 95–180, § 1(c), Nov. 15, 1977, 91 Stat. 1372; Pub. L. 96–49, § 53(a), Aug. 13, 1979, 93 Stat. 354, related to development plans for expansion or improvement of postsecondary education programs in community colleges, prior to repeal by section 1001(a) of Pub. L. 96–374.

Another prior section 1135, Pub. L. 89–329, title X, § 1001, as added Pub. L. 90–575, title II, § 271, Oct. 16, 1968, 82 Stat. 1047, contained Congressional statement of purpose respecting improvement of graduate programs, prior to the general revision of this subchapter by Pub. L. 92–318.

AMENDMENTS

1992—Pub. L. 102–325 amended section generally, revising and restating as subsec. (a) former provisions and adding subsec. (b).

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

EFFECTIVE DATE

Part effective Oct. 1, 1980, see section 1393(a) of Pub. L. 96–374, set out as an Effective Date of 1980 Amendment note under section 1001 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1135a–2 of this title.

§ 1135a. National Board of the Fund for the Improvement of Postsecondary Education

(a) Establishment

There is established a National Board of the Fund for the Improvement of Postsecondary Education (hereafter in this part referred to as the ''Board''). The Board shall consist of 15 members appointed by the Secretary for overlapping 3-year terms. A majority of the Board shall constitute a quorum. Any member of the Board who has served for 6 consecutive years shall thereafter be ineligible for appointment to the Board during a 2-year period following the expiration of such sixth year.

(b) Membership

(1) In general

The Secretary shall designate one of the members of the Board as Chairperson of the Board. A majority of the members of the Board shall be public interest representatives, including students, and a minority shall be educational representatives. All members selected shall be individuals able to contribute an important perspective on priorities for im-

provement in postsecondary education and strategies of educational and institutional change.

(2) Appointment of Director

The Secretary shall appoint the Director of the Fund for the Improvement of Postsecondary Education (hereafter in this part referred to as the ''Director'').

(c) Duties

The Board shall—

(1) advise the Secretary and the Director on priorities for the improvement of postsecondary education and make such recommendations as the Board may deem appropriate for the improvement of postsecondary education and for the evaluation, dissemination, and adaptation of demonstrated improvements in postsecondary educational practice;

(2) advise the Secretary and the Director on the operation of the Fund for the Improvement of Postsecondary Education, including advice on planning documents, guidelines, and procedures for grant competitions prepared by the Fund; and

(3) meet at the call of the Chairperson, except that the Board shall meet whenever one-third or more of the members request in writing that a meeting be held.

(d) Information and assistance

The Director shall make available to the Board such information and assistance as may be necessary to enable the Board to carry out its functions.

(Pub. L. 89–329, title X, § 1002, as added Pub. L. 96–374, title X, § 1001(a), Oct. 3, 1980, 94 Stat. 1489; amended Pub. L. 102–325, title X, § 1001, July 23, 1992, 106 Stat. 778.)

PRIOR PROVISIONS

A prior section 1135a, Pub. L. 89–329, title X, § 1011, as added Pub. L. 92–318, title I, § 186(a)(1), June 23, 1972, 86 Stat. 313; amended Pub. L. 94–482, title I, § 176(b)(2), Oct. 12, 1976, 90 Stat. 2165; Pub. L. 96–49, § 53(b), Aug. 13, 1979, 93 Stat. 354, authorized appropriations for a program of establishment and expansion of community colleges, prior to repeal by section 1001(a) of Pub. L. 96–374.

Another prior section 1135a, Pub. L. 89–329, title X, § 1002, as added Pub. L. 90–575, title II, § 271, Oct. 16, 1968, 82 Stat. 1047, authorized appropriations, provided for types of programs, and prescribed limitations respecting improvement of graduate programs, prior to the general revision of this subchapter by Pub. L. 92–318.

AMENDMENTS

1992—Pub. L. 102–325 amended section generally, substituting provisions relating to establishment of a National Board of the Fund for the Improvement of Postsecondary Education for provisions relating to consultation with appropriate State entities prior to making of grants or contracts.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

§ 1135a–1. Administrative provisions

(a) Technical employees

The Secretary may appoint, for terms not to exceed 3 years, without regard to the provisions of title 5 governing appointments in the competitive service, not more than 5 technical employees to administer this subpart who may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(b) Procedures

The Director shall establish procedures for reviewing and evaluating grants and contracts made or entered into under this subpart. Procedures for reviewing grant applications or contracts for financial assistance under this section may not be subject to any review outside of officials responsible for the administration of the Fund for the Improvement of Postsecondary Education.

(Pub. L. 89–329, title X, § 1003, as added Pub. L. 96–374, title X, § 1001(a), Oct. 3, 1980, 94 Stat. 1490; amended Pub. L. 99–498, title X, § 1001(a), Oct. 17, 1986, 100 Stat. 1560; Pub. L. 102–325, title X, § 1001, July 23, 1992, 106 Stat. 779.)

REFERENCES IN TEXT

The provisions of title 5 governing appointments in the competitive service, referred to in subsec. (a), are classified generally to section 3301 et seq. of Title 5, Government Organization and Employees.

PRIOR PROVISIONS

A prior section 1135a–1, Pub. L. 89–329, title X, § 1012, as added Pub. L. 92–318, title I, § 186(a)(1), June 23, 1972, 86 Stat. 313; amended Pub. L. 94–482, title I, § 176(b)(3), Oct. 12, 1976, 90 Stat. 2165; Pub. L. 95–180, § 1(c), Nov. 15, 1977, 91 Stat. 1372, related to the apportionment of funds in the program of establishing and expanding community colleges, prior to repeal by section 1001(a) of Pub. L. 96–374.

AMENDMENTS

1992—Pub. L. 102–325 amended section generally, substituting provisions relating to administration of this subpart for provisions relating to establishment of a National Board of the Fund for the Improvement of Postsecondary Education.

1986—Subsec. (c)(2). Pub. L. 99–498 amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''advise the Secretary and the Director of the Fund on the development of programs to be carried out by the Fund and on the selection of projects under consideration for support by the Fund in its competitions;''.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1137a of this title.

§ 1135a–2. Authorization of appropriations

(a) In general

There are authorized to be appropriated to carry out this subpart (except for section 1135(b) of this title) $20,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(b) Planning grants

There are authorized to be appropriated to carry out section 1135(b) of this title $1,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(Pub. L. 89–329, title X, § 1004, as added Pub. L. 96–374, title X, § 1001(a), Oct. 3, 1980, 94 Stat. 1490; amended Pub. L. 102–325, title X, § 1001, July 23, 1992, 106 Stat. 779; Pub. L. 103–208, § 2(j)(42), Dec. 20, 1993, 107 Stat. 2484.)

PRIOR PROVISIONS

A prior section 1135a–2, Pub. L. 89–329, title X, § 1013, as added Pub. L. 92–318, title I, § 186(a)(1), June 23, 1972, 86 Stat. 314, provided for establishment grants and defined the term ''new community college'', prior to repeal by section 1001(a) of Pub. L. 96–374.

A prior section 1135a–3, Pub. L. 89–329, title X, § 1005, as added Pub. L. 96–374, title X, § 1001(a), Oct. 3, 1980, 94 Stat. 1491; amended Pub. L. 99–498, title X, § 1001(b), Oct. 17, 1986, 100 Stat. 1561, authorized appropriations to carry out this part for fiscal years 1987 to 1991, prior to the general revision of this part by Pub. L. 102–325.

Another prior section 1135a–3 and prior sections 1135a–4 to 1135a–7 were repealed by Pub. L. 96–374, title X, § 1001(a), Oct. 3, 1980, 94 Stat. 1489, eff. Oct. 1, 1980.

Section 1135a–3, Pub. L. 89–329, title X, § 1014, as added Pub. L. 92–318, title I, § 186(a)(1), June 23, 1972, 86 Stat. 314; amended Pub. L. 94–482, title I, § 177, Oct. 12, 1976, 90 Stat. 2165, related to expansion grants.

Section 1135a–4, Pub. L. 89–329, title X, § 1015, as added Pub. L. 92–318, title I, § 186(a)(1), June 23, 1972, 86 Stat. 314, related to leasing of facilities.

Section 1135a–5, Pub. L. 89–329, title X, § 1016, as added Pub. L. 92–318, title I, § 186(a)(1), June 23, 1972, 86 Stat. 315, related to establishment and expansion grants.

Section 1135a–6, Pub. L. 89–329, title X, § 1017, as added Pub. L. 92–318, title I, § 186(a)(1), June 23, 1972, 86 Stat. 315, authorized payment to approved applicants.

Section 1135a–7, Pub. L. 89–329, title X, § 1018, as added Pub. L. 92–318, title I, § 186(a)(1), June 23, 1972, 86 Stat. 315; amended Pub. L. 94–482, title I, § 178, Oct. 12, 1976, 90 Stat. 2166, defined the term ''community college''.

AMENDMENTS

1993—Subsec. (a). Pub. L. 103–208 substituted ''subpart'' for ''part''.

1992—Pub. L. 102–325 amended section generally, substituting provisions relating to authorization of appropriations for this part for provisions relating to administration of this subchapter.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1003 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

SUBPART 2—SPECIAL PROJECTS IN AREAS OF NATIONAL NEED

§ 1135a–11. Special projects

(a) Grant authority

The Director is authorized to make grants to institutions of higher education, or consortia thereof, and such other public agencies and nonprofit organizations as the Director deems necessary for innovative projects concerning one or more areas of particular national need identified by the Director.

(b) Application

No grant shall be made under this part unless an application is made at such time, in such manner, and contains or is accompanied by such information as the Secretary may require.

(c) Areas of national need

Areas of national need shall initially include, but shall not be limited to, the following:

(1) International exchanges.

(2) Campus climate and culture.

(3) Evaluation and dissemination.

(d) Authorization of appropriations

There are authorized to be appropriated to carry out this subpart $5,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(Pub. L. 89–329, title X, § 1011, as added Pub. L. 102–325, title X, § 1001, July 23, 1992, 106 Stat. 780; amended Pub. L. 103–208, § 2(j)(43), Dec. 20, 1993, 107 Stat. 2484.)

AMENDMENTS

1993—Subsec. (d). Pub. L. 103–208 substituted ''subpart'' for ''part''.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1003 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

PART B—MINORITY SCIENCE AND ENGINEERING IMPROVEMENT PROGRAMS

CODIFICATION

Part B of title X of the Higher Education Act of 1965, comprising this part, was originally enacted by Pub. L. 89–329, title X, part B, as added Pub. L. 92–318, title I, § 186(a)(1), June 23, 1972, 86 Stat. 316; amended Pub. L. 94–482, Oct. 12, 1976, 90 Stat. 2081; Pub. L. 95–180, Nov. 15, 1977, 91 Stat. 1372; Pub. L. 96–49, Aug. 13, 1979, 93 Stat. 351; Pub. L. 96–88, Oct. 17, 1979, 93 Stat. 668; Pub. L. 96–374, Oct. 3, 1980, 94 Stat. 1367; Pub. L. 98–524, Oct. 19, 1984, 98 Stat. 2435. Such part is shown herein, however, as having been added by Pub. L. 99–498, title X, § 1002, Oct. 17, 1986, 100 Stat. 1561, without reference to such intervening amendments because of the extensive revision of part B by Pub. L. 99–498.

SUBPART 1—MINORITY SCIENCE IMPROVEMENT PROGRAM

§ 1135b. Purpose; authority

(a) Congressional declaration of purpose

It is the purpose of this subpart to continue the authority of the Department to operate the Minority Institutions Science Improvement Program created under section 1862(a)(1) of title 42 and transferred to the Department by section 3444(a)(1)[1] of this title.

(b) Grant authority

The Secretary shall, in accordance with the provisions of this subpart, carry out a program of making grants to institutions of higher education that are designed to effect long-range improvement in science and engineering education at predominantly minority institutions and to increase the participation of underrepresented ethnic minorities, particularly minority women, in scientific and technological careers.

[1] See References in Text note below.

(Pub. L. 89–329, title X, § 1021, as added Pub. L. 99–498, title X, § 1002, Oct. 17, 1986, 100 Stat. 1561; amended Pub. L. 102–325, title X, § 1002(a), July 23, 1992, 106 Stat. 780.)

REFERENCES IN TEXT

Section 3444(a)(1) of this title, referred to in subsec. (a), was in the original a reference to section 304(a)(1) of the Department of Education Organization Act of 1979. Sections 304 and 305 of that Act were renumbered as sections 303 and 304, respectively, by Pub. L. 103–382, title II, § 271(a)(2), Oct. 20, 1994, 108 Stat. 3929, and are classified to sections 3444 and 3445, respectively, of this title.

PRIOR PROVISIONS

A prior section 1135b, Pub. L. 89–329, title X, § 1051, as added Pub. L. 92–318, title I, § 186(a)(1), June 23, 1972, 86 Stat. 316, authorized appropriations for occupational education programs, prior to repeal by Pub. L. 94–482, title I, § 176(c), title II, § 204(c)(2), Oct. 12, 1976, 90 Stat. 2165, 2215, eff. Sept. 30, 1977, Oct. 1, 1977.

Another prior section 1135b, Pub. L. 89–329, title X, § 1003, as added Pub. L. 90–575, title II, § 271, Oct. 16, 1968, 82 Stat. 1048, related to selection of grant recipients for improvement of graduate programs, prior to the general revision of this subchapter by Pub. L. 92–318.

AMENDMENTS

1992—Subsec. (b). Pub. L. 102–325 inserted ‘‘, particularly minority women,’’ after ‘‘ethnic minorities’’.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1135d–1, 1135d–6 of this title.

§ 1135b–1. Grant recipient selection

(a) Establishment of criteria

Grants under this subpart shall be awarded on the basis of criteria established by the Secretary by regulations.

(b) Priorities to be given in criteria

In establishing criteria under subsection (a) of this section, the Secretary shall give priority to applicants which have not previously received funding from the Minority Institutions Science Improvement Program and to previous grantees with a proven record of success, as well as to applications that contribute to achieving balance among projects with respect to geographic region, academic discipline, and project type.

(c) Required criteria

In establishing criteria under subsection (a) of this section, the Secretary may consider the following selection criteria in making grants:

(1) plan of operation;

(2) quality of key personnel;

(3) budget and cost effectiveness;

(4) evaluation plan;

(5) adequacy of resources;

(6) identification of need for the project;

(7) potential institutional impact of the project;

(8) institutional commitment to the project;

(9) expected outcomes; and

(10) scientific and educational value of the proposed project.

(Pub. L. 89–329, title X, § 1022, as added Pub. L. 99–498, title X, § 1002, Oct. 17, 1986, 100 Stat. 1561.)

PRIOR PROVISIONS

A prior section 1135b–1, Pub. L. 89–329, title X, § 1052, as added Pub. L. 92–318, title I, § 186(a)(1), June 23, 1972, 86 Stat. 316, set forth allotment and reallotment requirements for funds appropriated for programs, prior to repeal by Pub. L. 94–482, title I, § 176(c), title II, § 204(c)(2), Oct. 12, 1976, 90 Stat. 2165, 2215, eff. Sept. 30, 1977, Oct. 1, 1977.

§ 1135b–2. Use of funds

(a) Types of grants

Funds appropriated to carry out this subpart may be made available as—

(1) institutional grants (as defined in section 1135d–5(6) of this title);

(2) cooperative grants (as defined in section 1135d–5(7) of this title);

(3) design projects (as defined in section 1135d–5(8) of this title); or

(4) special projects (as defined in section 1135d–5(9) of this title).

(b) Authorized uses for each type of grant

(1) The authorized uses of funds made available as institutional grants include (but are not limited to)—

(A) faculty development programs; or

(B) development of curriculum materials.

(2) The authorized uses of funds made available as cooperative grants include (but are not limited to)—

(A) assisting institutions in sharing facilities and personnel;

(B) disseminating information about established programs in science and engineering;

(C) supporting cooperative efforts to strengthen the institutions’ science and engineering programs; or

(D) carrying out a combination of any of the activities in subparagraphs (A) through (C).

(3) The authorized uses of funds made available as design projects include (but are not limited to)—

(A) developing planning, management, and evaluation systems; or

(B) developing plans for initiating scientific research and for improving institutions’ capabilities for such activities.

Funds used for design project grants may not be used to pay more than 50 percent of the salaries during any academic year of faculty members involved in the project.

(4) The authorized uses of funds made available as special projects include (but are not limited to)—

(A) advanced science seminars;

(B) science faculty workshops and conferences;

(C) faculty training to develop specific science research or education skills;

(D) research in science education;

(E) programs for visiting scientists;

(F) preparation of films or audio-visual materials in science;

(G) development of learning experiences in science beyond those normally available to minority undergraduate students;

(H) development of pre-college enrichment activities in science; or

(I) any other activities designed to address specific barriers to the entry of minorities into science.

(Pub. L. 89–329, title X, § 1023, as added Pub. L. 99–498, title X, § 1002, Oct. 17, 1986, 100 Stat. 1562.)

PRIOR PROVISIONS

A prior section 1135b–2, Pub. L. 89–329, title X, § 1053, as added Pub. L. 92–318, title I, § 186(a)(1), June 23, 1972, 86 Stat. 317, set forth requirements for administration of programs by Secretary, prior to repeal by Pub. L. 94–482, title I, § 176(c), title II, § 204(c)(2), Oct. 12, 1976, 90 Stat. 2165, 2215, eff. Sept. 30, 1987, Oct. 1, 1977.

§ 1135b–3. Multiagency study of minority science programs

The Secretary, in cooperation with the heads of other departments and agencies that operate programs similar in purposes to the Minority Science Improvement Program which seek to increase minority participation and representation in scientific fields, shall submit a report to the President and Congress summarizing and evaluating such programs by January 1, 1996.

(Pub. L. 89–329, title X, § 1024, as added Pub. L. 99–498, title X, § 1002, Oct. 17, 1986, 100 Stat. 1562; amended Pub. L. 102–325, title X, § 1002(b), July 23, 1992, 106 Stat. 780.)

PRIOR PROVISIONS

Prior sections 1135b–3 to 1135b–9 were repealed by Pub. L. 94–482, title I, § 176(c), title II, § 204(c)(2), Oct. 12, 1976, 90 Stat. 2165, 2215, eff. Sept. 30, 1977, Oct. 1, 1977.

Section 1135b–3, Pub. L. 89–329, title X, § 1054, as added Pub. L. 92–318, title I, § 186(a)(1), June 23, 1972, 86 Stat. 317, set forth responsibilities of Commissioner of Education in the administration of programs.

Section 1135b–4, Pub. L. 89–329, title X, § 1055, as added Pub. L. 92–318, title I, § 186(a)(1), June 23, 1972, 86 Stat. 318, set forth requirements for State participation and administration of programs.

Section 1135b–5, Pub. L. 89–329, title X, § 1056, as added Pub. L. 92–318, title I, § 186(a)(1), June 23, 1972, 86 Stat. 318, authorized planning grants for State occupational education programs and set forth criteria for State participation.

Section 1135b–6, Pub. L. 89–329, title X, § 1057, as added Pub. L. 92–318, title I, § 186(a)(1), June 23, 1972, 86 Stat. 319, authorized program grants for State occupational education programs and set forth criteria for State administration of grants.

Section 1135b–7, Pub. L. 89–329, title X, § 1058, as added Pub. L. 92–318, title I, § 186(a)(1), June 23, 1972, 86 Stat. 320, set forth prerequisites and procedures for program grants by Commissioner and provided for judicial review of actions of Commissioner.

Section 1135b–8, Pub. L. 89–329, title X, § 1059, as added Pub. L. 92–318, title I, § 186(a)(1), June 23, 1972, 86 Stat. 321, authorized technical assistance to the States by Commissioner and the establishment of model programs.

Section 1135b–9, Pub. L. 89–329, title X, § 1060, as added Pub. L. 92–318, title I, § 186(a)(1), June 23, 1972, 86 Stat. 322, defined the terms ''State'' and ''postsecondary occupational education'' for purposes of occupational education programs.

AMENDMENTS

1992—Pub. L. 102–325 amended section generally, substituting provisions relating to submission of report on minority science programs for provisions relating to submission of list of grantees receiving awards under this part.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

SUBPART 2—SCIENCE AND ENGINEERING ACCESS PROGRAMS

§ 1135c. Minority support in science and engineering programs

The Secretary shall, in accordance with the provisions of this subpart, carry out a program of making grants to institutions of higher education that are designed to provide or improve support programs for minority students enrolled in science and engineering programs at institutions with a significant minority enrollment (at least 10 percent).

(Pub. L. 89–329, title X, § 1031, as added Pub. L. 99–498, title X, § 1002, Oct. 17, 1986, 100 Stat. 1563.)

PRIOR PROVISIONS

A prior section 1135c, Pub. L. 89–329, title X, § 1021, formerly § 1071, as added Pub. L. 92–318, title I, § 186(a)(1), June 23, 1972, 86 Stat. 322, established Bureau of Occupational and Adult Education and set forth functions, personnel etc., of the Bureau, prior to repeal by Pub. L. 94–482, title II, § 204(c)(3), Oct. 12, 1976, 90 Stat. 2215, eff. Oct. 1, 1977. See section 2390 of this title. Subsequent to repeal, this section was renumbered section 1021 of Pub. L. 89–329 and amended by deleting ''this title'' by Pub. L. 96–374, title X, § 1001(b), Oct. 3, 1980, 94 Stat. 1491.

Another prior section 1135c, Pub. L. 89–329, title X, § 1004, as added Pub. L. 90–575, title II, § 271, Oct. 16, 1968, 82 Stat. 1048, provided for consultations respecting improvement of graduate programs, prior to the general revision of this subchapter by Pub. L. 92–318.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1135d–6 of this title.

§ 1135c–1. Special service projects program

The Secretary shall, in accordance with the provisions of this subpart, carry out a program of making grants to institutions of higher education that are designed to provide or improve support to accredited colleges and universities and professional scientific societies for a broad range of activities designed to eliminate or reduce specific barriers to the entry of minorities into science and technology.

(Pub. L. 89–329, title X, § 1032, as added Pub. L. 99–498, title X, § 1002, Oct. 17, 1986, 100 Stat. 1563.)

PRIOR PROVISIONS

A prior section 1135c–1, Pub. L. 89–329, title X, § 1022, formerly § 1072, as added Pub. L. 92–318, title I, § 186(a)(1), June 23, 1972, 86 Stat. 323; amended Pub. L. 96–88, title III, § 301(b)(2), Oct. 17, 1979, 93 Stat. 678, renumbered and amended Pub. L. 96–374, title X, § 1001(b)(1), title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1491, 1503; Pub. L. 98–524, § 4(c)(3), Oct. 19, 1984, 98 Stat. 2488, established a Community College Unit in Department of Education, prior to the general revision of this part by Pub. L. 99–498.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1135d, 1135d–6 of this title.

§ 1135c–2. Supportable activities

Funds appropriated for the purpose of this subpart may be made available for—

(1) providing needed services to groups of minority institutions or providing training for scientists and engineers from eligible minority institutions;

(2) providing needed services to groups of institutions serving significant numbers of minority students or providing training for scientists and engineers from such institutions to improve their ability to train minority students in science or engineering;

(3) assisting minority institutions to improve the quality of preparation of their students for graduate work or careers in science, mathematics, and technology;

(4) improving access of undergraduate students at minority institutions to careers in the sciences, mathematics, and engineering;

(5) improving access of minority students, particularly minority women, to careers in the sciences, mathematics, and engineering;

(6) improving access for pre-college minority students to careers in science, mathematics, and engineering through community outreach programs conducted through colleges and universities eligible for support through the Minority Science and Engineering Improvement Programs;

(7) disseminating activities, information, and educational materials designed to address specific barriers to the entry of minorities into science and technology, and conducting activities and studies concerning the flow of underrepresented ethnic minorities into scientific careers;

(8) supporting curriculum models to encourage minority student participation in research careers in science, mathematics, and technology; and

(9) improving the capability of minority institutions for self-assessment, management, and evaluation of their science, mathematics, and engineering programs and dissemination of their results.

(Pub. L. 89–329, title X, § 1033, as added Pub. L. 99–498, title X, § 1002, Oct. 17, 1986, 100 Stat. 1563; amended Pub. L. 102–325, title X, § 1002(c), July 23, 1992, 106 Stat. 780.)

AMENDMENTS

1992—Par. (5). Pub. L. 102–325 inserted ‘‘, particularly minority women,’’ after ‘‘minority students’’.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

SUBPART 3—ADMINISTRATIVE AND GENERAL PROVISIONS

§ 1135d. Eligibility for grants

Eligibility to receive grants under this part is limited to—

(1) public and private nonprofit institutions that are minority institutions (as defined in section 1135d–5(3) of this title);

(2) nonprofit science-oriented organizations, professional scientific societies, and all nonprofit, accredited colleges and universities which provide a needed service to a group of eligible minority institutions or which provide in-service training for project directors, scientists, and engineers from eligible minority institutions; and

(3) for the purposes of section 1135c–1 of this title, public and private nonprofit institutions that have at least 10 percent minority enrollment.

(Pub. L. 89–329, title X, § 1041, as added Pub. L. 99–498, title X, § 1002, Oct. 17, 1986, 100 Stat. 1564.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1135d–1 of this title.

§ 1135d–1. Grant application

(a) Submission and contents of applications

An eligible applicant (as determined under section 1135d of this title) that desires to receive a grant under this part shall submit to the Secretary an application therefor at such time or times, in such manner, and containing such information as the Secretary may prescribe by regulation. Such application shall set forth—

(1) a program of activities for carrying out one or more of the purposes described in section 1135b(b) of this title in such detail as will enable the Secretary to determine the degree to which such program will accomplish such purpose or purposes; and

(2) such other policies, procedures, and assurances as the Secretary may require by regulation.

(b) Approval based on likelihood of progress

The Secretary shall approve an application only if the Secretary determines that the application sets forth a program of activities which are likely to make substantial progress toward achieving the purposes of this part.

(Pub. L. 89–329, title X, § 1042, as added Pub. L. 99–498, title X, § 1002, Oct. 17, 1986, 100 Stat. 1564.)

§ 1135d–2. Cross program and cross agency cooperation

The Minority Science and Engineering Improvement Programs shall cooperate and consult with other programs within the Department and within Federal, State, and private agencies which carry out programs to improve the quality of science, mathematics, and engineering education.

(Pub. L. 89–329, title X, § 1043, as added Pub. L. 99–498, title X, § 1002, Oct. 17, 1986, 100 Stat. 1564; amended Pub. L. 102–325, title X, § 1002(d), July 23, 1992, 106 Stat. 780.)

AMENDMENTS

1992—Pub. L. 102–325 inserted ‘‘and consult’’ after ‘‘cooperate’’.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

§ 1135d–3. Administrative provisions

(a) Technical staff

The Secretary shall appoint, without regard to the provisions of title 5 governing appointments

in the competitive service, not less than 2 technical employees with appropriate scientific and educational background to administer the programs under this part who may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(b) Procedures for grant review

The Secretary shall establish procedures for reviewing and evaluating grants and contracts made or entered into under such programs. Procedures for reviewing grant applications, based on the peer review system, or contracts for financial assistance under this subchapter may not be subject to any review outside of officials responsible for the administration of the Minority Science and Engineering Improvement Programs.

(Pub. L. 89–329, title X, § 1044, as added Pub. L. 99–498, title X, § 1002, Oct. 17, 1986, 100 Stat. 1564.)

REFERENCES IN TEXT

The provisions of title 5 governing appointments in the competitive service, referred to in subsec. (a), are classified to section 3301 et seq. of Title 5, Government Organization and Employees.

§ 1135d–4. Repealed. Pub. L. 102–325, title X, § 1002(e), July 23, 1992, 106 Stat. 780

Section, Pub. L. 89–329, title X, § 1045, as added Pub. L. 99–498, title X, § 1002, Oct. 17, 1986, 100 Stat. 1565, related to establishment of Advisory Board for the Minority Science and Engineering Improvement Programs.

EFFECTIVE DATE OF REPEAL

Section repealed effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as an Effective Date of 1992 Amendment note under section 1001 of this title.

§ 1135d–5. Definitions

For the purpose of this part—

(1) The term ''accredited'' means currently certified by a nationally recognized accrediting agency or making satisfactory progress toward achieving accreditation.

(2) The term ''minority'' means American Indian, Alaskan Native, Black (not of Hispanic origin), Hispanic (including persons of Mexican, Puerto Rican, Cuban, and Central or South American origin), Pacific Islander or other ethnic group underrepresented in science and engineering.

(3) The term ''minority institution'' means an institution of higher education whose enrollment of a single minority or a combination of minorities (as defined in paragraph (2)) exceeds 50 percent of the total enrollment. The Secretary shall verify this information from the data on enrollments in the higher education general information surveys (HEGIS) furnished by the institution to the Office for Civil Rights, Department of Education.

(4) The term ''science'' means, for the purpose of this program, the biological, engineering, mathematical, physical, and social sciences, and history and philosophy of science; also included are interdisciplinary fields which are comprised of overlapping areas among two or more sciences.

(5) The term ''underrepresented in science and engineering'' means a minority group whose number of scientists and engineers per 10,000 population of that group is substantially below the comparable figure for scientists and engineers who are white and not of Hispanic origin.

(6) The term ''institutional grant'' means a grant that supports the implementation of a comprehensive science improvement plan, which may include any combination of activities for improving the preparation of minority students for careers in science.

(7) The term ''cooperative grant'' means a grant that assists groups of nonprofit accredited colleges and universities to work together to conduct a science improvement program.

(8) The term ''design projects'' means projects that assist minority institutions that do not have their own appropriate resources or personnel to plan and develop long-range science improvement programs.

(9) The term ''special projects'' means—

(A) a special project grant to a minority institution which support activities that—

(i) improve the quality of training in science and engineering at minority institutions; or

(ii) enhance the minority institutions' general scientific research capabilities; or

(B) a special project grant to any eligible applicant which supports activities that—

(i) provide a needed service to a group of eligible minority institutions; or

(ii) provide in-service training for project directors, scientists, and engineers from eligible minority institutions.

(Pub. L. 89–329, title X, § 1046, as added Pub. L. 99–498, title X, § 1002, Oct. 17, 1986, 100 Stat. 1566.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1135b–2, 1135d, 1135e–2 of this title; title 10 section 2323.

§ 1135d–6. Authorization of appropriations

(a) Authorizations

There are authorized to be appropriated to carry out the purposes of this part, $10,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(b) Appropriation limitation

For any fiscal year, 50 percent of the funds appropriated for this part shall be allocated for the purpose of section 1135b of this title, 33.33 percent for the purpose of section 1135c of this title, and 16.67 percent for the purpose of section 1135c–1 of this title.

(Pub. L. 89–329, title X, § 1047, as added Pub. L. 99–498, title X, § 1002, Oct. 17, 1986, 100 Stat. 1567; amended Pub. L. 100–418, title VI, § 6221, Aug. 23, 1988, 102 Stat. 1518; Pub. L. 102–325, title X, § 1002(f), July 23, 1992, 106 Stat. 780.)

AMENDMENTS

1992—Pub. L. 102–325 amended section generally, substituting provisions authorizing appropriations for fiscal years 1993 to 1997 for provisions authorizing appropriations for fiscal years 1987 to 1991.

1988—Subsec. (c). Pub. L. 100–418 added subsec. (c).

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

PART C—WOMEN AND MINORITIES SCIENCE AND ENGINEERING OUTREACH DEMONSTRATION PROGRAM

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 1112d of this title.

§ 1135e. Purpose

It is the purpose of this part to provide grants to institutions working in partnership with elementary and secondary schools to establish outreach programs for female and minority elementary and secondary school students to increase the participation of those students in science and engineering undergraduate and graduate degree programs.

(Pub. L. 89–329, title X, § 1061, as added Pub. L. 99–498, title X, § 1003, Oct. 17, 1986, 100 Stat. 1567; amended Pub. L. 102–325, title X, § 1003, July 23, 1992, 106 Stat. 781.)

AMENDMENTS

1992—Pub. L. 102–325 amended section generally, substituting provisions relating to purpose of women and minorities science and engineering outreach demonstration programs for provisions relating to purpose of innovative projects for community services and student financial independence.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

§ 1135e–1. Program authorized

The Secretary shall, in accordance with the provision of this part, award grants to eligible institutions to enable such eligible institutions to pay the Federal share of the costs of carrying out a program that is designed to enhance, coordinate, develop, and expand programs and initiatives which identify and encourage female and minority elementary and secondary school students to pursue higher education in preparation for careers in science and engineering.

(Pub. L. 89–329, title X, § 1062, as added Pub. L. 99–498, title X, § 1003, Oct. 17, 1986, 100 Stat. 1567; amended Pub. L. 102–325, title X, § 1003, July 23, 1992, 106 Stat. 781.)

AMENDMENTS

1992—Pub. L. 102–325 amended section generally, substituting provisions authorizing grants for women and minority science and engineering programs for provisions authorizing grants for innovative projects for community services and student financial independence.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

§ 1135e–2. Eligible institutions

(a) "Eligible institution" defined

For the purpose of this part the term ''eligible institution'' means an institution of higher education which—

(1) has science and engineering programs;

(2) has female and minority enrollment and retention rates significantly higher than the national averages of such rates, but does not meet the definition of ''minority institution'' set forth in section 1135d–5(3) of this title;

(3) demonstrates its ability to conduct outreach activities in science and engineering to female and minority students at the elementary and secondary school levels;

(4) incorporates the use of advanced telecommunications equipment, including fiber optics and interactive video systems, to improve the development of intermodal programs targeted toward female and minority students;

(5) enters into a partnership agreement with a local educational agency and at least 1 local business or industry; and

(6) describes in the application submitted pursuant to section 1135e–4 of this title the duties of each partner entering into the partnership agreement described in paragraph (5).

(b) Limitation

The Secretary shall award at least 40 percent of the total funds made available under this section in any fiscal year to eligible institutions located in any of the Nation's ten largest metropolitan statistical areas.

(Pub. L. 89–329, title X, § 1063, as added Pub. L. 99–498, title X, § 1003, Oct. 17, 1986, 100 Stat. 1567; amended Pub. L. 102–325, title X, § 1003, July 23, 1992, 106 Stat. 781.)

AMENDMENTS

1992—Pub. L. 102–325 amended section generally, substituting provisions defining ''eligible institution'' and requiring award of funds to institutions located in certain areas for provisions authorizing appropriations for innovative projects for community services and student financial independence.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

§ 1135e–3. Amount, duration, and use of funds

(a) Amount and duration of grants

Grants under this part shall be provided in an amount which is not less than $500,000 in a single fiscal year, and shall be continued for a period not to exceed 5 fiscal years.

(b) Use of grants

Grants provided under this section may be used for—

(1) the operation and administration of outreach programs to elementary and secondary school students;

(2) faculty development programs in support of outreach programs;

(3) curriculum development in support of the outreach programs;

(4) disseminating information about the outreach programs to elementary and secondary schools and institutions of higher education;

(5) supporting cooperative efforts with elementary and secondary schools, community groups, business and industry, and other education-related groups, to expand the scope of the outreach programs; and

(6) establishing infrastructure necessary to operate programs, specifically including telecommunications equipment providing distance learning capabilities.

(Pub. L. 89–329, title X, § 1064, as added Pub. L. 102–325, title X, § 1003, July 23, 1992, 106 Stat. 782.)

EFFECTIVE DATE

Section effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as an Effective Date of 1992 Amendment note under section 1001 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1135e–7 of this title.

§ 1135e–4. Application

To receive a grant under this part, an eligible institution shall submit an application at such time, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require. Each such application shall contain a description of the goals of the activities to be assisted.

(Pub. L. 89–329, title X, § 1065, as added Pub. L. 102–325, title X, § 1003, July 23, 1992, 106 Stat. 782.)

EFFECTIVE DATE

Section effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as an Effective Date of 1992 Amendment note under section 1001 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1135e–2, 1135e–5 of this title.

§ 1135e–5. Evaluation

(a) Independent annual evaluation

The Secretary shall provide for the annual independent evaluation of activities assisted under this part to determine their effectiveness in providing—

(1) the operation and administration of outreach programs to elementary and secondary school students;

(2) faculty development programs in support of outreach programs;

(3) curriculum development in support of the outreach programs;

(4) disseminating information about the outreach programs to elementary and secondary schools and institutions of higher education;

(5) supporting cooperative efforts with elementary and secondary schools, community groups, business and industry, and other education-related groups, to expand the scope of outreach programs; and

(6) establishing infrastructure necessary to operate programs, specifically including telecommunications equipment providing distance learning capabilities.

(b) Evaluations

(1) Conduct and criteria

Each evaluation described in subsection (a) of this section shall be conducted by individuals not directly involved in the administration of the activities assisted under this part. Such independent evaluators and the program administrators shall jointly develop evaluation criteria which provide for appropriate analysis of the factors described in subsection (a) of this section. When possible, each evaluation shall include comparisons with appropriate control groups.

(2) Program effectiveness

In order to determine the effectiveness of assistance provided under this part in achieving the goals stated in the application described in section 1135e–4 of this title, each evaluation described in subsection (a) of this section shall contain objective measures of such goals and, where feasible, shall obtain the specific views of participants about the activities assisted under this part.

(c) Report to Congress and dissemination

The Secretary shall prepare and submit to the Congress a review and summary of the results of the evaluations described in subsection (a) of this section not later than September 30, 1997.

(Pub. L. 89–329, title X, § 1066, as added Pub. L. 102–325, title X, § 1003, July 23, 1992, 106 Stat. 782.)

EFFECTIVE DATE

Section effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as an Effective Date of 1992 Amendment note under section 1001 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1135e–8 of this title.

§ 1135e–6. Federal share

The Federal share of the costs of activities assisted under this part shall be 90 percent of the costs of such activities in the first year an eligible institution receives a grant under this part, 80 percent of such cost in the second such year, 70 percent of such cost in the third such year, 60 percent of such cost in the fourth such year, and 50 percent of such costs in the fifth such year. The remaining funds shall be provided from non-Federal sources.

(Pub. L. 89–329, title X, § 1067, as added Pub. L. 102–325, title X, § 1003, July 23, 1992, 106 Stat. 783.)

EFFECTIVE DATE

Section effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as an Effective Date of 1992 Amendment note under section 1001 of this title.

§ 1135e–7. Supplement not supplant

An eligible institution may use funds received under this part only so as to supplement and, to the extent practicable, increase the level of funds that would be available from non-Federal sources for the activities described in section 1135e–3(b) of this title and in no case may such funds be so used as to supplant such funds from such non-Federal sources.

(Pub. L. 89–329, title X, § 1068, as added Pub. L. 102–325, title X, § 1003, July 23, 1992, 106 Stat. 783.)

EFFECTIVE DATE

Section effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as an Effective Date of 1992 Amendment note under section 1001 of this title.

§ 1135e–8. Authorization of appropriations

There are authorized to be appropriated to carry out this part, $10,000,000 for fiscal year 1993

and such sums as may be necessary for each of the 4 succeeding fiscal years. Not more than 3 percent of the amount appropriated for this part in any fiscal year may be used for purposes of section 1135e–5 of this title.

(Pub. L. 89–329, title X, § 1069, as added Pub. L. 102–325, title X, § 1003, July 23, 1992, 106 Stat. 783.)

EFFECTIVE DATE

Section effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as an Effective Date of 1992 Amendment note under section 1001 of this title.

PART D—DWIGHT D. EISENHOWER LEADERSHIP PROGRAM

§ 1135f. Short title; establishment of program

(a) Short title

This part may be cited as the ''Dwight D. Eisenhower Leadership Development Act of 1992''.

(b) Establishment of program

(1) In general

The Secretary shall establish a program to be known as the ''Dwight D. Eisenhower Leadership Development Program''.

(2) Special rule

The program assisted under this part shall be established in conjunction with institutions of higher education which are specially prepared to undertake the development of new generations of leaders in the areas of national and international affairs.

(c) Functions of program

The functions of the program assisted under this part shall include—

(1) stimulating and supporting the development of leadership skills among new generations of American college students;

(2) directing a national program that identifies, recruits, inspires, and educates outstanding young men and women regarding leadership roles in a wide variety of fields in both the public and private sectors;

(3) offering opportunities for young American leaders who meet the requirements of section 1091(a) of this title and who are broadly representative of the population of the United States to benefit from internships in national and international organizations, with special attention being given to establishing such opportunities in developing countries;

(4) developing curriculum for secondary and postsecondary education;

(5) developing a prototype for understanding and teaching critical leadership skills to young Americans and encouraging institutions of higher education to establish similar leadership programs throughout the United States and abroad; and

(6) stimulating the theoretical and practical study of leadership and leadership development to develop both a better understanding of leadership and improved methods to teach critical skills to young adults.

(d) Operation of program

The Secretary is authorized to make grants to or enter into cooperative agreements, contracts, or leases with institutions of higher education (as defined in section 1141 of this title), or with nonprofit private organizations in consortia with such institutions, to operate the program assisted under this part.

(e) Authorization of appropriations

There are authorized to be appropriated $10,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out this part.

(Pub. L. 89–329, title X, § 1081, formerly § 1181, as added Pub. L. 102–325, title X, § 1004, July 23, 1992, 106 Stat. 783; renumbered § 1081 and amended Pub. L. 103–208, § 2(j)(44), (45), Dec. 20, 1993, 107 Stat. 2485.)

AMENDMENTS

1993—Subsec. (d). Pub. L. 103–208, § 2(j)(45), inserted a comma after ''this title)'' and after ''such institutions''.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1003 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as an Effective Date of 1992 Amendment note under section 1001 of this title.

PART E—GRANTS TO STATES FOR WORKPLACE AND COMMUNITY TRANSITION TRAINING FOR INCARCERATED YOUTH OFFENDERS

§ 1135g. Grants to States for workplace and community transition training for incarcerated youth offenders

(a) Findings

The Congress finds the following:

(1) Over 150,000 youth offenders age 21 and younger are incarcerated in the Nation's jails, juvenile facilities, and prisons.

(2) Most youth offenders who are incarcerated have been sentenced as first-time adult felons.

(3) Approximately 75 percent of youth offenders are high school dropouts who lack basic literacy and life skills, have little or no job experience, and lack marketable skills.

(4) The average incarcerated youth has attended school only through grade 10.

(5) Most of these youths can be diverted from a life of crime into productive citizenship with available educational, vocational, work skills, and related service programs.

(6) If not involved with educational programs while incarcerated, almost all of these youths will return to a life of crime upon release.

(7) The average length of sentence for a youth offender is about 3 years. Time spent in prison provides a unique opportunity for education and training.

(8) Even with quality education and training provided during incarceration, a period of intense supervision, support, and counseling is needed upon release to ensure effective reintegration of youth offenders into society.

(9) Research consistently shows that the vast majority of incarcerated youths will not return to the public schools to complete their education.

(10) There is a need for alternative educational opportunities during incarceration and after release.

(b) "Youth offender" defined

For purposes of this part, the term ''youth offender'' means a male or female offender under the age of 25, who is incarcerated in a State prison, including a prerelease facility.

(c) Grant program

The Secretary shall establish a program in accordance with this section to provide grants to the State correctional education agencies to assist and encourage incarcerated youths to acquire functional literacy, life, and job skills, through the pursuit of a postsecondary education certificate, or an associate of arts or bachelor's degree while in prison, and employment counseling and other related services which start during incarceration and continue through prerelease and while on parole.

(d) Application

To be eligible for a grant under this section, a State correctional education agency shall submit to the Secretary a proposal for a youth offender program that—

(1) identifies the scope of the problem, including the number of incarcerated youths in need of postsecondary education and vocational training;

(2) lists the accredited public or private educational institution or institutions that will provide postsecondary educational services;

(3) lists the cooperating agencies, public and private, or businesses that will provide related services, such as counseling in the areas of career development, substance abuse, health, and parenting skills;

(4) describes the evaluation methods and performance measures that the State correctional education agency will employ, provided that such methods and measures are appropriate to meet the goals and objectives of the proposal, and that such methods and measures include measures of—

(A) program completion;

(B) student academic and vocational skill attainment;

(C) success in job placement and retention; and

(D) recidivism;

(5) describes how the proposed programs are to be integrated with existing State correctional education programs (such as adult education, graduate education degree programs, and vocational training) and State industry programs;

(6) addresses the educational needs of youth offenders who are in alternative programs (such as boot camps); and

(7) describes how students will be selected so that only youth offenders eligible under subsection (f) of this section will be enrolled in postsecondary programs.

(e) Program requirements

Each State correctional education agency receiving a grant under this section shall—

(1) integrate activities carried out under the grant with the objectives and activities of the school-to-work programs of such State, including—

(A) work experience or apprenticeship programs;

(B) transitional worksite job training for vocational education students that is related to the occupational goals of such students and closely linked to classroom and laboratory instruction;

(C) placement services in occupations that the students are preparing to enter;

(D) employment-based learning programs; and

(E) programs that address State and local labor shortages;

(2) annually report to the Secretary and the Attorney General on the results of the evaluations conducted using the methods and performance measures contained in the proposal; and

(3) provide to each State for each student eligible under subsection (f) of this section not more than $1,500 annually for tuition, books, and essential materials, and not more than $300 annually for related services such as career development, substance abuse counseling, parenting skills training, and health education, for each eligible incarcerated youth.

(f) Student eligibility

A youth offender shall be eligible for participation in a program receiving a grant under this section if the youth offender—

(1) is eligible to be released within five years (including a youth offender who is eligible for parole within such time); and

(2) is 25 years of age or younger.

(g) Length of participation

A State correctional education agency receiving a grant under this section shall provide educational and related services to each participating youth offender for a period not to exceed 5 years, 1 year of which may be devoted to study in a graduate education degree program or to remedial education services for students who have obtained a secondary school diploma. Educational and related services shall start during the period of incarceration in prison or prerelease and may continue during the period of parole.

(h) Education delivery systems

State correctional education agencies and cooperating institutions shall, to the extent practicable, use high-tech applications in developing programs to meet the requirements and goals of this section.

(i) Allocation of funds

From the amounts appropriated pursuant to subsection (j) of this section, the Secretary shall allot to each State an amount that bears the same relationship to such funds as the total number of students eligible under subsection (f) of this section in such State bears to the total number of such students in all States.

(j) Authorization of appropriations

There are authorized to be appropriated to carry out this section $5,000,000 for fiscal year

1995 and such sums as may be necessary for fiscal year 1996 and each of the four succeeding fiscal years.

(Pub. L. 89–329, title X, § 1091, as added Pub. L. 103–382, title III, § 360D, Oct. 20, 1994, 108 Stat. 3972.)

SUBCHAPTER XI—COMMUNITY SERVICE PROGRAMS

CODIFICATION

Title XI of the Higher Education Act of 1965, comprising this subchapter, was originally enacted by Pub. L. 89–329, title XI, as added Pub. L. 90–575, title II, § 281, Oct. 16, 1968, 82 Stat. 1048; amended Pub. L. 92–318, June 23, 1972, 86 Stat. 235; Pub. L. 94–482, Oct. 12, 1976, 90 Stat. 2081; Pub. L. 96–49, Aug. 13, 1979, 93 Stat. 351; Pub. L. 96–374, Oct. 3, 1980, 94 Stat. 1367; Pub. L. 99–498, Oct. 17, 1986, 100 Stat. 1268. Such title is shown herein, however, as having been added by Pub. L. 102–325, title XI, § 1101, July 23, 1992, 106 Stat. 784, without reference to such intervening amendments because of the extensive revision of title XI by Pub. L. 102–325.

PART A—URBAN COMMUNITY SERVICE

§ 1136. Findings

The Congress finds that—

(1) the Nation's urban centers are facing increasingly pressing problems and needs in the areas of economic development, community infrastructure and service, social policy, public health, housing, crime, education, environmental concerns, planning and work force preparation;

(2) there are, in the Nation's urban institutions, people with underutilized skills, knowledge, and experience who are capable of providing a vast range of services toward the amelioration of the problems described in paragraph (1);

(3) the skills, knowledge and experience in these urban institutions, if applied in a systematic and sustained manner, can make a significant contribution to the solution of such problems; and

(4) the application of such skills, knowledge and experience is hindered by the limited funds available to redirect attention to solutions to such urban problems.

(Pub. L. 89–329, title XI, § 1101, as added Pub. L. 102–325, title XI, § 1101, July 23, 1992, 106 Stat. 784.)

PRIOR PROVISIONS

A prior section 1136, Pub. L. 89–329, title XI, § 1101, as added Pub. L. 99–498, title XI, § 1101, Oct. 17, 1986, 100 Stat. 1568, stated Congressional findings and purpose relating to partnerships for economic development, prior to the general revision of this subchapter by Pub. L. 102–325.

Another prior section 1136, Pub. L. 89–329, title XI, § 1101, as added Pub. L. 96–374, title XI, § 1101, Oct. 3, 1980, 94 Stat. 1491, stated Congressional findings and declaration of purpose, prior to the general revision of this subchapter by Pub. L. 99–498.

Another prior section 1136, Pub. L. 89–329, title XI, § 1101, as added Pub. L. 90–575, title II, § 281, Oct. 16, 1968, 82 Stat. 1048; amended Pub. L. 92–318, title I, § 191(a), (b), June 23, 1972, 86 Stat. 323, authorized a program for grants and contracts covering the establishment of a law school clinical experiences regimen, prior to the general revision of this subchapter by Pub. L. 96–374.

EFFECTIVE DATE

Subchapter effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as an Effective Date of 1992 Amendment note under section 1001 of this title.

§ 1136a. Purpose; program authorized

(a) Purpose

It is the purpose of this part to provide incentives to urban academic institutions to enable such institutions to work with private and civic organizations to devise and implement solutions to pressing and severe problems in their communities.

(b) Program authorized

The Secretary is authorized to carry out a program of providing assistance to eligible institutions to enable such institutions to carry out the activities described in section 1136c of this title in accordance with the provisions of this part.

(Pub. L. 89–329, title XI, § 1102, as added Pub. L. 102–325, title XI, § 1101, July 23, 1992, 106 Stat. 785.)

PRIOR PROVISIONS

A prior section 1136a, Pub. L. 89–329, title XI, § 1102, as added Pub. L. 99–498, title XI, § 1101, Oct. 17, 1986, 100 Stat. 1568, related to use of economic development funds, prior to the general revision of this subchapter by Pub. L. 102–325.

Another prior section 1136a, Pub. L. 89–329, title XI, § 1102, as added Pub. L. 96–374, title XI, § 1101, Oct. 3, 1980, 94 Stat. 1491, authorized appropriations for fiscal years 1981 to 1985 for urban grant university program, prior to the general revision of this subchapter by Pub. L. 99–498.

Another prior section 1136a, Pub. L. 89–329, title XI, § 1102, as added Pub. L. 90–575, title II, § 281, Oct. 16, 1968, 82 Stat. 1048; amended Pub. L. 92–318, title I, § 191(a), June 23, 1972, 86 Stat. 323, related to required applications for participation in law school clinical experiences program, prior to the general revision of this subchapter by Pub. L. 96–374.

§ 1136b. Application for urban community service grants

(a) Application

(1) In general

An eligible institution seeking assistance under this part shall submit to the Secretary an application at such time, in such form, and containing or accompanied by such information and assurances as the Secretary may require by regulation.

(2) Contents

Each application submitted pursuant to paragraph (1) shall—

(A) describe the activities and services for which assistance is sought; and

(B) include a plan that is agreed to by the members of a consortium that includes, in addition to the eligible institution, one or more of the following entities:

(i) A community college.

(ii) An urban school system.

(iii) A local government.

(iv) A business or other employer.

(v) A nonprofit institution.

(3) Waiver

The Secretary may waive the consortium requirements described in paragraph (2) for any

applicant who can demonstrate to the satisfaction of the Secretary that the applicant has devised an integrated and coordinated plan which meets the purpose of this part.

(b) Priority in selection of applications

The Secretary shall give priority to applications that propose to conduct joint projects supported by other local, State, and Federal programs.

(c) Selection procedures

The Secretary shall, by regulation, develop a formal procedure for the submission of applications under this part and shall publish in the Federal Register an announcement of that procedure and the availability of funds under this part.

(Pub. L. 89–329, title XI, §1103, as added Pub. L. 102–325, title XI, §1101, July 23, 1992, 106 Stat. 785.)

PRIOR PROVISIONS

A prior section 1136b, Pub. L. 89–329, title XI, §1103, as added Pub. L. 99–498, title XI, §1101, Oct. 17, 1986, 100 Stat. 1569, related to requirements for economic development grant applications, prior to the general revision of this subchapter by Pub. L. 102–325.

Another prior section 1136b, Pub. L. 89–329, title XI, §1103, as added Pub. L. 96–374, title XI, §1101, Oct. 3, 1980, 94 Stat. 1492, authorized grants to urban universities, prior to the general revision of this subchapter by Pub. L. 99–498.

Another prior section 1136b, Pub. L. 89–329, title XI, §1103, as added Pub. L. 90–575, title II, §281, Oct. 16, 1968, 82 Stat. 1049; amended Pub. L. 92–318, title I, §191(c), June 23, 1972, 86 Stat. 323; Pub. L. 94–482, title I, §172, Oct. 12, 1976, 90 Stat. 2164; Pub. L. 96–49, §11, Aug. 13, 1979, 93 Stat. 354, authorized appropriations for the law school clinical experiences program, prior to the general revision of this subchapter by Pub. L. 96–374.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1136c, 1136g of this title.

§ 1136c. Allowable activities

Funds made available under this part shall be used to support planning, applied research, training, resource exchanges or technology transfers, the delivery of services, or other activities the purpose of which is to design and implement programs to assist urban communities to meet and address their pressing and severe problems, such as the following:

(1) Work force preparation.

(2) Urban poverty and the alleviation of such poverty.

(3) Health care, including delivery and access.

(4) Underperforming school systems and students.

(5) Problems faced by the elderly and individuals with disabilities in urban settings.

(6) Problems faced by families and children.

(7) Campus and community crime prevention, including enhanced security and safety awareness measures as well as coordinated programs addressing the root causes of crime.

(8) Urban housing.

(9) Urban infrastructure.

(10) Economic development.

(11) Urban environmental concerns.

(12) Other problem areas which participants in the consortium described in section 1136b(a)(2)(B) of this title concur are of high priority in the urban area.

(13)(A) Problems faced by individuals with disabilities regarding accessibility to institutions of higher education and other public and private community facilities.

(B) Amelioration of existing attitudinal barriers that prevent full inclusion by individuals with disabilities with their community.

(Pub. L. 89–329, title XI, §1104, as added Pub. L. 102–325, title XI, §1101, July 23, 1992, 106 Stat. 786.)

PRIOR PROVISIONS

A prior section 1136c, Pub. L. 89–329, title XI, §1104, as added Pub. L. 96–374, title XI, §1101, Oct. 3, 1980, 94 Stat. 1492, placed geographical limitations on assistance to urban universities, prior to the general revision of this subchapter by Pub. L. 99–498.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1136a of this title.

§ 1136d. Peer review

The Secretary shall designate a peer review panel to review applications submitted under this part and make recommendations for funding to the Secretary. In selecting the peer review panel, the Secretary may consult with other appropriate Cabinet-level officials and with non-Federal organizations, to ensure that the panel will be geographically balanced and be composed of representatives from public and private institutions of higher education, labor, business, State and local government, who have expertise in urban community service or in education.

(Pub. L. 89–329, title XI, §1105, as added Pub. L. 102–325, title XI, §1101, July 23, 1992, 106 Stat. 786.)

PRIOR PROVISIONS

A prior section 1136d, Pub. L. 89–329, title XI, §1105, as added Pub. L. 96–374, title XI, §1101, Oct. 3, 1980, 94 Stat. 1492, defined terms used in this subchapter, prior to the general revision of this subchapter by Pub. L. 99–498.

§ 1136e. Disbursement of funds

(a) Multiyear availability

Subject to the availability of appropriations, grants under this part may be made on a multiyear basis, except that no institution, individually or as a participant in a consortium of such institutions, may receive such a grant for more than 5 years.

(b) Equitable geographic distribution

The Secretary shall award grants under this part in a manner that achieves equitable geographic distribution of such grants.

(c) Matching requirement

An applicant under this part and the local governments associated with its application shall contribute to the conduct of the program supported by the grant an amount from non-Federal funds equal to at least one-fourth of the amount of the grant, which contribution may be in cash or in kind.

(Pub. L. 89–329, title XI, § 1106, as added Pub. L. 102–325, title XI, § 1101, July 23, 1992, 106 Stat. 786; amended Pub. L. 103–208, § 2(j)(46), Dec. 20, 1993, 107 Stat. 2485.)

AMENDMENTS

1993—Subsec. (a). Pub. L. 103–208 substituted ''may receive such a grant'' for ''may receive a grant''.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1003 of this title.

§ 1136f. Designation of Urban Grant Institutions

The Secretary shall publish a list of eligible institutions under this part and shall designate these institutions of higher education as ''Urban Grant Institutions''. The Secretary shall establish a national network of Urban Grant Institutions so that the results of individual projects achieved in one metropolitan area can then be generalized, disseminated, replicated and applied throughout the Nation.

(Pub. L. 89–329, title XI, § 1107, as added Pub. L. 102–325, title XI, § 1101, July 23, 1992, 106 Stat. 787.)

§ 1136g. Definitions

As used in this part:

(1) Urban area

The term ''urban area'' means a metropolitan statistical area having a population of not less than 350,000, or two contiguous metropolitan statistical areas having a population of not less than 350,000, or, in any State which does not have a metropolitan statistical area which has such a population, the entity of the State having an agreement or submitting an application under section 1136b of this title, or, if no such entity has an agreement, the Secretary shall designate one urban area for the purposes of this part.

(2) Eligible institution

The term ''eligible institution'' means—

(A) a nonprofit municipal university, established by the governing body of the city in which it is located, and operating as of July 23, 1992, under that authority; or

(B) an institution of higher education, or a consortium of such institutions any one of which meets all of the requirements of this paragraph, which—

(i) is located in an urban area;

(ii) draws a substantial portion of its undergraduate students from the urban area in which such institution is located, or from contiguous areas;

(iii) carries out programs to make postsecondary educational opportunities more accessible to residents of such urban area, or contiguous areas;

(iv) has the present capacity to provide resources responsive to the needs and priorities of such urban area and contiguous areas;

(v) offers a range of professional, technical, or graduate programs sufficient to sustain the capacity of such institution to provide such resources; and

(vi) has demonstrated and sustained a sense of responsibility to such urban area and contiguous areas and the people of such areas.

(Pub. L. 89–329, title XI, § 1108, as added Pub. L. 102–325, title XI, § 1101, July 23, 1992, 106 Stat. 787.)

§ 1136h. Authorization of appropriations

There are authorized to be appropriated $20,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out the provisions of this part.

(Pub. L. 89–329, title XI, § 1109, as added Pub. L. 102–325, title XI, § 1101, July 23, 1992, 106 Stat. 787.)

PART B—INNOVATIVE PROJECTS

SUBPART 1—INNOVATIVE PROJECTS FOR COMMUNITY SERVICE

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in section 1139 of this title.

§ 1137. Statement of purpose

It is the purpose of this subpart to support innovative projects in order to encourage student participation in community service projects, including literacy projects.

(Pub. L. 89–329, title XI, § 1121, as added Pub. L. 102–325, title XI, § 1101, July 23, 1992, 106 Stat. 788.)

PRIOR PROVISIONS

A prior section 1137, Pub. L. 89–329, title XI, § 1111, as added Pub. L. 99–498, title XI, § 1101, Oct. 17, 1986, 100 Stat. 1570, related to the purpose of urban community service program, prior to the general revision of this subchapter by Pub. L. 102–325.

§ 1137a. Innovative projects for community service

(a) Program authorized

(1) In general

The Secretary is authorized, in accordance with the provisions of this subpart, to make grants to and enter into contracts with institutions of higher education (including combinations of such institutions) and with such other public agencies and nonprofit private organizations as the Secretary deems necessary for innovative projects designed to carry out the purpose of this subpart.

(2) Projects

The projects described in paragraph (1) may—

(A) support research regarding the effects of student community service organizations;

(B) provide assistance to student organizations that work with community service organizations;

(C) support linkages between youth corps programs, as described in section 12572(a)(2) of title 42 and institutions of higher education; and

(D) support innovative student service programs.

(b) Applications

No grant may be made and no contract may be entered into under this section unless an application is made at such time, in such manner, and containing or accompanied by such information as the Secretary may require.

(c) Applicable procedures

(1) Procedures

No application may be approved under subsection (b) of this section unless the National Board of the Fund for Improvement of Postsecondary Education, under procedures established by the Director of such Fund, approves the application.

(2) Special rule

The provisions of section 1135a–1(b) of this title shall apply to grants made under this subpart.

(d) "Community service" defined

For the purpose of this subpart, the term ''community service'' means planned, supervised services designed to improve the quality of life for community residents, particularly community residents with low income, or to assist in the solution of particular problems related to the needs of such residents.

(Pub. L. 89–329, title XI, §1122, as added Pub. L. 102–325, title XI, §1101, July 23, 1992, 106 Stat. 788; amended Pub. L. 103–82, title I, §111(b)(4), Sept. 21, 1993, 107 Stat. 860.)

PRIOR PROVISIONS

Prior sections 1137a and 1137b were omitted in the general revision of this subchapter by Pub. L. 102–325.

Section 1137a, Pub. L. 89–329, title XI, §1112, as added Pub. L. 99–498, title XI, §1101, Oct. 17, 1986, 100 Stat. 1570, related to use of urban community service funds.

Section 1137b, Pub. L. 89–329, title XI, §1113, as added Pub. L. 99–498, title XI, §1101, Oct. 17, 1986, 100 Stat. 1570, related to contents for applications for urban community services projects.

AMENDMENTS

1993—Subsec. (a)(2)(C). Pub. L. 103–82 substituted ''youth corps programs, as described in section 12572(a)(2) of title 42'' for ''youth corps as defined in section 12511(30) of title 42''.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–82 effective Oct. 1, 1993, see section 123 of Pub. L. 103–82, set out as a note under section 1701 of Title 16, Conservation.

SUBPART 2—STUDENT LITERACY CORPS AND STUDENT MENTORING CORPS

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in section 1139 of this title.

§ 1138. Purpose

It is the purpose of this subpart to provide financial assistance to institutions of higher education to promote the development of literacy corps programs and mentoring corps programs to be operated by institutions of higher education in public community agencies in the communities in which such institutions are located.

(Pub. L. 89–329, title XI, §1141, as added Pub. L. 102–325, title XI, §1101, July 23, 1992, 106 Stat. 788.)

PRIOR PROVISIONS

A prior section 1138, Pub. L. 89–329, title XI, §1121, as added Pub. L. 99–498, title XI, §1101, Oct. 17, 1986, 100 Stat. 1571, related to administrative provisions, prior to the general revision of this subchapter by Pub. L. 102–325.

§ 1138a. Literacy corps program and mentoring corps program

(a) General authority

From the amount appropriated for this subpart pursuant to section 1139 of this title for any fiscal year, the Secretary is authorized, in accordance with the provisions of this subpart, to make grants to institutions of higher education for not more than 4 years to pay the Federal share of the cost of carrying out a student literacy corps program or a student mentoring corps program.

(b) Limitation

An institution of higher education shall only receive 1 grant under this subpart in each fiscal year.

(c) Continuation of literacy or mentoring program

Grants under this section are renewable upon application by the institution of higher education in accordance with section 1138c of this title.

(d) Federal share

(1) In general

The Federal share of carrying out a student literacy corps program or a student mentoring corps program under this subpart shall be—

(A) not more than 100 percent for an initial grant to an institution of higher education; and

(B) not more than 75 percent for a grant renewed under subsection (c) of this section.

(2) Non-Federal share

The non-Federal share of carrying out a student literacy corps program or a student mentoring corps program under this subpart may be paid from any non-Federal sources.

(Pub. L. 89–329, title XI, §1142, as added Pub. L. 102–325, title XI, §1101, July 23, 1992, 106 Stat. 789; amended Pub. L. 103–208, §2(j)(47), Dec. 20, 1993, 107 Stat. 2485.)

PRIOR PROVISIONS

A prior section 1138a, Pub. L. 89–329, title XI, §1122, as added Pub. L. 99–498, title XI, §1101, Oct. 17, 1986, 100 Stat. 1571, authorized appropriations to carry out parts A and B of this subchapter, prior to the general revision of this subchapter by Pub. L. 102–325.

AMENDMENTS

1993—Subsec. (d)(2). Pub. L. 103–208 inserted ''program'' after ''literacy corps''.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1003 of this title.

§ 1138b. Uses of funds

(a) In general

Funds made available under this subpart may be used for—

(1) grants to institutions of higher education for—

(A) the costs of participation of institutions of higher education in the student literacy corps program or student mentoring corps program for which assistance is sought; and

(B) stipends for student coordinators engaged in the student literacy corps program or student mentoring corps program for which assistance is sought; and

(2) technical assistance, collection and dissemination of information, and evaluation in accordance with section 1138d of this title.

(b) Limitations

No grant under this subpart to an institution of higher education may exceed $100,000. No institution of higher education may expend more than $35,000 of a grant made under this subpart in the first year in which the institution receives such a grant.

(Pub. L. 89–329, title XI, § 1143, as added Pub. L. 102–325, title XI, § 1101, July 23, 1992, 106 Stat. 789.)

PRIOR PROVISIONS

A prior section 1138b, Pub. L. 89–329, title XI, § 1123, as added Pub. L. 99–498, title XI, § 1101, Oct. 17, 1986, 100 Stat. 1571, defined terms as used in this subchapter, prior to the general revision of this subchapter by Pub. L. 102–325.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1138c of this title.

§ 1138c. Applications

(a) Application required

Each institution of higher education desiring to receive a grant under this subpart shall submit an application to the Secretary, at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

(b) Contents of application

(1) Literacy corps

Each application to conduct a student literacy corps program under this subpart shall—

(A) contain assurances that the institution will use the grant in accordance with section 1138b of this title;

(B) contain adequate assurances that—

(i) the institution has established 1 or more courses of instruction for academic credit which are designed to combine the training of undergraduate students in various academic departments such as social sciences, economics, and education with experience as tutors;

(ii) such individuals will be required, as a condition of receiving credit in such course, to perform, for each credit, not less than 2 hours a week, of voluntary, uncompensated service during the academic term in a public community agency as a tutor in such agency's educational or literacy program;

(iii) such tutoring service will be supplementary to the existing instructional services, offered in a structured classroom setting, and furnished under the supervision of qualified personnel; and

(iv) the institution will locate such tutoring services in one or more public community agencies which serve educationally or economically disadvantaged individuals, and will give priority in providing tutoring services to—

(I) educationally disadvantaged students receiving services under title I of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6301 et seq.];

(II) students with disabilities; and

(III) illiterate parents of educationally or economically disadvantaged elementary school students, with special emphasis on single-parent households; and

(C) demonstrate that the institution of higher education has participated, prior to applying for a grant under this subpart, in community service activities, including the conduct of a cooperative education program; and

(D) contain such other assurances as the Secretary may reasonably require.

(2) Mentoring corps

Each application to conduct a student mentoring corps program under this subpart shall—

(A) contain assurances that the institution will use the grant in accordance with this section;

(B) contain adequate assurances that—

(i) the institution has established 1 or more courses of instruction for academic credit which are designed to combine the training of undergraduate students of various academic departments with experience as mentors;

(ii) such individuals will be required, as a condition of receiving credit in such course, to perform not less than 60 hours of voluntary, uncompensated service during the academic term as a mentor to economically disadvantaged children and youth;

(iii) such mentoring will be complimentary to the existing instructional services offered in a structured classroom setting, and will include structured and informal activities geared towards improving the academic, social and emotional development of children in the programs;

(iv) the institution will locate public community agencies or elementary or secondary schools which serve educationally or economically disadvantaged youth and will give priority in providing mentoring services to economically disadvantaged children and youth through community-based organizations or elementary or secondary schools;

(C) demonstrate that the institution of higher education has participated, prior to

applying for a grant under this subpart, in community service activities, including the conduct of a cooperative education program; and

(D) contain such other assurances as the Secretary may reasonably require.

(c) Waiver

(1) In general

The Secretary may, upon request of an institution of higher education which does not meet the requirements of subsection (b)(1)(C) or (b)(2)(C) of this section, grant a waiver of the requirement under such paragraph if the institution of higher education provides assurances that—

(A) the institution of higher education has conducted another significant program which involves community outreach and service; or

(B) its failure to engage in community service-related programs or activities prior to making application under this subpart will not impede the ability of the institution to engage in the outreach efforts necessary to carry out the requirements of this subpart.

(2) Special rule

An institution of higher education may apply for a waiver as part of the application described in subsection (b) of this section.

(d) Carryover of funds

Notwithstanding any other provision of law, in any fiscal year in which funds are appropriated under this subpart but not expended by the end of such fiscal year, at least 75 percent of such funds shall remain available in the succeeding fiscal year to carry out this subpart.

(Pub. L. 89–329, title XI, § 1144, as added Pub. L. 102–325, title XI, § 1101, July 23, 1992, 106 Stat. 789; amended Pub. L. 103–382, title III, § 391(e)(10), Oct. 20, 1994, 108 Stat. 4023.)

REFERENCES IN TEXT

The Elementary and Secondary Education Act of 1965, referred to in subsec. (b)(1)(B)(iv)(I), is Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, as amended generally by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519. Title I of the Act is classified generally to subchapter I (§ 6301 et seq.) of chapter 70 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

AMENDMENTS

1994—Subsec. (b)(1)(B)(iv)(I). Pub. L. 103–382 substituted ''title I of'' for ''chapter 1 of title I of''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1138a of this title.

§ 1138d. Technical assistance and coordination contract

To the extent that funds are available therefor pursuant to section 1139 of this title, the Secretary may, directly or by way of grant, contract, or other arrangement—

(1) provide technical assistance to grant recipients under this subpart;

(2) collect and disseminate information with respect to programs assisted under this subpart; and

(3) evaluate such programs and issue reports on the results of such evaluations.

(Pub. L. 89–329, title XI, § 1145, as added Pub. L. 102–325, title XI, § 1101, July 23, 1992, 106 Stat. 791.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1138b of this title.

§ 1138e. Definitions

For the purpose of this subpart—

(1) Institution of higher education

The term ''institution of higher education'', in the case of an institution of higher education with a branch campus, means, at the election of the institution—

(A) a branch campus of the institution; or

(B) the institution.

(2) Public community agency

The term ''public community agency'' means an established community agency with an established program of instruction such as elementary and secondary schools, Head Start centers, prisons, agencies serving youth, and agencies serving individuals with disabilities, including disabled veterans.

(Pub. L. 89–329, title XI, § 1146, as added Pub. L. 102–325, title XI, § 1101, July 23, 1992, 106 Stat. 791.)

SUBPART 3—AUTHORIZATION OF APPROPRIATIONS

§ 1139. Authorization of appropriations

There are authorized to be appropriated $15,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years of which, for any such fiscal year—

(1) not more than one-third shall be available to carry out subpart 1 of this part; and

(2) not less than two-thirds shall be available to carry out subpart 2 of this part.

(Pub. L. 89–329, title XI, § 1151, as added Pub. L. 102–325, title XI, § 1101, July 23, 1992, 106 Stat. 792.)

PRIOR PROVISIONS

Prior sections 1139 to 1139b were omitted in the general revision of this subchapter by Pub. L. 102–325.

Section 1139, Pub. L. 89–329, title XI, § 1131, as added Pub. L. 99–498, title XI, § 1101, Oct. 17, 1986, 100 Stat. 1572, stated purpose of this part to provide assistance to establish Robert F. Wagner, Sr., Institute of Urban Public Policy.

Section 1139a, Pub. L. 89–329, title XI, § 1132, as added Pub. L. 99–498, title XI, § 1101, Oct. 17, 1986, 100 Stat. 1572, related to application for and use of funds under this part.

Section 1139b, Pub. L. 89–329, title XI, § 1133, as added Pub. L. 99–498, title XI, § 1101, Oct. 17, 1986, 100 Stat. 1573, authorized appropriations to carry out this part.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1138a, 1138d of this title.

SUBCHAPTER XII—GENERAL PROVISIONS

§ 1141. Definitions

As used in this chapter—

(a) The term ''institution of higher education'' means an educational institution in any State which (1) admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate, (2) is legally authorized within such State to provide a program of education beyond secondary education, (3) provides an educational program for which it awards a bachelor's degree or provides not less than a two-year program which is acceptable for full credit toward such a degree, (4) is a public or other nonprofit institution, and (5) is accredited by a nationally recognized accrediting agency or association, or if not so accredited, is an institution that has been granted preaccreditation status by such an agency or association that has been recognized by the Secretary for the granting of preaccreditation status, and the Secretary has determined that there is satisfactory assurance that the institution will meet the accreditation standards of such an agency or association within a reasonable time. Such term also includes any school which provides not less than a one-year program of training to prepare students for gainful employment in a recognized occupation and which meets the provisions of clauses (1), (2), (4), and (5). Such term also includes a public or nonprofit private educational institution in any State which, in lieu of the requirement in clause (1), admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located. For purposes of this subsection, the Secretary shall publish a list of nationally recognized accrediting agencies or associations which he determines, pursuant to subpart 2 of part G of subchapter IV of this chapter, to be reliable authority as to the quality of the education or training offered.

(b) The term ''State'' includes, in addition to the several States of the Union, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands, the government of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(c) The term ''nonprofit'' as applied to a school, agency, organization, or institution means a school, agency, organization, or institution owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(d) The term ''secondary school'' has the same meaning given that term under section 2891(21)[1] of this title.

(e) The term ''Secretary'' means the Secretary of Education.

(f) The term ''local educational agency'' has the same meaning given that term under section 2891(12)[1] of this title.

(g) The term ''State educational agency'' has the same meaning given that term under section 2891(23)[1] of this title.

(h) The term ''State higher education agency'' means the officer or agency primarily responsible for the State supervision of higher education.

(i) The term ''elementary school'' has the same meaning given that term under section 2891(8)[1] of this title.

(j) The term ''combination of institutions of higher education'' means a group of institutions of higher education that have entered into a cooperative arrangement for the purpose of carrying out a common objective, or a public or private nonprofit agency, organization, or institution designated or created by a group of institutions of higher education for the purpose of carrying out a common objective on their behalf.

(k) The term ''gifted and talented children'' has the same meaning given that term under section 3063(1)[1] of this title.

(*l*) The term ''school or department of divinity'' means an institution or a department or a branch of an institution the program of instruction of which is designed for the education of students (A) to prepare them to become ministers of religion or to enter upon some other religious vocation (or to provide continuing training for any such vocation), or (B) to prepare them to teach theological subjects.

(m) The term ''Department'' means the Department of Education.

(n) The term ''disability'' has the same meaning given that term under section 12102(2) of title 42.

(*o*) The term ''special education teacher'' means teachers who teach children with disabilities as defined in the Individuals With Disabilities Education Act [20 U.S.C. 1400 et seq.].

(p) The term ''service-learning'' has the same meaning given that term under section 12511(23) of title 42.

(Pub. L. 89–329, title XII, § 1201, formerly title VIII, § 801, Nov. 8, 1965, 79 Stat. 1269; renumbered title XII, § 1201, and amended Pub. L. 90–575, title II, §§ 251, 293, 294, Oct. 16, 1968, 82 Stat. 1042, 1050, 1051; Pub. L. 91–230, title VIII, § 806(b), Apr. 13, 1970, 84 Stat. 192; Pub. L. 92–318, title I, § 131(d)(1), June 23, 1972, 86 Stat. 260; Pub. L. 94–482, title I, § 181(a), formerly § 181, Oct. 12, 1976, 90 Stat. 2167, renumbered Pub. L. 95–43, § 1(b)(7), June 15, 1977, 91 Stat. 218; Pub. L. 95–180, § 1(a), Nov. 15, 1977, 91 Stat. 1372; Pub. L. 96–374, title XIII, § 1391(a)(1), (b), Oct. 3, 1980, 94 Stat. 1503; Pub. L. 100–50, § 21(a), June 3, 1987, 101 Stat. 360; Pub. L. 102–26, § 2(a)(4), Apr. 9, 1991, 105 Stat. 123; Pub. L. 102–325, title XII, § 1201, July 23, 1992, 106 Stat. 792; Pub. L. 102–394, title III, § 308(a), Oct. 6, 1992, 106 Stat. 1820; Pub. L. 103–82, title I, § 111(b)(5), Sept. 21, 1993, 107 Stat. 861; Pub. L. 103–208, § 2(j)(48), Dec. 20, 1993, 107 Stat. 2485.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this Act'', meaning Pub. L. 89–329. For complete classification of this Act to this Code, see Short Title note set out under section 1001 of this title and Tables.

Sections 2891 and 3063 of this title, referred to in subsecs. (d), (f), (g), (i), and (k), were in the original references to sections 1471 and 4103, respectively, of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, and were omitted in the general amendment of that Act by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519. For definitions, see section 8801 of this title.

The Individuals With Disabilities Education Act, referred to in subsec. (*o*), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, as amended, which is classified

[1] See References in Text note below.

generally to chapter 33 (§ 1400 et seq.) of this title. For complete classification of this Act to the Code, see section 1400 of this title and Tables.

AMENDMENTS

1993—Subsec. (a). Pub. L. 103–208 substituted ''subpart 2 of part G of subchapter IV of this chapter,'' for ''subpart 3 of part G,''.

Subsec. (p). Pub. L. 103–82 substituted ''section 12511(23) of title 42'' for ''section 12511(22) of title 42''.

1992—Subsec. (a). Pub. L. 102–394 substituted '', or if not so accredited, is an institution that has been granted preaccreditation status by such an agency or association that has been recognized by the Secretary for the granting of preaccreditation status, and the Secretary has determined that there is satisfactory assurance that the institution will meet the accreditation standards of such an agency or association within a reasonable time.'' for period at end of cl. (5) of first sentence.

Pub. L. 102–325, § 1201(1)(A), which directed the amendment of first sentence by striking '', or if not so accredited'' through ''institution so accredited'', was executed by striking out ''or, if not so accredited, (A) is an institution with respect to which the Secretary has determined that there is satisfactory assurance, considering the resources available to the institution, the period of time, if any, during which it has operated, the effort it is making to meet accreditation standards, and the purpose for which this determination is being made, that the institution will meet the accreditation standards of such an agency or association within a reasonable time, or (B) is an institution whose credits are accepted, on transfer, by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited'' after ''accrediting agency or association'' in cl. (5) of first sentence, to reflect the probable intent of Congress.

Pub. L. 102–325, § 1201(1)(B), in last sentence, inserted '', pursuant to subpart 3 of part G,'' after ''determines'' and ''the education or'' after ''quality of''.

Subsecs. (d) to (k). Pub. L. 102–325, § 1201(2), added subsecs. (d) to (k) and struck out former subsecs. (d) and (e) which defined ''secondary school'' and ''Secretary'', respectively, and former subsecs. (g) to (k), which defined ''local educational agency'', ''State educational agency'', ''elementary school'', ''combination of institutions of higher education'', and ''gifted and talented children'', respectively.

Subsecs. (n) to (p). Pub. L. 102–325, § 1201(3), added subsecs. (n) to (p).

1991—Subsec. (a). Pub. L. 102–26, which directed the striking out of ''and who meets the requirements of section 1091(d) of this title'' before period at end of third sentence was executed by striking out ''and who meet the requirements of section 1091(d) of this title'', to reflect the probable intent of Congress.

1987—Subsec. (a). Pub. L. 100–50 substituted ''meet the requirements of section 1091(d) of this title'' for ''have the ability to benefit from the training offered by the institution''.

1980—Subsec. (a). Pub. L. 96–374, § 1391(a)(1), substituted ''Secretary'' for ''Commissioner'' wherever appearing.

Subsec. (e). Pub. L. 96–374, § 1391(b)(1), substituted ''Secretary of Education'' for ''Secretary of Health, Education, and Welfare''.

Subsec. (f). Pub. L. 96–374, § 1391(b)(2), struck out subsec. (f) which defined ''Commissioner'' as meaning the Commissioner of Education.

Subsec. (k). Pub. L. 96–374, § 1391(a)(1), substituted ''Secretary'' for ''Commissioner''.

Subsec. (m). Pub. L. 96–374, § 1391(b)(3), added subsec. (m).

1977—Subsec. (b). Pub. L. 95–180 added the government of the Northern Mariana Islands and the Trust Territory of the Pacific Islands to the enumeration of areas included within the term ''State''.

1976—Subsec. (a). Pub. L. 94–482 inserted sentence which included public or nonprofit private educational institutions which admit as regular students persons beyond the age of compulsory school attendance within definition of ''institution of higher learning''.

1972—Subsec. (*l*). Pub. L. 92–318 added subsec. (*l*).

1970—Subsec. (k). Pub. L. 91–230 added subsec. (k).

1968—Subsec. (a). Pub. L. 90–575, § 293, designated existing provisions of cl. (5) as subcl. (B) thereof and added subcl. (A) and, in provisions following the enumerated five clauses, substituted reference to schools which provide not less than a one-year program of training to prepare students for gainful employment in a recognized occupation for reference to business schools and technical institutions.

Subsec. (j). Pub. L. 90–575, § 294 added subsec. (j) defining ''combination of institutions of higher education''.

EFFECTIVE DATE OF 1993 AMENDMENTS

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1003 of this title.

Amendment by Pub. L. 103–82 effective Oct. 1, 1993, see section 123 of Pub. L. 103–82, set out as a note under section 1701 of Title 16, Conservation.

EFFECTIVE DATE OF 1992 AMENDMENTS

Section 308(b) of Pub. L. 102–394 provided that: ''The amendment made by this section [amending this section] shall be effective on October 1, 1992.''

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102–26 applicable to any grant, loan, or work assistance to cover the cost of instruction for periods of enrollment beginning on or after July 1, 1991, see section 2(d)(1) of Pub. L. 102–26, set out as a note under section 1085 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–374 effective Oct. 1, 1980, see section 1393(a) of Pub. L. 96–374, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–482 effective 30 days after Oct. 12, 1976, except either as specifically otherwise provided or, if not so specifically otherwise provided, effective July 1, 1976, for those amendments providing for authorization of appropriations, see section 532 of Pub. L. 94–482, set out as a note under section 1001 of this title.

RETROACTIVE EFFECT OF 1977 AMENDMENT

Section 1(d) of Pub. L. 95–180 provided that: ''Nothing in this Act [amending this section and sections 1088, 1122, 1135, and 1135a–1 of this title], the Higher Education Act of 1965 [20 U.S.C. 1001 et seq.], or any other provision of law shall invalidate any payments or other benefits provided under the Higher Education Act of 1965 to an agency or institution in the Trust Territory of the Pacific Islands or to the government of the Northern Mariana Islands prior to the enactment of this Act [Nov. 15, 1977].''

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

ACCREDITATION THROUGH TRANSFER OF CREDIT

Section 2(n) of Pub. L. 103–208 provided that:

''(1) An institution of higher education which satisfied the requirements of section 1201(a)(5)(B) of the Act [20 U.S.C. 1141(a)(5)(B)] prior to the enactment of the Higher Education Amendments of 1992 [July 23, 1992], shall be considered to meet the requirements of section 1201(a)(5) of the Act if—

''(A) within 60 days after the date of enactment of the Higher Education Technical Amendments of 1993 [Dec. 20, 1993], such institution has applied for accreditation by a nationally recognized accrediting agency or association which the Secretary determines, pursuant to subpart 2 of part H of title IV of the Act [20 U.S.C. 1099b], to be a reliable authority as to the quality of education or training offered;

''(B) within 2 years of the date of enactment of the Higher Education Technical Amendments of 1993 [Dec. 20, 1993], such institution is accredited by such an accrediting agency or association or, if not so accredited, has been granted preaccreditation status by such an agency or association that has been recognized by the Secretary for the granting of preaccreditation status, and the Secretary has determined that there is satisfactory assurance that the institution will meet the accreditation standards of such an agency or association within a reasonable time; and

''(C) such institution is legally authorized within a State to provide education beyond secondary education.

''(2) The Secretary shall determine whether to recertify any institution that meets the requirements of paragraph (1) within 2 years after the date of enactment of this Act [Dec. 20, 1993].

''(3) Paragraph (1) of this subsection shall be effective on and after July 23, 1992.''

AUTHORITY FOR LIMITATION, SUSPENSION, OR TERMINATION OF ELIGIBILITY OF INSTITUTION OF HIGHER EDUCATION

Section 181(b) of Pub. L. 94–482, as added by Pub. L. 95–43, § 1(b)(7), provided that: ''Neither the amendment made by subsection (a) of this section [amending subsec. (a) of this section] nor the amendment made to section 435(b)(1) of the Act [section 1085(b)(1) of this title] (by section 127(a) of this Act) shall be construed to authorize terminating the eligibility of an institution which was deemed to be an institution of higher education for purposes of sections 435(b)(1) and 1201(a) [section 1085(b)(1) of this title and subsec. (a) of this section] on the date of enactment of this Act [Oct. 12, 1976]. The preceding sentence of this section shall not be construed to impair the authority of the Commissioner [now Secretary of Education] to limit, suspend, or terminate such eligibility for the reasons and as provided by section 497 of the Act [section 1088f of this title].''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1088, 1099c, 1115, 1132, 1135f, 1228c, 1401, 2002, 2394e, 3902, 4206, 4514, 4702, 5602, 6322, 7601, 8801, 9001 of this title; title 7 sections 2279c, 3152; title 10 sections 2193, 2199; title 16 section 698u–5; title 18 section 207; title 22 sections 2460, 4502, 4703; title 25 sections 13, 1801, 1813, 3371; title 26 section 135; title 29 sections 631, 706, 721, 1503, 1551, 2202; title 30 section 1291; title 33 section 1262; title 39 section 3626; title 42 sections 604, 1862i, 3002, 3791, 7274e, 9844, 9877, 9910c, 11851, 12511, 12626, 12899f, 13791, 14092, 14111; title 47 section 223; title 50 section 1908.

§ 1142. Antidiscrimination requirements for institutions of higher education receiving Federal assistance; exception

(a) In general

Institutions of higher education receiving Federal financial assistance may not use such financial assistance whether directly or indirectly to undertake any study or project or fulfill the terms of any contract containing an express or implied provision that any person or persons of a particular race, religion, sex, or national origin be barred from performing such study, project, or contract, except no institution shall be barred from conducting objective studies or projects concerning the nature, effects, or prevention of discrimination, or have its curriculum restricted on the subject of discrimination, against any such person.

(b) Limitations on statutory construction

Nothing in this chapter shall be construed to limit the rights or responsibilities of any individual under the Americans With Disabilities Act of 1990 [42 U.S.C. 12101 et seq.], the Rehabilitation Act of 1973 [29 U.S.C. 701 et seq.], or any other law.

(Pub. L. 89–329, title XII, § 1202, formerly § 1207, as added Pub. L. 94–482, title I, § 182, Oct. 12, 1976, 90 Stat. 2167; renumbered § 1202, Pub. L. 96–374, title XII, § 1201, Oct. 3, 1980, 94 Stat. 1493; amended Pub. L. 102–325, title XII, § 1202, July 23, 1992, 106 Stat. 793.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (b), was in the original ''this Act'', meaning Pub. L. 89–329, as amended, known as the Higher Education Act of 1965. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

The Americans With Disabilities Act of 1990, referred to in subsec. (b), is Pub. L. 101–336, July 26, 1990, 104 Stat. 327, as amended, which is classified principally to chapter 126 (§ 12101 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of Title 42 and Tables.

The Rehabilitation Act of 1973, referred to in subsec. (b), is Pub. L. 93–112, Sept. 26, 1973, 87 Stat. 355, as amended, which is classified generally to chapter 16 (§ 701 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 701 of Title 29 and Tables.

CODIFICATION

Section was formerly classified to section 1145b of this title.

PRIOR PROVISIONS

A prior section 1142, Pub. L. 89–329, title XII, § 1202, formerly title VIII, § 802, Nov. 8, 1965, 79 Stat. 1270; renumbered title XII, § 1202, Pub. L. 90–575, title II, § 251, Oct. 16, 1968, 82 Stat. 1042, related to method of payment pursuant to grants, loans, or contracts under this chapter, prior to repeal by section 1201 of Pub. L. 96–374.

Another prior section 1202 of Pub. L. 89–329, as added Pub. L. 92–318, title I, § 196, June 23, 1972, 86 Stat. 324, related to State postsecondary education and was classified to section 1142a of this title, prior to repeal by section 1201 of Pub. L. 96–374.

AMENDMENTS

1992—Pub. L. 102–325 designated existing provisions as subsec. (a) and added subsec. (b).

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

EFFECTIVE DATE

Section effective 30 days after Oct. 12, 1976, except either as specifically otherwise provided or, if not so spe-

cifically otherwise provided, effective July 1, 1976, where section provides for authorization of appropriations, see section 532 of Pub. L. 94–482, set out as an Effective Date of 1976 Amendment note under section 1001 of this title.

§§ 1142a, 1142b. Repealed. Pub. L. 96–374, title XII, § 1201, Oct. 3, 1980, 94 Stat. 1493

Section 1142a, Pub. L. 89–329, title XII, § 1202, as added Pub. L. 92–318, title I, § 196, June 23, 1972, 86 Stat. 324, related to designation of a State postsecondary education commission. Another prior section 1202 of Pub. L. 89–329 related to method of payment and was classified to section 1142 of this title, prior to repeal by section 1201 of Pub. L. 96–374.

Section 1142b, Pub. L. 89–329, title XII, § 1203, as added Pub. L. 92–318, title I, § 196, June 23, 1972, 86 Stat. 325; amended Pub. L. 94–482, title I, § 179, Oct. 12, 1976, 90 Stat. 2166; Pub. L. 96–49, § 12, Aug. 13, 1979, 93 Stat. 354, related to comprehensive statewide planning.

Another prior section 1203 of Pub. L. 89–329, related to delegation of Commissioner's functions and utilization of services and facilities of Federal agencies and was classified to section 1143 of this title, prior to repeal by Pub. L. 91–230, title IV, § 401(c)(5), Apr. 13, 1970, 84 Stat. 173.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1980, see section 1393(a) of Pub. L. 96–374, set out as an Effective Date of 1980 Amendment note under section 1001 of this title.

§ 1143. Federal-State relationships; State agreements

(a) Agreements required between States and Secretary

Any State which desires to receive assistance under an applicable program, as described in subsection (f) of this section, shall enter into an agreement with the Secretary pursuant to subsection (b) of this section setting forth the terms and conditions for the relationship between the Federal Government and that State for the purposes set forth in the applicable programs.

(b) Terms and conditions of agreements

Such agreement shall consist of assurances by the State, including a description of the means to be used by the State to fulfill the assurances, that—

(1) the State will provide for such methods of administration as are necessary for the proper and efficient administration of any program in keeping with the purposes of the applicable programs described in subsection (f) of this section;

(2) the State will provide such fiscal control and fund accounting procedures as may be necessary to ensure proper disbursement of, and accounting for, Federal funds paid to the State under any subchapter of this chapter or part C of subchapter I of chapter 34 of title 42;

(3) the State will follow policies and practices of administration that will ensure that non-Federal funds will not be supplanted by Federal funds, and that equitable and appropriate criteria will be used in evaluation of applications or proposals for grants or contracts under any such applicable program; and

(4) the State has a comprehensive planning or policy formulation process which—

(A) considers the relation between State administration of any such applicable program, and administration of similar State programs or processes;

(B) encourages State policies designed to consider effects on declining enrollments on all sectors of postsecondary education in the State;

(C) considers the postsecondary education needs of unserved and underserved individuals within the State, including individuals beyond the traditional college age;

(D) considers the resources of institutions, organizations, or agencies (both public and private) within the State capable of providing postsecondary educational opportunities in the State; and

(E) provides for direct, equitable and active participation in the comprehensive planning or policy formulation process or processes of representatives of institutions of higher education (including community colleges, proprietary institutions, and independent colleges and universities), students, other providers of postsecondary education services, and the general public in the State.

Participation under subclause (E) shall, consistent with State law, be achieved through membership on State planning commissions, State advisory councils, or other State entities established by the State to conduct federally assisted comprehensive planning or policy formulation.

(c) Adequacy of information and assurances

The information and assurances provided by a State in accordance with paragraphs (1), (2), and (3) of subsection (b) of this section, and regulations issued by the Secretary related directly to such assurances, shall be satisfactory for the purposes of, and shall be considered in lieu of, any comparable requirements for information and assurances in any applicable program described in subsection (f) of this section.

(d) Modification of agreements; failure to comply

(1) An agreement of a State shall remain in effect subject to modification as changes in information or circumstances require.

(2) Whenever the Secretary, after reasonable notice and opportunity for a hearing has been given to the State, finds that there is a failure to comply substantially with the assurances required in paragraph (1), (2), or (3) of subsection (b) of this section, the Secretary shall notify the State that it is no longer eligible to participate in any applicable program described in subsection (f) of this section until the Secretary is satisfied that there is no longer any such failure to comply.

(e) Entities authorized to act on behalf of States

(1) For the purpose of this section, the selection of the State entity or entities authorized to act on behalf of the State for the purpose of entering into an agreement with the Secretary shall be in accordance with the State law of each individual State with respect to the authority to make legal agreements between the State and the Federal Government.

(2)(A) Nothing in this section shall be construed to authorize the Secretary to require any State to adopt, as a condition for entering into an agreement, or for participation in an applicable program as defined in subsection (f) of this

section, a specific State organizational structure for achieving participation in the planning, or administration of programs, or for statewide planning, coordination, governing, regulating, or administering of postsecondary education agencies, institutions, or programs in the State.

(B) Nothing in this section shall be construed as a limitation on the authority of any State to adopt a State organizational structure for postsecondary education agencies, institutions, or programs which is appropriate to the needs, traditions, and circumstances of that State, or as a limitation on the authority of a State entering into an agreement pursuant to this section to modify the State organizational structure at any time subsequent to entering into such an agreement.

(f) "Applicable program" defined

For the purposes of this section an ''applicable program'' is defined as—

(1) subchapter I of this chapter;

(2) subpart 3[1] of part A of subchapter IV of this chapter; and

(3) part A of subchapter VII of this chapter.

(Pub. L. 89–329, title XII, § 1203, as added Pub. L. 96–374, title XII, § 1201, Oct. 3, 1980, 94 Stat. 1493.)

REFERENCES IN TEXT

Subpart 3 of part A of subchapter IV of this chapter, referred to in subsec. (f)(2), was redesignated subpart 4 and subpart 2 of such part was redesignated subpart 3 by Pub. L. 102–325, title IV, § 402(a)(2), July 23, 1992, 106 Stat. 482.

PRIOR PROVISIONS

A prior section 1143, Pub. L. 89–329, title XII, § 1203, formerly title VIII, § 803, Nov. 8, 1965, 79 Stat. 1270; renumbered title XII, § 1203, Pub. L. 90–575, title II, § 251, Oct. 16, 1968, 82 Stat. 1042, provided for delegation of functions by Commissioner of Education and utilization of services and facilities of other agencies, prior to repeal by Pub. L. 91–230, title IV, § 401(c)(5), Apr. 13, 1970, 84 Stat. 173. See section 1231 of this title.

A prior section 1203 of Pub. L. 89–329, as added Pub. L. 92–318, title I, § 196, June 23, 1972, 86 Stat. 325; amended Pub. L. 94–482, title I, § 179, Oct. 12, 1976, 90 Stat. 2166; Pub. L. 96–49, § 12, Aug. 13, 1979, 93 Stat. 354, related to comprehensive statewide planning and was classified to section 1142b of this title, prior to repeal by section 1201 of Pub. L. 96–374.

EFFECTIVE DATE

Section effective Oct. 1, 1980, see section 1393(a) of Pub. L. 96–374, set out as an Effective Date of 1980 Amendment note under section 1001 of this title.

§ 1144. Federal control over education prohibited

(a) Repealed. Pub. L. 91–230, title IV, § 401(f)(6), Apr. 13, 1970, 84 Stat. 173.

(b) Nothing contained in this chapter or any other Act shall be construed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over the membership practices or internal operations of any fraternal organization, fraternity, sorority, private club or religious organization at an institution of higher education (other than a service academy or the Coast Guard Academy) which is financed exclusively by funds derived from private sources and whose facilities are not owned by such institution.

(Pub. L. 89–329, title XII, § 1204, formerly title VIII, § 804, Nov. 8, 1965, 79 Stat. 1270; renumbered title XII, § 1204, Pub. L. 90–575, title II, § 251, Oct. 16, 1968, 82 Stat. 1042; amended Pub. L. 91–230, title IV, § 401(f)(6), Apr. 13, 1970, 84 Stat. 173.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this Act'', meaning Pub. L. 89–329. For complete classification of this Act to this Code, see Short Title note set out under section 1001 of this title and Tables.

CODIFICATION

Another section 1204 of Pub. L. 89–329, as added by Pub. L. 96–374, title XII, § 1201, Oct. 3, 1980, 94 Stat. 1495, relating to treatment of territories and territorial student assistance, is classified to section 1144a of this title.

AMENDMENTS

1970—Subsec. (a). Pub. L. 91–230 repealed prohibition against Federal control of education (curriculum, program of instruction, administration, personnel, or selection of library resources). See section 1232a of this title.

§ 1144a. Treatment of territories and territorial student assistance

(a) The Secretary is required to waive the eligibility criteria of any postsecondary education program administered by the Department where such criteria do not take into account the unique circumstances in Guam, the Virgin Islands, American Samoa, Palau, the Commonwealth of the Northern Mariana Islands, and the freely associated states.

(b) Notwithstanding any other provision of law, an institution of higher education that is located in any of the freely associated states, rather than a State, shall be eligible, if otherwise qualified, for assistance under division 1 of subpart 2 of part A of subchapter IV of this chapter.

(Pub. L. 89–329, title XII, § 1204, as added Pub. L. 96–374, title XII, § 1201, Oct. 3, 1980, 94 Stat. 1495; amended Pub. L. 99–498, title XII, § 1201, Oct. 17, 1986, 100 Stat. 1573; Pub. L. 102–73, title VIII, § 801(c), July 25, 1991, 105 Stat. 360; Pub. L. 103–208, § 2(j)(49), Dec. 20, 1993, 107 Stat. 2485.)

CODIFICATION

Another section 1204 of Pub. L. 89–329 prohibiting Federal control over education is classified to section 1144 of this title.

PRIOR PROVISIONS

A prior section 1144a, Pub. L. 92–318, title V, § 510, June 23, 1972, 86 Stat. 353, set forth sense of Congress that governing boards of institutions of higher education give consideration to student participation on such boards, prior to the general revision of this section by Pub. L. 96–374.

AMENDMENTS

1993—Pub. L. 103–208, which directed the general amendment of section 1204 of Pub. L. 89–329, was executed by amending this section, which is section 1204 as added by Pub. L. 96–374, to reflect the probable intent of Congress, because this section relates to territories and territorial student assistance, and prior to amendment, section related to such territorial student assist-

[1] See References in Text note below.

ance containing provisions relating to waiver of eligibility criteria in subsec. (a), promulgation of regulations and adaptation or modification of programs to needs of territories in subsec. (b), authorization of appropriations in subsec. (c), and institutions in freely associated states in subsec. (d).

1991—Subsec. (d). Pub. L. 102–73, which directed the addition of subsec. (d) to ''Section 1204 of the Act (20 U.S.C. 1144a)'', was executed to this section which is section 1204 of the Higher Education Act of 1965, to reflect the probable intent of Congress.

1986—Subsec. (a). Pub. L. 99–498, § 1201(3), added subsec. (a). Former subsec. (a) was redesignated (b).

Subsec. (b). Pub. L. 99–498, § 1204(1), (3), redesignated former subsec. (a) as (b) and substituted ''Within 6 months after October 17, 1986, the Secretary shall promulgate regulations in accordance with the recommendations in the report entitled ''Postsecondary Education in the U.S. Territories (May 1982) in order to adapt programs under this chapter to the needs of'' for ''The Secretary is authorized to provide such modifications of any programs under this chapter as the Secretary deems necessary in order to adapt such programs to the needs of''. Former subsec. (b), which directed the Secretary, in conjunction with the development of program modifications, to conduct, within eighteen months after October 3, 1980, an analysis of the unique educational needs of Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands, and report to the Congress on the results of such analysis, was struck out.

Subsec. (c). Pub. L. 99–498, § 1201(2), substituted ''October 1, 1991'' for ''October 1, 1985''.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1003 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1980, see section 1393(a) of Pub. L. 96–374, set out as an Effective Date of 1980 Amendment note under section 1001 of this title.

§ 1145. National Advisory Committee on Institutional Quality and Integrity

(a) Establishment

There is established in the Department a National Advisory Committee on Institutional Quality and Integrity (hereafter in this section referred to as the ''Committee''), which shall be composed of 15 members appointed by the Secretary from among individuals who are representatives of, or knowledgeable concerning, education and training beyond secondary education, including representatives of all sectors and types of institutions of higher education (as defined in section 1088(a) of this title), to assess the process of eligibility and certification of such institutions under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42 and the provision of financial aid under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42. The Secretary may also appoint to the Committee representatives of the general public serving on the National Advisory Committee on Accreditation and Institutional Eligibility (as such Committee was in existence on July 23, 1992).

(b) Terms of members

Terms of office of each member of the Committee shall be 3 years, except that—

(1) of the members first appointed to the Committee the Secretary shall designate—

(A) 5 such members to serve for a term of 1 year;

(B) 5 such members to serve for a term of 2 years; and

(C) 5 such members to serve for a term of 3 years; and

(2) any member appointed to fill in a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall be appointed for the remainder of such term.

(c) Functions

The Committee shall—

(1) advise the Secretary with respect to establishment and enforcement of the standards of accrediting agencies or associations under subpart 2 of part G of subchapter IV of this chapter;

(2) advise the Secretary with respect to the recognition of a specific accrediting agency or association;

(3) advise the Secretary with respect to the preparation and publication of the list of nationally recognized accrediting agencies and associations;

(4) develop and recommend to the Secretary standards and criteria for specific categories of vocational training institutions and institutions of higher education for which there are no recognized accrediting agencies, associations, or State agencies, in order to establish the eligibility of such institutions on an interim basis for participation in federally funded programs;

(5) advise the Secretary with respect to the eligibility and certification process for institutions of higher education under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42, together with recommendations for improvements in such process;

(6) advise the Secretary with respect to the functions of the Secretary under subpart 1 of part G of subchapter IV of this chapter, relating to State institutional integrity standards;

(7) advise the Secretary with respect to the relationship between—

(A) accreditation of institutions of higher education and the certification and eligibility of such institutions; and

(B) State licensing responsibilities with respect to such institutions; and

(8) carry out such other advisory functions relating to accreditation and institutional eligibility as the Secretary may prescribe.

(d) Meeting procedures

The Committee shall meet not less than twice each year at the call of the Chairperson. The date of, and agenda for, each meeting of the Committee shall be submitted in advance to the Secretary for approval. A representative of the Secretary shall be present at all meetings of the Committee.

(e) Report

The Committee shall, not later than November 30 of each year, make an annual report through the Secretary to the Congress. The annual report shall contain—

(1) a list of the members of the Committee and their addresses;

(2) a list of the functions of the Committee;

(3) a list of dates and places of each meeting during the preceding fiscal year; and

(4) a summary of the activities, findings and recommendations made by the Committee during the preceding fiscal year.

(f) Termination

Subject to section 1233g(b)[1] of this title, the National Advisory Committee on Institutional Quality and Integrity shall continue to exist until September 30, 1998.

(Pub. L. 89–329, title XII, § 1205, as added Pub. L. 96–374, title XII, § 1201, Oct. 3, 1980, 94 Stat. 1495; amended Pub. L. 99–498, title XII, § 1202, Oct. 17, 1986, 100 Stat. 1573; Pub. L. 102–325, title XII, § 1203, July 23, 1992, 106 Stat. 793; Pub. L. 103–208, § 2(j)(50)–(53), Dec. 20, 1993, 107 Stat. 2485.)

REFERENCES IN TEXT

Section 1233g of this title, referred to in subsec. (f), was repealed by Pub. L. 103–382, title II, § 212(a)(2), Oct. 20, 1994, 108 Stat. 3913.

PRIOR PROVISIONS

A prior section 1145, Pub. L. 89–329, title XII, § 1205, as added Pub. L. 90–575, title II, § 291(a), Oct. 16, 1968, 82 Stat. 1049; amended Pub. L. 91–230, title IV, § 401(h)(4), Apr. 13, 1970, 84 Stat. 174, established an Advisory Council on Graduate Education in the Office of Education, prior to repeal by section 1201 of Pub. L. 96–374.

AMENDMENTS

1993—Pub. L. 103–208, § 2(j)(50), substituted ''National Advisory Committee'' for ''Committee'' in section catchline.

Subsec. (a). Pub. L. 103–208, § 2(j)(51), inserted ''National Advisory'' before first reference to ''Committee''.

Subsec. (c)(1), (6). Pub. L. 103–208, § 2(j)(52), substituted ''part G of subchapter IV of this chapter'' for ''part G''.

Subsec. (f). Pub. L. 103–208, § 2(j)(53), substituted ''Institutional Quality and Integrity'' for ''Accreditation and Institutional Eligibility''.

1992—Pub. L. 102–325 amended section generally, substituting provisions establishing Committee on Institutional Quality and Integrity for provisions establishing National Advisory Committee on Accreditation and Institutional Eligibility.

1986—Subsec. (f). Pub. L. 99–498 substituted ''September 30, 1991'' for ''September 30, 1985''.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1003 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1980, see section 1393(a) of Pub. L. 96–374, set out as an Effective Date of 1980 Amendment note under section 1001 of this title.

TERMINATION OF ADVISORY COMMITTEES

Advisory committees established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by Congress, its duration is otherwise provided by law. See section 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

[1] See References in Text note below.

§ 1145a. Commission to study postsecondary institutional and programmatic recognition process

(a) Establishment

There is established in the legislative branch a Joint Study Commission on Postsecondary Institutional Recognition (hereafter in this section referred to as the ''Commission'').

(b) Membership and composition

The Commission shall be composed of 5 members appointed jointly by the President pro tempore of the Senate, upon the recommendation of the Majority Leader and the Minority Leader, and by the Speaker of the House of Representatives, upon the recommendation of the Majority Leader and the Minority Leader.

(c) Appointment of members; conditions; effect of vacancies; compensation and travel expenses of members

(1) Members of the Commission shall be appointed, on the basis of their integrity, impartiality, and good judgment, from among individuals who, as a result of their training, experience, and attainment, are widely recognized by professionals in the fields of education and governmental administration as experts in those fields.

(2) A majority of the members of the Commission may not, at the time of their appointment, be serving as either employees or officers of any accrediting agency or an organization of accrediting agencies, currently serving as administrators of accredited institutions, or be current or past members of the Advisory Committee on Accreditation and Institutional Eligibility of the Department.

(3) Vacancies in the membership of the Commission shall not affect the power of the remaining members to perform the duties of the Commission and shall be filled in the same manner in which the original appointment was made.

(4) Each member of the Commission not otherwise employed by the United States Government shall receive the daily equivalent of the annual basic pay for level V of the Executive Schedule under section 5316 of title 5 for each day during which such member is actually engaged in the performance of the duties of the Commission. Each member of the Commission shall be allowed travel expenses in the same manner as any individual employed intermittently by the Federal Government is allowed travel expenses under section 5703 of title 5.

(d) Study of institutional and programmatic recognition process for eligibility determinations

(1) The Commission shall conduct a thorough study of the institutional and programmatic recognition process used by the Department in

determining institutional or programmatic eligibility for student participation in Federal student assistance programs under this chapter with attention being given to the accreditation of various types of public and private postsecondary institutions and programs.

(2) The study shall address, analyze, and report specifically on—

(A) the comprehensiveness of the standards and criteria used by existing accreditation agencies;

(B) the reliability and validity of the institutional and programmatic review processes used by the existing accreditation agencies;

(C) the adequacy of the current accreditation methodology and system;

(D) alternative structures, standards, criteria, and processes that might be used in accrediting institutions and programs;

(E) the indicators of educational quality that might be incorporated into the accreditation process;

(F) the educational outcome measurements that might be used in the accreditation process;

(G) the indicators of institutional and programmatic quality that should be provided to applicants and students; and

(H) alternative approaches that might be used by the Secretary for institutional and programmatic recognition to permit student participation in Federal student assistance programs,

as each factor bears on eligibility for participation in Federal student assistance programs.

(3) The study shall also include an analysis of—

(A) the processes and procedures currently utilized by the Secretary and the Department in determining institutional and program eligibility for receiving Federal student assistance funds;

(B) the operations and effectiveness in carrying out eligibility determination of the division of the Department referred to as the ''Division of Eligibility and Agency Evaluation'';

(C) review of alternatives to accreditation in determining eligibility and their acceptability;

(D) the role and effectiveness of, participation agreements, between institutions and programs and the Department in determining specific institutional program eligibility for Federal funds;

(E) the ability of the Department to enforce conditions specified in participation agreements, including institutional and program audits;

(F) the current status, functioning, and effectiveness of the National Advisory Committee on Accreditation and Institutional Eligibility, including its role in developing criteria for recognition of accrediting agencies and evaluating their success in assessing the quality of the education or training offered.

(e) Submission of information by interested parties

The Commission shall adopt procedures allowing any interested party to submit information with respect to the recognition process, including critiques of current accrediting agency recognition procedures, accreditation procedures, possible alternative procedures, and proposed changes in criteria for recognition of individual accrediting agencies.

(f) Narrative and statistical reports

The Commission shall prepare a narrative and statistical report consisting of—

(1) an overview description of the voluntary accrediting process used for postsecondary education in the United States; and

(2) a brief description of each accrediting agency recognized by the Department.

The report shall include at least a statement of the agency's purpose and a description of the organizational and governance structure of the agency, the agency's accreditation and visitation procedures, employers of members of the accrediting agency's governing body, the agency's sources of financial support, and such background information as the Commission may request from the agency regarding the number of members, number of candidates for accreditation, number of members voluntarily withdrawn after membership, number of applications withdrawn before membership, number of members dropped, and number of applicants denied accreditation. The report shall include the types of information shared among the various accrediting agencies, the degree of duplication among accrediting agencies in the current system, and an analysis of reported complaints by the agency and its member institutions and programs.

(g) Additional reports

The Commission shall also prepare a report on—

(1) the history, operation, procedures, and the role and adequacy of staff of the division described in subsection (e)(3)(B) of this section;

(2) the history and current operations of the National Advisory Committee on Accreditation and Institutional Eligibility, including current criteria for Federal recognition of accrediting bodies, how the criteria were developed, possible modifications, and procedures for accomplishing this; and

(3) with respect to the Department in general, an overview of its role in the institutional and programmatic recognition process as it relates to eligibility for Federal student assistance, including recommendations, if appropriate, on how this role might be changed and improved.

(h) Appointment, compensation and travel expenses of support personnel; office space, supplies and equipment; authority of Commission in conducting study; assistance, support and detail of personnel from other agencies; contracts, technical assistance, etc.

(1)(A) By agreement between the President pro tempore of the Senate and the Speaker of the House of Representatives, the Commission is authorized to secure on a reimbursable basis, office space, clerical personnel, travel expenses, and such supplies and equipment as may be necessary for the Commission to carry out the study.

(B) Subject to such limitations as the President pro tempore of the Senate and the Speaker

of the House of Representatives may jointly prescribe, the Commission may appoint such personnel as the Commission deems necessary and fix the compensation at an annual rate that does not exceed the rate of basic pay then payable for GS–18 of the General Schedule under section 5332 of title 5 and may procure by contract the temporary and intermittent services of clerical personnel and experts or consultants, or organizations thereof.

(2) In conducting the study authorized by this section, the Commission is authorized to—

(A) seek such assistance and support as may be required to conduct the study from appropriate Federal agencies;

(B) arrange for the detail of staff personnel from other Federal agencies;

(C) enter into contracts and make other arrangements, as may be necessary for the conduct of the study;

(D) convene such technical groups as deemed necessary to secure information about the existing recognition process; and

(E) provide transportation and subsistence for persons serving without compensation.

(3) Upon request by the Commission, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist in the conduct of the study.

(i) Report and recommendations to Congressional committees

The Commission shall submit a report of the findings and recommendations of the study required by this section to the Postsecondary Education Subcommittee of the Education and Labor Committee of the House of Representatives and the Subcommittee on Education, Arts, and Humanities of the Labor and Human Resources Committee of the Senate not later than one year after funds are appropriated and made available for this study.

(j) Authorization of appropriations

There are authorized to be appropriated $1,000,000 to carry out the study authorized by this section.

(Pub. L. 89–329, title XII, § 1206, as added Pub. L. 99–498, title XII, § 1203, Oct. 17, 1986, 100 Stat. 1573.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (d)(1), was in the original ''this Act'', meaning Pub. L. 89–329, known as the Higher Education Act of 1965. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

PRIOR PROVISIONS

A prior section 1145a, Pub. L. 89–329, title XII, § 1206, as added Pub. L. 92–318, title I, § 197, June 23, 1972, 86 Stat. 325, related to supplying cost-of-education data by institutions of higher education, prior to repeal by Pub. L. 96–374, title XII, § 1201, Oct. 3, 1980, 94 Stat. 1493, eff. Oct. 1, 1980.

CHANGE OF NAME

Committee on Education and Labor of House of Representatives treated as referring to Committee on Economic and Educational Opportunities of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Economic and Educational Opportunities of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Fifth Congress, Jan. 7, 1997.

TERMINATION OF ADVISORY COMMISSIONS

Advisory commissions established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a commission established by the President or an officer of the Federal Government, such commission is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a commission established by the Congress, its duration is otherwise provided for by law. See sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, § 101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

§ 1145b. Student representation

The Secretary shall, in appointing individuals to any commission, committee, board, panel, or other body in connection with the administration of this chapter, include individuals who are, at the time of appointment, attending an institution of higher education.

(Pub. L. 89–329, title XII, § 1207, as added Pub. L. 99–498, title XII, § 1204, Oct. 17, 1986, 100 Stat. 1576.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this Act'', meaning Pub. L. 89–329, known as the Higher Education Act of 1965. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

PRIOR PROVISIONS

A prior section 1145b, Pub. L. 89–329, title XII, § 1202, formerly § 1207, as added Pub. L. 94–482, title I, § 182, Oct. 12, 1976, 90 Stat. 2167; renumbered title XII, § 1202, Pub. L. 96–374, title XII, § 1201, Oct. 3, 1980, 94 Stat. 1493, which related to antidiscrimination requirements for institutions of higher education receiving Federal assistance, was transferred to section 1142 of this title.

§ 1145c. Financial responsibility of foreign students

Nothing in this chapter or any other Federal law shall be construed to prohibit any institution of higher education from requiring a student who is a foreign national (and not admitted to permanent residence in the United States) to guarantee the future payment of tuition and fees to such institution by (1) making advance payment of such tuition and fees, (2) making deposits in an escrow account administered by such institution for such payments, or (3) obtaining a bond or other insurance that such payments will be made.

(Pub. L. 89–329, title XII, § 1208, as added Pub. L. 99–498, title XII, § 1205, Oct. 17, 1986, 100 Stat. 1577.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this Act'', meaning Pub. L. 89–329, known as the Higher Education Act of 1965. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

PRIOR PROVISIONS

A prior section 1145c, Pub. L. 89–329, title XII, § 1208, as added Pub. L. 94–482, title I, § 183, Oct. 12, 1976, 90 Stat. 2167, related to availability of appropriations, prior to repeal by Pub. L. 96–374, title XII, § 1201, Oct. 3, 1980, 94 Stat. 1493, eff. Oct. 1, 1980.

§ 1145d. Disclosures of foreign gifts

(a) Disclosure report

Whenever any institution is owned or controlled by a foreign source or receives a gift from or enters into a contract with a foreign source, the value of which is $250,000 or more, considered alone or in combination with all other gifts from or contracts with that foreign source within a calendar year, the institution shall file a disclosure report with the Secretary on January 31 or July 31, whichever is sooner.

(b) Contents of report

Each report to the Secretary required by this chapter shall contain:

(1) For gifts received from or contracts entered into with a foreign source other than a foreign government, the aggregate dollar amount of such gifts and contracts attributable to a particular country. The country to which a gift is attributable is the country of citizenship, or if unknown, the principal residence for a foreign source who is a natural person, and the country of incorporation, or if unknown, the principal place of business, for a foreign source which is a legal entity.

(2) For gifts received from or contracts entered into with a foreign government, the aggregate amount of such gifts and contracts received from each foreign government.

(3) In the case of an institution which is owned or controlled by a foreign source, the identity of the foreign source, the date on which the foreign source assumed ownership or control, and any changes in program or structure resulting from the change in ownership or control.

(c) Additional disclosures for restricted and conditional gifts

Notwithstanding the provisions of subsection (b) of this section, whenever any institution receives a restricted or conditional gift or contract from a foreign source, the institution shall disclose:

(1) For such gifts received from or contracts entered into with a foreign source other than a foreign government, the amount, the date, and a description of such conditions or restrictions. The report shall also disclose the country of citizenship, or if unknown, the principal residence for a foreign source which is a natural person, and the country of incorporation, or if unknown, the principal place of business for a foreign source which is a legal entity.

(2) For gifts received from or contracts entered into with a foreign government, the amount, the date, a description of such conditions or restrictions, and the name of the foreign government.

(d) Relation to other reporting requirements

(1) State requirements

If an institution described under subsection (a) of this section is within a State which has enacted requirements for public disclosure of gifts from or contracts with a foreign source that are substantially similar to the requirements of this section, a copy of the disclosure report filed with the State may be filed with the Secretary in lieu of a report required under subsection (a) of this section. The State in which the institution is located shall provide to the Secretary such assurances as the Secretary may require to establish that the institution has met the requirements for public disclosure under State law if the State report is filed.

(2) Use of other Federal reports

If an institution receives a gift from, or enters into a contract with, a foreign source, where any other department, agency, or bureau of the Executive Branch requires a report containing requirements substantially similar to those required under this chapter, a copy of this report may be filed with the Secretary in lieu of a report required under subsection (a) of this section.

(e) Public inspection

All disclosure reports required by this chapter shall be public records open to inspection and copying during business hours.

(f) Enforcement

(1) Court orders

Whenever it appears that an institution has failed to comply with the requirements of this section, including any rule or regulation promulgated thereunder, a civil action may be brought in an appropriate district court of the United States, or the appropriate United States court of any territory or other place subject to the jurisdiction of the United States, to request such court to compel compliance with the requirements of this chapter.

(2) Costs

For knowing or willful failure to comply with the requirements of this section, including any rule or regulation promulgated thereunder, an institution shall pay to the Treasury of the United States the full costs to the United States of obtaining compliance, including all associated costs of investigation and enforcement.

(g) Regulations

The Secretary may promulgate regulations to carry out the ministerial duties imposed on the Secretary by this section.

(h) Definitions

For the purpose of this section—

(1) the term ''contract'' means any agreement for the acquisition by purchase, lease, or barter of property or services by the foreign source, for the direct benefit or use of either of the parties;

(2) the term ''foreign source'' means—

(A) a foreign government, including an agency of a foreign government;

(B) a legal entity, governmental or otherwise, created solely under the laws of a foreign state or states;

(C) an individual who is not a citizen or a national of the United States or a trust territory or protectorate thereof; and

(D) an agent, including a subsidiary or affiliate of a foreign legal entity, acting on behalf of a foreign source;

(3) the term ''gift'' means any gift of money or property;

(4) the term ''institution'' means any institution, public or private, or, if a multicampus institution, any single campus of such institution, in any State which—

(A) is legally authorized within such State to provide a program of education beyond secondary school;

(B) provides a program for which it awards a bachelor's degree (or provides not less than a 2-year program which is acceptable for full credit toward such a degree) or more advanced degrees; and

(C) is accredited by a nationally recognized accrediting agency or association and to which institution Federal financial assistance is extended (directly or indirectly through another entity or person), or which institution receives support from the extension of Federal financial assistance to any of its subunits; and

(5) the term ''restricted or conditional gift or contract'' means any endowment, gift, grant, contract, award, present, or property of any kind which includes provisions regarding (A) the employment, assignment, or termination of faculty; (B) the establishment of departments, centers, research or lecture programs, or new faculty positions; (C) the selection or admission of students; or (D) the award of grants, loans, scholarships, fellowships, or other forms of financial aid restricted to students of a specified country, religion, sex, ethnic origin, or political opinion.

(Pub. L. 89–329, title XII, § 1209, as added Pub. L. 102–325, title XII, § 1204, July 23, 1992, 106 Stat. 794; amended Pub. L. 103–208, § 2(j)(54), Dec. 20, 1993, 107 Stat. 2485.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (b), (d)(2), (e), and (f)(1), was in the original ''this Act'', meaning Pub. L. 89–329, as amended, known as the Higher Education Act of 1965. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

PRIOR PROVISIONS

A prior section 1145d, Pub. L. 89–329, title XII, § 1209, as added Pub. L. 99–498, title XII, § 1206(a), Oct. 17, 1986, 100 Stat. 1577, related to disclosures of foreign gifts, prior to repeal by Pub. L. 99–498, title XII, § 1206(b), Oct. 17, 1986, 100 Stat. 1579, as amended by Pub. L. 100–50, § 22(f), June 3, 1987, 101 Stat. 362, effective Aug. 1, 1989.

AMENDMENTS

1993—Subsec. (f)(1). Pub. L. 103–208 substituted ''this chapter'' for ''the chapter''.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1003 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as an Effective Date of 1992 Amendment note under section 1001 of this title.

§ 1145d–1. Application of peer review process

All applications submitted under the provisions of this chapter which require peer review shall be read by a panel of readers composed of individuals selected by the Secretary which shall include outside readers who are not employees of the Federal Government. The Secretary shall ensure that no individual assigned under this section to review any application has any conflict of interest with regard to that application which might impair the impartiality with which that individual conducts the review under this section.

(Pub. L. 89–329, title XII, § 1210, as added Pub. L. 100–50, § 21(b), June 3, 1987, 101 Stat. 360.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this Act'', meaning Pub. L. 89–329, known as the Higher Education Act of 1965. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

PRIOR PROVISIONS

A prior section 1210 of Pub. L. 89–329 was renumbered section 1211 and is classified to section 1145e of this title.

EFFECTIVE DATE

Section effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1070a–11 of this title.

§ 1145e. Aggregate limit of authorization of appropriations

Notwithstanding any other provision of this chapter, the total amount which may be appropriated to carry out the programs and activities authorized by this chapter, other than the programs and activities authorized by subpart 1 of part A and part B of subchapter IV of this chapter, shall not exceed—

(1) $3,166,000,000 for fiscal year 1987,

(2) $3,351,000,000 for fiscal year 1988,

(3) $3,552,000,000 for fiscal year 1989,

(4) $3,771,000,000 for fiscal year 1990, and

(5) $4,007,000,000 for fiscal year 1991.

(Pub. L. 89–329, title XII, § 1211, formerly § 1210, as added Pub. L. 99–498, title XII, § 1207, Oct. 17, 1986, 100 Stat. 1579; renumbered § 1211, Pub. L. 100–50, § 21(b), June 3, 1987, 101 Stat. 360.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this Act'', meaning Pub. L. 89–329, known as the Higher Education Act of 1965. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

CODIFICATION

Another section 1211 of Pub. L. 89–329 was renumbered section 1212 and is classified to section 1145f of this title.

§ 1145f. Technology transfer centers

(a) Appropriations; establishment and purposes of centers

(1)(A) Except as provided in subparagraph (B), there are authorized to be appropriated $15,000,000 for fiscal year 1988 and such sums as may be necessary for each of the 3 succeeding fiscal years to develop, construct, and operate regional technology transfer centers. The Secretary shall establish such regional centers—

(i) to promote the study and development of programs and depositories necessary to further the transfer of technology relevant to a respective region's economy;

(ii) to assist in developing incubator facilities to encourage new economic initiatives;

(iii) to provide technical assistance linking university expertise and private sector resources to solve technical, marketing, and manufacturing problems associated with technology-transfer and start-up businesses; and

(iv) to ensure consideration of the economic development needs of rural as well as urban areas within the region.

(B) The Secretary shall reserve not less than $3,000,000 of amounts appropriated pursuant to subparagraph (A) for the purpose of carrying out the Training Technology Transfer Act of 1988.

(2) In carrying out the requirements of this section, regional technology-transfer centers are authorized—

(A) to build on or, where needed, develop telecommunications systems to link the centers and their affiliates with industrial users;

(B) to build on or develop necessary computer networks and data bases; and

(C) to utilize or help develop regional and national libraries.

(b) Awarding of financial assistance

Financial assistance to each center shall be awarded competitively. Such financial assistance shall be awarded for the establishment or operation of such centers.

(c) Operation of centers; establishment of affiliate centers

Each regional center established shall be operated by an appropriately qualified college or university within the region, a consortium of such schools within the region, or a university-related research park or center, and such regional center shall, where deemed necessary, establish one or more affiliate centers at colleges and universities based in other States within the region.

(d) Contents of application

In establishing such centers, the institutions applying shall show in their application—

(1) how the center will facilitate the economy of the region;

(2) that the center's mission is compatible with the economic development plans of States in the region; and

(3) that appropriate consultation with the relevant State agencies concerned with economic development has taken place.

(e) Operation of center by consortium; mechanism for assessing percentage of operating costs paid by members; definition

(1) Such center also may be operated by a consortium composed of an entity or entities described in subsection (c) of this section, and an existing campus-based research entity, or other State and local agencies, nonprofit agencies, interstate higher education organizations, or, where appropriate, for-profit agencies. The Secretary, through regulation, shall determine a mechanism for assessing the percentage of operating costs paid by other members of a technology transfer consortium arrangements.

(2) For purpose of paragraph (1), the term ''existing campus-based research facilities'' includes agricultural research facilities, mining and minerals research facilities; forestry and wood-products research facilities, solar renewable energy research facilities, high technology facilities, and manufacturing technology research facilities.

(f) Board; establishment, functions, and membership

Each such center shall establish a Board[1] to advise the center on policy. Such board shall be—

(1) representative of the States involved in the region; and

(2) consist of representatives for urban areas, rural areas, ethnic concerns, business, labor, and education.

(g) Awarding of grants; duration and renewal of grants; non-Federal sources of grants

(1) Grants for each center shall be awarded for a 5-year period. Before the end of such period, the Secretary shall conduct a competition for the award of grants for the succeeding 5-year period.

(2) For the fourth and fifth year of each such 5-year period, and during any renewal of the grant for succeeding 5-year periods, 50 percent of the cost of the activities for which assistance is awarded shall be provided from non-Federal sources.

(h) Funding and operation of affiliate center

Funding for affiliate centers authorized in subsection (c) of this section shall be provided by the regional center and the college or university operating the affiliate center, with funding levels to be reached by the 2 entities in a scope-of-work agreement negotiated between the 2 entities. Should the affiliate center wish, its operations and funding support can be a consortia, as specified in subsection (e) of this section.

(i) Regional centers; establishment and priorities

(1) The Secretary, after consultation with the Departments of Agriculture, Energy, Commerce, and Interior shall publish, for public comment, a proposed list of priorities for the establishment of regional technology transfer centers and shall propose the regional composition of such centers, keeping in mind that satellite and telecommunications technology enables regions to contain noncontiguous States.

(2) The Secretary shall publish the final list of regions and priorities along with the public's

[1] So in original. Probably should not be capitalized.

comments. In establishing such regions, the Secretary may designate a State or a portion of a State as a region.

(Pub. L. 89–329, title XII, § 1212, formerly § 1211, as added Pub. L. 100–418, title VI, § 6231, Aug. 23, 1988, 102 Stat. 1518; renumbered § 1212 and amended Pub. L. 103–208, § 2(j)(55), (56), Dec. 20, 1993, 107 Stat. 2485.)

REFERENCES IN TEXT

The Training Technology Transfer Act of 1988, referred to in subsec. (a)(1)(B), is chapter 1 of subtitle B of title VI of Pub. L. 100–418, Aug. 23, 1988, 102 Stat. 1500, which was classified generally to part A (§ 5091 et seq.) of subchapter II of chapter 62 of this title, prior to repeal by Pub. L. 103–382, title III, § 391(i), Oct. 20, 1994, 108 Stat. 4023. For complete classification of this Act to the Code, see Tables. For provisions relating to technology for education, see section 6801 et seq. of this title.

AMENDMENTS

1993—Subsec. (e)(2). Pub. L. 103–208, § 2(j)(56), inserted closing quotation marks after first reference to ''facilities''.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1003 of this title.

§ 1145g. Drug and alcohol abuse prevention

(a) Certification requirements

Notwithstanding any other provision of law, no institution of higher education shall be eligible to receive funds or any other form of financial assistance under any Federal program, including participation in any federally funded or guaranteed student loan program, unless it certifies to the Secretary that it has adopted and has implemented a program to prevent the use of illicit drugs and the abuse of alcohol by students and employees that, at a minimum, includes—

(1) the annual distribution to each student and employee of—

(A) standards of conduct that clearly prohibit, at a minimum, the unlawful possession, use, or distribution of illicit drugs and alcohol by students and employees on its property or as part of any of its activities;

(B) a description of the applicable legal sanctions under local, State, or Federal law for the unlawful possession or distribution of illicit drugs and alcohol;

(C) a description of the health risks associated with the use of illicit drugs and the abuse of alcohol;

(D) a description of any drug or alcohol counseling, treatment, or rehabilitation or re-entry programs that are available to employees or students; and

(E) a clear statement that the institution will impose sanctions on students and employees (consistent with local, State, and Federal law), and a description of those sanctions, up to and including expulsion or termination of employment and referral for prosecution, for violations of the standards of conduct required by paragraph (1)(A); and

(2) a biennial review by the institution of its program to—

(A) determine its effectiveness and implement changes to the program if they are needed; and

(B) ensure that the sanctions required by paragraph (1)(E) are consistently enforced.

(b) Availability to Secretary and public of annual distributions and biennial reviews

Each institution of higher education that provides the certification required by subsection (a) of this section shall, upon request, make available to the Secretary and to the public a copy of each item required by subsection (a)(1) of this section as well as the results of the biennial review required by subsection (a)(2) of this section.

(c) Regulations; sanctions

(1) The Secretary shall publish regulations to implement and enforce the provisions of this section, including regulations that provide for—

(A) the periodic review of a representative sample of programs required by subsection (a) of this section; and

(B) a range of responses and sanctions for institutions of higher education that fail to implement their programs or to consistently enforce their sanctions, including information and technical assistance, the development of a compliance agreement, and the termination of any form of Federal financial assistance.

(2) The sanctions required by subsection (a)(1)(E) of this section may include the completion of an appropriate rehabilitation program.

(d) Procedures applicable upon termination of financial assistance

Upon determination by the Secretary to terminate financial assistance to any institution of higher education under this section, the institution may file an appeal with an administrative law judge before the expiration of the 30-day period beginning on the date such institution is notified of the decision to terminate financial assistance under this section. Such judge shall hold a hearing with respect to such termination of assistance before the expiration of the 45-day period beginning on the date that such appeal is filed. Such judge may extend such 45-day period upon a motion by the institution concerned. The decision of the judge with respect to such termination shall be considered to be a final agency action.

(Pub. L. 89–329, title XII, § 1213, as added Pub. L. 101–226, § 22(a)(1), Dec. 12, 1989, 103 Stat. 1938.)

EFFECTIVE DATE

Section 22(a)(2) of Pub. L. 101–226 provided that:

''(A) Except as provided in subparagraph (B), the amendment made by paragraph (1) [enacting this section] shall take effect on October 1, 1990.

''(B) The Secretary of Education may allow any institution of higher education until not later than April 1, 1991, to comply with section 1213 of the Higher Education Act of 1965 [this section] (as added by paragraph (1)) if such institution demonstrates—

''(i) that it is in the process of developing and implementing its plan under such section; and

''(ii) it has a legitimate need for more time to develop and implement such plan.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1092 of this title.

§ 1145h. Grants for campus sexual offenses education

(a) Grants authorized

(1) In general

The Secretary of Education (hereafter in this section referred to as the ''Secretary'') is authorized to make grants to or enter into contracts with institutions of higher education or consortia of such institutions to enable such institution to carry out sexual offenses education and prevention programs under this section.

(2) Award basis

The Secretary shall award grants and contracts under this section on a competitive basis.

(3) Equitable participation

The Secretary shall make every effort to ensure the equitable participation of private and public institutions of higher education and to ensure the equitable geographic participation of such institutions in the activities assisted under this section.

(4) Priority

In the award of grants and contracts under this section, the Secretary shall give priority to institutions of higher education or consortia of such institutions that show the greatest need for the sums requested.

(b) General sexual offenses prevention and education grants

Funds provided under this section may be used for the following purposes:

(1) To provide training for campus security and college personnel, including campus disciplinary or judicial boards, that address the issues of sexual offenses.

(2) To develop, disseminate, or implement campus security and student disciplinary policies to prevent and discipline sexual offense crimes.

(3) To develop, enlarge, or strengthen support services programs including medical or psychological counseling to assist victims' recovery from sexual offense crimes.

(4) To create, disseminate, or otherwise provide assistance and information about victims' options on and off campus to bring disciplinary or other legal action.

(5) To implement, operate, or improve sexual offense education and prevention programs, including programs making use of peer-to-peer education.

(c) Model grants

Not less than 25 percent of the funds appropriated for this section in any fiscal year shall be available for grants or contracts for model demonstration programs which will be coordinated with local rape crisis centers for the development and implementation of quality rape prevention and education curricula and for local programs to provide services to student sexual offense victims.

(d) Eligibility

No institution of higher education or consortium of such institutions shall be eligible to be awarded a grant or contract under this section unless—

(1) its student code of conduct, or other written policy governing student behavior explicitly prohibits all forms of sexual offenses;

(2) it has in effect and implements a written policy requiring the disclosure to the victim of any sexual offense of the outcome of any investigation by campus police or campus disciplinary proceedings brought pursuant to the victim's complaint against the alleged perpetrator of the sexual offense, except that nothing in this section shall be interpreted to authorize disclosure to any person other than the victim; and

(3) the Secretary shall give priority to those applicants who do not have an established campus education program regarding sexual offenses.

(e) Applications

(1) In general

In order to be eligible to be awarded a grant or contract under this section for any fiscal year, an institution of higher education or consortium of such institutions shall submit an application to the Secretary at such time and in such manner as the Secretary shall prescribe.

(2) Contents

Each application submitted under paragraph (1) shall—

(A) set forth the activities and programs to be carried out with funds granted under this section;

(B) contain an estimate of the cost for the establishment and operation of such programs;

(C) explain how the program intends to address the issue of sexual offenses;

(D) provide assurances that the Federal funds made available under this section shall be used to supplement and, to the extent practical, to increase the level of funds that would, in the absence of such Federal funds, be made available by the applicant for the purpose described in this section, and in no case to supplant such funds; and

(E) include such other information and assurances as the Secretary reasonably determines to be necessary.

(f) Grantee reporting

Upon completion of the grant or contract period under this section, the grantee institution or consortium of such institutions shall file a performance report with the Secretary explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this section. The Secretary shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

(g) "Sexual offenses education and prevention" defined

For purposes of this section, the term ''sexual offenses education and prevention'' includes programs that provide education seminars, peer-to-peer counseling, operation of hotlines, self-defense courses, the preparation of informational

materials, and any other effort to increase campus awareness of the facts about, or to help prevent, sexual offenses.

(h) General terms and conditions

(1) Regulations

Not later than 90 days after July 23, 1992, the Secretary shall publish proposed regulations implementing this section. Not later than 150 days after July 23, 1992, the Secretary shall publish final regulations implementing this section.

(2) Reports to Congress

Not later than 180 days after the end of each fiscal year for which grants or contracts are awarded under this section, the Secretary shall submit to the committees of the House of Representatives and the Senate responsible for issues relating to higher education and to crime, a report that includes—

(A) the amount of grants or contracts awarded under this section;

(B) a summary of the purposes for which those grants or contracts were awarded and an evaluation of their progress; and

(C) a copy of each grantee report filed pursuant to subsection (f) of this section.

(i) Authorization of appropriations

For the purpose of carrying out this section, there are authorized to be appropriated $10,000,000 for the fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(Pub. L. 102–325, title XV, § 1541, July 23, 1992, 106 Stat. 834; Pub. L. 103–208, § 2(k)(13), Dec. 20, 1993, 107 Stat. 2486.)

CODIFICATION

Section was enacted as part of the Higher Education Amendments of 1992, and not as part of the Higher Education Act of 1965 which comprises this chapter.

AMENDMENTS

1993—Subsec. (g). Pub. L. 103–208 substituted ''education'' for ''educational''.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1003 of this title.

§ 1146. Contract authority

The authorization to enter into contracts or other obligations under the Act, as amended by this Act, shall be effective for fiscal year 1981 and any succeeding fiscal year only to the extent or in such amounts as are provided in advance in appropriation Acts.

(Pub. L. 96–374, title XIII, § 1392, Oct. 3, 1980, 94 Stat. 1504.)

REFERENCES IN TEXT

The Act, as amended by this Act, referred to in text, means the Higher Education Act of 1965, Pub. L. 89–329, Nov. 8, 1965, 79 Stat. 1219, as amended by the Education Amendments of 1980, Pub. L. 96–373, Oct. 3, 1980, 94 Stat. 1367, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

CODIFICATION

Section was enacted as part of the Education Amendments of 1980, and not as part of the Higher Education Act of 1965 which comprises this chapter.

PRIOR PROVISIONS

A prior section 1146, Pub. L. 89–329, title XII, § 1206, as added Pub. L. 90–575, title II, § 292, Oct. 16, 1968, 82 Stat. 1050, provided for dissemination of information and authorization of $2,000,000 for fiscal year ending June 30, 1970, and such amount as Congress might authorize for fiscal year ending June 30, 1971, prior to repeal by Pub. L. 91–230, title IV, § 401(d)(5), Apr. 13, 1970, 84 Stat. 173.

EFFECTIVE DATE

Section effective Oct. 1, 1980, see section 1393(a) of Pub. L. 96–374, set out as an Effective Date of 1980 Amendment note under section 1001 of this title.

§ 1146a. Contracting authority subject to appropriations

The authority to enter into contracts or other obligations under this Act (other than amendments made to part B of subchapter IV of this chapter) shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

(Pub. L. 99–498, § 3, Oct. 17, 1986, 100 Stat. 1278.)

REFERENCES IN TEXT

This Act, referred to in text, means Pub. L. 99–498, Oct. 17, 1986, 100 Stat. 1268, known as the Higher Education Amendments of 1986. For complete classification of this Act to the Code, see Short Title of 1986 Amendment note set out under section 1001 of this title and Tables.

CODIFICATION

Section was enacted as part of the Higher Education Amendments of 1986, and not as part of the Higher Education Act of 1965 which comprises this chapter.

§§ 1147 to 1150. Repealed. Pub. L. 91–230, title IV, § 401(b), Apr. 13, 1970, 84 Stat. 172

Sections 1147 to 1150, Pub. L. 89–329, title XII, §§ 1207–1210, as added Pub. L. 90–575, title II, § 295, Oct. 16, 1968, 82 Stat. 1051, 1052, provided for program planning and evaluation for higher education programs; advance funding; evaluation reports and Congressional review; and availability of appropriations on academic or school year basis.

CHAPTER 29—INTERNATIONAL STUDIES AND RESEARCH

§ 1171. Omitted

CODIFICATION

Section, Pub. L. 89–698, § 2, Oct. 29, 1966, 80 Stat. 1066, which set out the Congressional findings and declaration of purpose in providing for a program of international studies and research, was omitted in view of the repeal of the remaining sections of this chapter by Pub. L. 96–374, title VI, § 601(c)(2), Oct. 3, 1980, 94 Stat. 1472.

§§ 1172 to 1174. Repealed. Pub. L. 96–374, title VI, § 601(c)(2), Oct. 3, 1980, 94 Stat. 1472

Section 1172, Pub. L. 89–698, title I, § 101, Oct. 29, 1966, 80 Stat. 1066, made provision for a program of international studies and research involving operation of

centers for advanced international studies. See section 1123 of this title.

Section 1173, Pub. L. 89–698, title I, § 102, Oct. 29, 1966, 80 Stat. 1067, provided for undergraduate programs in international studies. See section 1124 of this title.

Section 1174, Pub. L. 89–698, title I, § 103, Oct. 29, 1966, 80 Stat. 1068; Pub. L. 91–230, title IV, § 401(c)(7), Apr. 13, 1970, 84 Stat. 173, authorized payment in installments and in advance or by way of reimbursement.

EFFECTIVE DATE OF REPEAL

Sections repealed effective Oct. 1, 1980, see section 1393(a) of Pub. L. 96–374, set out as an Effective Date of 1980 Amendment note under section 1001 of this title.

§ 1175. Repealed. Pub. L. 91–230, title IV, § 401(f)(7), Apr. 13, 1970, 84 Stat. 174

Section, Pub. L. 89–698, title I, § 104, Oct. 29, 1966, 80 Stat. 1068, prohibited Federal control of education (curriculum, program of instruction, administration, personnel of any educational institution, selection of library resources, and content of any material developed or published), and was superseded by section 1232a of this title.

§§ 1176, 1177. Repealed. Pub. L. 96–374, title VI, § 601(c)(2), Oct. 3, 1980, 94 Stat. 1472

Section 1176, Pub. L. 89–698, title I, § 105, Oct. 29, 1966, 80 Stat. 1068; Pub. L. 90–575, title V, § 502, Oct. 16, 1968, 82 Stat. 1062; Pub. L. 92–318, title I, § 183, June 23, 1972, 86 Stat. 312; Pub. L. 94–482, title III, § 303, Oct. 12, 1976, 90 Stat. 2216, authorized appropriations and provided for an annual report to Congress. See sections 1125 and 1127 of this title.

Section 1177, Pub. L. 89–698, title I, § 106, Oct. 29, 1966, 80 Stat. 1069; Pub. L. 91–230, title IV, § 401(h)(5), Apr. 13, 1970, 84 Stat. 174, provided for creation of a National Advisory Committee on International Studies. See section 1131 of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1980, see section 1393(a) of Pub. L. 96–374, set out as an Effective Date of 1980 Amendment note under section 1001 of this title.

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CODIFICATION

The Adult Education Act, comprising this chapter, was originally enacted by Pub. L. 89–750, title III, Nov. 3, 1966, 80 Stat. 1216; amended by Pub. L. 90–247, Jan. 2, 1968, 81 Stat. 783; Pub. L. 90–576, Oct. 16, 1968, 82 Stat. 1064; Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 121; Pub. L. 91–600, Dec. 30, 1970, 84 Stat. 1660; Pub. L. 92–318, June 23, 1972, 86 Stat. 235; Pub. L. 93–29, May 3, 1973, 87 Stat. 30; Pub. L. 93–380, Aug. 21, 1974, 88 Stat. 484; Pub. L. 94–135, Nov. 28, 1975, 89 Stat. 713; Pub. L. 94–273, Apr. 21, 1976, 90 Stat. 375; Pub. L. 94–405, Sept. 10, 1976, 90 Stat. 1225; Pub. L. 94–482, Oct. 12, 1976, 90 Stat. 2081; Pub. L. 95–112, Sept. 24, 1977, 91 Stat. 911; Pub. L. 95–561, Nov. 1, 1978, 92 Stat. 2143; Pub. L. 96–46, Aug. 6, 1979, 93 Stat. 338; Pub. L. 96–88, Oct. 17, 1979, 93 Stat. 668; Pub. L. 97–35, Aug. 13, 1981, 95 Stat. 357; Pub. L. 97–300, Oct. 13, 1982, 96 Stat. 1322; Pub. L. 98–511, Oct. 19, 1984, 98 Stat. 2366; Pub. L. 98–524, Oct. 19, 1984, 98 Stat. 2435; Pub. L. 100–77, July 22, 1987, 101 Stat. 482; Pub. L. 100–297, Apr. 28, 1988, 102 Stat. 130. Such Act is shown herein, however, as having been added by Pub. L. 100–297, title II, § 2102, Apr. 28, 1988, 102 Stat. 302, without reference to such intervening amendments because of the extensive revision of the Act's provisions by Pub. L. 100–297.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 2323, 2403, 3489, 6143, 6362, 6365, 6366 of this title; title 29 sections 1533, 1605, 1792; title 42 sections 3013, 11421.

SUBCHAPTER I—BASIC PROGRAM PROVISIONS

§ 1201. Statement of purpose

It is the purpose of this chapter to assist the States to improve educational opportunities for adults who lack the level of literacy skills requisite to effective citizenship and productive employment, to expand and improve the current system for delivering adult education services including delivery of such services to educationally disadvantaged adults, and to encourage the establishment of adult education programs that will—

(1) enable these adults to acquire the basic educational skills necessary for literate functioning;

(2) provide these adults with sufficient basic education to enable them to benefit from job training and retraining programs and obtain and retain productive employment so that they might more fully enjoy the benefits and responsibilities of citizenship; and

(3) enable adults who so desire to continue their education to at least the level of completion of secondary school.

(Pub. L. 89–750, title III, § 311, as added Pub. L. 100–297, title II, § 2102, Apr. 28, 1988, 102 Stat. 302.)

PRIOR PROVISIONS

A prior section 1201, Pub. L. 89–750, title III, § 302, Nov. 3, 1966, 80 Stat. 1216; Pub. L. 91–230, title III, § 301, Apr. 13, 1970, 84 Stat. 159; Pub. L. 95–561, title XIII, § 1301, Nov. 1, 1978, 92 Stat. 2356; Pub. L. 98–511, title I, § 101, Oct. 19, 1984, 98 Stat. 2366, related to Congressional declaration of purpose of chapter, prior to the general revision of this chapter by Pub. L. 100–297.

A prior section 311 of Pub. L. 89–750 was classified to section 1208b of this title prior to the general revision of this chapter by Pub. L. 100–297.

Another prior section 311 of Pub. L. 89–750, was classified to section 1208a of this title, and was repealed by Pub. L. 98–511, title I, § 109(a)(1), Oct. 19, 1984, 98 Stat. 2369.

EFFECTIVE DATE

Section 6303 of Pub. L. 100–297, as amended by Pub. L. 100–351, June 27, 1988, 102 Stat. 661, provided that:

''(a) GENERAL RULE.—Except as otherwise provided, this Act and the amendments made by this Act [see Tables for classification] shall take effect July 1, 1988.

''(b) SPECIAL RULES.—(1) Any provision of this Act or any amendment made by this Act which authorizes appropriations for fiscal year 1988 shall take effect on the date of the enactment of this Act [Apr. 28, 1988].

''(2) The provisions of section 2402, relating to the National Center for Vocational Research, shall take effect on April 10, 1988.

''(3) The amendments made by section 3403 [amending sections 1221e and 1221e–1 of this title] shall take effect for assessments made after September 30, 1989, with respect to State data.

''(4) Allotments to States made under chapters 1 and 2 of title I of the Elementary and Secondary Education Act of 1965 [formerly 20 U.S.C. 2701 et seq., 2911 et seq.]

and under the Adult Education Act [20 U.S.C. 1201 et seq.] from amounts appropriated by the joint resolution entitled 'Joint resolution making further continuing appropriations for the fiscal year 1988, and for other purposes', approved December 22, 1987 (Public Law 100–202), shall be computed in accordance with the provisions of law applicable to allotments to States under chapters 1 and 2 of the Education Consolidation and Improvement Act of 1981 [formerly 20 U.S.C. 3801 et seq., 3811 et seq.] and under the Adult Education Act, respectively, as such Acts were in effect on the day before the date of the enactment of this Act [Apr. 28, 1988].

''(5) Amounts appropriated by the joint resolution entitled 'Joint resolution making further continuing appropriations for the fiscal year 1988, and for other purposes', approved December 22, 1987 (Public Law 100–202), for the following programs shall be awarded in accordance with the applicable provisions of law in effect on the day before the date of the enactment of this Act [Apr. 28, 1988]:

''(A) Programs under subchapter D of chapter 2 of the Education Consolidation and Improvement Act of 1981 [formerly 20 U.S.C. 3851 et seq.], except that projects under section 583(c) [formerly 20 U.S.C. 3851(c)] may not be reviewed by a program significance panel.

''(B) National programs under the Adult Education Act [20 U.S.C. 1201 et seq.].

''(C) Programs under the Indian Education Act [Pub. L. 92–318, title IV, see Short Title note set out under former section 241aa of this title].

''(D) Programs under title II of the Education for Economic Security Act [formerly 20 U.S.C. 3961 et seq.].

''(E) The program under section 702 of the Stewart B. McKinney Homeless Assistance Act [formerly 42 U.S.C. 11421].

''(6) The provisions of part A of title II of this Act [§§ 2001 to 2034 of Pub. L. 100–297, amending sections 236 et seq. and 631 et seq. of this title], excluding sections 2014(e) and 2018 [amending section 238 of this title and enacting provisions set out as a note under section 238 of this title], shall apply only with respect to amounts appropriated for fiscal years beginning after September 30, 1988.

''(7) The amendments made by section 6001 [amending section 11421 of Title 42, The Public Health and Welfare], relating to literacy training of homeless adults, shall take effect on October 1, 1988.

''(8) Any election under section 5209(b)(1) [25 U.S.C. 2508(b)(1)] conveyed to the Secretary prior to August 1, 1988, shall take effect for the fiscal year beginning on October 1, 1988, and thereafter.''

SHORT TITLE OF 1991 AMENDMENT

Pub. L. 102–73, § 1, July 25, 1991, 105 Stat. 333, provided that: ''This Act [enacting sections 1208aa, 1211–1, and 1211–2 of this title and section 4995 of Title 42, The Public Health and Welfare, amending sections 351a, 351c, 351e, 375, 1091, 1144a, 1201a, 1201b, 1203a, 1205, 1205a, 1206a, 1207a, 1208, 1209, 1211, 1213c, 1401, 1411, 2711, 2742 to 2747, 2749, 2941, 2963, 2966, 3142, 3412, and 4086 of this title and section 5081 of Title 42, and enacting provisions set out as notes under this section and sections 1213c, 2963, and 2966 of this title] may be cited as the 'National Literacy Act of 1991'.''

SHORT TITLE OF 1988 AMENDMENT

Section 2101 of Pub. L. 100–297 provided that: ''This part [part B (§§ 2101, 2102) of title II of Pub. L. 100–297, enacting this chapter] may be cited as the 'Adult Education Amendments of 1988'.''

SHORT TITLE

Section 301 of title III of Pub. L. 89–750, as added by Pub. L. 100–297, title II, § 2102, Apr. 28, 1988, 102 Stat. 302, provided that: ''This title [this chapter] may be cited as the 'Adult Education Act'.''

CONGRESSIONAL FINDINGS REGARDING NATIONAL LITERACY ACT OF 1991

Pub. L. 102–73, § 2, July 25, 1991, 105 Stat. 333, provided that: ''The Congress finds that—

''(1) nearly 30,000,000 adults in the United States have serious problems with literacy;

''(2) literacy problems are intergenerational and closely associated with poverty and pose a major threat to the economic well-being of the United States;

''(3) present public and private literacy programs reach only a small portion of the population in need and often result in only minimal learning gains;

''(4) the prevention of illiteracy is essential to stem further growth in national illiteracy rates;

''(5) literacy programs generally lack adequate funding, adequate coordination with other literacy programs, and an adequate investment in teacher training and technology;

''(6) access to better information about the best practices in the literacy field and more research in order to provide better diagnostic and instructional tools are essential for the improvement of literacy and employability in the United States;

''(7) as many as 50,000,000 workers may have to be trained or retrained before the year 2000;

''(8) the supply of unskilled workers is increasing while the demand for unskilled labor is decreasing;

''(9) programs under the Adult Education Act [20 U.S.C. 1201 et seq.], which are the largest Federal source of direct literacy services in the United States, serve only 10 percent of eligible participants; and

''(10) all public and private literacy programs serve only about 19 percent of those who need help.''

JOINT STUDY OF SERVICES

Section 6214 of Pub. L. 100–297 directed Secretary of Education, in conjunction with Secretary of Labor and Secretary of Health and Human Services, to conduct a joint study of Federal funding sources for and services for adult education programs currently available, including literacy initiatives offered by public and private agencies, and to jointly act to facilitate interagency coordination; directed Secretary to ensure local and State officials involved in delivery of adult education and literacy programs are involved in the study; and directed that not later than 24 months after Apr. 28, 1988, a joint report be submitted to appropriate committees of Congress describing the findings of the study.

BUDGET ACT PROVISION

Section 6302 of Pub. L. 100–297 provided that: ''Any new spending authority (within the meaning of section 401 of the Congressional Budget Act of 1974 [2 U.S.C. 651]) which is provided under this Act [see Tables for classification] shall be effective for any fiscal year only to the extent or in such amounts as are provided in appropriation Acts.''

DEFINITIONS

Pub. L. 102–73, § 3, July 25, 1991, 105 Stat. 334, provided that: ''For purposes of this Act [see Short Title of 1991 Amendment note above] the term 'literacy' means an individual's ability to read, write, and speak in English, and compute and solve problems at levels of proficiency necessary to function on the job and in society, to achieve one's goals, and develop one's knowledge and potential.''

Section 6301 of Pub. L. 100–297 provided that: ''Except as otherwise provided, for the purpose of this Act [see Tables for classification] the terms used in this Act have the meanings provided under section 1471 of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 [formerly 20 U.S.C. 2891].''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1201b, 1207a of this title.

§ 1201a. Definitions

As used in this chapter—

(1) The term ''adult'' means an individual who has attained 16 years of age or who is beyond the age of compulsory school attendance under State law, except that for the purpose of section 1201b(b) of this title, the term ''adult'' means an individual 16 years of age or older.

(2) The term ''adult education'' means services or instruction below the college level for adults—

(A) who are not enrolled in secondary school;

(B) who lack sufficient mastery of basic educational skills to enable them to function effectively in society or who do not have a certificate of graduation from a school providing secondary education and who have not achieved an equivalent level of education;

(C) who are not currently required to be enrolled in school; and

(D) whose lack of mastery of basic skills results in an inability to speak, read, or write the English language which constitutes a substantial impairment of their ability to get or retain employment commensurate with their real ability, and thus are in need of programs to help eliminate such inability and raise the level of education of such individuals with a view to making them less likely to become dependent on others.

(3) The term ''educationally disadvantaged adult'' means an adult who—

(A) demonstrates basic skills equivalent to or below that of students at the fifth grade level; or

(B) has been placed in the lowest or beginning level of an adult education program when that program does not use grade level equivalencies as a measure of students' basic skills.

(4) The term ''community school program'' is a program in which a public building, including but not limited to a public elementary or secondary school or a community or junior college, is used as a community center operated in conjunction with other groups in the community, community organizations, and local governmental agencies, to provide educational, recreational, cultural, and other related community services for the community which the center serves in accordance with the needs, interest, and concerns of that community.

(5) The term ''local educational agency'' means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools, except that, if there is a separate board or other legally constituted local authority having administrative control and direction of adult education in public schools therein, such term means such other board or authority.

(6) The term ''Secretary'' means the Secretary of Education.

(7) The term ''State'' includes the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, Palau (until the Compact of Free Association with Palau takes effect pursuant to section 1931(a) of title 48), the Northern Mariana Islands, and the Virgin Islands.

(8) The term ''State educational agency'' means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools, or, if there is a separate State agency or officer primarily responsible for supervision of adult education in public schools, then such agency or officer may be designated for the purpose of this chapter by the Governor or by State law. If no agency or officer qualifies under the preceding sentence, such term shall mean an appropriate agency or officer designated for the purposes of this chapter by the Governor.

(9) The term ''academic education'' means the theoretical, the liberal, the speculative, and classical subject matter found to compose the curriculum of the public secondary school.

(10) The term ''institution of higher education'' means any such institution as defined by section 1088 of this title.

(11) The term ''individual of limited English proficiency'' means an adult or out-of-school youth who has limited ability in speaking, reading, writing, or understanding the English language and—

(A) whose native language is a language other than English; or

(B) who lives in a family or community environment where a language other than English is the dominant language.

(12) The term ''out-of-school youth'' means an individual who is under 16 years of age and beyond the age of compulsory school attendance under State law who has not completed high school or the equivalent.

(13) The term ''English literacy program'' means a program of instruction designed to help limited English proficient adults, out-of-school youths, or both, achieve full competence in the English language.

(14) The term ''community-based organization'' means a private nonprofit organization which is representative of a community or significant segments of a community and which provides education, vocational education or rehabilitation, job training, or internship services and programs and includes neighborhood groups and organizations, community action agencies, community development corporations, union-related organizations, employer-related organizations, tribal governments, and organizations serving Native Alaskans and Indians.

(15) The term ''private industry council'' means the private industry council established under section 1512 of title 29.

(Pub. L. 89–750, title III, § 312, as added Pub. L. 100–297, title II, § 2102, Apr. 28, 1988, 102 Stat. 302;

amended Pub. L. 101–26, § 3(a), May 11, 1989, 103 Stat. 55; Pub. L. 101–589, title VII, § 723, Nov. 16, 1990, 104 Stat. 2913; Pub. L. 102–73, title VIII, § 802(b)(1), July 25, 1991, 105 Stat. 361.)

REFERENCES IN TEXT

For Oct. 1, 1994, as the date the Compact of Free Association with Palau takes effect, referred to in par. (7), see Proc. No. 6726, Sept. 27, 1994, 59 F.R. 49777, set out as a note under section 1931 of Title 48, Territories and Insular Possessions.

PRIOR PROVISIONS

A prior section 312 of Pub. L. 89–750 was classified to section 1209 of this title, prior to the general revision of this chapter by Pub. L. 100–297.

AMENDMENTS

1991—Par. (7). Pub. L. 102–73 substituted ''Palau (until the Compact of Free Association with Palau takes effect pursuant to section 1931(a) of title 48)'' for ''the Trust Territory of the Pacific Islands''.

1990—Par. (5). Pub. L. 101–589 inserted '', or to perform a service function for,'' after first reference to ''direction of''.

1989—Par. (7). Pub. L. 101–26 struck out ''and except for the purposes of section 1201b of this title,'' after ''Puerto Rico,''.

EFFECTIVE DATE OF 1989 AMENDMENT

Section 3(b) of Pub. L. 101–26 provided that: ''The provisions of this section [amending this section] shall take effect on the date of enactment of this Act [May 11, 1989].''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1211, 6813, 7881 of this title.

§ 1201b. Authorization of appropriations; allotments

(a) Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary for the fiscal year 1991, $260,000,000 for the fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993, 1994, and 1995 to carry out the provisions of this chapter (other than sections 1211 and 1211a of this title).

(b) Allotment

From the sums available for the purposes of section 1201 of this title for any fiscal year, the Secretary shall allot (1) $100,000 each to Guam, American Samoa, the Northern Mariana Islands, the Virgin Islands, the Federated States of Micronesia, the Republic of the Marshall Islands, and Palau, and (2) $250,000 to each of the other States. From the remainder of such sums the Secretary shall allot to each State an amount which bears the same ratio to such remainder as the number of adults who do not have a certificate of graduation from a school providing secondary education (or its equivalent) and who are not currently required to be enrolled in schools of such State bears to the number of such adults in all States.

(c) Reallotment

The portion of any State's allotment under subsection (b) of this section for a fiscal year which the Secretary determines will not be required for the period such allotment is available for carrying out the State plan approved under this chapter shall be available for reallotment from time to time, on such dates during such period as the Secretary shall fix, to other States in proportion to the original allotments to such States under subsection (b) of this section for such year, but with such proportionate amount for any of such other State being reduced to the extent it exceeds the sum which the Secretary estimates such State needs and will be able to use for such period for carrying out its State plan approved under this chapter, and the total of such reductions shall be similarly reallotted among the States whose proportionate amounts are not so reduced. Any amount allotted to a State under this subsection during a year shall be deemed part of its allotment under subsection (b) of this section for such year.

(d) Reservation of funds for national programs

For any fiscal year, if the amount appropriated to carry out the purposes of this chapter exceeds $108,000,000, not more than $3,000,000 of such amount shall be reserved to carry out the programs described in subchapter IV of this chapter, relating to national programs.

(Pub. L. 89–750, title III, § 313, as added Pub. L. 100–297, title II, § 2102, Apr. 28, 1988, 102 Stat. 304; amended Pub. L. 102–73, title III, § 301(a), title VIII, § 802(b)(2), July 25, 1991, 105 Stat. 345, 361.)

PRIOR PROVISIONS

A prior section 313 of Pub. L. 89–750 was classified to section 1210 of this title, prior to the general revision of this chapter by Pub. L. 100–297.

A prior section 1202, Pub. L. 89–750, title III, § 303, Nov. 3, 1966, 80 Stat. 1216; Pub. L. 90–576, title III, § 302, Oct. 16, 1968, 82 Stat. 1095; Pub. L. 91–230, title III, § 301, Apr. 13, 1970, 84 Stat. 159; Pub. L. 93–380, title VI, § 601, title VIII, § 843(c)(1), Aug. 21, 1974, 88 Stat. 576, 611; Pub. L. 95–561, title XIII, §§ 1302, 1304(a), Nov. 1, 1978, 92 Stat. 2357; Pub. L. 98–511, title I, § 102(a)–(f)(1), Oct. 19, 1984, 98 Stat. 2366, 2367, related to definitions used in this chapter, prior to the general revision of this chapter by Pub. L. 100–297.

AMENDMENTS

1991—Subsec. (a). Pub. L. 102–73, § 301(a), substituted ''such sums as may be necessary for the fiscal year 1991, $260,000,000 for the fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993, 1994, and 1995'' for ''$200,000,000 for fiscal year 1989 and such sums as may be necessary for each succeeding fiscal year through fiscal year 1993''.

Subsec. (b). Pub. L. 102–73, § 802(b)(2), substituted ''the Federated States of Micronesia, the Republic of the Marshall Islands, and Palau'' for ''and the Trust Territory of the Pacific Islands''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1201a, 1203, 1208, 1208aa, 1211, 1213, 1213a, 1213b, 1213c of this title.

SUBCHAPTER II—STATE PROGRAMS

PART A—BASIC STATE GRANTS

§ 1203. Basic grants

From the sums allotted to States for this part pursuant to section 1201b of this title, the Secretary is authorized to make grants to States to assist them in funding adult education programs, services, and activities carried out by eligible recipients to achieve the purposes of this chapter.

(Pub. L. 89–750, title III, § 321, as added Pub. L. 100–297, title II, § 2102, Apr. 28, 1988, 102 Stat. 305.)

PRIOR PROVISIONS

A prior section 1203, Pub. L. 89–750, title III, § 304, Nov. 3, 1966, 80 Stat. 1217; Pub. L. 90–247, title V, § 502(a), Jan. 2, 1968, 81 Stat. 815; Pub. L. 91–230, title III, § 301, Apr. 13, 1970, 84 Stat. 160; Pub. L. 93–380, title VI, § 602, Aug. 21, 1974, 88 Stat. 576; Pub. L. 95–561, title XIII, § 1303, Nov. 1, 1978, 92 Stat. 2357; Pub. L. 98–511, title I, §§ 102(f)(1), 103, Oct. 19, 1984, 98 Stat. 2366, 2367, related to grants to States, prior to the general revision of this chapter by Pub. L. 100–297.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1208aa of this title.

§ 1203a. Use of funds; local applications

(a) Use of funds

(1) Grants to States under this part shall be used in accordance with State plans (and amendments thereto) approved under sections 1206 and 1207 of this title, to pay the Federal share of the cost of the establishment or expansion of adult education programs to be carried out by local educational agencies, correctional education agencies, community-based organizations, public or private nonprofit agencies, postsecondary educational institutions, and other institutions that have the ability to provide literacy services to adults and families. Each State educational agency receiving financial assistance under this part shall provide assurance that local educational agencies, public or private nonprofit agencies, community-based organizations, correctional education agencies, postsecondary educational institutions, and institutions which serve educationally disadvantaged adults will be provided direct and equitable access to all Federal funds provided under this part. Failure to provide the assurance required by the preceding sentence shall disqualify a State from receiving its allotment under this chapter. In determining which programs shall receive assistance under this paragraph, the State shall consider—

(A) the past effectiveness of applicants in providing services (especially with respect to recruitment and retention of educationally disadvantaged adults and the learning gains demonstrated by such adults);

(B) the degree to which the applicant will coordinate and utilize other literacy and social services available in the community; and

(C) the commitment of the applicant to serve individuals in the community that are most in need of literacy services.

(2) Grants to States provided under this section may also be used to carry out programs by a consortium which includes a for-profit agency, organization, or institution if such agency, organization, or institution can make a significant contribution to attaining the objectives of this Act. Whenever the establishment or expansion of programs includes a for-profit agency, organization, or institution, as part of a consortium, a contract with such agency, organization, or institution, for the establishment or expansion of such programs shall be entered into by the public or private nonprofit agency, institution, or organization.

(3)(A) Grants to States provided under this section shall also be used for competitive 2-year grants to public housing authorities for literacy programs and related activities. Any public housing authority that receives a grant under this subparagraph shall consult with local adult education providers in conducting programs and activities with assistance provided under the grant. Any grant provided under this subparagraph shall be referred to as a ''Gateway Grant''.

(B) The Secretary shall, not less often than every 2 years, evaluate any grants made under this paragraph.

(4) Such application shall contain such information as the State educational agency considers necessary, including a description of current programs, activities, and services receiving assistance from Federal, State, and local sources; the projected goals of the applicant with respect to participant recruitment, retention, and educational achievement and how the applicant will measure and report progress in meeting its goals; cooperative arrangements (including arrangements with business, industry, and volunteer literacy organizations as appropriate) that have been made to deliver services to adults as well as assurances that adult educational programs, services, or activities provided under this chapter are coordinated with and not duplicative of services, programs, or activities made available to adults under other Federal, State, and local programs, including the Job Training Partnership Act [29 U.S.C. 1501 et seq.], the Carl D. Perkins Vocational and Applied Technology Education Act [20 U.S.C. 2301 et seq.], the Rehabilitation Act of 1973 [29 U.S.C. 701 et seq.], the Individuals with Disabilities Education Act [20 U.S.C. 1400 et seq.], title IX of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 7801 et seq.], the Higher Education Act of 1965 [20 U.S.C. 1001 et seq.], and the Domestic Volunteer Service Act [42 U.S.C. 4950].

(5) The State educational agency shall give preference to those applicants who have demonstrated or can demonstrate a capability to recruit and serve educationally disadvantaged adults, particularly in areas with a high proportion of adults who do not have a certificate of graduation from a school providing secondary education or its equivalent.

(b) Limitations on use of funds

(1) Not less than 10 percent of the funds paid to a State under subsection (a) of this section shall be used for corrections education and education for other institutionalized individuals in accordance with part B of this subchapter.

(2) Not more than 20 percent of a State's allotment shall be used for programs of equivalency for a certificate of graduation from a secondary school.

(Pub. L. 89–750, title III, § 322, as added Pub. L. 100–297, title II, § 2102, Apr. 28, 1988, 102 Stat. 305; amended Pub. L. 102–73, title III, § 301(b), July 25, 1991, 105 Stat. 345; Pub. L. 103–382, title III, § 393(a), Oct. 20, 1994, 108 Stat. 4026; Pub. L. 104–66, title I, § 1041(g), Dec. 21, 1995, 109 Stat. 715.)

REFERENCES IN TEXT

This Act, referred to in subsec. (a)(2), means Pub. L. 89–750, Nov. 3, 1966, 80 Stat. 1191, as amended, known as

the Elementary and Secondary Education Amendments of 1966. Title III of the Act, known as the Adult Education Act, is classified to this chapter. For complete classification of this Act to the Code, see Short Title of 1966 Amendment note set out under section 6301 of this title and Tables.

The Job Training Partnership Act, referred to in subsec. (a)(4), is Pub. L. 97–300, Oct. 13, 1982, 96 Stat. 1322, as amended, which is classified generally to chapter 19 (§ 1501 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 1501 of Title 29 and Tables.

The Carl D. Perkins Vocational and Applied Technology Education Act, referred to in subsec. (a)(4), is Pub. L. 88–210, Dec. 18, 1963, 77 Stat. 403, as amended, which is classified generally to chapter 44 (§ 2301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2301 of this title and Tables.

The Rehabilitation Act of 1973, referred to in subsec. (a)(4), is Pub. L. 93–112, Sept. 26, 1973, 87 Stat. 355, as amended, which is classified generally to chapter 16 (§ 701 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 701 of Title 29 and Tables.

The Individuals with Disabilities Education Act, referred to in subsec. (a)(4), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, as amended, which is classified generally to chapter 33 (§ 1400 et seq.) of this title. For complete classification of this Act to the Code, see section 1400 of this title and Tables.

The Elementary and Secondary Education Act of 1965, referred to in subsec. (a)(4), is Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, as amended generally by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519. Title IX of the Act is classified generally to subchapter IX (§ 7801 et seq.) of chapter 70 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

The Higher Education Act of 1965, referred to in subsec. (a)(4), is Pub. L. 89–329, Nov. 8, 1965, 79 Stat. 1219, as amended, which is classified principally to chapter 28 (§ 1001 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

The Domestic Volunteer Service Act, referred to in subsec. (a)(4), probably means the Domestic Volunteer Service Act of 1973, which is Pub. L. 93–113, Oct. 1, 1973, 87 Stat. 394, as amended, and which is classified principally to chapter 66 (§ 4950 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4950 of Title 42 and Tables.

AMENDMENTS

1995—Subsec. (a)(3)(B). Pub. L. 104–66 struck out ''and report the results of such evaluation to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate'' after ''this paragraph''.

1994—Subsec. (a)(4). Pub. L. 103–382 substituted ''title IX of the Elementary and Secondary Education Act of 1965'' for ''the Indian Education Act''.

1991—Subsec. (a)(1). Pub. L. 102–73, § 301(b)(1), amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''Grants to States under this part shall be used in accordance with State plans (and amendments thereto) approved under sections 1206 and 1207 of this title, to pay the Federal share of the cost of the establishment or expansion of adult education programs to be carried out by local educational agencies and by public or private nonprofit agencies, organizations, and institutions. Grants provided under this section to States to carry out the programs described in the preceding sentence may be carried out by public or private nonprofit agencies, organizations, and institutions only if the applicable local educational agency has been consulted with and has had an opportunity to comment on the application of such agency, organization, or institution. The comments of the local educational agency, and responses thereto, shall be attached to the application when it is forwarded to the State.''

Subsec. (a)(3). Pub. L. 102–73, § 301(b)(5), added par. (3). Former par. (3) redesignated (4).

Subsec. (a)(4). Pub. L. 102–73, § 301(b)(2), (4), redesignated par. (3) as (4), struck out at beginning ''The State educational agency shall not approve any application unless evidence that any consultation required by paragraph (1) has taken place is provided.'', inserted ''the projected goals of the applicant with respect to participant recruitment, retention, and educational achievement and how the applicant will measure and report progress in meeting its goals;'' after ''sources;'', substituted ''the Carl D. Perkins Vocational and Applied Technology Education Act'' for ''the Carl D. Perkins Vocational Education Act'', and substituted ''the Individuals with Disabilities Education Act'' for ''the Education of the Handicapped Act''. Former par. (4) redesignated (5).

Subsec. (a)(5). Pub. L. 102–73, § 301(b)(3), (4), redesignated par. (4) as (5), struck out ''(A)'' before ''The State educational agency'', inserted '', particularly in areas with a high proportion of adults who do not have a certificate of graduation from a school providing secondary education or its equivalent'' after ''adults'', and struck out subpar. (B) which read as follows: ''The provisions of subparagraph (A) shall apply in any fiscal year in which the amount appropriated for basic State grants under this part exceeds the amounts available for such grants in fiscal year 1988.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1204, 1206b, 1207a of this title.

§ 1203b. Local administrative cost limits

(a) Of the funds provided by the State agency to eligible recipients, at least 95 percent must be expended for provision of adult education instructional activities. The remainder shall be used for planning, administration, personnel development, and interagency coordination.

(b) In cases where the administrative cost limits under subsection (a) of this section would be insufficient for adequate planning, administration, evaluation, and coordination of programs supported under this Act, the State agency shall negotiate with the local grant recipient in order to determine an adequate level of funds to be used for noninstructional purposes.

(Pub. L. 89–750, title III, § 323, as added Pub. L. 100–297, title II, § 2102, Apr. 28, 1988, 102 Stat. 306.)

REFERENCES IN TEXT

This Act, referred to in subsec. (b), means Pub. L. 89–750, Nov. 3, 1966, 80 Stat. 1191, as amended, known as the Elementary and Secondary Education Amendments of 1966. Title III of the Act, known as the Adult Education Act, is classified to this chapter. For complete classification of this Act to the Code, see Short Title of 1966 Amendment note set out under section 6301 of this title and Tables.

PART B—PROGRAMS FOR CORRECTIONS EDUCATION AND EDUCATION FOR OTHER INSTITUTIONALIZED INDIVIDUALS

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 1203a of this title.

§ 1204. Program authorized

Funds[1] set aside under section 1203a(b)(1) of this title by a State shall be used for the cost of

[1] So in original. Probably should be preceded by subsection designation ''(a)''.

educational programs for criminal offenders in corrections institutions and for other institutionalized individuals, including—

(1) academic programs for—

(A) basic education with special emphasis on reading, writing, vocabulary, and arithmetic;

(B) special education programs as defined by State law;

(C) bilingual or English as a second language programs; and

(D) secondary school credit programs;

(2) vocational training programs;

(3) library development and library service programs;

(4) corrections education programs, training for teacher personnel specializing in corrections education, particularly courses in social education, basic skills instruction, and abnormal psychology;

(5) guidance and counseling programs;

(6) supportive services for criminal offenders, with special emphasis on the coordination of educational services with agencies furnishing services to criminal offenders after their release; and

(7) cooperative programs with educational institutions, community-based organizations of demonstrated effectiveness, and the private sector, designed to provide education and training.

(b) As used in this section, the term—

(1) ''criminal offender'' means any individual who is charged with or convicted of any criminal offense; and

(2) ''correctional institution'' means any—

(A) prison,

(B) jail,

(C) reformatory,

(D) work farm,

(E) detention center, or

(F) halfway house, community-based rehabilitation center, or any other similar institution designed for the confinement or rehabilitation of criminal offenders.

(Pub. L. 89–750, title III, § 326, as added Pub. L. 100–297, title II, § 2102, Apr. 28, 1988, 102 Stat. 306.)

PRIOR PROVISIONS

A prior section 1204, Pub. L. 89–750, title III, § 305, Nov. 3, 1966, 80 Stat. 1217; Pub. L. 90–247, title V, § 501, Jan. 2, 1968, 81 Stat. 815; Pub. L. 91–230, title III, § 301, Apr. 13, 1970, 84 Stat. 160; Pub. L. 91–600, § 3(a), Dec. 30, 1970, 84 Stat. 1669; Pub. L. 93–380, title VIII, § 843(c)(2), (3), Aug. 21, 1974, 88 Stat. 611; Pub. L. 95–561, title XIII, § 1304(b), Nov. 1, 1978, 92 Stat. 2357; Pub. L. 98–511, title I, §§ 102(f)(1), 104, Oct. 19, 1984, 98 Stat. 2366, 2367, related to allotment of grant funds, prior to the general revision of this chapter by Pub. L. 100–297.

PART C—STATE ADMINISTRATIVE RESPONSIBILITIES

§ 1205. State administration

(a) State agency responsibilities

Any State desiring to participate in the programs authorized by this chapter shall designate the State educational agency to be the sole State agency responsible for the administration and supervision of such programs. The responsibilities of the State agency shall include—

(1) the development, submission, and implementation of the State application and plan and any amendments thereto (pursuant to sections 1206a and 1207 of this title), and the State evaluation (pursuant to section 1207a of this title);

(2) within 2 years of July 25, 1991, the development and implementation, in consultation with a widely representative group of appropriate experts, educators, and administrators, of indicators of program quality to be used to evaluate programs assisted under this chapter, as required by section 1207a of this title, to determine whether such programs are effective, including whether such programs are successfully recruiting, retaining, and improving the literacy skills of the individuals served in such programs;

(3) consultation with the State advisory council established pursuant to section 1205a of this title, and other appropriate agencies, groups, and individuals involved in the planning, administration, evaluation, and coordination of programs funded under this chapter; and

(4) the assignment of such personnel as may be necessary for State administration of programs under this chapter.

(b) State imposed requirements

Whenever any State imposes any rule or policy relating to the administration and operation of programs funded by this chapter (including any rule or policy based on State interpretation of any Federal law, regulation, or guideline) the rule or policy shall be identified as a State imposed requirement.

(c) Limitation on State administrative costs

Effective for fiscal years beginning after September 30, 1990, a State educational agency may use no more than 5 percent of the State's grant or $50,000, whichever is greater, to pay the cost of its administration of the State's program.

(Pub. L. 89–750, title III, § 331, as added Pub. L. 100–297, title II, § 2102, Apr. 28, 1988, 102 Stat. 307; amended Pub. L. 102–73, title III, § 301(c), July 25, 1991, 105 Stat. 346.)

PRIOR PROVISIONS

A prior section 1205, Pub. L. 89–750, title III, § 306, Nov. 3, 1966, 80 Stat. 1218; Pub. L. 90–247, title V, § 502(b), Jan. 2, 1968, 81 Stat. 815; Pub. L. 91–230, title III, § 301, Apr. 13, 1970, 84 Stat. 161; Pub. L. 93–380, title VI, §§ 603, 607(a), Aug. 21, 1974, 88 Stat. 576, 578; Pub. L. 95–561, title XIII, § 1305, Nov. 1, 1978, 92 Stat. 2357; Pub. L. 98–511, title I, §§ 102(f)(1), 105, Oct. 19, 1984, 98 Stat. 2366, 2367; Pub. L. 98–524, § 4(d)(1), Oct. 19, 1984, 98 Stat. 2488; Pub. L. 100–77, title VII, § 701(a), July 22, 1987, 101 Stat. 524, related to State plans, prior to the general revision of this chapter by Pub. L. 100–297.

AMENDMENTS

1991—Subsec. (a)(2) to (4). Pub. L. 102–73 added par. (2) and redesignated former pars. (2) and (3) as (3) and (4), respectively.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1206a, 1207a of this title.

§ 1205a. State advisory council on adult education and literacy

(a) Requirement

(1) Any State may designate a body, or establish a new body if there is no suitable existing body, to act as a State advisory council on adult education and literacy, appointed by, and responsible to, the Governor. The membership of the State advisory council shall be broadly representative of citizens and groups within the State having an interest in adult education and literacy, and shall consist of—

(i) representatives of public education;

(ii) representatives of public and private sector employment;

(iii) representatives of recognized State labor organizations;

(iv) representatives of private literacy organizations, voluntary literacy organizations, and community-based literacy organizations;

(v) the chief administrative officer of a State, or the designee of such officer;

(vi) representatives of—

(I) the State educational agency;

(II) the State job training agency;

(III) the State human services agency;

(IV) the State public assistance agency;

(V) the State library program; and

(VI) the State economic development agency;

(vii) officers of the State government whose agencies provide funding for literacy services or who may be designated by the Governor or the Chairperson of the council to serve whenever matters within the jurisdiction of the agency headed by such an officer are to be considered by the council; and

(viii) classroom teachers who have demonstrated outstanding results in teaching children or adults to read.

(2) A State which elects to designate or establish a State advisory council available for this subsection may use funds under this part for the purposes of this subsection.

(b) Representation on council

The State shall ensure that there is appropriate representation on the State advisory council of urban as well as rural areas, of women, persons with handicaps, and racial and ethnic minorities.

(c) Certification

The State shall certify the establishment and membership of the State advisory council to the Secretary prior to the beginning of any fiscal year in which the State desires to receive a grant under this chapter.

(d) Procedures

(1) Subject to paragraphs (2) and (3), the State advisory council shall determine its own procedures, staffing needs (subject to funding levels authorized by the chief executive officer of the State), and the number, time, place, and conduct of meetings.

(2) The State advisory council shall meet at least 4 times each year. At least 1 such meeting shall provide an opportunity for the general public to express views concerning adult education in the State.

(3) One member more than one-half of the members on the council shall constitute a quorum for the purpose of transmitting recommendations and proposals to the chief executive officer of the State, but a lesser number of members may constitute a quorum for other purposes.

(e) Terms

Members shall be appointed for fixed and staggered terms and may serve until their successors are appointed. Any vacancy in the membership of the council shall be filled in the same manner as the original appointment. Any member of the council may be removed for cause in accordance with procedures established by the council.

(f) Duties

Each State advisory council shall—

(1) meet with the State agencies responsible for literacy training during the planning year to advise on the development of a State plan for literacy and for adult education that fulfills the literacy and adult education needs of the State, especially with respect to the needs of the labor market, economic development goals, and the needs of the individuals in the State;

(2) advise the Governor, the State educational agency, and other State agencies concerning—

(A) the development and implementation of measurable State literacy and adult education goals consistent with section 1206a(c)(2) of this title, especially with respect to—

(i) improving levels of literacy in the State by ensuring that all appropriate State agencies have specific objectives and strategies for such goals in a comprehensive approach;

(ii) improving literacy programs in the State; and

(iii) fulfilling the long-term literacy goals of the State;

(B) the coordination and monitoring of State literacy training programs in order to progress toward the long-term literacy goals of the State;

(C) the improvement of the quality of literacy programs in the State by supporting the integration of services, staff training, and technology-based learning and the integration of resources of literacy programs conducted by various agencies of State government; and

(D) private sector initiatives that would improve adult education programs and literacy programs, especially through public-private partnerships;

(3) review and comment on the plan submitted pursuant to section 1208aa(h) of this title and submit such comments to the Secretary;

(4) measure progress on meeting the goals and objectives established pursuant to paragraph (2)(A);

(5) recommend model systems for implementing and coordinating State literacy programs for replication at the local level;

(6) develop reporting requirements, standards for outcomes, performance measures, and

program effectiveness in State programs, that are consistent with those proposed by the Interagency Task Force on Literacy; and

(7)(A) approve the plan for evaluations required in section 1207a of this title and participate in the implementation and dissemination of such evaluations, (B) advise the Governor, the State legislature, and the general public of the State of the findings of such evaluations, and (C) include in any report of such evaluations its comments and recommendations.

(g) Designation of State human resource investment council under Job Training Partnership Act

(1) The requirements in this section shall be satisfied if a State designates the State human resource investment council established under title VII of the Job Training Partnership Act [29 U.S.C. 1792 et seq.] (in this subsection referred to as the ''State Council'') to carry out the duties described in subsection (f) of this section.

(2) Funds under this subchapter may be allotted to the State Council to carry out such duties and the other duties of the State Council if the Governor and the head of the State agency responsible for carrying out programs under this Act agree to such an allotment.

(Pub. L. 89–750, title III, § 332, as added Pub. L. 100–297, title II, § 2102, Apr. 28, 1988, 102 Stat. 307; amended Pub. L. 102–73, title III, § 301(d), July 25, 1991, 105 Stat. 346; Pub. L. 102–367, title VI, § 601(b)(2), Sept. 7, 1992, 106 Stat. 1103.)

REFERENCES IN TEXT

The Job Training Partnership Act, referred to in subsec. (g)(1), is Pub. L. 97–300, Oct. 13, 1982, 96 Stat. 1322, as amended. Title VII of the Act is classified generally to subchapter VI (§ 1792 et seq.) of chapter 19 of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 1501 of Title 29 and Tables.

This Act, referred to in subsec. (g)(2), means Pub. L. 89–750, Nov. 3, 1966, 80 Stat. 1191, as amended, known as the Elementary and Secondary Education Amendments of 1966. Title III of the Act, known as the Adult Education Act, is classified to this chapter. For complete classification of this Act to the Code, see Short Title of 1966 Amendment note set out under section 6301 of this title and Tables.

AMENDMENTS

1992—Subsec. (g). Pub. L. 102–367, which directed that subsec. (g) be added at end of ''section 332(d) of the Adult Education Act (20 U.S.C. 1205a(d))'', was executed by adding subsec. (g) at end of this section to reflect the probable intent of Congress.

1991—Pub. L. 102–73, § 301(d)(1), inserted ''and literacy'' after ''education'' in section catchline.

Subsec. (a)(1). Pub. L. 102–73, § 301(d)(2)(A), (B), substituted ''adult education and literacy, appointed by, and responsible to, the Governor'' for ''adult education, appointed by the Governor'', inserted ''and literacy'' after ''interest in adult education'', and substituted ''consist of—'' and cls. (i) to (viii) for ''consist of representatives of public education; private and public sector employment; recognized State labor organizations; private, voluntary, or community literacy organizations; libraries; and State economic development agencies.''

Subsec. (d). Pub. L. 102–73, § 301(d)(2)(C), amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: ''Members of the State advisory council shall, using procedures agreed upon, elect their own chairperson. The State advisory council shall determine its own procedures, staffing needs (subject to funding levels authorized by the Governor), and the number, time, place, and conduct of meetings, except that it shall hold at least 1 public meeting each year at which the general public is given an opportunity to express views concerning adult education programs in the State. In approving the plan for the evaluations under subsection (f)(3)(A) of this section, the council shall ensure that persons knowledgeable of the daily operation of adult education programs are involved.''

Subsec. (f)(1), (2). Pub. L. 102–73, § 301(d)(2)(D)(i), (ii), amended pars. (1) and (2) generally. Prior to amendment, pars. (1) and (2) read as follows:

''(1) meet with the State agency or its representatives during the planning year to advise on the development of the State plan;

''(2) advise the State agency concerning—

''(A) policies the State should pursue to strengthen adult education; and

''(B) initiatives and methods the private sector could undertake to assist the State's improvement of adult education programs; and''.

Subsec. (f)(3) to (7). Pub. L. 102–73, § 301(d)(2)(D)(iii), (iv), added pars. (3) to (6) and redesignated former par. (3) as (7).

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–367 effective July 1, 1993, see section 701(a) of Pub. L. 102–367, set out as a note under section 1501 of Title 29, Labor.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1205, 1206a, 1208aa of this title.

PART D—PLANNING AND APPLICATIONS

§ 1206. State plan and application

(a) Requirement

Any State desiring to receive funds under this chapter shall submit to the Secretary, during the fiscal year 1989 and during each fourth fiscal year thereafter, a State plan and application for adult education (in one document) for the four fiscal years succeeding each fiscal year in which the State plan and application are submitted.

(b) Procedure for submission and consideration

Each State plan and application shall be submitted to the Secretary by July 1 preceding the beginning of the first fiscal year for which the plan is in effect. The Secretary shall approve, within 60 days, each such plan and application which is formulated in accordance with sections 1206a and 1206b of this title and which meets the requirements of such sections, and shall not finally disapprove a State plan except after giving reasonable notice and an opportunity for a hearing to the State agency.

(c) GEPA provision

Such document shall be considered to be the general application required to be submitted by the State for funds received under this Act for the purpose of the provisions of section 1232d[1] of this title.

(Pub. L. 89–750, title III, § 341, as added Pub. L. 100–297, title II, § 2102, Apr. 28, 1988, 102 Stat. 309.)

REFERENCES IN TEXT

This Act, referred to in subsec. (c), means Pub. L. 89–750, Nov. 3, 1966, 80 Stat. 1191, as amended, known as

[1] See References in Text note below.

the Elementary and Secondary Education Amendments of 1966. Title III of the Act, known as the Adult Education Act, is classified to this chapter. For complete classification of this Act to the Code, see Short Title of 1966 Amendment note set out under section 6301 of this title and Tables.

Section 1232d of this title, referred to in subsec. (c), was in the original a reference to section 435 of the General Education Provisions Act. Sections 428 and 435 of that Act were renumbered as sections 435 and 441, respectively, by Pub. L. 103–382, title II, § 212(b)(1), Oct. 20, 1994, 108 Stat. 3913, and are classified to sections 1231e and 1232d, respectively, of this title.

PRIOR PROVISIONS

A prior section 1206, Pub. L. 89–750, title III, § 307, Nov. 3, 1966, 80 Stat. 1219; Pub. L. 90–247, title V, § 503, Jan. 2, 1968, 81 Stat. 815; Pub. L. 91–230, title III, § 301, Apr. 13, 1970, 84 Stat. 162; Pub. L. 94–482, title III, § 323(a)(4), Oct. 12, 1976, 90 Stat. 2218; Pub. L. 95–561, title XIII, § 1306, Nov. 1, 1978, 92 Stat. 2359; Pub. L. 98–511, title I, §§ 102(f)(1), 106, Oct. 19, 1984, 98 Stat. 2366, 2368, related to payments to States, prior to the general revision of this chapter by Pub. L. 100–297.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1203a, 1206b of this title.

§ 1206a. Four-year State plan

(a) Procedures required in formulating State plan

(1) In formulating the State plan, the State agency shall meet with and utilize the State advisory council, if established pursuant to section 1205a of this title.

(2) The State agency shall conduct public hearings in the State, after appropriate and sufficient notice, for the purpose of affording all segments of the public, including groups serving educationally disadvantaged adults, and interested organizations and groups an opportunity to present their views and make recommendations regarding the State plan. A summary of such recommendations and the State agency's response shall be included with the State plan submitted to the Secretary.

(3)(A) Not less than 60 days before submission of the State plan to the Secretary under section 1206 of this title, the State agency shall simultaneously submit the proposed State plan to (i) the State Board or agency for vocational education, (ii) the State Job Training Coordinating Council under the Job Training Partnership Act [29 U.S.C. 1501 et seq.], and (iii) the State Board responsible for postsecondary education for review and comment. Such comments (to the extent such comments are received in a timely fashion) and the State's response shall be included with the State plan submitted to the Secretary. The Secretary shall consider such comments in reviewing such plan.

(B) Not less than 60 days before the submission of the State plan to the Secretary, such plan shall be submitted to the State advisory council (if such a council exists). Should the State advisory council find that it has substantial disagreement with the final State plan, the Council may file timely objections with the State agency. The State agency shall respond to all substantial objections of the State advisory council in submitting such plan to the Secretary. The Secretary shall consider such comments in reviewing the State plan.

(b) Required assessments

In developing the 4-year State plan, each State shall (1) make a thorough assessment of (A) the needs of adults, including educationally disadvantaged adults, eligible to be served as well as adults proposed to be served and those served and (B) the capability of existing programs and institutions to meet those needs, and (2) state the changes and improvements required in adult education to fulfill the purposes of this chapter, and the options for implementing these changes and improvements.

(c) Components of State plan

Consistent with the assessments described in subsection (b) of this section each such plan shall—

(1) describe and provide for the fulfillment of the literacy needs of individuals in the State;

(2) set forth measurable goals for improving literacy levels, retention in literacy programs, and long-term learning gains of individuals in the State and describe a comprehensive approach for achieving such goals, including the development of indicators of program quality as required by section 1205(a)(2) of this title;

(3) describe the curriculum, equipment, and instruments that are being used by instruction personnel and indicate how current these elements are;

(4) describe the means by which the delivery of adult education services will be significantly expanded (including efforts to reach typically underserved groups such as educationally disadvantaged adults, individuals with limited English proficiency and individuals with handicaps) through coordination by agencies, institutions, and organizations including the public school system, businesses, labor unions, libraries, institutions of higher education, public health authorities, employment or training programs, antipoverty programs, organizations providing assistance to the homeless, and community and voluntary organizations;

(5) describe the means by which representatives of the public and private sector are involved in the development and implementation of the plan, especially in the expansion of the delivery of adult education services by cooperation and collaboration with those public and private agencies, institutions, and organizations;

(6) describe specialized efforts to attract and assist meaningful participation in adult education programs through flexible course schedules, provision of auxiliary aids and services, convenient locations, adequate transportation, and meeting child care needs;

(7) provide for the needs of persons with limited English proficiency (as defined in section 7601(8)[1] of this title[2] or no English proficiency by providing adequate appropriate language assistance to the extent necessary to all such persons so they may progress effectively through adult education programs;

(8) describe how the particular educational needs of adult immigrants, the incarcerated,

[1] See References in Text note below.

[2] So in original. Probably should be followed by a closing parenthesis.

persons with handicaps, the chronically unemployed, the homeless, the disadvantaged, and minorities will be addressed;

(9) describe the progress the State has made in achieving the goals set forth in each State plan subsequent to the initial State plan;

(10) set forth the criteria the State agency will use in approving applications by eligible recipients and allocating funds made available under this chapter to such recipients;

(11) describe the methods proposed for the joint planning and coordination of programs carried out under this chapter with those conducted under applicable Federal and State programs, including the Carl D. Perkins Vocational Education Act of 1963 [20 U.S.C. 2301 et seq.], Even Start, the Job Training Partnership Act [29 U.S.C. 1501 et seq.], the Rehabilitation Act of 1973 [29 U.S.C. 701 et seq.], the Individuals with Disabilities Education Act [20 U.S.C. 1400 et seq.], the Immigration Reform and Control Act of 1986, the Higher Education Act of 1965 [20 U.S.C. 1001 et seq.], and the Domestic Volunteer Service Act [42 U.S.C. 4950 et seq.], to assure maximum use of funds under these Acts and to avoid duplication of services;

(12) describe the steps taken to utilize volunteers, particularly volunteers assigned to the Literacy Corps established under the Domestic Volunteer Service Act [42 U.S.C. 4950 et seq.] and volunteers trained in programs carried out by section 1213a of this title, but only to the extent that such volunteers supplement and do not supplant salaried employees;

(13) describe the measures to be taken to ensure that adult education programs, services, and activities assisted under this chapter will take into account the findings or program reviews and evaluations carried out pursuant to section 1207a of this title;

(14) report the amount of administrative funds spent on program improvements; and

(15) contain assurances that financial assistance provided pursuant to this chapter shall be used to assist and expand existing programs and to develop new programs for adults whose lack of basic skills—

(A) renders them unemployable;

(B) keeps them, whether employed or unemployed, from functioning independently in society; and

(C) severely reduces their ability to have a positive effect on the literacy of their children.

(d) Limited English proficiency rule

Programs conducted under subsection (c)(6) of this section shall be designed to teach English to limited English proficient adults and, as appropriate, to allow such adults to progress effectively through the adult education program or to prepare them to enter the regular program of adult education as quickly as possible. Such programs may provide instruction in the native language, to the extent necessary, or may provide instruction exclusively in English, and shall be carried out in coordination with programs assisted under the Bilingual Education Act [20 U.S.C. 7401 et seq.] and with bilingual vocational education programs under the Carl D. Perkins Vocational Education Act [20 U.S.C. 2301 et seq.].

(Pub. L. 89–750, title III, § 342, as added Pub. L. 100–297, title II, § 2102, Apr. 28, 1988, 102 Stat. 309; amended Pub. L. 101–476, title IX, § 901(a)(3), Oct. 30, 1990, 104 Stat. 1142; Pub. L. 102–73, title III, § 301(e), July 25, 1991, 105 Stat. 348; Pub. L. 103–382, title III, §§ 335(a), 394(a), Oct. 20, 1994, 108 Stat. 3966, 4027.)

REFERENCES IN TEXT

The Job Training Partnership Act, referred to in subsecs. (a)(3) and (c)(11), is Pub. L. 97–300, Oct. 13, 1982, 96 Stat. 1322, as amended, which is classified generally to chapter 19 (§ 1501 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 1501 of Title 29 and Tables.

Section 7601(8) of this title, referred to in subsec. (c)(7), was in the original section 7004(a) of the Elementary and Secondary Education Act of 1965, and was translated as if it read section 7501(8) of that Act to reflect the probable intent of Congress, because the Elementary and Secondary Education Act of 1965 does not contain a section 7004, and section 7501(8) defines limited English proficiency.

The Carl D. Perkins Vocational Education Act of 1963 and the Carl D. Perkins Vocational Education Act, referred to in subsecs. (c)(11) and (d), respectively, are both Pub. L. 88–210, Dec. 18, 1963, 77 Stat. 403, as amended, known as the Carl D. Perkins Vocational and Applied Technology Education Act, which is classified generally to chapter 44 (§ 2301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2301 of this title and Tables.

The Rehabilitation Act of 1973, referred to in subsec. (c)(11), is Pub. L. 93–112, Sept. 26, 1973, 87 Stat. 355, as amended, which is classified generally to chapter 16 (§ 701 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 701 of Title 29 and Tables.

The Individuals with Disabilities Education Act, referred to in subsec. (c)(11), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, as amended, which is classified generally to chapter 33 (§ 1400 et seq.) of this title. For complete classification of this Act to the Code, see section 1400 of this title and Tables.

The Immigration Reform and Control Act of 1986, referred to in subsec. (c)(11), is Pub. L. 99–603, Nov. 6, 1986, 100 Stat. 3359, as amended. For complete classification of this Act to the Code, see Short Title of 1986 Amendments note set out under section 1101 of Title 8, Aliens and Nationality, and Tables.

The Higher Education Act of 1965, referred to in subsec. (c)(11), is Pub. L. 89–329, Nov. 8, 1965, 79 Stat. 1219, as amended, which is classified principally to chapter 28 (§ 1001 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

The Domestic Volunteer Service Act, referred to in subsec. (c)(11), (12), probably means the Domestic Volunteer Service Act of 1973, which is Pub. L. 93–113, Oct. 1, 1973, 87 Stat. 394, as amended, and which is classified principally to chapter 66 (§ 4950 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4950 of Title 42 and Tables.

The Bilingual Education Act, referred to in subsec. (d), is part A of title VII of Pub. L. 89–10, as added by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3716, which is classified generally to part A (§ 7401 et seq.) of subchapter VII of chapter 70 of this title. For complete classification of this Act to the Code, see section 7401 of this title and Tables.

AMENDMENTS

1994—Subsec. (c)(7). Pub. L. 103–382, § 394(a), made technical amendment to reference to section 7601(8) of

this title to reflect change in reference to corresponding section of original act.

Subsec. (c)(11). Pub. L. 103–382, § 335(a), inserted ''Even Start,'' after ''1963,''.

1991—Subsec. (c)(1). Pub. L. 102–73, § 301(e)(1), amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''set forth the goals, the methods and strategies, and the expected outcomes of programs, services, and activities during the 4-year period;''.

Subsec. (c)(2). Pub. L. 102–73, § 301(e)(3), (4), added par. (2) and redesignated former par. (2) as (3).

Subsec. (c)(3). Pub. L. 102–73, § 301(e)(3), redesignated par. (2) as (3). Former par. (3) redesignated (4).

Subsec. (c)(4). Pub. L. 102–73, § 301(e)(3), (5), redesignated par. (3) as (4), substituted ''coordination by'' for ''the use of'' and ''including'' for ''other than'', and struck out ''such as'' before ''businesses,''. Former par. (4) redesignated (5).

Subsec. (c)(5) to (8). Pub. L. 102–73, § 301(e)(3), redesignated pars. (4) to (8) as (5) to (9), respectively.

Subsec. (c)(9). Pub. L. 102–73, § 301(e)(2), (3), redesignated par. (8) as (9) and struck out former par. (9) which read as follows: ''describe the progress it expects to make toward achieving the purpose of this chapter during the 4-year period of the State plan;''.

Subsec. (c)(14), (15). Pub. L. 102–73, § 301(e)(6)–(8), added pars. (14) and (15).

1990—Subsec. (c)(11). Pub. L. 101–476 substituted reference to the Individuals with Disabilities Education Act for reference to the Education of the Handicapped Act.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101–476, set out as a note under section 1087ee of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1205, 1205a, 1206, 1208aa, 1211, 1211a of this title; title 29 section 1533.

§ 1206b. State applications

The State application submitted pursuant to section 1206 of this title shall provide assurances—

(1) that the State will provide such methods of administration as are necessary for the proper and efficient administration of this chapter;

(2) that Federal funds made available under this chapter will be so used as to supplement the amount of State and local funds available for uses specified in this chapter, and in no case to supplant such State and local funds;

(3) that the programs, services, and activities funded in accordance with the uses specified in section 1203a of this title are designed to expand or improve the quality of adult education programs including programs for educationally disadvantaged adults, to initiate new programs of high quality, or where necessary, to maintain programs;

(4) that the State will provide such fiscal control and fundings accounting procedures as may be necessary to ensure proper disbursement of, and accounting for, Federal funds paid to the State (including such funds paid by the State to eligible recipients under this chapter); and

(5) that the State has instituted policies and procedures to ensure that copies of the State plan and all statements of general policy, rules, regulations, and procedures will be made available to the public.

(Pub. L. 89–750, title III, § 343, as added Pub. L. 100–297, title II, § 2102, Apr. 28, 1988, 102 Stat. 311.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1206 of this title.

PART E—EVALUATION AND STATE PLAN AMENDMENTS

§ 1207. State plan amendments

(a) Timely submission

When changes are necessary in a State plan, the State shall submit amendments to its plan by July 1 preceding the fiscal year of operation to which the amendments apply.

(b) Consideration by Secretary

The Secretary shall approve, within 60 days of submission, State plan amendments which meet the requirements of this section, unless such amendments propose changes that are inconsistent with the requirements and purposes of this chapter. The Secretary shall not finally disapprove such amendments except after giving reasonable notice and an opportunity for hearing to the State agency.

(c) Transition rule

Upon a written request from a State, the Secretary shall approve an extension of 1 year, from June 30, 1988, to June 30, 1989, for the revision of any plan already approved under this section for the period July 1, 1985, through June 30, 1988.

(Pub. L. 89–750, title III, § 351, as added Pub. L. 100–297, title II, § 2102, Apr. 28, 1988, 102 Stat. 312.)

PRIOR PROVISIONS

A prior section 1207, Pub. L. 89–750, title III, § 308, Nov. 3, 1966, 80 Stat. 1219; Pub. L. 91–230, title III, § 301, Apr. 13, 1970, 84 Stat. 162; Pub. L. 98–511, title I, §§ 102(f), 107, Oct. 19, 1984, 98 Stat. 2366, 2368, related to administration of State plans, prior to the general revision of this chapter by Pub. L. 100–297.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1203a, 1205 of this title.

§ 1207a. Evaluation

In order to assist grant recipients receiving funds under this chapter to plan and operate the best possible programs of adult education, each State agency during the 4-year period of the State plan shall—

(1) annually submit to the Secretary and make public within the State data with respect to grant recipients, including—

(A) the number and percentage of local educational agencies, community-based organizations, volunteer groups, and other organizations that are grant recipients; and

(B) results of the evaluations carried out as required by paragraph (2) in the year preceding the year for which the data is submitted;

(2) evaluate 20 percent of the grant recipients each year so that at the end of such period 80 percent of all grant recipients shall have been evaluated once and such evaluations shall consider, at a minimum—

(A) the projected goals of the grant recipient as described in its application pursuant to section 1203a(a)(3) of this title;

(B) the planning and content of the program;

(C) the curriculum, instructional materials, equipment, and qualifications of all personnel;

(D) the success of the grant recipient in meeting the State's indicators of program quality after such indicators are developed as required by section 1205(a)(2) of this title; and

(E) other factors determined to affect program operation;[1]

(3) gather and analyze data (including standardized test data) to determine the extent to which the adult programs are achieving the goals set forth in the plan including the goal of serving educationally disadvantaged adults, and the extent to which grant recipients have improved their capacity to achieve the purposes of this chapter as set forth in section 1201 of this title.

(Pub. L. 89–750, title III, § 352, as added Pub. L. 100–297, title II, § 2102, Apr. 28, 1988, 102 Stat. 312; amended Pub. L. 102–73, title III, § 301(f), July 25, 1991, 105 Stat. 349.)

PRIOR PROVISIONS

A prior section 1207a, Pub. L. 89–750, title III, § 309, as added Pub. L. 95–561, title XIII, § 1307(b), Nov. 1, 1978, 92 Stat. 2360; amended Pub. L. 98–511, title I, §§ 102(f)(1), 108, Oct. 19, 1984, 98 Stat. 2366, 2368; Pub. L. 100–77, title VII, § 701(b), July 22, 1987, 101 Stat. 524, related to research, development, demonstration, dissemination, and evaluation activities, prior to the general revision of this chapter by Pub. L. 100–297.

AMENDMENTS

1991—Par. (1). Pub. L. 102–73, § 301(f)(1), substituted ''to the Secretary and make public within the State data'' for ''data to the Secretary'' and inserted before semicolon '', including—'' and subpars. (A) and (B).

Par. (2). Pub. L. 102–73, § 301(f)(2)(A), in introductory provisions, substituted ''evaluate 20 percent of the grant recipients each year so that at the end of such period 80 percent of all grant recipients shall have been evaluated once and such evaluations shall consider, at a minimum'' for ''before the end of such period evaluate at least one-third of grant recipients (which are representative of all grant recipients in the State) and such evaluations shall consider''.

Par. (2)(A) to (C). Pub. L. 102–73, § 301(f)(2)(B), (C), added subpar. (A) and redesignated former subpars. (A) and (B) as (B) and (C), respectively. Former subpar. (C) redesignated (D).

Par. (2)(D). Pub. L. 102–73, § 301(f)(2)(B), (D), redesignated subpar. (C) as (D) and amended it generally. Prior to amendment, subpar. read as follows: ''the effect of the program on the subsequent work experience of graduates; and''. Former subpar. (D) redesignated (E).

Par. (2)(E). Pub. L. 102–73, § 301(f)(2)(B), (E), redesignated subpar. (D) as (E) and struck out ''and'' at end.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1205, 1205a, 1206a, 1213b of this title.

PART F—DEMONSTRATION PROJECTS

§ 1208. Special experimental demonstration projects and teacher training

(a) Use of funds

Of the funds allotted to a State under section 1201b of this title for a fiscal year, not less than 15 percent shall be used for—

(1) special projects which will be carried out in furtherance of the purposes of this chapter, which will be coordinated with other programs funded under this chapter and which—

(A) involve the use of innovative methods (including methods for educating persons with handicaps, the homeless, and persons of limited English proficiency), systems, materials, or programs which may have national significance or will be of special value in promoting effective programs under this chapter, or

(B) involve programs of adult education, including education for persons with handicaps, the homeless, and persons of limited English proficiency, which are part of community school programs, carried out in cooperation with other Federal, State, or local programs which have unusual promise in promoting a comprehensive or coordinated approach to the problems of persons with educational deficiencies;

(2) training persons engaged, or preparing to engage, as personnel in programs designed to carry out the purposes of this chapter; and

(3) training professional teachers, volunteers, and administrators, with particular emphasis on—

(A) training—

(i) full-time professional adult educators;

(ii) minority adult educators;

(iii) educators of adults with limited English proficiency; and

(B) training teachers to recognize and more effectively serve illiterate individuals with learning disabilities and individuals who have a reading ability below the fifth grade level.

(b) Special rule

At least ⅔ of the 15 percent reserved pursuant to subsection (a) of this section shall be used to carry out the provisions of paragraphs (2) and (3) of subsection (a) of this section.

(Pub. L. 89–750, title III, § 353, as added Pub. L. 100–297, title II, § 2102, Apr. 28, 1988, 102 Stat. 312; amended Pub. L. 102–73, title III, § 301(g), July 25, 1991, 105 Stat. 349.)

PRIOR PROVISIONS

A prior section 1208, Pub. L. 89–750, title III, § 310, formerly § 309, Nov. 3, 1966, 80 Stat. 1220; Pub. L. 91–230, title III, § 301, Apr. 13, 1970, 84 Stat. 163; Pub. L. 93–380, title VI, §§ 604, 607(b)(1), (2), Aug. 21, 1974, 88 Stat. 577–579; Pub. L. 94–482, title III, § 329, Oct. 12, 1976, 90 Stat. 2221; renumbered § 310, Pub. L. 95–561, title XIII, § 1307(a)(1), Nov. 1, 1978, 92 Stat. 2359, related to use of funds for special experimental demonstration projects and teacher training, prior to the general revision of this chapter by Pub. L. 100–297.

A prior section 1208–1, Pub. L. 89–750, title III, § 309A, as added Pub. L. 93–380, title VI, § 605, Aug. 21, 1974, 88 Stat. 577, provided for establishment and operation of a clearinghouse on adult education, prior to repeal by Pub. L. 95–561, title XIII, § 1307(a)(2), Nov. 1, 1978, 92 Stat. 2359, eff. Oct. 1, 1978.

A prior section 1208a, Pub. L. 89–750, title III, § 311, formerly § 310, as added Pub. L. 93–29, title VIII, § 804(a), May 3, 1973, 87 Stat. 60; amended Pub. L. 94–135, title II, § 202, Nov. 28, 1975, 89 Stat. 726; Pub. L. 95–112, § 3(a)(1), Sept. 24, 1977, 91 Stat. 912; renumbered § 311, and amended Pub. L. 95–561, title XIII, §§ 1307(a)(3), 1308, Nov. 1,

[1] So in original. Probably should be followed by ''and''.

1978, 92 Stat. 2360; Pub. L. 98–511, title I, §102(f)(1), Oct. 19, 1984, 98 Stat. 2366, authorized special projects for elderly, providing in: subsec. (a) for grants to public educational and public or private nonprofit agencies; subsec. (b) authorization of appropriations; and subsec. (c) for administrative coordination with programs for older Americans, prior to repeal by Pub. L. 98–511, title I, §109(a)(1), Oct. 19, 1984, 98 Stat. 2369, eff. July 1, 1985.

A prior section 1208b, Pub. L. 89–750, title III, §311, formerly §310A, as added Pub. L. 93–380, title VI, §606, Aug. 21, 1974, 88 Stat. 577; amended Pub. L. 94–482, title V, §501(g), Oct. 12, 1976, 90 Stat. 2237; renumbered §312, Pub. L. 95–561, title XIII, §1307(a)(3), Nov. 1, 1978, 92 Stat. 2360; renumbered §311 and amended Pub. L. 98–511, title I, §§102(f)(1), 109(a)(2), 110, Oct. 19, 1984, 98 Stat. 2366, 2369, related to State advisory councils, prior to the general revision of this chapter by Pub. L. 100–297.

AMENDMENTS

1991—Subsec. (a). Pub. L. 102–73, §301(g)(2)(A), substituted ''15 percent'' for ''10 percent'' in introductory provisions.

Subsec. (a)(3). Pub. L. 102–73, §301(g)(1), added par. (3).

Subsec. (b). Pub. L. 102–73, §301(g)(2)(B), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: ''Applications for funds under subsection (a) of this section shall include such information as the State educational agency considers appropriate, including plans for continuing the activities and services under the project after the completion of the funding.''

PART G—STATE LITERACY RESOURCE CENTERS

§ 1208aa. State literacy resource centers

(a) Purpose

It is the purpose of this section to assist State and local public and private nonprofit efforts to eliminate illiteracy through a program of State literacy resource center grants to—

(1) stimulate the coordination of literacy services,

(2) enhance the capacity of State and local organizations to provide literacy services, and

(3) serve as a reciprocal link between the National Institute for Literacy and service providers for the purpose of sharing information, data, research, and expertise and literacy resources.

(b) Establishment

From amounts appropriated pursuant to subsection (k) of this section, the Secretary is authorized to make grants for purposes of establishing a network of State or regional adult literacy resource centers.

(c) Allotment

(1) From sums available for purposes of making grants under this section for any fiscal year, the Secretary shall allot to each State having an approved application under subsection (h) of this section an amount that bears the same ratio to such sums as the amount allotted to such State under section 1201b(b) of this title for the purpose of making grants under section 1203 of this title bears to the aggregate amount allotted to all States under such section for such purpose.

(2) The chief executive officer of each State that receives its allotment under this section shall contract on a competitive basis with the State educational agency, 1 or more local educational agencies, a State office on literacy, a volunteer organization, a community-based organization, institution of higher education, or other nonprofit entity to operate a State literacy resource center. No applicant participating in a competition pursuant to the preceding sentence shall participate in the review of its own application.

(d) Use of funds

Funds provided to each State under subsection (c)(1) of this section to carry out this section shall be used to conduct activities to—

(1) improve and promote the diffusion and adoption of state-of-the-art teaching methods, technologies and program evaluations;

(2) develop innovative approaches to the coordination of literacy services within and among States and with the Federal Government;

(3) assist public and private agencies in coordinating the delivery of literacy services;

(4) encourage government and industry partnerships, including partnerships with small businesses, private nonprofit organizations, and community-based organizations;

(5) encourage innovation and experimentation in literacy activities that will enhance the delivery of literacy services and address emerging problems;

(6) provide technical and policy assistance to State and local governments and service providers to improve literacy policy and programs and access to such programs;

(7) provide training and technical assistance to literacy instructors in reading instruction and in—

(A) selecting and making the most effective use of state-of-the-art methodologies, instructional materials, and technologies such as—

(i) computer assisted instruction;

(ii) video tapes;

(iii) interactive systems; and

(iv) data link systems; or

(B) assessing learning style, screening for learning disabilities, and providing individualized remedial reading instruction; or

(8) encourage and facilitate the training of full-time professional adult educators.

(e) Alternative uses of equipment

Equipment purchases pursuant to this section, when not being used to carry out the provisions of this section, may be used for other instructional purposes if—

(1) the acquisition of the equipment was reasonable and necessary for the purpose of conducting a properly designed project or activity under this section;

(2) the equipment is used after regular program hours or on weekends; and

(3) such other use is—

(A) incidental to the use of the equipment under this section;

(B) does not interfere with the use of the equipment under this section; and

(C) does not add to the cost of using the equipment under this section.

(f) Limitation

Not more than 10 percent of amounts received under any grant received under this section

shall be used to purchase computer hardware or software.

(g) Special rule

(1) Each State receiving funds pursuant to this section may not use more than 5 percent of such funds to establish a State advisory council on adult education and literacy (in this section referred to as the ''State council'') pursuant to section 1205a of this title.

(2) Each State receiving funds pursuant to this section may use such funds to support an established State council to the extent that such State council meets the requirements of section 1205a of this title.

(3) Each State receiving funds pursuant to this paragraph to establish or support a State council pursuant to section 1205a of this title shall provide matching funds on a dollar-for-dollar basis.

(h) Applications

Each State or group of States, as appropriate, that desires to receive a grant under this section for a regional adult literacy resource center, a State adult literacy resource center, or both shall submit to the Secretary an application that has been reviewed and commented on by the State council, where appropriate, and that describes how the State or group of States will—

(1) develop a literacy resource center or expand an existing literacy resource center;

(2) provide services and activities with the assistance provided under this section;

(3) assure access to services of the center for the maximum participation of all public and private programs and organizations providing or seeking to provide basic skills instruction, including local educational agencies, agencies responsible for corrections education, service delivery areas under the Job Training Partnership Act [29 U.S.C. 1501 et seq.], welfare agencies, labor organizations, businesses, volunteer groups, and community-based organizations;

(4) address the measurable goals for improving literacy levels as set forth in the plan submitted pursuant to section 1206a of this title; and

(5) develop procedures for the coordination of literacy activities for statewide and local literacy efforts conducted by public and private organizations, and for enhancing the systems of service delivery.

(i) Payments; Federal share

(1) The Secretary shall pay to each State having an application approved pursuant to subsection (h) of this section the Federal share of the cost of the activities described in the application.

(2) The Federal share—

(A) for each of the first 2 fiscal years in which the State receives funds under this section shall not exceed 80 percent;

(B) for each of the third and fourth fiscal years in which the State receives funds under this section shall not exceed 70 percent; and

(C) for the fifth and each succeeding fiscal year in which the State receives funds under this section shall not exceed 60 percent.

(3) The non-Federal share of payments under this section may be in cash or in kind, fairly evaluated, including plant, equipment, or services.

(j) Regional centers

(1) A group of States may enter into an interstate agreement to develop and operate a regional adult literacy resource center for purposes of receiving assistance under this section if the States determine that a regional approach is more appropriate for their situation.

(2) Any State that receives assistance under this section as part of a regional center shall only be required to provide under subsection (i) of this section 50 percent of the funds such State would otherwise be required to provide under such subsection.

(3) In any fiscal year in which the amount a State will receive under this section is less than $100,000, the Secretary may designate the State to receive assistance under this section only as part of a regional center.

(4) The provisions of paragraph (3) shall not apply to any State that can demonstrate to the Secretary that the total amount of Federal, State, local and private funds expended to carry out the purposes of this section would equal or exceed $100,000.

(5) In any fiscal year in which paragraph (2) applies, the Secretary may allow certain States that receive assistance as part of a regional center to reserve a portion of such assistance for a State adult literacy resource center pursuant to this section.

(k) Authorization of appropriations

There are authorized to be appropriated to carry out the provisions of this section $25,000,000 for each of the fiscal years 1992 and 1993, and such sums as may be necessary for each of the fiscal years 1994 and 1995.

(Pub. L. 89–750, title III, § 356, as added Pub. L. 102–73, title I, § 103(2), July 25, 1991, 105 Stat. 338.)

REFERENCES IN TEXT

The Job Training Partnership Act, referred to in subsec. (h)(3), is Pub. L. 97–300, Oct. 13, 1982, 96 Stat. 1322, as amended, which is classified generally to chapter 19 (§ 1501 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 1501 of Title 29 and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1205a of this title.

PART H—FEDERAL SHARE; FEDERAL ADMINISTRATIVE RESPONSIBILITIES

§ 1209. Payments

(a) Federal share

The Federal share of expenditures to carry out a State plan shall be paid from a State's allotment available for grants to that State. The Federal share shall be—

(1) 90 percent of the cost of carrying out the State's programs for fiscal year 1988;

(2) 85 percent of such cost for fiscal year 1990;

(3) 80 percent of such cost for fiscal year 1991; and

(4) 75 percent of such cost for fiscal year 1992 and for each fiscal year thereafter,

except that with respect to Guam, American Samoa, the Virgin Islands, the Northern Mari-

ana Islands, the Federated States of Micronesia, the Republic of the Marshall Islands, and Palau, the Federal share of such cost shall be 100 percent.

(b) Maintenance of effort

(1) No payment may be made to any State from its allotment for any fiscal year unless the Secretary finds that the fiscal effort per student or the amount available for expenditure by such State for adult education from non-Federal sources for the second preceding fiscal year was not less than such fiscal effort per student or such amount available for expenditure for such purposes from such sources during the third preceding fiscal year.

(2) The Secretary may waive the requirements of this subsection for 1 fiscal year only, upon making a determination that such waiver would be equitable due to exceptional or uncontrollable circumstances affecting the ability of the applicant to meet such requirements, such as a natural disaster or an unforeseen and precipitous decline in financial resources.

(c) Federal responsibility

Within 1 year after July 25, 1991, the Secretary, in consultation with appropriate experts, educators, and administrators, shall develop indicators of program quality that may be used by State and local programs receiving assistance under this chapter as models by which to judge the success of such programs, including success in recruitment and retention of students and improvement in the literacy skills of students. Such indicators shall take into account different conditions under which programs operate and shall be modified as better means of assessing program quality are developed.

(Pub. L. 89–750, title III, §361, as added Pub. L. 100–297, title II, §2102, Apr. 28, 1988, 102 Stat. 313; amended Pub. L. 102–73, title III, §301(h), title VIII, §802(b)(2), July 25, 1991, 105 Stat. 350, 361.)

PRIOR PROVISIONS

A prior section 1209, Pub. L. 89–750, title III, §312, formerly §310, Nov. 3, 1966, 80 Stat. 1220; Pub. L. 91–230, title III, §301, Apr. 13, 1970, 84 Stat. 163; renumbered §311, Pub. L. 93–29, title VIII, §804(a), May 3, 1973, 87 Stat. 59; Pub. L. 93–380, title VI, §607(b)(3), title VIII, §845(f), Aug. 21, 1974, 88 Stat. 579, 612; Pub. L. 94–273, §3(10), Apr. 21, 1976, 90 Stat. 376; Pub. L. 94–482, title V, §501(a)(22), Oct. 12, 1976, 90 Stat. 2236; Pub. L. 95–112, §3(a)(2), Sept. 24, 1977, 91 Stat. 912; renumbered §313 and amended Pub. L. 95–561, title XIII, §§1307(a)(3), 1309, Nov. 1, 1978, 92 Stat. 2360, 2361; Pub. L. 96–88, title III, §301(c), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692; renumbered §312 and amended Pub. L. 98–511, title I, §§102(f)(1), 109(a)(2), 111, Oct. 19, 1984, 98 Stat. 2367, 2369, related to the National Advisory Council on Adult Education, prior to the general revision of this chapter by Pub. L. 100–297.

A prior section 1210, Pub. L. 89–750, title III, §313, Nov. 3, 1966, 80 Stat. 1222; renumbered §311, Pub. L. 91–230, title III, §301, Apr. 13, 1970, 84 Stat. 164; renumbered §312, Pub. L. 93–29, title VIII, §804(a), May 3, 1973, 87 Stat. 59; renumbered §314, Pub. L. 95–561, title XIII, §1307(a)(3), Nov. 1, 1978, 92 Stat. 2360; renumbered §313, Pub. L. 98–511, title I, §109(a)(2), Oct. 19, 1984, 98 Stat. 2369, related to prohibition on grants for sectarian instruction, religious worship, or school or department of divinity, prior to the general revision of this chapter by Pub. L. 100–297.

Another prior section 1210, Pub. L. 89–750, title III, §311, Nov. 3, 1966, 80 Stat. 1221, provided for delegation of functions and utilization of Federal facilities, prior to the general amendment of this chapter by Pub. L. 91–230.

AMENDMENTS

1991—Subsec. (a). Pub. L. 102–73, §802(b)(2), in concluding provisions, substituted ''the Federated States of Micronesia, the Republic of the Marshall Islands, and Palau'' for ''and the Trust Territory of the Pacific Islands''.

Subsec. (c). Pub. L. 102–73, §301(h), added subsec. (c).

SUBCHAPTER III—WORKPLACE LITERACY AND ENGLISH LITERACY GRANTS

§ 1211. Business, industry, labor, and education partnerships for workplace literacy

(a) Grants for exemplary demonstration partnerships for workplace literacy

(1) Subject to subsection (b) of this section, the Secretary, in consultation with the Secretary of Labor and the Administrator of the Small Business Administration, shall make demonstration grants to exemplary education partnerships for workplace literacy to pay the Federal share of the cost of adult education programs which teach literacy skills needed in the workplace through partnerships between—

(A) business, industry, labor organizations, or private industry councils; and

(B) State educational agencies, local educational agencies, institutions of higher education, or schools (including employment and training agencies or community-based organizations).

(2) Grants under paragraph (1) may be used—

(A) to fund 70 percent of the cost of programs which meet the requirements of paragraph (3); and

(B) for administrative costs incurred by State educational agencies, local educational agencies, and other entities described in paragraph (1) that receive grants under this subsection in establishing programs funded under subparagraph (A).

(3) Programs funded under paragraph (2)(A) shall be designed to improve the productivity of the workforce through improvement of literacy skills needed in the workplace by—

(A) providing adult literacy and other basic skills services and activities;

(B) providing adult secondary education services and activities which may lead to the completion of a high school diploma or its equivalent;

(C) meeting the literacy needs of adults with limited English proficiency;

(D) upgrading or updating basic skills of adult workers in accordance with changes in workplace requirements, technology, products, or processes;

(E) improving the competency of adult workers in speaking, listening, reasoning, and problem solving; or

(F) providing education counseling, transportation, and nonworking hours child care services to adult workers while they participate in a program funded under paragraph (2)(A).

(4) An application to receive funding for a program out of a grant made to a partnership under this subsection shall—

(A) be submitted jointly by—

(i) a business, industry, or labor organization, or private industry council; and

(ii) a State educational agency, local educational agency, institution of higher education, or school (including an area vocational school, an employment and training agency, or community-based organization);

(B) set forth the respective roles of each member of the partnership;

(C) contain such additional information as the Secretary may require, including evidence of the applicant's experience in providing literacy services to working adults;

(D) describe the plan for carrying out the requirements of paragraph (3); and

(E) provide assurances that the applicant will use the funds to supplement and not supplant funds otherwise available for the purpose of this section.

(5) In awarding grants under this section, the Secretary shall give priority to applications from partnerships that include small businesses.

(6) The Secretary is authorized to award grants under this section for a period not to exceed 3 years.

(b) Grants to States

(1) Whenever in any fiscal year, appropriations under subsection (e) of this section are equal to or exceed $50,000,000, the Secretary shall make grants to States which have State plans approved by the Secretary under section 1206a of this title to pay the Federal share of the cost of adult education programs which teach literacy skills needed in the workplace through partnerships between—

(A) business, industry, or labor organizations, or private industry councils; and

(B) State educational agencies, local educational agencies, institutions of higher education, or schools (including employment and training agencies or community-based organizations).

(2) Grants under paragraph (1) may be used—

(A) to fund 70 percent of the cost of programs which meet the requirements of paragraph (4);

(B) for administrative costs incurred by State educational agencies, local educational agencies, and other entities described in paragraph (1) that receive grants under this subsection in establishing programs funded under subparagraph (A); and

(C) for costs incurred by State educational agencies in obtaining evaluations described in paragraph (3)(A)(iii).

(3) A State shall be eligible to receive its allotment under paragraph (7)(B) if it—

(A) includes in a State plan submitted to the Secretary under section 1206a of this title a description of—

(i) the requirements for State approval of funding of a program;

(ii) the procedures under which applications for such funding may be submitted; and

(iii) the method by which the State shall obtain annual third-party evaluation of student achievement in, and overall effectiveness of services provided by, all programs which receive funding out of a grant made to the State under this section; and

(B) satisfies the requirements of section 306(a).[1]

(4) The program requirements set forth in subsection (a)(3) of this section shall apply to the program authorized by this subsection.

(5) An application to receive funding for a program from a grant made to a State under paragraph (1) shall contain the same information required in subparagraphs (A) through (E) of subsection (a)(4) of this section.

(6) If a State is not eligible for a grant under paragraph (1) of this subsection, the Secretary shall use the State's allotment under paragraph (7) to make direct grants to applicants in that State who are qualified to teach literacy skills needed in the workplace.

(7)(A) The Federal share of expenditures for programs in a State funded under this subsection shall be paid from a State's allotment under this paragraph.

(B) From the sum appropriated for each fiscal year under subsection (c) of this section for any fiscal year in which appropriations equal or exceed $50,000,000, the Secretary shall allot to each State (as defined in section 1201a(7) of this title) an amount proportionate to the amount such State receives under section 1201b of this title.

(C) At the end of each fiscal year, the portion of any State's allotment for that fiscal year which—

(i) exceeds 10 percent of the total allotment for the State under paragraph (2) for the fiscal year; and

(ii) remains unobligated;

shall be reallocated among the other States in the same proportion as each State's allocation for such fiscal year under paragraph (2).

(c) Grant for national workforce literacy strategies

(1) In any fiscal year in which amounts appropriated pursuant to the authorization contained in subsection (e) of this section equal or exceed $25,000,000, the Secretary shall reserve not more than $5,000,000 to establish a program of grants to facilitate the design and implementation of national strategies to assist unions, unions in collaboration with programs eligible for assistance under this Act and businesses, and small- and medium-sized businesses to effectively provide literacy and basic skills training to workers.

(2) Grants awarded under this subsection shall pay the Federal share of the cost of programs to establish large-scale national strategies in workforce literacy, which may include the following activities:

(A) Basic skills training that is—

(i) cost-effective;

(ii) needed by employees; and

(iii) required by employers to establish a trainable workforce that can take advantage of further job specific training and advance the productivity of the labor force on an individual, industry, or national level.

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[1] See References in Text note below.

(B) Specific program offerings, which may include—

(i) English as a second language instruction;

(ii) communications skill building;

(iii) interpersonal skill building;

(iv) reading and writing skill building; and

(v) computation and problem solving.

(C) Appropriate assessments of the literacy and basic skills needs of individual workers and the skill levels required by business.

(D) Cooperative arrangements with other organizations involved in providing literacy and basic skills training, including adult education organizations, vocational education organizations, community and junior colleges, community-based organizations, State level agencies, and private industry councils.

(E) The establishment as appropriate of technology-based learning environments, such as computer-based learning centers.

(3) Any partnership described in subsection (a)(1) of this section that desires to receive a grant under this subsection shall submit a proposal to the Secretary. The proposal shall contain a plan specifying a strategy for designing and implementing workforce literacy and basic skills training for workers, and justifying the national, statewide, or industry-wide importance of this strategy. The proposal shall include—

(A) a demonstration of need for literacy and basic skills training;

(B) a description of the business or industry for which the strategy is to be established;

(C) a statement of specific, measurable goals and participant outcomes;

(D) a strategy for achieving the goals, including a description of the process to identify literacy and basic skills required by employers and the skills of individual workers, and a description of the specific services to be provided; and

(E) a description of the costs of the activities to be undertaken.

(4) The Secretary shall develop a formal process for the submission of proposals and publish an announcement in the Federal Register with respect to that process and the availability of grants under this subsection.

(5) The Federal share of the cost of a program assisted under this subsection shall not exceed 70 percent.

(6) The Secretary shall give priority for grants under this subsection to proposals to carry out activities described in paragraph (2)(D).

(7) In awarding grants under this subsection, the Secretary may consider geographic factors, such as rural and urban areas and national distribution.

(8) Of the grants awarded under this subsection each year, not less than 5 shall each be for an amount that is not less than $500,000.

(d) Evaluation

The Secretary shall reserve not more than 2 percent of any amount appropriated pursuant to the authorization contained in subsection (e) of this section for the purpose of carrying out an independent evaluation of the effectiveness of programs assisted under this section in improving the literacy and basic skills of workers and the productivity of employees, including potential for the replicability or adaption of such programs.

(e) Authorization of appropriations

(1) There are authorized to be appropriated for purposes of carrying out this section such sums as may be necessary for the fiscal year 1991, $60,000,000 for the fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993, 1994, and 1995.

(2) No funds may be appropriated under paragraph (1) of this subsection for any fiscal year unless the appropriation for this Act (other than this subchapter) for that year is equal to or greater than $110,000,000.

(3) Amounts appropriated under this subsection shall remain available until expended.

(Pub. L. 89–750, title III, §371, as added Pub. L. 100–297, title II, §2102, Apr. 28, 1988, 102 Stat. 314; amended Pub. L. 102–73, title II, §202, title VIII, §802(b)(1), July 25, 1991, 105 Stat. 342, 361.)

REFERENCES IN TEXT

Section 306(a), referred to in subsec. (b)(3)(B), probably means section 306(a) of Pub. L. 89–750, title III, Nov. 3, 1966, 80 Stat. 1218, as amended, which was classified to section 1205 of this title prior to the general revision of this chapter by Pub. L. 100–297. See sections 1206 to 1206b of this title.

This Act, referred to in subsecs. (c)(1) and (e)(2), means Pub. L. 89–750, Nov. 3, 1966, 80 Stat. 1191, as amended, known as the Elementary and Secondary Education Amendments of 1966. Title III of the Act, known as the Adult Education Act, is classified to this chapter. For complete classification of this Act to the Code, see Short Title of 1966 Amendment note set out under section 6301 of this title and Tables.

PRIOR PROVISIONS

A prior section 1211, Pub. L. 89–750, title III, §314, Nov. 3, 1966, 80 Stat. 1222; Pub. L. 90–247, title V, §504, Jan. 2, 1968, 81 Stat. 815; renumbered §312 and amended Pub. L. 91–230, title III, §301, Apr. 13, 1970, 84 Stat. 164; Pub. L. 91–600, §3(b), Dec. 30, 1970, 84 Stat. 1669; renumbered §313 and amended Pub. L. 93–29, title VIII, §804, May 3, 1973, 87 Stat. 59; Pub. L. 93–380, title VI, §608(a), Aug. 21, 1974, 88 Stat. 579; Pub. L. 95–112, §3(b), Sept. 24, 1977, 91 Stat. 912; renumbered §315 and amended Pub. L. 95–561, title XIII, §§1307(a)(3), 1310, Nov. 1, 1978, 92 Stat. 2360, 2361; renumbered §314 and amended Pub. L. 98–511, title I, §§109(a)(2), 112, Oct. 19, 1984, 98 Stat. 2369, authorized appropriations, prior to the general revision of this chapter by Pub. L. 100–297.

Another prior section 1211, Pub. L. 89–750, title III, §312, Nov. 3, 1966, 80 Stat. 1221, provided for prohibition of Federal control of education (curriculum, program of instruction, administration, personnel, or selection of library resources), and for authorization of the National Advisory Committee on Adult Basic Education to encourage establishment of State and local education advisory committees, prior to the general amendment of this chapter by Pub. L. 91–230.

AMENDMENTS

1991—Subsec. (a)(1). Pub. L. 102–73, §202(1)(A), inserted '', in consultation with the Secretary of Labor and the Administrator of the Small Business Administration,'' after ''Secretary'' in introductory provisions.

Subsec. (a)(2)(B). Pub. L. 102–73, §202(1)(B), substituted a comma for ''and'' before ''local'' and inserted '', and other entities described in paragraph (1) that receive grants under this subsection'' after second reference to ''agencies''.

Subsec. (a)(5), (6). Pub. L. 102–73, § 202(1)(C), added pars. (5) and (6).

Subsec. (b)(1). Pub. L. 102–73, § 202(2)(A), substituted ''subsection (e)'' for ''subsection (c)'' in introductory provision.

Subsec. (b)(2)(B). Pub. L. 102–73, § 202(2)(B), substituted a comma for ''and'' before ''local'' and inserted '', and other entities described in paragraph (1) that receive grants under this subsection'' after second reference to ''agencies''.

Subsec. (b)(7)(B). Pub. L. 102–73, § 202(2)(C), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: ''From the sum appropriated for each fiscal year under subsection (c) of this section for any fiscal year in which appropriations equal or exceed $50,000,000, the Secretary shall allot—

''(i) $25,000 to each of American Samoa, Guam, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the Virgin Islands; and

''(ii) to each remaining State an amount which bears the same ratio to the remainder of such sum as—

''(I) the number of adults in the State who do not have a certificate of graduation from a school providing secondary education (or its equivalent) and who are not currently required to be enrolled in schools in the State, bears to

''(II) the number of such adults in all States;

except that no State shall receive less than $125,000 in any fiscal year.''

Subsec. (b)(7)(B)(i). Pub. L. 102–73, § 802(b)(1), which directed the substitution of ''Palau (until the Compact of Free Association with Palau takes effect pursuant to section 101(a) of Public Law 99–658)'' for ''the Trust Territory of the Pacific Islands'', could not be executed in light of prior general amendment of subpar. (B) by Pub. L. 102–73, § 202(2)(C). See above.

Subsecs. (c) to (e). Pub. L. 102–73, § 202(3), (4), added subsecs. (c) and (d) and redesignated former subsec. (c) as (e).

Subsec. (e)(1). Pub. L. 102–73, § 202(5), amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''There are authorized to be appropriated $30,000,000 for the fiscal year 1988, $31,500,000 for the fiscal year 1989, and such sums as may be necessary for the fiscal year 1990 and each succeeding fiscal year ending prior to October 1, 1993, to carry out the provisions of this section.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1201b of this title.

§ 1211–1. National Workforce Literacy Assistance Collaborative

(a) Establishment

There is established in the Department of Labor a National Workforce Literacy Assistance Collaborative (in this subsection[1] referred to as the ''Collaborative'') to improve the basic skills of individuals, especially those individuals who are marginally employed or unemployed with low basic skills and limited opportunity for long-term employment and advancement, by assisting small- and medium-sized businesses, business associations that represent small- and medium-sized businesses, and labor organizations to develop and implement literacy programs tailored to the needs of the workforce.

(b) Functions

The Collaborative shall—

(1) develop and implement a plan for providing small- and medium-sized businesses with the technical assistance required to address the literacy needs of their workforce;

(2) monitor the development of workforce literacy training programs and identify best practices and successful small- and medium-sized business program models;

(3) inform businesses and unions of research findings and best practices regarding exemplary curricula, instructional techniques, training models, and the use of technology as a training tool in the workplace;

(4) provide technical assistance to help businesses assess individual worker literacy skill needs, implement workforce literacy training programs, and evaluate training program effectiveness;

(5) promote cooperation and coordination among State and local agencies and the private sector to obtain maximum uses of existing literacy and basic skills training resources;

(6) conduct regional and State small business workforce literacy meetings to increase program effectiveness and accountability;

(7) establish cooperative arrangements with the National Institute for Literacy and other centers involved in literacy and basic skills research and development activities; and

(8) prepare and produce written and video materials necessary to support technical assistance and information dissemination efforts.

(c) Authorization of appropriations

There are authorized to be appropriated for purposes of carrying out this section $5,000,000 for each of the fiscal years 1992, 1993, 1994, and 1995.

(Pub. L. 102–73, title II, § 201, July 25, 1991, 105 Stat. 342.)

CODIFICATION

Section was enacted as part of the National Literacy Act of 1991, and not as part of the Adult Education Act which comprises this chapter.

DEFINITION OF ''LITERACY''

For definition of ''literacy'' for purposes of Pub. L. 102–73, see section 3 of Pub. L. 102–73, set out as a note under section 1201 of this title.

§ 1211–2. Functional literacy and life skills programs for State and local prisoners

(a) Establishment

The Secretary is authorized to make grants to eligible entities to assist such entities in establishing, improving, and expanding a demonstration or system-wide functional literacy program.

(b) Program requirements

(1) To qualify for funding under subsection (d) of this section, each functional literacy program shall—

(A) to the extent possible, make use of advanced technologies, such as interactive video- and computer-based adult literacy learning; and

(B) include—

(i) a requirement that each person incarcerated in the system, prison, jail, or deten-

[1] So in original. Probably should be ''section''.

tion center who is not functionally literate, except a person described in paragraph (2), shall participate in the program until the person—

(I) achieves functional literacy, or in the case of an individual with a disability, achieves a level of functional literacy commensurate with his or her ability;

(II) is granted parole;

(III) completes his or her sentence; or

(IV) is released pursuant to court order; and

(ii) a prohibition on granting parole to any person described in clause (i) who refuses to participate in the program, unless the State parole board determines that the prohibition should be waived in a particular case; and

(iii) adequate opportunities for appropriate education services and the screening and testing of all inmates for functional literacy and disabilities affecting functional literacy, including learning disabilities, upon arrival in the system or at the prison, jail, or detention center.

(2) The requirement of paragraph (1)(B)(i) may not apply to a person who—

(A) is serving a life sentence without possibility of parole;

(B) is terminally ill; or

(C) is under a sentence of death.

(c) Annual report

(1) Within 90 days after the close of the first calendar year in which a literacy program authorized by subsection (a) of this section is placed in operation, and annually for each of the 4 years thereafter, a grantee shall submit a report to the Secretary with respect to its literacy program.

(2) A report under paragraph (1) shall disclose—

(A) the number of persons who were tested for eligibility during the preceding year;

(B) the number of persons who were eligible for the literacy program during the preceding year;

(C) the number of persons who participated in the literacy program during the preceding year;

(D) the names and types of tests that were used to determine functional literacy and the names and types of tests that were used to determine disabilities affecting functional literacy;

(E) the average number of hours of instruction that were provided per week and the average number per student during the preceding year;

(F) sample data on achievement of participants in the program, including the number of participants who achieved functional literacy;

(G) data on all direct and indirect costs of the program; and

(H) information on progress toward meeting the program's goals.

(d) Compliance grants

(1) The Secretary shall make grants to eligible entities that elect to establish a program described in subsection (a) of this section for the purpose of assisting in carrying out the programs, developing the plans, and submitting the reports required by this section.

(2) An eligible entity may receive a grant under this subsection if the entity—

(A) submits an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require;

(B) agrees to provide the Secretary—

(i) such data as the Secretary may request concerning the cost and feasibility of operating the functional literacy programs authorized by subsection (a) of this section, including the annual reports required by subsection (c) of this section; and

(ii) a detailed plan outlining the methods by which the provisions of subsections (a) and (b) of this section will be met, including specific goals and timetables.

(e) Life skills training grants

(1) The Secretary is authorized to make grants to eligible entities to assist them in establishing and operating programs designed to reduce recidivism through the development and improvement of life skills necessary for reintegration into society.

(2) To receive a grant under this subsection, an eligible entity shall—

(A) submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary shall require; and

(B) agree to report annually to the Secretary on the participation rate, cost, and effectiveness of the program and any other aspect of the program on which the Secretary may request information.

(3) In awarding grants under this subsection, the Secretary shall give priority to programs that have the greatest potential for innovation, effectiveness, and replication in other systems, jails, and detention centers.

(4) Grants awarded under this subsection shall be for a period not to exceed 3 years, except that the Secretary may establish a procedure for renewal of the grants under paragraph (1).

(f) Definitions

For the purposes of this section—

(1) the term ''eligible entity'' means a State correctional agency, a local correctional agency, a State correctional education agency, and a local correctional education agency;

(2) the term ''functional literacy'' means at least an eighth grade equivalence or a functional criterion score on a nationally recognized literacy assessment; and

(3) the term ''life skills'' includes self-development, communication skills, job and financial skills development, education, interpersonal and family relationship development, and stress and anger management.

(g) Panel

The Secretary is authorized to consult with and convene a panel of experts in correctional education, including program administrators and field-based professionals in adult corrections, juvenile services, jails, and community corrections programs, to—

(1) develop measures for evaluating the effectiveness of the programs funded under this section; and

(2) evaluate the effectiveness of such programs.

(h) Use of funds

Notwithstanding any other provision of law, the Secretary may use not more than five percent of funds appropriated under subsection (i) of this section in any fiscal year to carry out grant-related activities such as monitoring, technical assistance, and replication and dissemination.

(i) Authorization of appropriations

There are authorized to be appropriated for purposes of carrying out this section $10,000,000 for fiscal year 1992, $15,000,000 for fiscal year 1993, $20,000,000 for fiscal year 1994, and $25,000,000 for fiscal year 1995.

(Pub. L. 102–73, title VI, § 601, July 25, 1991, 105 Stat. 356; Pub. L. 102–103, title III, § 313, Aug. 17, 1991, 105 Stat. 505; Pub. L. 103–322, title II, § 20408(b), Sept. 13, 1994, 108 Stat. 1827.)

CODIFICATION

Section was enacted as part of the National Literacy Act of 1991, and not as part of the Adult Education Act which comprises this chapter.

AMENDMENTS

1994—Subsecs. (g) to (i). Pub. L. 103–322 added subsecs. (g) and (h) and redesignated former subsec. (g) as (i).

1991—Pub. L. 102–103 amended section generally, substituting present provisions for provisions authorizing the chief correctional officer of each State correctional system to establish a demonstration or system-wide functional literacy program, providing for program requirements, an annual report as well as contents thereof, and compliance grants, and defining ''functional literacy'' for purposes of section.

DEFINITION OF ''LITERACY''

For definition of ''literacy'' for purposes of Pub. L. 102–73, see section 3 of Pub. L. 102–73, set out as a note under section 1201 of this title.

§ 1211a. English literacy grants

(a) Grants to States

(1) The Secretary may make grants to States which have State plans approved by the Secretary under section 1206a of this title for the establishment, operation, and improvement of English literacy programs for individuals of limited English proficiency. Such grants may provide for support services for program participants, including child care and transportation costs.

(2) A State shall be eligible to receive a grant under paragraph (1) if the State includes in a State plan submitted to the Secretary under section 1206a of this title a description of—

(A) the number of individuals of limited English proficiency in the State who need or could benefit from programs assisted under this subchapter; [1]

(B) the activities which would be undertaken under the grant and the manner in which such activities will promote English literacy and enable individuals in the State to participate fully in national life;

(C) how the activities described in subparagraph (B) will serve individuals of limited English proficiency, including the qualifications and training of personnel who will participate in the proposed activities;

(D) the resources necessary to develop and operate the proposed activities and the resources to be provided by the State; and

(E) the specific goals of the proposed activities and how achievement of these goals will be measured.

(3) The Secretary may terminate a grant only if the Secretary determines that—

(A) the State has not made substantial progress in achieving the specific educational goals set out in the application; or

(B) there is no longer a need in the State for the activities funded by the grant.

(b) Set-aside for community-based organizations

A State that is awarded a grant under subsection (a) of this section shall use not less than 50 percent of funds awarded under the grant to fund programs operated by community-based organizations with the demonstrated capability to administer English proficiency programs.

(c) Report

A State that is awarded a grant under subsection (a) of this section shall submit to the Secretary a report describing the activities funded under the grant for each fiscal year covered by the grant.

(d) Demonstration program

The Secretary, subject to the availability of funds appropriated pursuant to this section, shall directly, and through grants and contracts with public and private nonprofit agencies, institutions, and organizations, carry out a program—

(1) through the Adult Education Division to develop innovative approaches and methods of literacy education for individuals of limited English proficiency utilizing new instructional methods and technologies; and

(2) to designate the Center for Applied Linguistics of the Office of Educational Research and Improvement as a national clearinghouse on literacy education for individuals of limited English proficiency to collect and disseminate information concerning effective approaches or methods, including coordination with employment training and other education programs.

(e) Evaluation and audit

The Secretary shall evaluate the effectiveness of programs conducted under this section. Programs funded under this section shall be audited in accordance with chapter 75 of title 31.

(f) Authorization of appropriations

(1) There are authorized to be appropriated $25,000,000 for the fiscal year 1988, $26,300,000 for the fiscal year 1989, $27,600,000 for the fiscal year 1990, $29,000,000 for the fiscal year 1991, $30,500,000 for the fiscal year 1992, and $32,000,000 for the fiscal year 1993 to carry out this section.

(2) Funds appropriated pursuant to this section shall remain available until expended.

(3) Funds appropriated under this subsection may be combined with other funds made available for the State by the Federal Government

[1] See References in Text note below.

for literacy training for individuals with limited English proficiency.

(4) Not more than 10 percent of funds available under this section may be used to carry out the provisions of subsection (d) of this section.

(5) Not more than 5 percent of funds available under this section may be used for State administration, technical assistance, and training.

(Pub. L. 89–750, title III, § 372, as added Pub. L. 100–297, title II, § 2102, Apr. 28, 1988, 102 Stat. 316.)

REFERENCES IN TEXT

This subchapter, referred to in subsec. (a)(2)(A), was in the original ''this chapter'', and has been translated as reading ''this part'' to reflect the probable intent of Congress because title III of Pub. L. 89–750 which comprises this chapter does not contain any subdivisions designated as ''chapters'' in the original.

PRIOR PROVISIONS

A prior section 1211a, Pub. L. 89–750, title III, § 315, formerly § 314, as added Pub. L. 92–318, title IV, § 431, June 23, 1972, 86 Stat. 342; amended Pub. L. 93–380, title VI, § 608(b), Aug. 21, 1974, 88 Stat. 579; Pub. L. 95–112, § 3(c), Sept. 24, 1977, 91 Stat. 912; renumbered § 316 and amended Pub. L. 95–561, title XIII, §§ 1307(a)(3), 1311, Nov. 1, 1978, 92 Stat. 2360, 2361, as amended by Pub. L. 96–46, § 2(a)(6), Aug. 6, 1979, 93 Stat. 340; renumbered § 315 and amended Pub. L. 98–511, title I, §§ 102(f)(1), 109(a)(2), title V, § 513(d), Oct. 19, 1984, 98 Stat. 2366, 2369, 2400, related to grants for improvement of educational opportunities for adult Indians, prior to the general revision of this chapter by section 2102 of Pub. L. 100–297. Section 5352(3) of Pub. L. 100–297, title V, Apr. 28, 1988, 102 Stat. 414, subsequently provided for the repeal of section 315 of Pub. L. 89–750.

A prior section 1211b, Pub. L. 89–750, title III, § 317, formerly § 315, as added Pub. L. 94–405, title III, § 301, Sept. 10, 1976, 90 Stat. 1233; renumbered and amended Pub. L. 95–561, title XIII, §§ 1307(a)(3), 1312, Nov. 1, 1978, 92 Stat. 2360, 2361; Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, related to grants for operations for special adult education programs for Indochina refugees, prior to repeal by Pub. L. 97–35, title V, § 542(3), Aug. 13, 1981, 95 Stat. 459, eff. Oct. 1, 1981.

A prior section 1211c, Pub. L. 89–750, title III, § 318, as added Pub. L. 95–561, title XIII, § 1313, Nov. 1, 1978, 92 Stat. 2361; amended Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692; Pub. L. 97–300, title I, § 183, Oct. 13, 1982, 96 Stat. 1357; Pub. L. 98–511, title I, § 102(f)(1), Oct. 19, 1984, 98 Stat. 2366; Pub. L. 98–524, § 4(d)(2), Oct. 19, 1984, 98 Stat. 2489, authorized adult education programs for adult immigrants, providing in subsec.: (a) for grant and contract authority; (b) for applications to State educational agencies; (c) for time, manner, and form of applications; (d) for payments by Secretary of application costs; (e) for contracts with private nonprofit groups; and (f) for authorization of appropriations for fiscal years 1979 through 1983, prior to repeal by Pub. L. 98–511, title I, § 109(a)(1), Oct. 19, 1984, 98 Stat. 2369, eff. July 1, 1985.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1201b of this title.

§ 1211b. Education programs for commercial drivers

(a) Program authorized

The Secretary is authorized to make grants on a competitive basis to pay the Federal share of the costs of establishing and operating adult education programs which increase the literacy skills of eligible commercial drivers so that such drivers may successfully complete the knowledge test requirements under chapter 313 of title 49.

(b) Federal share

The Federal share of the costs of the adult education programs authorized under subsection (a) of this section shall be 50 percent. Nothing in this subsection shall be construed to require States to meet the non-Federal share from State funds.

(c) Eligible entities

Entities eligible to receive a grant under this section include—

(1) private employers employing commercial drivers in partnership with agencies, colleges, or universities described in paragraph (2);

(2) local educational agencies, State educational agencies, colleges, universities, or community colleges;

(3) approved apprentice training programs; and

(4) labor organizations, the memberships of which include commercial drivers.

(d) Referral program

Grantees shall refer to appropriate adult education programs as authorized under this Act individuals who are identified as having literacy skill problems other than or beyond those which prevent them from successfully completing the knowledge test requirements under chapter 313 of title 49.

(e) Definitions

For purposes of this section:

(1) The term ''approved apprentice training programs'' has the meaning given such term in the National Apprenticeship Act of 1937 [29 U.S.C. 50 et seq.].

(2) The term ''eligible commercial driver'' means a driver licensed prior to the requirements of chapter 313 of tite 49.

(f) Authorization of appropriations

There are authorized to be appropriated $3,000,000 for each of fiscal years 1991, 1992, and 1993.

(Pub. L. 89–750, title III, § 373, as added Pub. L. 102–26, § 7, Apr. 9, 1991, 105 Stat. 127.)

REFERENCES IN TEXT

This Act, referred to in subsec. (d), means Pub. L. 89–750, Nov. 3, 1966, 80 Stat. 1191, as amended, known as the Elementary and Secondary Education Amendments of 1966. Title III of the Act, known as the Adult Education Act, is classified to this chapter. For complete classification of this Act to the Code, see Short Title of 1966 Amendment note set out under section 6301 of this title and Tables.

The National Apprenticeship Act of 1937, referred to in subsec. (e)(1), probably means the National Apprenticeship Act, act Aug. 16, 1937, ch. 663, 50 Stat. 664, as amended, which is classified generally to chapter 4C (§ 50 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 50 of Title 29 and Tables.

CODIFICATION

In subsecs. (a), (d), and (e)(2), ''chapter 313 of title 49'' substituted for ''the Commercial Motor Vehicle Safety Act of 1986 [49 App. U.S.C. 2701 et seq.]'' and ''the Commercial Motor Vehicle Driver Safety Act of 1986 [49

App. U.S.C. 2701 et seq.] on authority of Pub. L. 103–272, § 6(b), July 5, 1994, 108 Stat. 1378, the first section of which enacted subtitles II, III, and V to X of Title 49, Transportation.

Pub. L. 102–26, known as the ''Higher Education Technical Amendments of 1991'', enacted section 373 of the Adult Education Act [this section]. Another section 373 of the Adult Education Act, with substantially identical text, was enacted by Pub. L. 102–73, title IV, § 401(a), July 25, 1991, 105 Stat. 354. However, section 401(b) of Pub. L. 102–73 provided that the section 373 of the Adult Education Act enacted by section 401(a) of Pub. L. 102–73 would ''not take effect if the Higher Education Amendments of 1991 are enacted before the enactment of this Act''. Although Pub. L. 102–73 referred to the earlier law as the ''Higher Education Amendments of 1991'' instead of the ''Higher Education Technical Amendments of 1991'', only the section 373 of the Adult Education Act as enacted by Pub. L. 102–26 is set out in text, to reflect the probable intent of Congress.

SUBCHAPTER IV—NATIONAL PROGRAMS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 1201b of this title.

§ 1213. Adult migrant farmworker and immigrant education

(a) General authority

The Secretary is authorized to carry out a program of making grants to States and local eligible recipients to support planning, developing, and evaluating programs which are designed to provide adult education programs, services, and activities to meet the special needs of migrant farmworkers and immigrants. Programs operated from such grants shall be included in a State's plan and must conform to all requirements of programs provided for by the State's basic grant. In carrying out this section, the Secretary may enter into interagency agreements with the Secretary of Health and Human Services to conduct programs in conjunction with activities authorized under the Immigration Reform and Control Act of 1986.

(b) Priority

In carrying out the provisions of this subchapter, the Secretary shall from funds reserved under section 1201b(d) of this title give first priority to the portion of the program described in subsection (a) of this section for migrant farmworkers.

(Pub. L. 89–750, title III, § 381, as added Pub. L. 100–297, title II, § 2102, Apr. 28, 1988, 102 Stat. 317.)

REFERENCES IN TEXT

The Immigration Reform and Control Act of 1986, referred to in subsec. (a), is Pub. L. 99–603, Nov. 6, 1986, 100 Stat. 3359, as amended. For complete classification of this Act to the Code, see Short Title of 1986 Amendments note set out under section 1101 of Title 8, Aliens and Nationality, and Tables.

§ 1213a. Adult literacy volunteer training

(a) General authority

The Secretary is authorized to carry out a program of making grants to States and local eligible recipients to support planning, implementation, and evaluation of programs designed to train adult volunteers, especially the elderly, who wish to participate as tutors in local adult education programs.

(b) Priority

In carrying out the provisions of this subchapter the Secretary shall from funds reserved under section 1201b(d) of this title give second priority to the portion of the program described in subsection (a) of this section for adult volunteers.

(Pub. L. 89–750, title III, § 382, as added Pub. L. 100–297, title II, § 2102, Apr. 28, 1988, 102 Stat. 318.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1206a of this title.

§ 1213b. State program analysis assistance and policy studies

(a) Federal assistance

(1) The Secretary is authorized to assist States in evaluating the status and progress of adult education in achieving the purposes of this chapter, and activities designed to provide such assistance shall include, but are not limited to—

(A) an analysis of State plans and of the findings of evaluations conducted pursuant to section 1207a of this title, with suggestions to State agencies for improvements in planning or program operation; and

(B) the provision of an information network (in conjunction with the National Diffusion Network) on the results of research in adult education, the operation of model or innovative programs (including efforts to continue activities and services, under the program after the Federal funding has been discontinued) successful experiences in the planning, administration, and conduct of adult education programs, advances in curriculum and instructional practices, and other information useful in the improvement of adult education.

(2) PRIORITY.—In carrying out the provisions of this subchapter the Secretary shall from funds reserved under section 1201b(d) of this title give third priority to the portion of the program described in paragraph (1) for evaluation and research.

(b) Determination of literacy

The Secretary, in consultation with the Congress shall, within the first 2 years after April 28, 1988, make a determination of the criteria for defining literacy, taking into consideration reports prepared by the National Assessment of Educational Progress and others and shall identify concretely those skills that comprise the basic educational skills needed for literate functioning. The Secretary, once the definition of literacy has been determined, shall, in consultation with the Congress and using the appropriate statistical sampling methodology, determine an accurate estimate of the number of illiterate adults in the Nation.

(c) Report on status of literacy and adult education

Subsequent to the determination of literacy and the number of illiterate individuals required in subsection (b) of this section, the Secretary shall submit a report every 4 years to the President and to the appropriate committees of the Congress on the status of literacy and adult education in the Nation.

(d) Evaluation report

Three years after April 28, 1988, and thereafter in conjunction with the report under subsection (c) of this section, the Secretary shall report to the appropriate committees of the Congress on the results of program evaluations required under this chapter and conclusions drawn therefrom regarding progress toward meeting the goals and purposes of this chapter, together with such recommendations as the Secretary may wish to make.

(Pub. L. 89–750, title III, § 383, as added Pub. L. 100–297, title II, § 2102, Apr. 28, 1988, 102 Stat. 318.)

§ 1213c. National research activities

(a) Approved activities

The Secretary shall, through the Office of Educational Research and Improvement, support applied research, development, demonstration, dissemination, evaluation, and related activities which will contribute to the improvement and expansion of adult education in the Nation. Such activities shall include the operation of the Institute established by subsection (c) of this section and the establishment of a national clearinghouse to compile information on literacy curriculum and resources for adults, including youth and adults of limited English proficiency and adults with handicaps. The Secretary may support such activities directly, or through grants to, or cooperative agreements with, public or private institutions, agencies, or organizations, or individuals.

(b) Research concerning special needs

In addition to the responsibilities of the Assistant Secretary for Educational Research and Improvement under section 1221e[1] of this title, the Assistant Secretary may, with funds available under that section, with funds available under other Federal programs, or with funds set aside under section 1201b(d) of this title, support research on the special needs of persons requiring adult education including a study of the magnitude and nature of the needs of adults with learning disabilities who are eligible for participation in adult education programs. The Assistant Secretary may support such research directly or through grants to, or contracts or cooperative agreements with, public or private institutions, agencies, or organizations.

(c) Establishment of National Institute for Literacy

(1) There is established the National Institute for Literacy (in this section referred to as the ''Institute''). The Institute shall be administered under the terms of an interagency agreement entered into by the Secretary with the Secretary of Labor and the Secretary of Health and Human Services (in this section referred to as the ''Interagency Group''). The head of any other agency designated by the President may be involved in the operation of the Institute as fits the involvement of such agency in accomplishing the purposes of the Institute. The Secretary may include in the Institute any research and development center supported under section 1221e(d)(4)(A)(ii)[1] of this title and any other center, institute, or clearinghouse established within the Department of Education whose purpose is determined by the Secretary to be related to the purpose of the Institute.

(2) The Institute shall have offices separate from the offices of any agency or department involved in the operation of the Institute.

(3) The Interagency Group shall consider the Board's recommendations in planning the goals of the Institute and in the implementation of any programs to achieve such goals. The daily operations of the Institute shall be carried out by the Director. If the Board's recommendations are not followed, the Interagency Group shall provide a written explanation to the Board concerning actions the Interagency Group has taken that includes the Interagency Group's reasons for not following the Board's recommendations with respect to such actions. The Board may also request a meeting with the Interagency Group to discuss the Board's recommendations.

(d) Duties

(1) The Institute is authorized, in order to improve and expand the system for delivery of literacy services, to—

(A) assist appropriate Federal agencies in setting specific objectives and strategies for meeting the goals of this chapter and in measuring the progress of such agencies in meeting such goals;

(B) conduct basic and applied research and demonstrations on literacy, including—

(i) how adults learn to read and write and acquire other skills;

(ii) how the literacy skills of parents affect the ability of children to learn literacy skills;

(iii) the assessment of literacy skills and the development of instructional techniques;

(iv) the best methods for assisting adults and families to acquire literacy skills, including the use of technology;

(v) the special literacy needs of individuals with learning disabilities and individuals with limited English proficiency;

(vi) how to effectively reach and teach the most educationally disadvantaged individuals;

(vii) the use of technology and other studies which will increase the literacy knowledge base, use but not duplicate the work of other research services, and build on the efforts of such other research services; and

(viii) how to attract, train, and retrain professional and volunteer teachers of literacy;

(C) assist Federal, State, and local agencies in the development, implementation, and evaluation of policy with respect to literacy by—

(i) establishing a national data base with respect to—

(I) literacy and basic skills programs, including programs in Federal departments, State agencies, and local agencies, and programs that are privately supported through nonprofit entities and for profit entities;

(II) assessment tools and outcome measures;

[1] See References in Text note below.

(III) the amount and quality of basic education provided in the workplace by businesses and industries; and

(IV) progress made toward the national literacy goals; and

(ii) providing technical and policy assistance to government entities for the improvement of policy and programs relating to literacy and the development of model systems for implementing and coordinating Federal literacy programs that can be replicated at the State and local level;

(D) provide program assistance, training, and technical assistance for literacy programs throughout the United States in order to improve the effectiveness of such programs and to increase the number of such programs, which assistance and training shall—

(i) be based on the best available research and knowledge; and

(ii) be coordinated with activities conducted by—

(I) regional educational laboratories supported under section 1221e(d)(4)(A)(i)[2] of this title;

(II) curriculum centers assisted under section 2341(a)(8) of this title; and

(III) other educational and training entities that provide relevant technical assistance;

(E) collect and disseminate information to Federal, State, and local entities with respect to literacy methods that show great promise (including effective methods of assessment, effective literacy programs, and other information obtained through research or practice relating to adult and family learning that would increase the capacity and quality of literacy programs in the United States), using a variety of methods to ensure that the best information is received by State and local providers of literacy services;

(F) review and make recommendations regarding—

(i) ways to achieve uniformity among reporting requirements;

(ii) the development of performance measures; and

(iii) the development of standards for program effectiveness of literacy-related Federal programs; and

(G) provide a toll-free long-distance telephone line for literacy providers and volunteers.

(2) The Institute may enter into contracts or cooperative agreements with, or make grants to, individuals, public or private nonprofit institutions, agencies, organizations, or consortia of such institutions, agencies, or organizations to carry out the activities of the Institute. Such grants, contracts, or agreements shall be subject to the laws and regulations that generally apply to grants, contracts, or agreements entered into by Federal agencies.

(e) Literacy leadership

(1) The Institute is, in consultation with the Board, authorized to award fellowships, with such stipends and allowances that the Director considers necessary, to outstanding individuals pursuing careers in adult education or literacy in the areas of instruction, management, research, or innovation.

(2) Fellowships awarded under this subsection shall be used, under the auspices of the Institute, to engage in research, education, training, technical assistance, or other activities to advance the field of adult education or literacy, including the training of volunteer literacy providers at the national, State, or local level.

(3) Individuals receiving fellowships pursuant to this subsection shall be known as ''Literacy Leader Fellows''.

(f) National Institute Board

(1)(A) There is established the National Institute Board (in this section referred to as the ''Board''). The Board shall consist of 10 individuals appointed by the President with the advice and consent of the Senate from individuals who—

(i) are not otherwise officers or employees of the Federal Government;

(ii) are representative of entities or groups described in subparagraph (B); and

(iii) are chosen from recommendations made to the President by individuals who represent such entities or groups.

(B) Entities or groups described in this subparagraph are—

(i) literacy organizations and providers of literacy services, including—

(I) providers of literacy services receiving assistance under this Act; and

(II) nonprofit providers of literacy services;

(ii) businesses that have demonstrated interest in literacy programs;

(iii) literacy students;

(iv) experts in the area of literacy research;

(v) State and local governments; and

(vi) organized labor.

(2) The Board shall—

(A) make recommendations concerning the appointment of the Director and staff of the Institute;

(B) provide independent advice on the operation of the Institute; and

(C) receive reports from the Interagency Group and the Director.

(3) The Interagency Group may carry out the duties of the Board until the expiration of the 180-day period beginning on July 25, 1991.

(4) Except as otherwise provided, the Board established by this subsection shall be subject to the provisions of the Federal Advisory Committee Act.

(5)(A) Each member of the Board shall be appointed for a term of 3 years. Any such member may be appointed for not more than 2 consecutive terms.

(B) Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term. A member may serve after the expiration of that members' term until a successor has taken office. A vacancy in the Board shall

[2] See References in Text note below.

be filled in the manner in which the original appointment was made. A vacancy in the Board shall not affect the powers of the Board.

(6) A majority of the members of the Board shall constitute a quorum but a lesser number may hold hearings. Any recommendation may be passed only by a majority of its members present.

(7) The Chairperson and Vice Chairperson of the Board shall be elected by the members. The term of office of the Chairperson and Vice Chairperson shall be 2 years.

(8) The Board shall meet at the call of the Chairperson or a majority of its members.

(g) Gifts, bequests, and devises

The Institute and the Board may accept (but not solicit), use, and dispose of gifts, bequests, or devises of services or property, both real and personal, for the purpose of aiding or facilitating the work of the Institute or the Board, respectively. Gifts, bequests, or devises of money and proceeds from sales of other property received as gifts, bequests, or devises shall be deposited in the Treasury and shall be available for disbursement upon order of the Institute or the Board, respectively.

(h) Mails

The Board and the Institute may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(i) Staff

The Interagency Group, after considering recommendations made by the Board, shall appoint and fix the pay of a Director.

(j) Applicability of certain civil service laws

The Director and staff of the Institute may be appointed without regard to the provisions of title 5 governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, except that an individual so appointed may not receive pay in excess of the annual rate of basic pay payable for GS–18 of the General Schedule.

(k) Experts and consultants

The Board and the Institute may procure temporary and intermittent services under section 3109(b) of title 5.

***(l)* Report**

The Institute shall submit a report to the Congress in each of the first 2 years in which it receives assistance under this section, and shall submit a report biennially thereafter. Each report submitted under this subsection shall include—

(1) a comprehensive and detailed description of the Institute's operations, activities, financial condition, and accomplishments in the field of literacy for such fiscal year;

(2) a description of how plans for the operation of the Institute for the succeeding fiscal year will facilitate achievement of the goals of the Institute and the goals of the literacy programs within the Department of Education, the Department of Labor, and the Department of Health and Human Services; and

(3) any additional minority, or dissenting views submitted by members of the Board.

(m) Nonduplication

The Institute shall not duplicate any functions carried out by the Secretary pursuant to subsection (a) or (b) of this section. This subsection shall not be construed to prohibit the Secretary from delegating such functions to the Institute.

(n) Authorization of appropriations

(1) There are authorized to be appropriated for purposes of operating the Institute established by subsection (c) of this section $15,000,000 for each of the fiscal years 1992, 1993, 1994, 1995, and 1996.

(2) Any amounts appropriated to the Secretary, the Secretary of Labor, the Secretary of Health and Human Services, or any other department that participates in the Institute for purposes that the Institute is authorized to perform under this section may be provided to the Institute for such purposes.

(Pub. L. 89–750, title III, §384, as added Pub. L. 100–297, title II, §2102, Apr. 28, 1988, 102 Stat. 319; amended Pub. L. 102–73, title I, §102(c), July 25, 1991, 105 Stat. 334; Pub. L. 103–382, title III, §335(b), Oct. 20, 1994, 108 Stat. 3966.)

REFERENCES IN TEXT

Section 1221e of this title, referred to in subsecs. (b), (c)(1), and (d)(1)(D)(ii)(I), was repealed by Pub. L. 103–227, title IX, §911(a), Mar. 31, 1994, 108 Stat. 213.

This Act, referred to in subsec. (f)(1)(B)(i)(I), means Pub. L. 89–750, Nov. 3, 1966, 80 Stat. 1191, as amended, known as the Elementary and Secondary Education Amendments of 1966. Title III of the Act, known as the Adult Education Act, is classified to this chapter. For complete classification of this Act to the Code, see Short Title of 1966 Amendment note set out under section 6301 of this title and Tables.

The Federal Advisory Committee Act, referred to in subsec. (f)(4), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

The provisions of title 5 governing appointments in the competitive service, referred to in subsec. (j), are classified to section 3301 et seq. of Title 5.

AMENDMENTS

1994—Subsec. (n)(1). Pub. L. 103–382 substituted ''1995, and 1996'' for ''and 1995''.

1991—Subsec. (a). Pub. L. 102–73, §102(c)(1), inserted ''the operation of the Institute established by subsection (c) of this section and''.

Subsecs. (c) to (n). Pub. L. 102–73, §102(c)(2), added subsecs. (c) to (n).

PURPOSE AND FINDINGS REGARDING LITERACY AMENDMENTS AND NATIONAL INSTITUTE FOR LITERACY

Section 102(a), (b) of Pub. L. 102–73 provided that:

''(a) PURPOSE.—It is the purpose of the amendment made by this section [amending this section] to enhance the national effort to eliminate the problem of illiteracy by the year 2000 by improving research, development and information dissemination through a national research center.

''(b) FINDINGS.—The Congress finds that—

''(1) much too little is known about how to improve access to, and enhance the effectiveness of, adult literacy programs, assessment tools, and evaluation efforts;

''(2) there is neither a reliable nor a central source of information about the knowledge base in the area of literacy;

''(3) a national institute for literacy would—

''(A) provide a national focal point for research, technical assistance and research dissemination, policy analysis, and program evaluation in the area of literacy; and

''(B) facilitate a pooling of ideas and expertise across fragmented programs and research efforts.''

FAMILY LITERACY PUBLIC BROADCASTING PROGRAM

Section 304 of Pub. L. 102–73 provided that:

''(a) PROGRAM AUTHORIZED.—(1) The Secretary is authorized, subject to the availability of appropriations, to enter into a contract with the Corporation for Public Broadcasting to arrange for the production and dissemination of family literacy programming and accompanying materials which would assist parents in improving family literacy skills and language development. In producing and developing such programming, the Corporation for Public Broadcasting shall work in cooperation with local public broadcasting stations to avoid duplication of efforts.

''(2) After the program described in paragraph (1) is produced, the Corporation for Public Broadcasting shall arrange to have audio and video instructional media materials for distribution at sites chosen from among—

''(A) State and local libraries operating literacy programs, and

''(B) nonprofit entities serving hard-to-serve populations as defined in section 304(b)(2)[sic], including community-based organizations, volunteer organizations and other nongovernmental entities.

''(3) The audio and video instructional media materials described in paragraph (2) shall be used at sites described in paragraph (2), and on a loan basis, distributed to families.

''(4) One year after distribution of the audio and video instructional media materials, the Corporation for Public Broadcasting shall report to the Congress on the distribution and use of the audio and video instructional media materials produced pursuant to this subsection and such audio and video instructional media materials' contribution in promoting literacy.

''(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $2,000,000 for fiscal year 1992 to carry out the provisions of subsection (i) [probably should be ''(a)''], of which $100,000 shall be reserved for reproducing and distributing programming or audio and video instructional media materials.''

REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, § 101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

§ 1213d. Limitation

No grant may be made under this chapter for any educational program, activity, or service related to sectarian instruction or religious worship, or provided by a school or department of divinity. For purposes of this section, the term ''school or department of divinity'' means an institution or a department or branch of an institution whose program is specifically for the education of students to prepare them to become ministers of religion or to enter upon some other religious vocation, or to prepare them to teach theological subjects.

(Pub. L. 89–750, title III, § 385, as added Pub. L. 100–297, title II, § 2102, Apr. 28, 1988, 102 Stat. 319.)

CHAPTER 31—GENERAL PROVISIONS CONCERNING EDUCATION

Sec.

1221. Short title; applicability; definitions.
- (a) Short title.
- (b) Applicability of chapter.
- (c) Definitions.
- (d) Application of other laws unaffected.

1221–1. National policy with respect to equal educational opportunity.

1221–2. National policy with respect to museums as educational institutions.

1221–3. Repealed.

SUBCHAPTER I—FUNCTIONS OF DEPARTMENT OF EDUCATION

1221a to 1221e–1c. Repealed.

1221e–1d. Use of Council staff and facilities.

1221e–2. Repealed.

1221e–3. General authority of Secretary.
- (a) Rules and regulations for agency operation; personnel; gifts; transactions; construction of facilities; acquisition and disposal of property; reimbursement of Federal agencies for use of services.
- (b) Qualifications of persons engaged in competitive review of grant applications.
- (c) Delegation of functions.
- (d) ''Administrative head of an education agency'' defined.

1221e–4. Educational impact statement.

1221f to 1221i. Repealed.

1221j. Television program assistance.
- (a) Granting and contracting authority.
- (b) Administration and studies.

SUBCHAPTER II—APPROPRIATIONS AND EVALUATIONS

PART 1—APPROPRIATIONS

1222. Repealed.

1223. Forward funding.

1224. Repealed.

1225. Availability of appropriations on academic or school-year basis; additional period for obligation of funds.
- (a) Academic or differing fiscal year.
- (b) Succeeding fiscal year.
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1226. Repealed.

1226a. Contingent extension of programs.
- (a) Automatic extension.
- (b) Amount of appropriation.
- (c) Acts and determinations necessary for program continuation.
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1226a–1. Payments; installments, advances or reimbursement, and adjustments.

PART 2—PLANNING AND EVALUATION OF FEDERAL EDUCATION ACTIVITIES

1226b. Responsibility of States to furnish information.
- (a) Biennial reports; contents.
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(f) Reports by Secretary.
1226c. Biennial evaluation report.
1226c–1. Availability of education reports, etc., to Congressional committees.
1226d, 1227. Repealed.
1228. Prohibition against use of appropriated funds for busing.
1228a. Equity for students, teachers, and other program beneficiaries.
(a) Purpose.
(b) Requirement to develop steps to ensure equity.
(c) Establishment of criteria.
(d) Effect on other laws.
1228b. Coordination.
1228c. Disclosure requirements.
(a) In general.
(b) Nondiscriminatory enrollment and service policy.
(c) Enforcement.
(d) Definitions.

SUBCHAPTER III—GENERAL REQUIREMENTS AND CONDITIONS CONCERNING OPERATION AND ADMINISTRATION OF EDUCATION PROGRAMS: GENERAL AUTHORITY OF SECRETARY

1230. Repealed.

PART 1—GENERAL AUTHORITY

1231. Joint funding of programs.
(a) Joint projects; transfers of appropriations; contracts or grants; criteria.
(b) Joint applications.
(c) Limitations on joint funding.
(d) Congressional notice.
1231a. Collection and dissemination of information.
1231b, 1231b–1. Repealed.
1231b–2. Review of applications.
(a) Persons aggrieved; final State educational agency actions; hearing; ruling and reasons for ruling; rescission of final actions.
(b) Appeals to Secretary; persons aggrieved; notice; orders prescribing appropriate agency actions; finality of agency fact findings; interim orders pending appeal or review.
(c) Records; availability.
(d) Termination of assistance for noncompliance with provisions or orders.
1231c. Advice, counsel, and technical assistance.
(a) State educational agencies, institutions of higher education.
(b) Cost allocation, collection, etc., by local educational agencies.
(c) Dissemination.
(d) Annual report by Secretary.
1231c–1. Repealed.
1231d. Parental involvement and dissemination.
1231e. Use of funds withheld.
1231f. Repealed.

PART 2—ADMINISTRATION: REQUIREMENTS AND LIMITATIONS

1231g. Applications.
(a) Submission and amendments of applications.
(b) Uniform dates.
(c) Development of common applications.
1232. Regulations.
(a) ''Regulation'' defined.
(b) Citation of authority.
(c) Uniform application.
(d) Application of exemption.
(e) Schedule for promulgation of final regulations.
(f) Transmittal of final regulations.
1232–1. Repealed.
1232a. Prohibition against Federal control of education.
1232b. Labor standards.

PART 3—ADMINISTRATION OF EDUCATION PROGRAMS AND PROJECTS BY STATES AND LOCAL EDUCATIONAL AGENCIES

1232c. State educational agency monitoring and enforcement.
(a) State plan.
(b) State enforcement of Federal requirements.
(c) Withholding of payments.
1232d. Single State application.
(a) Submission of general application; approval by State supervisory authority.
(b) Assurances.
(c) Effective term of general application.
1232e. Single local educational agency application.
(a) General application to State agency or board.
(b) Assurances.
(c) Effective term of general application.

PART 4—RECORDS; PRIVACY; LIMITATION ON WITHHOLDING FEDERAL FUNDS

1232f. Records.
(a) Records kept by recipient; full disclosure; five-year maintenance period.
(b) Audit examination.
1232g. Family educational and privacy rights.
(a) Conditions for availability of funds to educational agencies or institutions; inspection and review of education records; specific information to be made available; procedure for access to education records; reasonableness of time for such access; hearings; written explanations by parents; definitions.
(b) Release of education records; parental consent requirement; exceptions; compliance with judicial orders and subpoenas; audit and evaluation of federally-supported education programs; recordkeeping.
(c) Surveys or data-gathering activities; regulations.
(d) Students' rather than parents' permission or consent.
(e) Informing parents or students of rights under this section.
(f) Enforcement; termination of assistance.
(g) Office and review board; creation; functions.

(h) Disciplinary records; disclosure.
1232h. Protection of pupil rights.
(a) Inspection of instructional materials by parents or guardians.
(b) Limits on survey, analysis, or evaluations.
(c) Notice.
(d) Enforcement.
(e) Office and review board.
1232i. Limitations on withholding of Federal assistance.
(a) Refusal to supply personal data on students or families.
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SUBCHAPTER IV—ENFORCEMENT

1234. Office of Administrative Law Judges.
(a) Establishment; duties.
(b) Appointment.
(c) Employment requirements; chief judge.
(d) Assignment of judges.
(e) Review and evidentiary functions.
(f) Conduct of proceedings; costs and fees of parties.
(g) Discovery; scope, time, etc.; issue and enforcement of subpoenas.
(h) Mediation of disputes.
(i) Professional personnel; employment, assignment, or transfer.
1234a. Recovery of funds.
(a) Preliminary departmental decision; grounds of determination; notice requirements; prima facie case; amount of funds recoverable.
(b) Review of preliminary departmental decision; form and contents of application for review; inadequate preliminary decisions; duties of recipient to subrecipients after preliminary decision; burden of proof.
(c) Time for hearing.
(d) Review of findings of fact in preliminary decision; conclusiveness; remand; new or modified findings.
(e) Time for filing petition for review of preliminary decision.
(f) Stay of collection or other adverse action by Secretary against recipient.
(g) Preliminary decision as final agency action.
(h) Publication of decisions as final agency actions.
(i) Collection amounts and procedures.
(j) Compromise of preliminary departmental decisions; preconditions; notice requirements.
(k) Limitation period respecting return of funds.
(*l*) Foregoing of interest during period of administrative review.
1234b. Measure of recovery.
(a) Amount returned proportionate to extent of harm violation caused to an identifiable Federal interest; reduction; determination of identifiable Federal interest.
(b) Reduction or waiver of amount based on mitigating circumstances; burden of proof; determination of mitigating circumstances; weight, etc., of written request for guidance.
(c) Review of written requests for guidance on periodic basis.
1234c. Remedies for existing violations.
1234d. Withholding.
(a) Discretionary authority over further payments under applicable program.
(b) Notice requirements.
(c) Hearing.
(d) Suspension of payments, authorities, etc.
(e) Findings of fact.
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1234e. Cease and desist orders.
(a) Issuance and contents of complaint.
(b) Appearance contesting order.
(c) Report; issuance of cease and desist order.
(d) Report and order as final agency action.
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1234f. Compliance agreements.
(a) Discretionary authority; purposes of agreement.
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(c) Contents.
(d) Failure of recipient to comply with terms and conditions.
1234g. Judicial review.
(a) Recipients entitled to review; stay of action by Secretary.
(b) Petition for review; filing of record.
(c) Findings of fact.
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1234h. Use of recovered funds.
(a) Repayment to recipient; factors considered.
(b) Terms and conditions of repayment.
(c) Availability of funds.
(d) Publication in Federal Register of notice of intent to enter into repayment arrangement.
1234i. Definitions.

SUBCHAPTER V—READY TO LEARN TELEVISION

1235. Ready to learn.
(a) In general.
(b) Availability.
1235a. Educational programming.
(a) Awards.
(b) Eligible entities.
(c) Cultural experiences.
1235b. Duties of Secretary.
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1235d. Reports and evaluation.
(a) Annual report to Secretary.
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1235e. Authorization of appropriations.
(a) In general.
(b) Special projects.

1235f. Administrative costs.
1235g. ''Distance learning'' defined.

AMENDMENTS

1970—Pub. L. 91–230, title IV, §401(a)(1), Apr. 13, 1970, 84 Stat. 164, substituted as chapter heading ''GENERAL PROVISIONS CONCERNING EDUCATION'' for ''LEADTIME AND PLANNING AND EVALUATION IN ELEMENTARY AND SECONDARY EDUCATION PROGRAMS''.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 1652, 3441, 3489, 6104, 6512, 8901 of this title; title 42 section 2473b.

§ 1221. Short title; applicability; definitions

(a) Short title

This chapter may be cited as the ''General Education Provisions Act''.

(b) Applicability of chapter

(1) Except as otherwise provided, this chapter applies to each applicable program of the Department of Education.

(2) Except as otherwise provided, this chapter does not apply to any contract made by the Department of Education.

(c) Definitions

As used in this chapter, the following terms have the following meanings:

(1) The term ''applicable program'' means any program for which the Secretary or the Department has administrative responsibility as provided by law or by delegation of authority pursuant to law. The term includes each program for which the Secretary or the Department has administrative responsibility under the Department of Education Organization Act [20 U.S.C. 3401 et seq.] or under Federal law effective after the effective date of that Act.

(2) The term ''applicable statute'' means—

(A) the Act or the title, part, section, or any other subdivision of an Act, as the case may be, that authorizes the appropriation for an applicable program;

(B) this chapter; and

(C) any other statute that by its terms expressly controls the administration of an applicable program.

(3) The term ''Department'' means the Department of Education.

(4) The term ''Secretary'' means the Secretary of Education.

(d) Application of other laws unaffected

Nothing in this chapter shall be construed to affect the applicability of title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.], title IX of the Education Amendments of 1972 [20 U.S.C. 1681 et seq.], title V of the Rehabilitation Act of 1973 [29 U.S.C. 790 et seq.], the Age Discrimination Act [42 U.S.C. 6101 et seq.], or other statutes prohibiting discrimination, to any applicable program.

(Pub. L. 90–247, title IV, §400, formerly §401, Jan. 2, 1968, 81 Stat. 814; Pub. L. 90–576, title III, §301(a), Oct. 16, 1968, 82 Stat. 1094; Pub. L. 91–230, title IV, §401(a)(2), Apr. 13, 1970, 84 Stat. 164; renumbered §400, Pub. L. 92–318, title III, §301(a)(1), June 23, 1972, 86 Stat. 326; Pub. L. 93–380, title V, §505(a)(1), Aug. 21, 1974, 88 Stat. 561; Pub. L. 103–382, title II, §211, Oct. 20, 1994, 108 Stat. 3912.)

REFERENCES IN TEXT

The Department of Education Organization Act, referred to in subsec. (c)(1), is Pub. L. 96–88, Oct. 17, 1979, 93 Stat. 668, as amended, which is classified principally to chapter 48 (§3401 et seq.) of this title. For the effective date of the Act, see Effective Date note set out under section 3401 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3401 of this title and Tables.

The Civil Rights Act of 1964, referred to in subsec. (d), is Pub. L. 88–352, July 2, 1964, 78 Stat. 241, as amended. Title VI of the Act is classified generally to subchapter V (§2000d et seq.) of chapter 21 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of Title 42 and Tables.

The Education Amendments of 1972, referred to in subsec. (d), is Pub. L. 92–318, June 23, 1972, 86 Stat. 235, as amended. Title IX of the Act is classified principally to chapter 38 (§1681 et seq.) of this title. For complete classification of this Act to the Code, see Short Title of 1972 Amendment note set out under section 1001 of this title and Tables.

The Rehabilitation Act of 1973, referred to in subsec. (d), is Pub. L. 93–112, Sept. 26, 1973, 87 Stat. 355, as amended. Title V of the Act is classified generally to subchapter V (§790 et seq.) of chapter 16 of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 701 of Title 29 and Tables.

The Age Discrimination Act, referred to in subsec. (d), probably means the Age Discrimination Act of 1975, which is title III of Pub. L. 94–135, Nov. 28, 1975, 89 Stat. 728, as amended, and which is classified generally to chapter 76 (§6101 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 6101 of Title 42 and Tables.

AMENDMENTS

1994—Pub. L. 103–382 amended section generally, inserting provision that this chapter not apply to any contract made by the Department of Education, substituting definition of ''Department'' as meaning Department of Education for definition of ''Director'' as meaning Director of the National Institute of Education, striking out reference to the Civil Rights Act of 1964, adding references to title VI of the Civil Rights Act of 1964, title IX of the Education Amendments of 1972, title V of the Rehabilitation Act of 1973, the Age Discrimination Act, and other statutes prohibiting discrimination, and striking out provision authorizing appropriations for any fiscal year of such sums as may be necessary to carry out the provisions of this chapter.

1974—Subsec. (a). Pub. L. 93–380 redesignated subsec. (d) as (a). Former subsec. (a) provisions ''The provisions of this chapter shall apply to any program for which the Commissioner of Education has responsibility for administration, either as provided by statute or by delegation pursuant to statute. Amendments to Acts authorizing such programs shall not affect the applicability of this chapter unless so specified by such amendments'' were incorporated in part in subsec. (b).

Subsec. (b). Pub. L. 93–380 incorporated subsec. (a) provisions in subsec. (b), inserting introductory text ''Except where otherwise specified,'', substituting ''an administrative head of an education agency has administrative responsibility as provided by law or by delegation of authority pursuant to law'' for ''the Commissioner of Education has responsibility for administration, either as provided by statute or by delegation pursuant to statute.'', deleting ''Amendments to Acts authorizing such programs shall not affect the applicability of this chapter unless so specified by such amendments.'' Former subsec. (b) definition provisions for

''Commissioner'', ''Secretary'', and ''applicable program'' incorporated in subsec. (c)(1).

Subsec. (c). Pub. L. 93–380 incorporated subsec. (b)(3), (1), (2) provisions in par. (1)(A), (D), (F), respectively; inserted in par. (1)(A) '', under the terms of subsection (b) of this section,''; and added pars. (1)(B), (C), (E), (2), and (3). Former subsec. (c) provisions ''There are hereby authorized to be appropriated for any fiscal year, as part of the appropriations for salaries and expenses for the Office of Education, such sums as the Congress may determine to be necessary to carry out the provisions of this chapter,'' incorporated in subsec. (d).

Subsec. (d). Pub. L. 93–380 incorporated subsec. (c) provisions in provisions designated as subsec. (d), inserting introductory text ''Except as otherwise limited in this chapter,'', and deleting '', as part of the appropriations for salaries and expenses for the Office of Education,'' after ''fiscal year''. Former subsec. (d) redesignated (a).

Subsec. (e). Pub. L. 93–380 added subsec. (e).

1970—Pub. L. 91–230, § 401(a)(2)(A), provided for definitions and authorization of appropriations in section catchline.

Subsecs. (b), (c). Pub. L. 91–230, § 401(a)(2)(B), added subsecs. (b) and (c).

1968—Pub. L. 90–576 substituted general reference to ''any program for which the Commissioner of Education has responsibility for administration, either as provided by statute or by delegation pursuant to statute'' for specific references to ''title I of the Elementary and Secondary Education Act of 1965 (title II of Pub. L. 81–874), titles II, III, V, VI, VII, and VIII of the Elementary and Secondary Education Act of 1965, and the Adult Education Act of 1966 (title III of the Elementary and Secondary Education Amendments of 1966), as now in effect or hereafter from time to time amended'' as the areas in which the provisions of this chapter shall apply and inserted provision that amendments to the programs covered shall not affect the applicability of this chapter unless so specified by such amendments.

EFFECTIVE DATE OF 1994 AMENDMENT

Section 3(a)(2) of Pub. L. 103–382 provided that: ''Title II of this Act [§§ 211 to 272 of Pub. L. 103–382, see Tables for classification] and the amendments made by title II of this Act shall take effect on the date of enactment of this Act [Oct. 20, 1994], except that section 236 [enacting section 1228a of this title] (equity for students, teachers, and other program beneficiaries) of such title shall be effective—

''(A) July 1, 1995 for noncompetitive programs in which funds are allocated on the basis of a formula; and

''(B) for programs that are conducted on a competitive basis, with respect to appropriations for use under such programs in fiscal year 1995 and in subsequent fiscal years.''

EFFECTIVE DATE OF 1974 AMENDMENT

Section 505(b) of Pub. L. 93–380 provided that: ''The amendments made by subsection (a) [amending this section and section 1221g of this title] shall be effective on the tenth day after the date of enactment of this Act [Aug. 21, 1974].''

SHORT TITLE OF 1988 AMENDMENT

Pub. L. 100–297, title III, § 3401, Apr. 28, 1988, 102 Stat. 344, provided that: ''This part [part C (§§ 3401–3403) of title III of Pub. L. 100–297, amending sections 1221e and 1221e–1 of this title and enacting provisions set out as a note under section 1221e–1 of this title] may be cited as the 'National Assessment of Educational Progress Improvement Act'.''

SHORT TITLE OF 1978 AMENDMENT

Pub. L. 95–561, title XII, § 1211, Nov. 1, 1978, 92 Stat. 2338, provided that: ''This part [enacting sections 1221–3 and 1231g of this title and amending section 1221e–1 of this title] may be cited as the 'Control of Paperwork Amendments of 1978'.''

SHORT TITLE OF 1974 AMENDMENT

Section 513(b)(2) of Pub. L. 93–380 provided that: ''This section [enacting section 1232g of this title and provisions set out as a note under section 1232g of this title] may be cited as the 'Family Educational Rights and Privacy Act of 1974'.''

EXECUTIVE ORDER NO. 11761

Ex. Ord. No. 11761, Jan. 17, 1974, 39 F.R. 2345, which provided for coordination of Federal educational programs and which continued Federal Interagency Committee on Education, was revoked by Ex. Ord. No. 12553, Feb. 25, 1986, 51 F.R. 7237.

EXECUTIVE ORDER NO. 12687

Ex. Ord. No. 12687, Aug. 15, 1989, 54 F.R. 34127, as amended by Ex. Ord. No. 12741, Dec. 31, 1990, 56 F.R. 475; Ex. Ord. No. 12785, Dec. 26, 1991, 56 F.R. 67451, which established the President's Education Policy Advisory Committee to advise the President with respect to objectives and conduct of overall education policy of the United States, was revoked by Ex. Ord. No. 12869, § 4(e), Sept. 30, 1993, 58 F.R. 51751, formerly set out under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1228a, 3601, 3603 of this title.

§ 1221–1. National policy with respect to equal educational opportunity

Recognizing that the Nation's economic, political, and social security require a well-educated citizenry, the Congress (1) reaffirms, as a matter of high priority, the Nation's goal of equal educational opportunity, and (2) declares it to be the policy of the United States of America that every citizen is entitled to an education to meet his or her full potential without financial barriers.

(Pub. L. 93–380, title VIII, § 801, Aug. 21, 1974, 88 Stat. 597.)

CODIFICATION

Section was enacted as part of Education Amendments of 1974, and not as part of General Education Provisions Act which comprises this chapter.

EFFECTIVE DATE

Section 2(c) of Pub. L. 93–380 provided that:

''(1) Unless otherwise specified, each provision of this Act [see Tables for classification] and each amendment made by this Act shall be effective on and after the sixtieth day after the enactment of this Act [Aug. 21, 1974].

''(2) In any case where the effective date for an amendment made by this Act is expressly stated to be effective after June 30, 1973, or on July 1, 1973, such amendment shall be deemed to have been enacted on June 30, 1973.''

STUDY OF CIVILIAN AVIATION TRAINING PROGRAMS

Pub. L. 102–325, title XIV, § 1410, July 23, 1992, 106 Stat. 821, directed Secretary of Education to enter into appropriate arrangements with National Academy of Sciences Commission on Behavioral and Social Sciences and Education to study civilian aviation training programs needed to satisfy workforce requirements of commercial aviation industry in year 2000 and beyond, directed Secretary to request that National Academy of Sciences Commission on Behavioral and Social Sciences and Education submit an interim report to Secretary and Congress within 1 year after July 23, 1992,

and directed that the study be completed within 2 years of July 23, 1992.

NATIONAL COMMISSION ON INDEPENDENT HIGHER EDUCATION

Pub. L. 102–325, title XIV, part B, July 23, 1992, 106 Stat. 824, as amended by Pub. L. 103–208, §2(k)(11), Dec. 20, 1993, 107 Stat. 2486, provided for establishment, membership, etc., of National Commission on Independent Higher Education, which Commission was to develop factual base for understanding status of independent colleges and universities, their contributions to public priorities, and effects of national higher education policies on independent nonprofit sector, to review issuance of Federal regulations regarding independent colleges and universities, and suggest means by which independent colleges and universities can be held accountable for use of public resources without inappropriate intrusion into institutional autonomy, and to address the relationship between Federal and State policies in independent colleges and universities, particularly with respect to student access and choice, finance, institutional subsidies, and institutional accountability, and directed that the Commission terminate 3 years after July 23, 1992.

NATIONAL COMMISSION ON COST OF HIGHER EDUCATION

Pub. L. 102–325, title XIV, part C, July 23, 1992, 106 Stat. 827, as amended by Pub. L. 103–208, §2(k)(12), Dec. 20, 1993, 107 Stat. 2486, provided for establishment, membership, etc., of National Commission on the Cost of Higher Education, which Commission was to make findings and specific recommendations regarding the increase in tuition costs compared with other commodities and services as well as methods of reducing increased tuition costs, administrative costs of colleges and universities and methods of reducing such costs, the extent to which Federal, State, and local regulations contribute to increased tuition costs and the increase in the cost of higher education, and extent to which the lack of student financial assistance programs contribute to increased tuition costs, and directed that the Commission cease to exist on the date that is 90 days after the Commission submits its final report, which report was to be submitted to the President and Congress not later than Sept. 1, 1994.

EDUCATION COUNCIL ACT OF 1991

Pub. L. 102–62, June 27, 1991, 105 Stat. 305, as amended by Pub. L. 102–359, §1, Aug. 26, 1992, 106 Stat. 962; Pub. L. 103–290, §1, Aug. 1, 1994, 108 Stat. 1456; Pub. L. 103–382, title III, §362, Oct. 20, 1994, 108 Stat. 3975, provided for establishment, membership, etc., of National Education Commission on Time and Learning, which Commission was to examine the quality and adequacy of the study and learning time of elementary and secondary students in the United States, including issues regarding the length of the school day and year, the extent and role of homework, how time is being used for academic subjects, year-round professional opportunities for teachers, and use of school facilities for extended learning programs, report to Congress and the Secretary on the results of the study not later than 2 years after the Commission concludes its first meeting, and terminate Sept. 30, 1994, and provided for establishment, membership, etc., of National Council on Education Standards and Testing, which Council was to advise the American people whether suitable specific education standards should be established for the knowledge and skills that students should possess and that schools should impart in order that American student leave grades 4, 8, and 12 demonstrating competency in challenging subject matters and whether an appropriate system of voluntary national tests or examinations should be established to provide prompt and accurate information on the progress made towards specific education standards by individual students, schools, school systems, States, and the Nation as a whole, submit a final report, as soon as possible, but not later than Dec. 31, 1991, to Congress, Secretary of Education, and National Education Goals Panel, and cease to exist 90 days after submitting its final report.

NATIONAL COMMISSION ON RESPONSIBILITIES FOR FINANCING POSTSECONDARY EDUCATION

Pub. L. 99–498, title XIII, §1321, Oct. 17, 1986, 100 Stat. 1584, as amended by Pub. L. 101–324, July 6, 1990, 104 Stat. 300; Pub. L. 102–170, title III, §306, Nov. 26, 1991, 105 Stat. 1136, established as an independent agency in executive branch a commission to be known as National Commission on Responsibilities for Financing Postsecondary Education, directed Commission to study and investigate extent to which (1) there is a consistent and coherent Federal policy regarding the appropriate family role in financing costs of postsecondary education for family members, (2) current Federal laws and regulations promote stated Federal policy, and (3) extent to which State laws which remove parental responsibilities for children over 18 years of age conflict with Federal policy in this area, directed Commission to (A) summarize appropriate findings of National Commission on Student Financial Assistance, (B) recommend to Congress a comprehensive analysis on extent to which consensus exists regarding appropriate role of family in financing postsecondary education, and (C) recommend changes in current law required to achieve desired Federal policy, and provided that Commission would terminate 2 years after first meeting of its members.

STUDY OF CLASSROOM USE OF VOLUNTEERS

Pub. L. 99–498, title XIII, §1341, Oct. 17, 1986, 100 Stat. 1587, as amended by Pub. L. 100–50, §23(7), June 3, 1987, 101 Stat. 362, directed National Academy of Sciences to conduct a thorough study of how volunteers could best be used in the classroom with the study to (1) feasibility of using recipients of student loans as part of repayment of such loans, (2) use of older Americans as such volunteers, (3) use of business persons and other professionals as volunteers, and (4) place of incentives to encourage volunteerism, and with National Academy of Sciences to prepare and submit to Congress a report, together with a description of programs on use of volunteers and with such recommendations as deemed appropriate not later than one year after entering into a contract to conduct the study.

NATIVE HAWAIIAN EDUCATION STUDY

Pub. L. 96–374, title XIII, §1331, Oct. 3, 1980, 94 Stat. 1499, established an Advisory Council on Native Hawaiian Education consisting of seven members appointed by Secretary of Education, after consultation with Governor of Hawaii, from among individuals who were professionals in various fields relating to human development, and who were familiar with educational problems of Native Hawaiians, to conduct a study to (A) evaluate effectiveness of State and federally assisted educational programs in serving Native Hawaiian children and extent to which such programs achieve their purposes with respect to such children, and (B) take into account special health, social, and psychological needs of Native Hawaiian children, and to submit a report to Secretary and to Congress not later than Jan. 31, 1983, containing findings and recommendations of the Council, with the Council to terminate 60 days after submission of its report.

APPROPRIATIONS NOT AUTHORIZED FOR NATIVE HAWAIIAN EDUCATION STUDY FOR FISCAL YEAR 1982, 1983, OR 1984

Pub. L. 97–35, title V, §512(a), Aug. 13, 1981, 95 Stat. 444, provided that: ''No funds are authorized to be appropriated to carry out part D of title XIII of the Education Amendments of 1980 [section 1331 of Pub. L.

96–374, set out as a note above] for fiscal year 1982, 1983, or 1984.''

FINANCING OF ELEMENTARY AND SECONDARY EDUCATION; STUDIES AND SURVEYS; ADVISORY PANEL; REPORTS

Pub. L. 95–561, title XII, § 1203, Nov. 1, 1978, 92 Stat. 2335, as amended by Pub. L. 96–46, § 2(a)(4), Aug. 6, 1979, 93 Stat. 340; Pub. L. 96–88, title III, § 301(a)(2), (b)(1), title V, § 501(a), 507, Oct. 17, 1979, 93 Stat. 677, 678, 689, 692, established a 15-member Advisory Panel on Financing Elementary and Secondary Education within Department of Education to provide for (1) availability of reliable and comparative data on status and trends in financing elementary and secondary education, (2) conduct of studies necessary to understand and analyze the trends and problems affecting financing of elementary and secondary education, both public and non-public, including prospects for adequate financing during the next ten years, and development of recommendations for Federal policies to assist in improving equity and efficiency of Federal and State systems for raising and distributing revenues to support elementary and secondary education, with views and recommendations of the Panel to be presented to 1980 White House Conference on Education.

WHITE HOUSE CONFERENCE ON EDUCATION: REPORT OF FINDINGS AND RECOMMENDATIONS; NATIONAL CONFERENCE COMMITTEE: ESTABLISHMENT, MEMBERSHIP, REPORT TO PRESIDENT AND CONGRESS, TRAVEL EXPENSES; APPORTIONMENT OF FUNDS; AUTHORIZATION OF APPROPRIATIONS

Pub. L. 93–380, title VIII, § 804, Aug. 21, 1974, 88 Stat. 597, as amended by Pub. L. 95–272, title III, § 301, May 3, 1978, 92 Stat. 227; Pub. L. 95–561, title XII, § 1203(c)(8), Nov. 1, 1978, 92 Stat. 2335, directed President to call and conduct a White House Conference on Education in 1980, established a National Conference Committee to provide guidance and planning and to make a final report to President and Congress not later than Dec. 1, 1980, authorized making of grants to States to assist in meeting cost of that State's participation, and authorized appropriations.

§ 1221–2. National policy with respect to museums as educational institutions

The Congress, recognizing—

(1) that museums serve as sources for schools in providing education for children,

(2) that museums provide educational services of various kinds for educational agencies and institutions and institutions of higher education, and

(3) that the expense of the educational services provided by museums is seldom borne by the educational agencies and institutions taking advantage of the museums' resources,

declares that it is the sense of the Congress that museums be considered educational institutions and that the cost of their educational services be more frequently borne by educational agencies and institutions benefiting from those services.

(Pub. L. 93–380, title VIII, § 803, Aug. 21, 1974, 88 Stat. 597.)

CODIFICATION

Section was enacted as part of Education Amendments of 1974, and not as part of General Education Provisions Act which comprises this chapter.

EFFECTIVE DATE

Section effective on and after sixtieth day after Aug. 21, 1974, see section 2(c) of Pub. L. 93–380, set out as a note under section 1221–1 of this title.

§ 1221–3. Repealed. Pub. L. 103–382, title II, § 212(a)(1), Oct. 20, 1994, 108 Stat. 3913

Section, Pub. L. 90–247, title IV, § 400A, as added Pub. L. 95–561, title XII, § 1212(b), Nov. 1, 1978, 92 Stat. 2338; amended Pub. L. 96–46, § 4(a), Aug. 6, 1979, 93 Stat. 342; Pub. L. 96–88, title III, § 301(b)(2), title V, § 507, Oct. 17, 1979, 93 Stat. 678, 692; Pub. L. 96–511, § 4(a), Dec. 11, 1980, 94 Stat. 2826, related to control of excessive paperwork.

SUBCHAPTER I—FUNCTIONS OF DEPARTMENT OF EDUCATION

AMENDMENTS

1994—Pub. L. 103–382, title II, § 221, Oct. 20, 1994, 108 Stat. 3913, amended subchapter heading generally.

§§ 1221a to 1221c. Repealed. Pub. L. 103–382, title II, § 212(a)(1), Oct. 20, 1994, 108 Stat. 3913

Section 1221a, Pub. L. 90–247, title IV, § 401, as added Pub. L. 92–318, title III, § 301(a)(2), June 23, 1972, 86 Stat. 326; amended Pub. L. 93–380, title V, § 504(a), Aug. 21, 1974, 88 Stat. 561, established Education Division of the Department of Health, Education, and Welfare.

Section 1221b, Pub. L. 90–247, title IV, § 402, as added Pub. L. 92–318, title III, § 301(a)(2), June 23, 1972, 86 Stat. 327; amended Pub. L. 93–380, title V, § 502(a)(2)(A), Aug. 21, 1974, 88 Stat. 560, established position of and provided for appointment and compensation of Assistant Secretary for Education in the Department of Health, Education, and Welfare.

Section 1221c, Pub. L. 90–247, title IV, § 403, as added Pub. L. 92–318, title III, § 301(a)(2), June 23, 1972, 86 Stat. 327; amended Pub. L. 93–380, title V, § 503(a), Aug. 21, 1974, 88 Stat. 560; Pub. L. 94–482, title IV, § 409(a), Oct. 12, 1976, 90 Stat. 2233; Pub. L. 95–561, title XII, § 1241, Nov. 1, 1978, 92 Stat. 2351; Pub. L. 96–88, title III, § 301(a)(1), (b)(2), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 678, 692; Pub. L. 96–470, title I, § 106(d), Oct. 19, 1980, 94 Stat. 2238, related to nonpublic education.

§ 1221d. Repealed. Pub. L. 96–374, title X, § 1001(c), Oct. 3, 1980, 94 Stat. 1491

Section, Pub. L. 90–247, title IV. § 404, as added Pub. L. 92–318, title III, § 301(a)(2), June 23, 1972, 86 Stat. 327; amended Pub. L. 94–482, title IV, § 402, Oct. 12, 1976, 90 Stat. 2226; Pub. L. 96–49, § 13, Aug. 13, 1979, 93 Stat. 354, related to grants and contracts for improvement of post-secondary education.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1980, see section 1393(a) of Pub. L. 96–374, set out as an Effective Date of 1980 Amendment note under section 1001 of this title.

§ 1221e. Repealed. Pub. L. 103–227, title IX, § 911(a), Mar. 31, 1994, 108 Stat. 213

Section, Pub. L. 90–247, title IV, § 405, as added Pub. L. 92–318, title III, § 301(a)(2), June 23, 1972, 86 Stat. 328; amended Pub. L. 93–380, title V, § 502(a)(2)(B), Aug. 21, 1974, 88 Stat. 560; Pub. L. 94–482, title IV, § 403, Oct. 12, 1976, 90 Stat. 2227; Pub. L. 95–561, title XII, § 1242, Nov. 1, 1978, 92 Stat. 2352; Pub. L. 96–49, § 14, Aug. 13, 1979, 93 Stat. 354; Pub. L. 96–374, title XIII, §§ 1311–1314, Oct. 3, 1980, 94 Stat. 1498, 1499; Pub. L. 98–511, title VII, §§ 702(a), 703, 704(a), Oct. 19, 1984, 98 Stat. 2405, 2406; Pub. L. 99–498, title XIV, § 1401(a), Oct. 17, 1986, 100 Stat. 1589; Pub. L. 100–50, § 24(a), June 3, 1987, 101 Stat. 362; Pub. L. 100–297, title III, §§ 3001(p)(2), 3002, 3403(b), (c), Apr. 28, 1988, 102 Stat. 337, 349; Pub. L. 103–33, § 1(b), May 25, 1993, 107 Stat. 94, related to Office of Educational Research and Improvement.

SAVINGS PROVISION

Section 914 of title IX of Pub. L. 103–227 provided that: ''Notwithstanding any other provision of law,

contracts for the regional educational laboratories, Educational Resources Information Center Clearinghouses and research and development centers and regional educational laboratories assisted under section 405 of the General Education Provisions Act [20 U.S.C. 1221e], as such section was in effect on the day before the date of the enactment of this title [Mar. 31, 1994], shall remain in effect until the termination date of such contracts.''

EXISTING GRANTS AND CONTRACTS

Section 915 of title IX of Pub. L. 103–227 provided that:

''(a) IN GENERAL.—Notwithstanding any other provision of law, grants and contracts for the research and development centers assisted under section 405 of the General Education Provisions Act [20 U.S.C. 1221e], as such section was in effect on the day before the date of enactment of this Act [Mar. 31, 1994], shall remain in effect until the termination date of such grants or contracts, as the case may be, except that such grants and contracts may be extended to implement the provisions of this title [see section 6001 of this title].

''(b) USE OF FUNDS.—In carrying out subsection (a), the Secretary shall use funds appropriated pursuant to section 912(m)(1) [20 U.S.C. 6011(m)(1)].''

§ 1221e–1 to 1221e–1c. Repealed. Pub. L. 103–382, title II, § 212(a)(1), Oct. 20, 1994, 108 Stat. 3913

Section 1221e–1, Pub. L. 90–247, title IV, § 406, as added Pub. L. 93–380, title V, § 501(a), Aug. 21, 1974, 88 Stat. 556; amended Pub. L. 94–273, § 12(1), Apr. 21, 1976, 90 Stat. 378; Pub. L. 94–482, title IV, §§ 401, 406, title V, § 501(q), Oct. 12, 1976, 90 Stat. 2226, 2231, 2238; Sen. Res. 4, Feb. 4, 1977; Pub. L. 95–561, title XII, §§ 1201, 1212(a), (c), 1243(a), Nov. 1, 1978, 92 Stat. 2333, 2338, 2341, 2353; S. Res. 30, Mar. 7, 1979; Pub. L. 98–511, title VII, §§ 702(b), 704(b), Oct. 19, 1984, 98 Stat. 2406; Pub. L. 99–498, title XIV, § 1402, Oct. 17, 1986, 100 Stat. 1597; Pub. L. 100–50, § 24(b), June 3, 1987, 101 Stat. 363; Pub. L. 100–297, title III, § 3001(a), (b)(1), (c)–(p)(1), (q), 3403(a), Apr. 28, 1988, 102 Stat. 331–337, 344; Pub. L. 101–589, title II, § 252, Nov. 16, 1990, 104 Stat. 2894; Pub. L. 102–325, title XV, § 1552, July 23, 1992, 106 Stat. 838; Pub. L. 103–33, § 1(a), May 25, 1993, 107 Stat. 93; Pub. L. 103–227, title VII, § 707, Mar. 31, 1994, 108 Stat. 209; Pub. L. 103–437, § 7(a)(1), Nov. 2, 1994, 108 Stat. 4587, related to National Center for Education Statistics. See section 9001 et seq. of this title.

Section 1221e–1a, Pub. L. 90–247, title IV, § 406A, formerly § 437, as added Pub. L. 93–380, title V, § 512(a), Aug. 21, 1974, 88 Stat. 571; amended Pub. L. 94–273, § 17, Apr. 21, 1976, 90 Stat. 379; Pub. L. 94–482, title V, § 501(f)(2), (3), Oct. 12, 1976, 90 Stat. 2237; S. Res. 4, Feb. 4, 1977; renumbered § 406A, Pub. L. 95–561, title XII, § 1231(a)(2), Nov. 1, 1978, 92 Stat. 2342; S. Res. 30, Mar. 7, 1979; Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692; Pub. L. 98–211, § 18(b), Dec. 8, 1983, 97 Stat. 1417; Pub. L. 103–437, § 7(a)(1), Nov. 2, 1994, 108 Stat. 4587, related to responsibility of State to furnish information on uses of Federal funds in State. See section 1226b(a) and (f) of this title.

Section 1221e–1b, Pub. L. 90–247, title IV, § 406B, formerly § 406A, as added Pub. L. 96–374, title XIII, § 1303, Oct. 3, 1980, 94 Stat. 1497; renumbered § 406B, Pub. L. 99–159, title IV, § 401(1), Nov. 22, 1985, 99 Stat. 903, authorized appropriations for fiscal year 1981 for Pre-College Science Teacher Training Program and Minority Institutions Science Improvement program.

Section 1221e–1c, Pub. L. 90–247, title IV, § 406C, as added Pub. L. 99–159, title IV, § 401(2), Nov. 22, 1985, 99 Stat. 903, authorized appropriations for fiscal years 1985 and 1986 for Minority Institutions Science Improvement Program.

§ 1221e–1d. Use of Council staff and facilities

The National Advisory Council on Educational Research and Improvement, the Advisory Council on Education Statistics, and members of such councils may not use any staff, facilities, equipment, supplies, or franking privileges of the councils for activities unrelated to the purposes of the councils.

(Pub. L. 99–498, title XIV, § 1403, Oct. 17, 1986, 100 Stat. 1599.)

CODIFICATION

Section was enacted as part of the Higher Education Amendments of 1986, and not as part of the General Education Provisions Act which comprises this chapter.

§ 1221e–2. Repealed. Pub. L. 103–382, title II, § 212(a)(1), Oct. 20, 1994, 108 Stat. 3913

Section, Pub. L. 90–247, title IV, § 407, as added Pub. L. 93–380, title V, § 502(a)(1), Aug. 21, 1974, 88 Stat. 559; amended Pub. L. 96–88, title III, § 301(b)(2), title V, § 507, Oct. 17, 1979, 93 Stat. 678, 692, related to education officers of United States.

§ 1221e–3. General authority of Secretary

The Secretary, in order to carry out functions otherwise vested in the Secretary by law or by delegation of authority pursuant to law, and subject to limitations as may be otherwise imposed by law, is authorized to make, promulgate, issue, rescind, and amend rules and regulations governing the manner of operation of, and governing the applicable programs administered by, the Department.

(Pub. L. 90–247, title IV, § 410, formerly § 408, as added Pub. L. 93–380, title V, § 502(a)(1), Aug. 21, 1974, 88 Stat. 559; amended Pub. L. 95–561, title XII, §§ 1243(b), 1244, Nov. 1, 1978, 92 Stat. 2353; renumbered § 410 and amended Pub. L. 103–382, title II, §§ 212(b)(1), 222, Oct. 20, 1994, 108 Stat. 3913, 3914.)

AMENDMENTS

1994—Pub. L. 103–382, § 222, amended section generally, substituting single par. relating to general authority of Secretary for former subsecs. (a) to (d) relating to general authority of administrative heads of education agencies.

1978—Subsec. (a). Pub. L. 95–561, § 1243(b), inserted ''or by delegation of authority pursuant to law'' after ''vested in him by law'' in provisions preceding par. (1) and, in par. (1), inserted '', and governing the applicable programs administered by'' after ''the manner of operation of''.

Subsecs. (b) to (d). Pub. L. 95–561, § 1244, added subsec. (b), redesignated former subsecs. (b) and (c) as (c) and (d), and in subsec. (d) as so redesignated substituted ''For the purposes of this chapter'' for ''For the purposes of this section''.

EFFECTIVE DATE OF 1978 AMENDMENT

Section 1530 of Pub. L. 95–561, as amended by Pub. L. 96–46, § 2(a)(10), Aug. 6, 1979, 93 Stat. 340, provided that:

''(a) Except as otherwise specifically provided in this Act, the provisions of this Act and the amendments and repeals made by this Act [see Tables for classification] shall take effect October 1, 1978.

''(b) The provisions of section 412(b)(2) [now 421(b)(2)] of the General Education Provisions Act [section 1225(b)(2) of this title], as added by section 1245 of this Act, shall not take effect with respect to the use of funds under section 421 of the Elementary and Secondary Education Act of 1965 [former section 3101 of this title] until October 1, 1980, except at the option of local educational agencies.''

EFFECTIVE DATE

Section 502(b) of Pub. L. 93–380 provided that: ''The amendments made by this section [enacting this sec-

tion and section 1221e–2 and amending sections 1221b and 1221e of this title] shall be effective on the tenth day after the date of enactment of this Act [Aug. 21, 1974].''

§ 1221e–4. Educational impact statement

Notwithstanding any other provision of law, no regulation affecting any institution of higher education in the United States, promulgated on or after October 3, 1980, shall become effective unless such agency causes to be published in the Federal Register a copy of such proposed regulation together with an educational impact assessment statement which shall determine whether any information required to be transmitted under such regulation is already being gathered by or is available from any other agency or authority of the United States. Notwithstanding the exception provided under section 553(b) of title 5, such statement shall be based upon the record established under the provisions of section 553 of title 5, compiled during the rulemaking proceeding regarding such regulation.

(Pub. L. 90–247, title IV, § 411, formerly § 409, as added Pub. L. 96–374, title XIII, § 1306, Oct. 3, 1980, 94 Stat. 1498; renumbered § 411, Pub. L. 103–382, title II, § 212(b)(1), Oct. 20, 1994, 108 Stat. 3913.)

CODIFICATION

October 3, 1980, referred to in text, was in the original ''the date of enactment of this Act'', which was translated as meaning the date of enactment of Pub. L. 96–374, which enacted this section, to reflect the probable intent of Congress.

PRIOR PROVISIONS

A prior section 411 of Pub. L. 90–247 was renumbered section 420, and is classified to section 1223 of this title.

Another prior section 411 of Pub. L. 90–247 was classified to section 1222 of this title prior to repeal by Pub. L. 93–380.

Another prior section 411 of Pub. L. 90–247 was renumbered section 430, and is classified to section 1231 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1980, see section 1393(a) of Pub. L. 96–374, set out as an Effective Date of 1980 Amendment note under section 1001 of this title.

§§ 1221f to 1221h. Repealed. Pub. L. 100–297, title V, § 5352(4), Apr. 28, 1988, 102 Stat. 414

Section 1221f, Pub. L. 92–318, title IV, § 441, June 23, 1972, 86 Stat. 343, established Office of Indian Education. See section 2641 of Title 25, Indians.

Section 1221g, Pub. L. 92–318, title IV, § 442, June 23, 1972, 86 Stat. 343; Pub. L. 93–380, title V, § 505(a)(2), title VIII, § 845(d), Aug. 21, 1974, 88 Stat. 562, 612; Pub. L. 94–273, §§ 3(11), 13(1), Apr. 21, 1976, 90 Stat. 376, 378; Pub. L. 95–561, title XI, § 1141(c)(3), Nov. 1, 1978, 92 Stat. 2329; Pub. L. 98–511, title V, § 513(b)(5), Oct. 19, 1984, 98 Stat. 2400, established National Advisory Council on Indian Education. See section 2642 of Title 25.

Section 1221h, Pub. L. 92–318, title IV, § 453, June 23, 1972, 86 Stat. 345; Pub. L. 95–561, title XI, §§ 1147, 1148, 1151, Nov. 1, 1978, 92 Stat. 2330, 2331, 2333; Pub. L. 96–46, § 7, Aug. 6, 1979, 93 Stat. 343, defined ''Indian'' for purposes of the Indian Education Act. See section 2651 of Title 25.

EFFECTIVE DATE OF REPEAL

For effective date and applicability of repeal, see section 6303 of Pub. L. 100–297, set out as an Effective Date note under section 1201 of this title.

§ 1221i. Repealed. Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 708(d)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–312

Section, Pub. L. 93–380, title V, § 519, Aug. 21, 1974, 88 Stat. 576; Pub. L. 96–88, title III, § 301(a)(1), (b)(2), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 678, 692, related to Office of Libraries and Learning Resources.

§ 1221j. Television program assistance

(a) Granting and contracting authority

The Secretary of Education is authorized to make grants to and contracts with public and private agencies for the production, development, or distribution (or any combination thereof) of programs designed for television systems, whether broadcast or nonbroadcast.

(b) Administration and studies

The Secretary of Education shall be responsible for the administration of this section and shall also conduct surveys, research, and evaluation studies which may assist in decisions to support pilot programs for full scale production.

(Pub. L. 95–561, title XV, § 1527, Nov. 1, 1978, 92 Stat. 2379; Pub. L. 96–88, title III, § 301, title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692.)

CODIFICATION

Section was enacted as part of Education Amendments of 1978, and not as part of General Education Provisions Act which comprises this chapter.

EFFECTIVE DATE

Section effective Oct. 1, 1978, see section 1530 of Pub. L. 95–561, set out as an Effective Date of 1974 Amendment note under section 1221e–3 of this title.

TRANSFER OF FUNCTIONS

''Secretary of Education'' substituted for ''Secretary'' in subsec. (a) and ''Assistant Secretary for Education'' in subsec. (b), pursuant to sections 301 and 507 of Pub. L. 96–88, which are classified to sections 3441 and 3507 of this title and which transferred functions (relating to education) of Secretary of Health, Education, and Welfare, and functions of Assistant Secretary for Education, to Secretary of Education.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3489 of this title.

SUBCHAPTER II—APPROPRIATIONS AND EVALUATIONS

AMENDMENTS

1972—Pub. L. 92–318, title III, § 301(a)(1), June 23, 1972, 86 Stat. 326, redesignated subchapter I as II. Former subchapter II redesignated III.

1970—Pub. L. 91–230, title IV, § 401(a)(10), Apr. 13, 1970, 84 Stat. 166, added subchapter II heading.

PART 1—APPROPRIATIONS

AMENDMENTS

1974—Pub. L. 93–380, title V, § 506(a)(1)(A), Aug. 21, 1974, 88 Stat. 562, added part 1 heading.

§ 1222. Repealed. Pub. L. 93–380, title V, § 506(a)(1)(B), Aug. 21, 1974, 88 Stat. 562

Section, Pub. L. 90–247, title IV, § 411, formerly § 402, Jan. 2, 1968, 81 Stat. 814; amended Pub. L. 91–230, title IV, § 401(a)(3), Apr. 13, 1970, 84 Stat. 165; renumbered § 411, Pub. L. 92–318, title III, § 301(a)(1), June 23, 1972, 86 Stat. 326, provided for program planning and evaluation and report to Congressional committees.

EFFECTIVE DATE OF REPEAL

Section repealed effective Aug. 21, 1974, see section 506(b) of Pub. L. 93–380, set out as an Effective Date of 1974 Amendment note under section 1225 of this title.

§ 1223. Forward funding

(a) To the end of affording the responsible Federal, State, and local officers adequate notice of available Federal financial assistance for carrying out ongoing education activities and projects, appropriations for grants, contracts, or other payments under any applicable program are authorized to be included in the appropriations Act for the fiscal year preceding the fiscal year during which such activities and projects shall be carried out.

(b) In order to effect a transition to the timing of appropriation action authorized by subsection (a) of this section, the application of this section may result in the enactment, in a fiscal year, of separate appropriations for an applicable program (whether in the same appropriations Act or otherwise) for two consecutive fiscal years.

(Pub. L. 90–247, title IV, § 420, formerly § 403, Jan. 2, 1968, 81 Stat. 814; Pub. L. 91–230, title IV, § 401(a)(4), Apr. 13, 1970, 84 Stat. 165; renumbered § 412, Pub. L. 92–318, title III, § 301(a)(1), June 23, 1972, 86 Stat. 326; renumbered § 411, Pub. L. 93–380, title V, § 506(a)(1)(C), Aug. 21, 1974, 88 Stat. 562; renumbered § 420 and amended Pub. L. 103–382, title II, §§ 212(b)(1), 231, Oct. 20, 1994, 108 Stat. 3913, 3914.)

PRIOR PROVISIONS

A prior section 420 of Pub. L. 90–247 was renumbered section 426, and is classified to section 1228 of this title.

AMENDMENTS

1994—Pub. L. 103–382, § 231, amended section generally. Prior to amendment, section read as follows: ''To the end of affording the responsible State, local, and Federal officers concerned adequate notice of available Federal financial assistance for education, appropriations for grants, contracts, or other payments under any applicable program are authorized to be included in the appropriation Act for the fiscal year preceding the fiscal year for which they are available for obligation. In order to effect a transition to this method of timing appropriation action, the preceding sentence shall apply notwithstanding that its initial application under such program will result in the enactment in the same year (whether in the same appropriation Act or otherwise) of two separate appropriations, one for the then current fiscal year and one for the succeeding fiscal year.''

1970—Pub. L. 91–230 substituted ''applicable program'' and ''under such program'' for ''Act referred to in section 1221 of this title'' and ''under any such Act'', respectively.

NATIONAL POLICY WITH RESPECT TO ADVANCE FUNDING OF EDUCATION PROGRAMS

Section 802 of Pub. L. 93–380 provided that: ''The Congress declares it to be the policy of the United States to implement immediately and continually section 411 [now 420] of the General Education Provisions Act [this section], relating to advance funding for education programs, so as to afford responsible State, local, and Federal officers adequate notice of available Federal financial assistance for education authorized under this [Act, Pub. L. 93–380, see Short Title of 1974 Amendment note set out under section 6301 of this title] and other Acts of Congress.''

Provision effective on and after sixtieth day after Aug. 21, 1974, see section 2(c) of Pub. L. 93–380, set out as an Effective Date note under section 1221–1 of this title.

§ 1224. Repealed. Pub. L. 93–380, title V, § 506(a)(1)(B), Aug. 21, 1974, 88 Stat. 562

Section, Pub. L. 90–247, title IV, § 413, formerly § 404, Jan. 2, 1968, 81 Stat. 814; amended Pub. L. 91–230, title IV, § 401(a)(5), (6), Apr. 13, 1970, 84 Stat. 165; renumbered § 413, Pub. L. 92–318, title III, § 301(a)(1), June 23, 1972, 86 Stat. 326, provided for annual evaluation reports to Congressional committees, penultimate fiscal year reports, and contingent extension of expiring appropriation authority.

EFFECTIVE DATE OF REPEAL

Repeal effective Aug. 21, 1974, see section 506(b) of Pub. L. 93–380, set out as an Effective Date of 1974 Amendment note under section 1225 of this title.

§ 1225. Availability of appropriations on academic or school-year basis; additional period for obligation of funds

(a) Academic or differing fiscal year

Appropriations for any fiscal year for grants, loans, contracts, or other payments under any applicable program may, in accordance with regulations of the Secretary, be made available for obligation by the recipient on the basis of an academic or school year differing from such fiscal year.

(b) Succeeding fiscal year

(1) Notwithstanding any other provision of law, unless enacted in specific limitation of the provisions of this subsection, any funds from appropriations to carry out any programs to which this chapter is applicable during any fiscal year, which are not obligated and expended by educational agencies or institutions prior to the beginning of the fiscal year succeeding the fiscal year for which such funds were appropriated shall remain available for obligation and expenditure by such agencies and institutions during such succeeding fiscal year.

(2) Any funds under any applicable program which, pursuant to paragraph (1), are available for obligation and expenditure in the year succeeding the fiscal year for which they were appropriated shall be obligated and expended in accordance with—

(A) the Federal statutory and regulatory provisions relating to such program which are in effect for such succeeding fiscal year, and

(B) any program plan or application submitted by such educational agencies or institutions for such program for such succeeding fiscal year.

(c) Institution of judicial proceedings

If any funds appropriated to carry out any applicable program are not obligated pursuant to a spending plan submitted in accordance with section 1341(a) of title 31 and become available for obligation after the institution of a judicial proceeding seeking the release of such funds, then such funds shall be available for obligation and expenditure until the end of the fiscal year which begins after the termination of such judicial proceeding.

(Pub. L. 90–247, title IV, § 421, formerly § 405, Jan. 2, 1968, 81 Stat. 815; Pub. L. 91–230, title IV, § 401(a)(5), (7), (8), Apr. 13, 1970, 84 Stat. 165; re-

numbered § 414, Pub. L. 92–318, title III, § 301(a)(1), June 23, 1972, 86 Stat. 326; renumbered § 412, and amended Pub. L. 93–380, title V, § 506(a)(1)(D), (E), Aug. 21, 1974, 88 Stat. 562; Pub. L. 94–273, § 3(12), Apr. 21, 1976, 90 Stat. 376; Pub. L. 95–112, § 5, Sept. 24, 1977, 91 Stat. 912; Pub. L. 95–561, title XII, § 1245, Nov. 1, 1978, 92 Stat. 2354; renumbered § 421 and amended Pub. L. 103–382, title II, §§ 212(b)(1), 232, Oct. 20, 1994, 108 Stat. 3913, 3914.)

PRIOR PROVISIONS

A prior section 421 of Pub. L. 90–247 was classified to section 1230 of this title prior to repeal by Pub. L. 103–382.

Another prior section 421 of Pub. L. 90–247 was renumbered section 430, and is classified to section 1231 of this title.

Another prior section 421 of Pub. L. 90–247 was renumbered section 437, and is classified to section 1232 of this title.

AMENDMENTS

1994—Pub. L. 103–382, § 232(a), amended section catchline generally.

Subsec. (a). Pub. L. 103–382, § 232(b)(1), struck out ''to educational agencies or institutions'' after ''other payments'' and substituted ''obligation'' for ''expenditure'' and ''recipient'' for ''agency or institution concerned''.

Subsec. (b). Pub. L. 103–382, § 232(b)(2), which directed the substitution in the original of ''(b)(1) Notwithstanding'' for ''(b) Notwithstanding'', could not be executed because the original already reads ''(b)(1) Notwithstanding''.

Subsec. (c). Pub. L. 103–382, § 232(b)(3), substituted reference to section 1341(a) of title 31 for reference to section 3679(d)(2) of the Revised Statutes.

1978—Subsec. (b). Pub. L. 95–561 struck out ''ending prior to October 1, 1979,'' after ''applicable during any fiscal year,'' in existing provisions, designated existing provisions as thus amended as par. (1), and added par. (2).

1977—Subsec. (b). Pub. L. 95–112 substituted ''October 1, 1979'' for ''October 1, 1978''.

1976—Subsec. (b). Pub. L. 94–273 substituted ''October'' for ''July''.

1974—Subsec. (b). Pub. L. 93–380, § 506(a)(1)(E), substituted ''1978'' for ''1973'' and inserted ''by educational agencies or institutions'' and ''by such agencies and institutions'' after ''obligated and expended'' and ''obligation and expenditure'', respectively.

Subsec. (c). Pub. L. 93–380, § 506(a)(1)(E), added subsec. (c).

1970—Pub. L. 91–230 substituted ''applicable program'' for ''Act referred to in section 1221 of this title'', inserted ''loans,'' after ''grants,'' designated existing provisions as thus amended as subsec. (a), and added subsec. (b).

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–561 effective Oct. 1, 1978, but the provisions of subsec. (b)(2) of this section not to take effect with respect to the use of funds under former section 3101 of this title until Oct. 1, 1980, except at the option of local educational agencies, see section 1530 of Pub. L. 95–561, as amended, set out as a note under section 1221e–3 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Section 506(b) of Pub. L. 93–380 provided that: ''The amendments made by subsection (a) of this section [enacting sections 1226a to 1226d of this title, amending this section and section 1227 of this title, and repealing sections 1222 and 1224 of this title] shall become effective on the date of enactment of this Act [Aug. 21, 1974].''

INDOCHINESE REFUGEE CHILDREN EDUCATION ASSISTANCE PROGRAMS; APPLICABILITY OF CONTINGENT EXTENSION PROVISIONS

Pub. L. 94–482, title III, § 327, Oct. 12, 1976, 90 Stat. 2220, provided that: ''The provisions of section 414 [now 422] of the General Education Provisions Act [section 1226a of this title], relating to the contingent extension of applicable programs, shall not apply to the Indochina Refugee Children Assistance Act of 1976 [former section 1211b of this title], or to any program of financial assistance for educational purposes for Indochinese refugee children.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6338 of this title.

§ 1226. Repealed. Pub. L. 103–382, title II, § 212(a)(1), Oct. 20, 1994, 108 Stat. 3913

Section, Pub. L. 90–247, title IV, § 413, formerly § 406, as added Pub. L. 90–576, title III, § 301(b), Oct. 16, 1968, 82 Stat. 1094; amended Pub. L. 91–230, title IV, § 401(a)(9), Apr. 13, 1970, 84 Stat. 166; renumbered § 415, Pub. L. 92–318, title III, § 301(a)(1), June 23, 1972, 86 Stat. 326; renumbered § 413, Pub. L. 93–380, title V, § 506(a)(2)(A), Aug. 21, 1974, 88 Stat. 563, related to availability of appropriations.

§ 1226a. Contingent extension of programs

(a) Automatic extension

The authorization of appropriations for, or duration of, an applicable program shall be automatically extended for one additional fiscal year unless Congress, in the regular session that ends prior to the beginning of the terminal fiscal year of such authorization or duration, has passed legislation that becomes law and extends or repeals the authorization or duration of such program.

(b) Amount of appropriation

The amount authorized to be appropriated for the period of automatic extension under subsection (a) of this section of an applicable program shall be the amount authorized to be appropriated for such program for the terminal fiscal year of the applicable program.

(c) Acts and determinations necessary for program continuation

If the Secretary is required, in the terminal fiscal year of an applicable program, to carry out certain acts or make certain determinations that are necessary for the continuation of such program, such acts or determinations shall be required to be carried out or made during the period of automatic extension under subsection (a) of this section.

(d) Application to commissions, councils, and committees required by law to terminate

This section shall not apply to the authorization of appropriations for a commission, council, or committee which is required by an applicable statute to terminate on a date certain.

(Pub. L. 90–247, title IV, § 422, formerly § 414, as added Pub. L. 93–380, title V, § 506(a)(2)(B), Aug. 21, 1974, 88 Stat. 563; amended Pub. L. 96–374, title XIII, § 1301, Oct. 3, 1980, 94 Stat. 1496; renumbered § 422 and amended Pub. L. 103–382, title II, §§ 212(b)(1), 233, Oct. 20, 1994, 108 Stat. 3913, 3915.)

PRIOR PROVISIONS

A prior section 422 of Pub. L. 90–247 was renumbered section 431, and is classified to section 1231a of this title.

Another prior section 422 of Pub. L. 90–247 was renumbered section 438, and is classified to section 1232a of this title.

AMENDMENTS

1994—Pub. L. 103–382, § 233, amended section generally, revising and restating former subsecs. (a) and (b) as subsecs. (a) to (c) and adding subsec. (d).

1980—Subsec. (a). Pub. L. 96–374 inserted provisions for the automatic extension of an authorization or duration of two additional fiscal years for any applicable program authorized to be included in the Appropriation Act for the fiscal year preceding the fiscal year for which appropriations are available for obligation.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–374 effective Oct. 1, 1980, see section 1393(a) of Pub. L. 96–374, set out as a note under section 1001 of this title.

INDOCHINESE REFUGEE CHILDREN EDUCATION ASSISTANCE PROGRAMS; APPLICABILITY OF CONTINGENT EXTENSION PROVISIONS

Applicability of contingent extension provisions to any program of financial assistance for educational purposes for Indochinese refugee children, see section 327 of Pub. L. 94–482, set out as a note under section 1225 of this title.

LIMITATION ON EXTENSION OF PROGRAMS

Pub. L. 94–328, § 2(d), June 30, 1976, 90 Stat. 727, provided that: ''The amendments made by this section [amending sections 1070a, 1074, 1078 and 1078a of this title and enacting provisions set out as a note under section 2756 of Title 42, The Public Health and Welfare] shall not be deemed to authorize the automatic extension of the programs so amended, under section 414 [now 422] of the General Education Provisions Act [this section], beyond the date specified in such amendments.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2502, 3611 of this title; title 42 section 12641.

§ 1226a–1. Payments; installments, advances or reimbursement, and adjustments

Payments pursuant to grants or contracts under any applicable program may be made in installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments, as the Secretary may determine.

(Pub. L. 90–247, title IV, § 423, formerly § 425, as added Pub. L. 91–230, title IV, § 401(a)(10), Apr. 13, 1970, 84 Stat. 170; renumbered § 435, Pub. L. 92–318, title III, § 301(a)(1), June 23, 1972, 86 Stat. 326; renumbered § 415, Pub. L. 95–561, title XII, § 1231(a)(1), Nov. 1, 1978, 92 Stat. 2342; renumbered § 423 and amended Pub. L. 103–382, title II, §§ 212(b)(1), 261(a), Oct. 20, 1994, 108 Stat. 3913, 3927.)

CODIFICATION

Section was formerly classified to section 1232d of this title prior to its renumbering by Pub. L. 95–561.

PRIOR PROVISIONS

A prior section 423 of Pub. L. 90–247 was classified to section 1231b of this title prior to repeal by Pub. L. 103–382.

Another prior section 423 of Pub. L. 90–247 was renumbered section 439, and is classified to section 1232b of this title.

AMENDMENTS

1994—Pub. L. 103–382, § 261(a), substituted ''Secretary'' for ''Commissioner''.

PART 2—PLANNING AND EVALUATION OF FEDERAL EDUCATION ACTIVITIES

AMENDMENTS

1974—Pub. L. 93–380, title V, § 506(a)(3)(C), Aug. 21, 1974, 88 Stat. 563, added part 2 heading.

§ 1226b. Responsibility of States to furnish information

(a) Biennial reports; contents

Each State educational agency shall submit to the Secretary a report on or before March 15 of every second year. Each such report shall include—

(1) information with respect to the uses of Federal funds in such State in the two preceding fiscal years under any applicable program under the jurisdiction of the State educational agency; and

(2) information with respect to the uses of Federal funds in such State in the two preceding fiscal years under any Federal program administered by the State that provided grants or contracts to a local educational agency in the State.

(b) Additional contents

Each report submitted under subsection (a) of this section shall—

(1) list, with respect to each program for which information is provided, all grants made to and contracts entered into with local educational agencies and other public and private agencies and institutions within the State during each fiscal year concerned;

(2) analyze the information included in the report by local educational agency and by program;

(3) include the total amount of funds available to the State under each such program for each fiscal year concerned; and

(4) be made readily available by the State to local educational agencies and institutions within the State and to the public.

(c) Delinquent or incomplete reports

If the Secretary does not receive a report by the date required under subsection (a) of this section, or receives an incomplete report, the Secretary, not later than 30 days after such report is required to be submitted, shall take all reasonable measures to obtain the delinquent or incomplete information from the State educational agency.

(d) Availability of information

When the Secretary receives a report required under subsection (a) of this section, the Secretary shall provide such information to the National Center for Education Statistics, and shall make such information available, at a reasonable cost, to any individual who requests such information.

(e) Congressional telecommunications network

The Secretary shall consult with the Speaker and Minority Leader of the House of Representa-

tives and the Majority and Minority Leaders of the Senate regarding the costs and feasibility of making the information described in subsection (a) of this section available as part of a telecommunications network that is readily accessible to every member of Congress and other interested parties.

(f) Reports by Secretary

On or before August 15 of each year in which reports are submitted under subsection (a) of this section, the Secretary shall submit a report to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate. Such report shall include—

(1) an analysis of the content and data quality of such reports;

(2) a compilation of statistical data derived from such reports; and

(3) information obtained by the Secretary with respect to—

(A) direct grants made to local educational agencies by the Federal Government; and

(B) contracts entered into between such agencies and the Federal Government.

(Pub. L. 90–247, title IV, § 424, as added Pub. L. 103–382, title II, § 234, Oct. 20, 1994, 108 Stat. 3915.)

PRIOR PROVISIONS

Provisions similar to those in subsecs. (a), (b), and (f) of this section were contained in section 1221e–1a of this title prior to repeal by Pub. L. 103–382.

A prior section 1226b, Pub. L. 90–247, title IV, § 416, as added Pub. L. 93–380, title V, § 506(a)(3)(C), Aug. 21, 1974, 88 Stat. 563, related to program planning and evaluation, prior to repeal by Pub. L. 103–382, title II, § 212(a)(1), Oct. 20, 1994, 108 Stat. 3913.

A prior section 424 of Pub. L. 90–247 was classified to section 1231b–1 of this title prior to repeal by Pub. L. 103–382.

Another prior section 424 of Pub. L. 90–247 was renumbered section 433, and is classified to section 1231c of this title.

Another prior section 424 of Pub. L. 90–247 was renumbered section 434, and was classified to section 1232c of this title prior to repeal by Pub. L. 95–561.

CHANGE OF NAME

Committee on Education and Labor of House of Representatives treated as referring to Committee on Economic and Educational Opportunities of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Economic and Educational Opportunities of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Fifth Congress, Jan. 7, 1997.

§ 1226c. Biennial evaluation report

Not later than March 31, 1995, and every two years after such date, the Secretary shall transmit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate an evaluation report on the effectiveness of applicable programs in achieving such programs' legislated intent and purposes during the two preceding fiscal years. Such report shall—

(1) contain program profiles that include legislative citations, multiyear funding histories, and legislated purposes;

(2) contain recent information on the progress being made toward the achievement of program objectives, including listings of program performance indicators, data from performance measurement based on the indicators, and information on the costs and benefits of the applicable programs being evaluated;

(3) address significant program activities, such as initiatives for program improvement, regulations, and program monitoring and evaluation;

(4) list the principal analyses and studies supporting the major conclusions in such report;

(5) be prepared in concise summary form with necessary detailed data and appendixes, including available data to indicate the effectiveness of the programs and projects by the race, sex, disability and age of beneficiaries of such programs and projects; and

(6) include the results of the program evaluations conducted in accordance with section 8941 of this title.

(Pub. L. 90–247, title IV, § 425, formerly § 417, as added Pub. L. 93–380, title V, § 506(a)(3)(C), Aug. 21, 1974, 88 Stat. 564; amended Pub. L. 95–561, title XII, § 1246(a), (b), Nov. 1, 1978, 92 Stat. 2354; Pub. L. 96–46, § 4(b), Aug. 6, 1979, 93 Stat. 342; Pub. L. 96–374, title XIII, § 1305, Oct. 3, 1980, 94 Stat. 1497; Pub. L. 98–511, title VII, § 705, Oct. 19, 1984, 98 Stat. 2406; renumbered § 425 and amended Pub. L. 103–382, title II, §§ 212(b)(1), 235, Oct. 20, 1994, 108 Stat. 3913, 3916; Pub. L. 103–437, § 7(a)(2), Nov. 2, 1994, 108 Stat. 4587.)

PRIOR PROVISIONS

A prior section 425 of Pub. L. 90–247 was renumbered section 432, and is classified to section 1231b–2 of this title.

Another prior section 425 of Pub. L. 90–247 was renumbered section 434, and is classified to section 1231d of this title.

Another prior section 425 of Pub. L. 90–247 was renumbered section 423, and is classified to section 1226a–1 of this title.

AMENDMENTS

1994—Pub. L. 103–437, which directed that section 417(a) of Pub. L. 90–247 be amended by substituting ''Labor and Human Resources'' for ''Human Resources'', could not be executed because this section, which was section 417 of Pub. L. 90–247, was renumbered section 425 and amended generally by Pub. L. 103–382.

Pub. L. 103–382, § 235, amended section generally, substituting single undesignated par. relating to biennial evaluation reports for former subsecs. (a) and (b) relating to annual evaluation reports and including requirement for information on contracts and grants for evaluations of programs.

1984—Subsec. (a). Pub. L. 98–511 substituted ''December 31'' for ''November 1''.

1980—Subsec. (a)(F). Pub. L. 96–374 inserted '', including tabulations of available data to indicate the effectiveness of the programs and projects by the sex, race, and age of its beneficiaries'' after ''detailed data and appendices''.

1979—Subsec. (a). Pub. L. 96–46 substituted ''(a) Not later than'' for ''(a)(1) Not later than'' and struck out par. (2) which provided that, in the case of programs and projects assisted under title I of the Elementary and Secondary Education Act of 1965, the report include a survey of how many children counted under section 103(c) of such Act do or do not participate in such programs and projects and how many disadvantaged children do or do not participate in such programs and projects.

1978—Subsec. (a)(1). Pub. L. 95–561 inserted ''(including compliance with provisions of law requiring the maintenance of non-Federal expenditures for the purposes of such applicable programs)'' after ''effectiveness of applicable programs'' and substituted ''Committee on Human Resources'' for ''Committee on Labor and Public Welfare'' in provisions preceding subpar. (A).

CHANGE OF NAME

Committee on Education and Labor of House of Representatives treated as referring to Committee on Economic and Educational Opportunities of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Economic and Educational Opportunities of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Fifth Congress, Jan. 7, 1997.

EFFECTIVE DATE OF 1984 AMENDMENT

Section 711 of Pub. L. 98–511 provided that:

''(a) Except as provided in subsection (b), this Act and the amendments made by this Act [see Tables for classification] shall take effect on the date of enactment of this Act [Oct. 19, 1984] or October 1, 1984, whichever occurs later.

''(b) The amendments made by title I of this Act [see Tables for classification] shall take effect on July 1, 1985.''

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–374 effective Oct. 1, 1980, see section 1393(a) of Pub. L. 96–374, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–46 effective Oct. 1, 1978, see section 8 of Pub. L. 96–46, set out as a note under section 930 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–561 effective Oct. 1, 1978, see section 1530(a) of Pub. L. 95–561, set out as a note under section 1221e–3 of this title.

§ 1226c–1. Availability of education reports, etc., to Congressional committees

Any evaluation report or data or information collected in preparation of such report, which is paid for with appropriated funds, shall be made available, upon request, within 4 days to the chairman and ranking minority member of the Committee on Education and Labor of the House of Representatives and of the Committee on Labor and Human Resources of the Senate.

(Pub. L. 95–561, title XV, § 1523, Nov. 1, 1978, 92 Stat. 2378; Pub. L. 103–437, § 7(b), Nov. 2, 1994, 108 Stat. 4587.)

CODIFICATION

Section was enacted as part of Education Amendments of 1978, and not as part of General Education Provisions Act which comprises this chapter.

AMENDMENTS

1994—Pub. L. 103–437 substituted ''Labor and Human Resources'' for ''Human Resources''.

CHANGE OF NAME

Committee on Education and Labor of House of Representatives treated as referring to Committee on Economic and Educational Opportunities of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Economic and Educational Opportunities of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Fifth Congress, Jan. 7, 1997.

EFFECTIVE DATE

Section effective Oct. 1, 1978, see section 1530(a) of Pub. L. 95–561, set out as an Effective Date of 1978 Amendment note under section 1221e–3 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3489 of this title.

§ 1226d. Repealed. Pub. L. 96–470, title I, § 106(a), Oct. 19, 1980, 94 Stat. 2238

Section, Pub. L. 90–247, title IV, § 418, as added Pub. L. 93–380, title V, § 506(a)(3)(C), Aug. 21, 1974, 88 Stat. 564; amended S. Res. 4, Feb. 4, 1977; Pub. L. 95–561, title XII, § 1246(c), Nov. 1, 1978, 92 Stat. 2354; S. Res. 30, Mar. 7, 1979, directed Assistant Secretary to submit to Committee on Education and Labor of the House of Representatives and Committee on Labor and Human Resources of the Senate comprehensive renewal evaluation reports for applicable programs.

§ 1227. Repealed. Pub. L. 103–382, title II, § 212(a)(1), Oct. 20, 1994, 108 Stat. 3913

Section, Pub. L. 90–247, title IV, § 419, formerly § 417, as added Pub. L. 92–318, title III, § 304, June 23, 1972, 86 Stat. 333; renumbered § 419 and amended Pub. L. 93–380, title V, § 506(a)(3)(A), (B), Aug. 21, 1974, 88 Stat. 563, related to education program evaluations by Comptroller General.

§ 1228. Prohibition against use of appropriated funds for busing

No funds appropriated for the purpose of carrying out any applicable program may be used for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to overcome racial imbalance in any school or school system, or for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to carry out a plan of racial desegregation of any school or school system, except for funds appropriated pursuant to title VIII of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 7701 et seq.], but not including any portion of such funds as are attributable to children counted under subsections (d) and (g) of section 8003 of such Act [20 U.S.C. 7703(d), (g)] or residing on property described in section 8013(10) of such Act [20 U.S.C. 7713(10)].

(Pub. L. 90–247, title IV, § 426, formerly § 420, as added Pub. L. 93–380, title II, § 252, Aug. 21, 1974, 88 Stat. 519; renumbered § 426 and amended Pub. L. 103–382, title II, §§ 212(b)(1), 261(b), Oct. 20, 1994, 108 Stat. 3913, 3927.)

REFERENCES IN TEXT

The Elementary and Secondary Education Act of 1965, referred to in text, is Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, as amended generally by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519. Title VIII of the Act is classified generally to subchapter VIII (§ 7701 et seq.) of chapter 70 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

PRIOR PROVISIONS

A prior section 426 of Pub. L. 90–247 was renumbered section 433, and is classified to section 1231c of this title.

Another prior section 426 of Pub. L. 90–247 was renumbered section 435, and is classified to section 1231e of this title.

Another prior section 426 of Pub. L. 90–247 was renumbered section 436, and was classified to section 1232e of this title prior to repeal by Pub. L. 95–561.

AMENDMENTS

1994—Pub. L. 103–382, § 261(b), substituted ''title VIII of the Elementary and Secondary Education Act of 1965'' for ''subchapter I of chapter 13 of this title'' and ''subsections (d) and (g) of section 8003 of such Act or residing on property described in section 8013(10) of such Act'' for ''subparagraph (C) of section 238(d)(2) of this title or section 244(1)(C) of this title''.

EFFECTIVE DATE

Section effective on and after sixtieth day after Aug. 21, 1974, see section 2(c) of Pub. L. 93–380, set out as a note under section 1221–1 of this title.

§ 1228a. Equity for students, teachers, and other program beneficiaries

(a) Purpose

The purpose of this section is to assist the Department in implementing the Department's mission to ensure equal access to education and to promote educational excellence throughout the Nation, by—

(1) ensuring equal opportunities to participate for all eligible students, teachers, and other program beneficiaries in any project or activity carried out under an applicable program; and

(2) promoting the ability of such students, teachers, and beneficiaries to meet high standards.

(b) Requirement to develop steps to ensure equity

The Secretary shall require each applicant for assistance under an applicable program (other than an individual) to develop and describe in such applicant's application the steps such applicant proposes to take to ensure equitable access to, and equitable participation in, the project or activity to be conducted with such assistance, by addressing the special needs of students, teachers, and other program beneficiaries in order to overcome barriers to equitable participation, including barriers based on gender, race, color, national origin, disability, and age.

(c) Establishment of criteria

The Secretary may establish criteria and provide technical assistance for meeting the requirements of this section.

(d) Effect on other laws

Nothing in this section shall be construed to alter in any way the rights or responsibilities established under the laws cited in section 1221(d) of this title.

(Pub. L. 90–247, title IV, § 427, as added Pub. L. 103–382, title II, § 236, Oct. 20, 1994, 108 Stat. 3917.)

PRIOR PROVISIONS

A prior section 427 of Pub. L. 90–247 was renumbered section 434, and is classified to section 1231d of this title.

Another prior section 427 of Pub. L. 90–247 was renumbered section 429, and was classified to section 1231f of this title prior to repeal by Pub. L. 103–382.

EFFECTIVE DATE

Section effective July 1, 1995, for noncompetitive programs in which funds are allocated on the basis of a formula and for programs that are conducted on a competitive basis, with respect to appropriations for use under such programs in fiscal year 1995 and in subsequent fiscal years, see section 3(a)(2) of Pub. L. 103–382, set out as an Effective Date of 1994 Amendment note under section 1221 of this title.

§ 1228b. Coordination

The National Assessment Governing Board, the Advisory Council on Education Statistics, the National Education Goals Panel, and any other board established to analyze, address, or approve education content or student performance standards and assessments shall coordinate and interact with one another in order to ensure that each such entity does not duplicate activities to assist the States in reforming their educational systems.

(Pub. L. 90–247, title IV, § 428, as added Pub. L. 103–382, title II, § 237, Oct. 20, 1994, 108 Stat. 3917; amended Pub. L. 104–134, title I, § 101(d) [title VII, § 703(c)], Apr. 26, 1996, 110 Stat. 1321–211, 1321–255; renumbered title I, Pub. L. 104–140, § 1(a), May 2, 1996, 110 Stat. 1327.)

PRIOR PROVISIONS

A prior section 428 of Pub. L. 90–247 was renumbered section 435, and is classified to section 1231e of this title.

AMENDMENTS

1996—Pub. L. 104–134 struck out ''the National Education Standards and Improvement Council,'' before ''and any other board''.

§ 1228c. Disclosure requirements

(a) In general

Each educational organization, prior to enrolling a minor and prior to accepting funds for the cost of a minor's participation in an educational program operated by such organization, shall disclose the following information in written form to the minor or the minor's parent.

(1) Method of solicitation and selection

The method of solicitation and selection of participants in the educational program, including—

(A) the origin of any mailing list used for such solicitation and selection;

(B) any recruitment through a local school official, teacher, or school personnel, including any compensation or other benefit offered to such official, teacher, or personnel for the recommendation of a minor for participation in the educational program;

(C) any open enrollment activity, including the method of outreach; and

(D) any cooperation with, or sponsorship by, a membership organization, including a description of the cooperation or sponsorship and the name of each such organization.

(2) Cost and fees

Information regarding the cost of the educational program and information regarding the distribution of any enrollment fee, including—

(A) the amount paid for, and the percentage of the total educational program cost of, each feature of the educational program, including—

(i) food;

(ii) lodging;

(iii) transportation;

(iv) program staffing;

(v) textbooks, syllabi, or other scholastic educational program materials;

(vi) speaker fees; and

(vii) administrative expenses, including expenses related to—

(I) the preparation of nonscholastic educational program materials;

(II) the provision of financial assistance;

(III) mailing list rental or other recruitment activity; and

(IV) administrative salaries and consulting fees;

(B) the identity of the organization or business providing each of the features described in clauses (i) through (vii) of subparagraph (A); and

(C) the nature of any relationship of any board member, officer, or employee of the educational organization to any organization or business described in subparagraph (B), including the salary or other compensation paid by such organization or business to such board member, officer, or employee.

(b) Nondiscriminatory enrollment and service policy

(1) In general

Each educational organization shall include a verifiable statement in all enrollment or recruitment material that the educational organization does not—

(A) fail or refuse to hire, or discharge, any individual, or otherwise discriminate against any individual with respect to compensation, terms, conditions, or privileges of employment; or

(B) exclude any student from participation in an educational program, discriminate against any student in providing the benefits associated with such program (including any scholarship or financial assistance, and use of any facility), or subject the student to discrimination under such program, on the basis of race, disability, or residence in a low-income area.

(2) Construction

Nothing in this subsection shall be construed to entitle a student to—

(A) participation in an educational program or any benefit associated with such program; or

(B) a waiver of any fee charged for such participation or benefit.

(c) Enforcement

The Secretary shall—

(1)(A) widely disseminate information about the requirements of this section to State and local school officials and parents; and

(B) require educational organizations to submit appropriate information or assurances regarding such organizations' compliance with this section; and

(2) take whatever other steps the Secretary determines are appropriate to enforce this section, including—

(A) promulgating regulations;

(B) establishing a complaint process;

(C) referring complaints to the relevant Federal, State, or local authorities for appropriate action;

(D) alerting educational agencies, schools, and parents to the practices of educational organizations that violate the provisions of this section; and

(E) imposing civil fines (not to exceed $1,000 per violation) on educational organizations that knowingly violate this section.

(d) Definitions

As used in this section:

(1) Disability

The term ''disability'' has the same meaning given to such term by section 12102(2) of title 42.

(2) Educational organization

(A) Except as provided in subparagraphs (B) and (C), the term ''educational organization'' means any organization or entity that—

(i) provides an educational program for a fee; and

(ii) recruits students through means such as commercial media, direct mailings, school recruitment programs, school administrators, teachers or staff, or current or former participants in an educational program offered by such organization or entity.

(B) The definition in subparagraph (A) shall not include—

(i) a local educational agency, State educational agency, a State department of education, or an elementary or secondary school as defined by the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6301 et seq.];

(ii) an institution of higher education as defined by section 1141(a) of this title; or

(iii) a local organization sponsored by an elementary or secondary school, a recreational organization, an entertainment organization, a local sports activity group, or a social club.

(C) For the purpose of subsection (a) of this section only, such term does not include an organization or entity that provides an educational program if such organization or entity—

(i) recruits, for participation in such program, solely through a local school official; and

(ii) does not offer a local school official, teacher, or other school personnel compensation (other than compensation for actual expenses incurred in performing chaperon activities or for participating in separate, professionally-staffed teacher training and technical assistance seminars and workshops related to such program) or any other benefit for such recruitment.

(3) Educational program

(A) Except as provided in subparagraph (B), the term ''educational program'' means a spe-

cial honors program, seminar, citizenship experience, government study program, educational vacation, student exchange program, or other educational experience or honor—

(i) that is generally directed toward minors or secondary school students;

(ii) for which a tuition or enrollment fee is charged;

(iii) that is offered away from a student's regular place of school attendance;

(iv) that includes not less than one supervised night away from home; and

(v) that is intended to enhance a student's regular course of study.

(B) Such term does not include a recreational program,[1] or a social or religious activity.

(4) Local school official

The term ''local school official'' means the highest administrative official serving a school district, or such individual's designee.

(5) Minor

The term ''minor'' means an individual who has not attained the age of 18 years.

(6) Membership organization

The term ''membership organization'' includes any organization that maintains a membership list or collects dues or membership fees from its members.

(7) Recreational organization

The term ''recreational organization'' includes any organization or entity that has as its primary function pleasure, amusement, or sports activities.

(8) Recreational program

The term ''recreational program'' includes any activity or service that is intended as an entertainment pastime.

(Pub. L. 90–247, title IV, § 429, as added Pub. L. 103–382, title II, § 238, Oct. 20, 1994, 108 Stat. 3918.)

REFERENCES IN TEXT

The Elementary and Secondary Education Act of 1965, referred to in subsec. (d)(2)(B)(i), is Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, as amended generally by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519, which is classified generally to chapter 70 (§ 6301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

PRIOR PROVISIONS

A prior section 429 of Pub. L. 90–247 was classified to section 1231f of this title prior to repeal by Pub. L. 103–382.

SUBCHAPTER III—GENERAL REQUIREMENTS AND CONDITIONS CONCERNING OPERATION AND ADMINISTRATION OF EDUCATION PROGRAMS: GENERAL AUTHORITY OF SECRETARY

AMENDMENTS

1994—Pub. L. 103–382, title II, § 261(c), Oct. 20, 1994, 108 Stat. 3927, substituted ''SECRETARY'' for ''COMMISSIONER OF EDUCATION''.

[1] So in original. The comma probably should not appear.

1972—Pub. L. 92–318, title III, § 301(a)(1), June 23, 1972, 86 Stat. 326, redesignated former subchapter II as III. Former subchapter III redesignated IV.

§ 1230. Repealed. Pub. L. 103–382, title II, § 212(a)(1), Oct. 20, 1994, 108 Stat. 3913

Section, Pub. L. 90–247, title IV, § 421, as added Pub. L. 93–380, title V, § 507(a), Aug. 21, 1974, 88 Stat. 565; amended Pub. L. 94–482, title IV, § 404(a), Oct. 12, 1976, 90 Stat. 2230; Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, specified programs subject to provisions of this subchapter.

PART 1—GENERAL AUTHORITY

§ 1231. Joint funding of programs

(a) Joint projects; transfers of appropriations; contracts or grants; criteria

(1) The Secretary is authorized to enter into arrangements with other Federal agencies to jointly carry out projects of common interest, to transfer to such agencies funds appropriated under any applicable program, and to receive and use funds from such agencies, for projects of common interest.

(2) Funds transferred or received pursuant to paragraph (1) shall be used only in accordance with the statutes authorizing the appropriation of such funds, and shall be made available by contract or grant only to recipients eligible to receive such funds under such statutes.

(3) If the Secretary enters into an agreement under this subsection for the administration of a project, the agency administering the project shall use such agency's procedures to award contracts or grants and to administer such awards, unless the parties to the agreement specify the use of procedures of another agency that is a party to the agreement.

(4) If the Secretary has entered into an agreement authorized under this subsection and the Secretary and the heads of the other agencies participating in the agreement determine that joint funding is necessary to address a special need consistent with the purposes and authorized activities of each program that provides funding under the joint project, the Secretary and the heads of the other participating agencies may develop a single set of criteria for the jointly funded project and require each applicant for such project to submit a single application for review by the participating agencies.

(b) Joint applications

The Secretary may develop the criteria for, and require the submission of, joint applications under two or more applicable programs under which funds are awarded on a competitive basis, and may jointly review and approve such applications separately from other applications under such programs, when the Secretary determines that such joint awards are necessary to address a special need consistent with the purposes and authorized activities of each such program. Any applicant for such a joint award shall meet the eligibility requirements of each such program.

(c) Limitations on joint funding

The Secretary may not construe the provisions of this section to take precedence over a limitation on joint funding contained in an applicable statute.

(d) Congressional notice

(1) The Secretary shall provide notice to the Committee on Education and Labor of the House of Representatives and to the Committee on Labor and Human Resources of the Senate of each joint funding agreement made with other Federal agencies not later than 60 days after the making of such agreements.

(2) Such notice shall include—

(A) a description of the purpose and objectives of the joint funding arrangement;

(B) the amounts and sources, by program, of the funds dedicated to such arrangement; and

(C) the criteria developed to govern the award of contracts and grants.

(Pub. L. 90–247, title IV, § 430, formerly § 411, as added Pub. L. 91–230, title IV, § 401(a)(10), Apr. 13, 1970, 84 Stat. 166; renumbered § 421 and amended Pub. L. 92–318, title III, §§ 301(a)(1), 302(a), June 23, 1972, 86 Stat. 326, 332; renumbered § 421A, Pub. L. 93–380, title V, § 507(a), Aug. 21, 1974, 88 Stat. 565; renumbered § 430 and amended Pub. L. 103–382, title II, §§ 212(b)(1), 241, Oct. 20, 1994, 108 Stat. 3913, 3921.)

PRIOR PROVISIONS

A prior section 430 of Pub. L. 90–247 was renumbered section 436, and is classified to section 1231g of this title.

AMENDMENTS

1994—Pub. L. 103–382, § 241, amended section generally. Prior to amendment, section consisted of subsecs. (a) to (c) relating to administration of education programs, delegations of authority, utilization of services and facilities of other agencies, and consolidation of programs.

1972—Subsec. (c). Pub. L. 92–318, § 302(a), added subsec. (c).

CHANGE OF NAME

Committee on Education and Labor of House of Representatives treated as referring to Committee on Economic and Educational Opportunities of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Economic and Educational Opportunities of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Fifth Congress, Jan. 7, 1997.

EFFECTIVE DATE OF 1972 AMENDMENT; INCONSISTENT PROVISIONS INEFFECTIVE

Section 302(c) of Pub. L. 92–318 provided that: ''The provisions of section 421(c) [now 430(c)] of the General Education Provisions Act [subsec. (c) of this section] shall be effective upon the date of enactment of this Act [June 23, 1972]. No provision of any law which is inconsistent with such section 421(c) shall be effective nor shall any such provision control to the extent of such inconsistency, unless such a law is enacted after the date of enactment of this Act.''

§ 1231a. Collection and dissemination of information

The Secretary shall—

(1) prepare and disseminate to State and local educational agencies and institutions information concerning applicable programs, and cooperate with other Federal officials who administer programs affecting education in disseminating information concerning such programs;

(2) inform the public regarding federally supported education programs; and

(3) collect data and information on applicable programs for the purpose of obtaining objective measurements of the effectiveness of such programs in achieving the intended purposes of such programs.

(Pub. L. 90–247, title IV, § 431, formerly § 412, as added Pub. L. 91–230, title IV, § 401(a)(10), Apr. 13, 1970, 84 Stat. 166; renumbered § 422 and amended Pub. L. 92–318, title III, § 301(a)(1), (b)(2)(B), June 23, 1972, 86 Stat. 326, 332; Pub. L. 94–482, title IV, § 409(b), Oct. 12, 1976, 90 Stat. 2233; renumbered § 431, renumbered § 422, and amended Pub. L. 103–382, title II, §§ 212(b)(1), 242, Oct. 20, 1994, 108 Stat. 3913, 3922.)

PRIOR PROVISIONS

A prior section 431 of Pub. L. 90–247 was renumbered section 437, and is classified to section 1232 of this title.

Another prior section 431 of Pub. L. 90–247 was renumbered section 441, and was classified to section 1233 of this title prior to repeal by Pub. L. 103–382.

AMENDMENTS

1994—Pub. L. 103–382, § 242, amended section generally. Prior to amendment, section consisted of subsecs. (a) to (c) relating to duty to collect and disseminate information about applicable programs and to submit an annual report to Congress and authorizing use of contract to carry out this section.

1976—Subsec. (b). Pub. L. 94–482 substituted ''June 30'' for ''March 31''.

1972—Subsec. (a)(4). Pub. L. 92–318, § 301(b)(2)(B), substituted ''(as set forth in section 1221c(a) of this title)'' for ''(as set forth in section 1 of this title)''.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–482 effective 30 days after Oct. 12, 1976, except either as specifically otherwise provided or, if not so specifically otherwise provided, effective July 1, 1976, for those amendments providing for authorization of appropriations, see section 532 of Pub. L. 94–482, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Section 301(b)(2)(B) of Pub. L. 92–318 provided that the amendment made by Pub. L. 92–318 is effective July 1, 1972.

EVALUATION PRACTICES AND PROCEDURES AT NATIONAL, STATE, AND LOCAL LEVELS FOR FEDERALLY FUNDED ELEMENTARY AND SECONDARY EDUCATIONAL PROGRAMS; REPORT TO CONGRESS

Pub. L. 95–561, title XV, § 1526, Nov. 1, 1978, 92 Stat. 2379, as amended by Pub. L. 96–46, § 2(a)(9), Aug. 6, 1979, 93 Stat. 340; Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, directed Secretary of Education to conduct a study of evaluation practices and procedures at the national, State, and local levels with respect to federally funded elementary and secondary educational programs and include in the first annual report to Congress submitted more than eighteen months after Nov. 1, 1978, proposals and recommendations for the revision or modification of any part or all of such practices and procedures.

§§ 1231b, 1231b–1. Repealed. Pub. L. 103–382, title II, § 212(a)(1), Oct. 20, 1994, 108 Stat. 3913

Section 1231b, Pub. L. 90–247, title IV, § 423, formerly § 413, as added Pub. L. 91–230, title IV, § 401(a)(10), Apr. 13, 1970, 84 Stat. 167; renumbered § 423, Pub. L. 92–318, title III, § 301(a)(1), June 23, 1972, 86 Stat. 326; amended Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17,

1979, 93 Stat. 677, 692, related to catalog of Federal education assistance programs.

Section 1231b–1, Pub. L. 90–247, title IV, § 424, as added Pub. L. 93–380, title V, § 508(a), Aug. 21, 1974, 88 Stat. 565; amended Pub. L. 96–88, title III, § 301(a)(1), (b)(2), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 678, 692, related to compilation of assisted innovative projects.

§ 1231b–2. Review of applications

(a) Persons aggrieved; final State educational agency actions; hearing; ruling and reasons for ruling; rescission of final actions

In the case of any applicable program under which financial assistance is provided to (or through) a State educational agency to be expended in accordance with a State plan approved by the Secretary, any applicant or recipient aggrieved by the final action of the State educational agency, and alleging a violation of State or Federal law, rules, regulations, or guidelines governing the applicable program, in (1) disapproving or failing to approve its application or program in whole or part, (2) failing to provide funds in amounts in accord with the requirements of laws and regulations, (3) ordering, in accordance with a final State audit resolution determination, the repayment of misspent or misapplied Federal funds, or (4) terminating further assistance for an approved program, may within thirty days request a hearing. Within thirty days after it receives such a request, the State educational agency shall hold a hearing on the record and shall review such final action. No later than ten days after the hearing, the State educational agency shall issue its written ruling, including reasons therefor. If it determines such final action was contrary to Federal or State law, or the rules, regulations, and guidelines governing such applicable program, it shall rescind such final action.

(b) Appeals to Secretary; persons aggrieved; notice; orders prescribing appropriate agency actions; finality of agency fact findings; interim orders pending appeal or review

Any applicant or recipient aggrieved by the failure of a State educational agency to rescind its final action after a review under subsection (a) of this section may appeal such action to the Secretary. An appeal under this subsection may be taken only if notice of such appeal is filed with the Secretary within twenty days after the applicant or recipient has been notified by the State educational agency of the results of its review under subsection (a) of this section. If, on such appeal, the Secretary determines the final action of the State educational agency was contrary to Federal law, or the rules, regulations, and guidelines governing the applicable program, he shall issue an order to the State educational agency prescribing appropriate action to be taken by such agency. On such appeal, findings of fact of the State educational agency, if supported by substantial evidence, shall be final. The Secretary may also issue such interim orders to State educational agencies as he may deem necessary and appropriate pending appeal or review.

(c) Records; availability

Each State educational agency shall make available at reasonable times and places to each applicant or recipient under a program to which this section applies all records of such agency pertaining to any review or appeal such applicant or recipient is conducting under this section, including records of other applicants.

(d) Termination of assistance for noncompliance with provisions or orders

If any State educational agency fails or refuses to comply with any provision of this section, or with any order of the Secretary under subsection (b) of this section, the Secretary shall forthwith terminate all assistance to the State educational agency under the applicable program affected or issue such other orders as the Secretary may deem appropriate to achieve such compliance.

(Pub. L. 90–247, title IV, § 432, formerly § 425, as added Pub. L. 93–380, title V, § 508(a), Aug. 21, 1974, 88 Stat. 566; amended Pub. L. 95–561, title XII, § 1247, Nov. 1, 1978, 92 Stat. 2354; renumbered § 432 and amended Pub. L. 103–382, title II, §§ 212(b)(1), 243, Oct. 20, 1994, 108 Stat. 3913, 3922.)

PRIOR PROVISIONS

A prior section 432 of Pub. L. 90–247 was renumbered section 438, and is classified to section 1232a of this title.

Another prior section 432 of Pub. L. 90–247 was renumbered section 442, and was classified to section 1233a of this title prior to repeal by Pub. L. 103–382.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–382, § 243(1)(C), (D), inserted comma after ''the hearing'' in third sentence and substituted ''guidelines governing such applicable program, it'' for ''guidelines, governing such applicable program it'' in fourth sentence.

Pub. L. 103–382, § 243(1)(A), (B), substituted ''Secretary, any applicant'' for ''Commissioner, and in the case of the program provided for in title I of the Elementary and Secondary Education Act of 1965, any applicant''.

Subsec. (b). Pub. L. 103–382, § 243(2), substituted ''Secretary'' for ''Commissioner'' wherever appearing.

Subsec. (d). Pub. L. 103–382, § 243(3), substituted ''Secretary under'' for ''Commissioner under'' and ''Secretary shall'' for ''Commissioner shall'' and inserted before period at end ''or issue such other orders as the Secretary may deem appropriate to achieve such compliance''.

1978—Subsec. (a). Pub. L. 95–561 added cl. (3) relating to the ordering, in accordance with a final State audit resolution determination, the repayment of misspent or misapplied Federal funds, and redesignated former cl. (3) as (4).

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–561 effective Oct. 1, 1978, see section 1530(a) of Pub. L. 95–561, set out as a note under section 1221e–3 of this title.

EFFECTIVE DATE

Section 508(b) of Pub. L. 93–380 provided that: ''The amendments made by subsection (a) [enacting this section and section 1231b–1 of this title] shall be effective on the date of enactment of this Act [Aug. 21, 1974].''

§ 1231c. Advice, counsel, and technical assistance

(a) State educational agencies, institutions of higher education

For the purpose of carrying out more effectively Federal education programs, the Secretary is authorized, upon request, to provide

advice, counsel, and technical assistance to State educational agencies, institutions of higher education, and, with the approval of the appropriate State educational agency, elementary and secondary schools—

(1) in determining benefits available to them under Federal law;

(2) in preparing applications for, and meeting requirements of, applicable programs;

(3) in order to enhance the quality, increase the depth, or broaden the scope of activities under applicable programs; and

(4) in order to encourage simplification of applications, reports, evaluations, and other administrative procedures.

(b) Cost allocation, collection, etc., by local educational agencies

The Secretary shall permit local educational agencies to use organized and systematic approaches in determining cost allocation, collection, measurement, and reporting under any applicable program, if he determines (1) that the use of such approaches will not in any manner lessen the effectiveness and impact of such program in achieving purposes for which it is intended, (2) that the agency will use such procedures as will insure adequate evaluation of each of the programs involved, and (3) that such approaches are consistent with criteria prescribed by the Comptroller General of the United States for the purposes of audit. For the purpose of this subsection a cost is allocable to a particular cost objective to the extent of relative benefits received by such objective.

(c) Dissemination

In awarding contracts and grants for the development of curricula or instructional materials, the Secretary and the Director of the National Institute of Education shall—

(1) encourage applicants to assure that such curricula or instructional materials will be developed in a manner conducive to dissemination through continuing consultations with publishers, personnel of State and local educational agencies, teachers, administrators, community representatives, and other individuals experienced in such dissemination;

(2) permit applicants to include provision for reasonable consultation fees or planning costs; and

(3) insure that grants to public agencies and nonprofit private organizations and contracts with public agencies and private organizations for publication and dissemination of curricula or instructional materials, or both, are awarded competitively to such agencies and organizations which provide assurances that the curricula and instructional materials will reach the target populations for which they were developed.

(d) Annual report by Secretary

The Secretary's annual report shall contain a statement of the Secretary's activities under this section.

(Pub. L. 90–247, title IV, § 433, formerly § 414, as added Pub. L. 91–230, title IV, § 401(a)(10), Apr. 13, 1970, 84 Stat. 167; renumbered § 424, Pub. L. 92–318, title III, § 301(a)(1), June 23, 1972, 86 Stat. 326; renumbered § 426, Pub. L. 93–380, title V, § 508(a), Aug. 21, 1974, 88 Stat. 565; amended Pub. L. 95–561, title XII, § 1248, Nov. 1, 1978, 92 Stat. 2354; Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692; renumbered § 433, Pub. L. 103–382, title II, § 212(b)(1), Oct. 20, 1994, 108 Stat. 3913.)

PRIOR PROVISIONS

A prior section 433 of Pub. L. 90–247 was renumbered section 439, and is classified to section 1232b of this title.

Another prior section 433 of Pub. L. 90–247 was renumbered section 443, and was classified to section 1233b of this title prior to repeal by Pub. L. 103–382.

AMENDMENTS

1978—Subsecs. (c), (d). Pub. L. 95–561 added subsec. (c) and redesignated former subsec. (c) as (d).

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–561 effective Oct. 1, 1978, see section 1530(a) of Pub. L. 95–561, set out as a note under section 1221e–3 of this title.

TRANSFER OF FUNCTIONS

''Secretary'' and ''Secretary's'', meaning the Secretary of Education, substituted for ''Commissioner'' and ''Commissioner's'', respectively, in subsecs. (a) to (d) pursuant to sections 301(a)(1) and 507 of Pub. L. 96–88, which are classified to sections 3441(a)(1) and 3507 of this title and which transferred functions of Commissioner of Education to Secretary of Education.

NATIONAL INSTITUTE OF EDUCATION

The National Institute of Education consisting of a National Council on Educational Research and a Director of the Institute was established by section 1221e of this title which, as amended generally by Pub. L. 99–498, title XIV, § 1401(a), Oct. 17, 1986, 100 Stat. 1589, provided objectives and duties for the Office of Educational Research and Improvement and established the National Advisory Council on Educational Research and Improvement, and section 1401(b) of Pub. L. 99–498 transferred the property and records of the National Institute of Education to the Office of Educational Research and Improvement.

§ 1231c–1. Repealed. Pub. L. 103–382, title II, § 212(a)(1), Oct. 20, 1994, 108 Stat. 3913

Section, Pub. L. 90–247, title IV, § 426A, as added Pub. L. 95–561, title XII, § 1202, Nov. 1, 1978, 92 Stat. 2334; amended Pub. L. 96–88, title III, § 301(a)(1), (b)(2), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 678, 692, related to equalization assistance.

§ 1231d. Parental involvement and dissemination

In the case of any applicable program in which the Secretary determines that parental participation at the State or local level would increase the effectiveness of the program in achieving its purposes, the Secretary shall promulgate regulations with respect to such program setting forth criteria designed to encourage such participation. If the program for which such determination is made provides for payments to local educational agencies, applications for such payments shall—

(1) set forth such policies and procedures as will ensure that programs and projects assisted under the application have been planned and developed, and will be operated, in consultation with, and with the involvement of, parents of the children to be served by such programs and projects;

(2) be submitted with assurance that such parents have had an opportunity to present their views with respect to the application; and

(3) set forth policies and procedures for adequate dissemination of program plans and evaluations to such parents and the public.

(Pub. L. 90–247, title IV, § 434, formerly § 415, as added Pub. L. 91–230, title IV, § 401(a)(10), Apr. 13, 1970, 84 Stat. 168; renumbered § 425, Pub. L. 92–318, title III, § 301(a)(1), June 23, 1972, 86 Stat. 326; renumbered § 427, Pub. L. 93–380, title V, § 508(a), Aug. 21, 1974, 88 Stat. 565; renumbered § 434 and amended Pub. L. 103–382, title II, §§ 212(b)(1), 244, Oct. 20, 1994, 108 Stat. 3913, 3922.)

PRIOR PROVISIONS

A prior section 434 of Pub. L. 90–247 was renumbered section 440, and is classified to section 1232c of this title.

Another prior section 434 of Pub. L. 90–247 was renumbered section 444, and was classified to section 1233c of this title prior to repeal by Pub. L. 103–382.

Another prior section 434 of Pub. L. 90–247 was classified to section 1232c of this title prior to repeal by Pub. L. 95–561.

AMENDMENTS

1994—Pub. L. 103–382, § 244, substituted ''Secretary determines'' for ''Commissioner determines'' and ''the Secretary shall'' for ''he shall'' and inserted ''is made'' after ''such determination''.

§ 1231e. Use of funds withheld

(a) At any time that the Secretary makes an allotment or reallotment to any State under any applicable program, the Secretary shall reduce such allotment or reallotment by such amount as the Secretary determines such allotment or reallotment would have been reduced, had the data on which such allotment or reallotment is based excluded all data relating to local educational agencies of the State that, on the date of the Secretary's action, are ineligible to receive the Federal financial assistance involved because of failure to comply with title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.], title IX of the Education Amendments of 1972 [20 U.S.C. 1681 et seq.], section 794 of title 29, or the Age Discrimination Act of 1975 [42 U.S.C. 6101 et seq.].

(b) The Secretary may use any funds withheld under subsection (a) of this section—

(1) to increase the allotments or reallotments of local educational agencies within the State that are not described in subsection (a) of this section, or the allotments or reallotment of all States, in accordance with the Federal law governing the program; or

(2) for grants to local educational agencies of that State in accordance with section 405 of the Civil Rights Act of 1964 [42 U.S.C. 2000c–4], or for any other program administered by the Department that is designed to enhance equity in education or redress discrimination on the basis of race, color, national origin, sex, age, or disability.

(Pub. L. 90–247, title IV, § 435, formerly § 416, as added Pub. L. 91–230, title IV, § 401(a)(10), Apr. 13, 1970, 84 Stat. 168; renumbered § 426, Pub. L. 92–318, title III, § 301(a)(1), June 23, 1972, 86 Stat. 326; renumbered § 428, Pub. L. 93–380, title V, § 508(a), Aug. 21, 1974, 88 Stat. 565; renumbered § 435 and amended Pub. L. 103–382, title II, §§ 212(b)(1), 245, Oct. 20, 1994, 108 Stat. 3913, 3922.)

REFERENCES IN TEXT

The Civil Rights Act of 1964, referred to in subsec. (a), is Pub. L. 88–352, July 2, 1964, 78 Stat. 241, as amended. Title VI of the Civil Rights Act of 1964 is classified generally to subchapter V (§ 2000d et seq.) of chapter 21 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of Title 42 and Tables.

The Education Amendments of 1972, referred to in subsec. (a), is Pub. L. 92–318, June 23, 1972, 86 Stat. 235, as amended. Title IX of the Act is classified principally to chapter 38 (§ 1681 et seq.) of this title. For complete classification of this Act to the Code, see Short Title of 1972 Amendment note set out under section 1001 of this title and Tables.

The Age Discrimination Act of 1975, referred to in subsec. (a), is title III of Pub. L. 94–135, Nov. 28, 1975, 89 Stat. 728, as amended, which is classified generally to chapter 76 (§ 6101 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 6101 of this Title 42 and Tables.

PRIOR PROVISIONS

A prior section 435 of Pub. L. 90–247 was renumbered section 441, and is classified to section 1232d of this title.

Another prior section 435 of Pub. L. 90–247 was renumbered section 423, and is classified to section 1226a–1 of this title.

Another prior section 435 of Pub. L. 90–247 was renumbered section 445, and is classified to section 1233d of this title prior to repeal by Pub. L. 103–382.

AMENDMENTS

1994—Pub. L. 103–382, § 245, amended section generally. Prior to amendment, section consisted of single par. relating to use of funds withheld for failure to comply with title VI of the Civil Rights Act of 1964.

§ 1231f. Repealed. Pub. L. 103–382, title II, § 212(a)(1), Oct. 20, 1994, 108 Stat. 3913

Section, Pub. L. 90–247, title IV, § 429, formerly § 417, as added Pub. L. 91–230, title IV § 401(a)(10), Apr. 13, 1970, 84 Stat. 168; renumbered § 427, Pub. L. 92–318, title III, § 301(a)(1), June 23, 1972, 86 Stat. 326; renumbered § 429 and amended Pub. L. 93–380, title V, §§ 501(b)(2), 508(a), Aug. 21, 1974, 88 Stat. 558, 565; Pub. L. 96–88, title III, § 301(a)(1), (b)(2), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 678, 692, authorized transfer of information.

PART 2—ADMINISTRATION: REQUIREMENTS AND LIMITATIONS

§ 1231g. Applications

(a) Submission and amendments of applications

Notwithstanding any other provision of law, unless expressly in limitation of the provisions of this section, the Secretary is authorized to provide for the submission of applications for assistance effective for more than one fiscal year under any applicable program with whatever amendments to such applications being required as the Secretary determines essential.

(b) Uniform dates

The Secretary shall, insofar as is practicable, establish uniform dates during the year for the submission of applications under all applicable programs and for the approval of such applications.

(c) Development of common applications

The Secretary shall, insofar as is practicable, develop and require the use of—

(1) a common application for grants to local educational agencies in applicable programs administered by State educational agencies in which the funds are distributed to such local agencies pursuant to some objective formula, and such application shall be used as the single application for as many of these programs as is practicable;

(2) a common application for grants to local educational agencies in applicable programs administered by State educational agencies in which the funds are distributed to such local agencies on a competitive or discretionary basis, and such application shall be used as the single application for as many of such programs as is practicable; and

(3) a common application for grants to local educational agencies in applicable programs which are directly administered by the Secretary, and such application shall be used as the single application for as many of these programs as is practicable.

(Pub. L. 90–247, title IV, § 436, formerly § 430, as added Pub. L. 95–561, title XII, § 1213, Nov. 1, 1978, 92 Stat. 2342; renumbered § 436 and amended Pub. L. 103–382, title II, §§ 212(b)(1), 246, Oct. 20, 1994, 108 Stat. 3913, 3923.)

PRIOR PROVISIONS

A prior section 436 of Pub. L. 90–247 was renumbered section 442, and is classified to section 1232e of this title.

Another prior section 436 of Pub. L. 90–247 was classified to section 1232e of this title prior to repeal by Pub. L. 95–561.

Another prior section 436 of Pub. L. 90–247 was renumbered section 446, and was classified to section 1233e of this title prior to repeal by Pub. L. 103–382.

AMENDMENTS

1994—Pub. L. 103–382, § 246(2), substituted ''Secretary'' for ''Commissioner'' wherever appearing.

Subsec. (a). Pub. L. 103–382, § 246(1), substituted ''for more than one fiscal year'' for ''for three fiscal years''.

EFFECTIVE DATE

Section effective Oct. 1, 1978, see section 1530(a) of Pub. L. 95–561, set out as an Effective Date of 1978 Amendment note under section 1221e–3 of this title.

§ 1232. Regulations

(a) "Regulation" defined

For the purpose of this section, the term ''regulation'' means any generally applicable rule, regulation, guideline, interpretation, or other requirement that—

(1) is prescribed by the Secretary or the Department; and

(2) has legally binding effect in connection with, or affecting, the provision of financial assistance under any applicable program.

(b) Citation of authority

Regulations shall contain, immediately following each substantive provision of such regulations, citations to the particular section or sections of statutory law or other legal authority on which such provision is based.

(c) Uniform application

All regulations shall be uniformly applied and enforced throughout the 50 States.

(d) Application of exemption

The exemption for public property, loans, grants and benefits in section 553(a)(2) of title 5 shall apply only to regulations—

(1) that govern the first grant competition under a new or substantially revised program authority as determined by the Secretary; or

(2) where the Secretary determines that the requirements of this subsection will cause extreme hardship to the intended beneficiaries of the program affected by such regulations.

(e) Schedule for promulgation of final regulations

Not later than 60 days after the date of enactment of any Act, or any portion of any Act, affecting the administration of any applicable program, the Secretary shall submit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate a schedule in accordance with which the Secretary plans to promulgate final regulations that the Secretary determines are necessary to implement such Act or portion of such Act. Such schedule shall provide that all such final regulations shall be promulgated within 360 days after the date of enactment of such Act or portion of such Act.

(f) Transmittal of final regulations

Concurrently with the publication of any final regulations, the Secretary shall transmit a copy of such final regulations to the Speaker of the House of Representatives and the President pro tempore of the Senate.

(Pub. L. 90–247, title IV, § 437, formerly § 421, as added Pub. L. 91–230, title IV, § 401(a)(10), Apr. 13, 1970, 84 Stat. 169; renumbered § 431, Pub. L. 92–318, title III, § 301(a)(1), June 23, 1972, 86 Stat. 326; amended Pub. L. 93–380, title V, § 509(a), Aug. 21, 1974, 88 Stat. 566; Pub. L. 94–142, § 7, Nov. 29, 1975, 89 Stat. 796; Pub. L. 94–482, title IV, § 405, Oct. 12, 1976, 90 Stat. 2231; Pub. L. 96–374, title XIII, § 1302, Oct. 3, 1980, 94 Stat. 1497; Pub. L. 97–35, title V, § 533(a)(3), Aug. 13, 1981, 95 Stat. 453; renumbered § 437 and amended Pub. L. 103–382, title II, §§ 212(b)(1), 247, Oct. 20, 1994, 108 Stat. 3913, 3923; Pub. L. 103–437, § 7(a)(1), Nov. 2, 1994, 108 Stat. 4587.)

PRIOR PROVISIONS

A prior section 437 of Pub. L. 90–247 was renumbered section 443, and is classified to section 1232f of this title.

Another prior section 437 of Pub. L. 90–247 was renumbered section 406A, and was classified to section 1221e–1a of this title prior to repeal by Pub. L. 103–382.

Another prior section 437 of Pub. L. 90–247 was renumbered section 447, and was classified to section 1233f of this title prior to repeal by Pub. L. 103–382.

AMENDMENTS

1994—Pub. L. 103–437, which directed that section 431(b)(2)(B), (d)(2), and (g) of Pub. L. 90–247 be amended by substituting ''Labor and Human Resources'' for ''Labor and Public Welfare'', could not be executed because this section, which was section 431 of Pub. L. 90–247, was renumbered section 437 and amended generally by Pub. L. 103–382.

Pub. L. 103–382, § 247, amended section generally. Prior to amendment, section consisted of subsecs. (a) to (g) relating to promulgation of regulations by Secretary, and their publication, application, disapproval

by Congress, and modification subsequent to disapproval.

1981—Subsec. (d)(1). Pub. L. 97–35 substituted ''final regulation (except expected family contribution schedules and any amendments thereto promulgated pursuant to sections 1078(a)(2)(D) and (E) and 1089(a)(1) of this title) as required'' for ''final regulation as required''.

1980—Subsec. (d)(1). Pub. L. 96–374 inserted '', in whole or in part'' after ''disapprove such final regulation''.

1976—Subsec. (a). Pub. L. 94–482, § 405(a), added par. (1), designated existing provisions which constituted entire subsec. (a) as par. (2) and, as so redesignated, struck out applicability to rules, guidelines, interpretations, or orders.

Subsec. (b)(1). Pub. L. 94–482, § 405(b)(1), substituted ''proposed regulation'' for ''standard, rule, regulation, or requirement of general applicability''.

Subsec. (b)(2)(A). Pub. L. 94–482, § 405(b)(2), substituted ''regulation'' for ''standard, rule, regulation, or general requirement'' in two places.

Subsec. (c). Pub. L. 94–482, § 405(c), struck out applicability to rules, guidelines, interpretations, or orders.

Subsec. (d)(1). Pub. L. 94–482, § 405(d)(1), (2), struck out applicability to standards, rules, requirements, or requirements of general applicability.

Subsec. (d)(2). Pub. L. 94–482, § 405(d)(3), substituted ''regulation'' for ''standard, rule, regulation, or requirement'' wherever appearing.

Subsec. (e). Pub. L. 94–482, § 405(e), substituted ''regulation'' for ''standard, rule, regulation, or requirement'' wherever appearing and ''final regulation'' for ''proposed standard, rule, regulation, or requirement of general applicability''.

Subsec. (g). Pub. L. 94–482, § 405(f), substituted ''final regulations'' for ''rules, regulations, and guidelines'' wherever appearing.

1975—Subsec. (d)(1). Pub. L. 94–142, § 7(a)(1), (b), inserted ''final'' before ''standard'' wherever appearing in existing provisions and inserted provisions covering the effect of the failure of Congress to adopt the concurrent resolution with respect to any final standard, rule, regulation, or requirement.

Subsec. (d)(2). Pub. L. 94–142, § 7(a)(2), (3), substituted ''objection to the final standard'' for ''objection to the proposed standard'', ''effective date of the final standard'' for ''effective date of the standard'', and ''In no event shall the final standard'' for ''In no event shall the standard''.

1974—Subsec. (b). Pub. L. 93–380, § 509(a)(1), designated existing provisions as par. (1) and added par. (2).

Subsecs. (d) to (g). Pub. L. 93–380, § 509(a)(2), added subsecs. (d) to (g).

CHANGE OF NAME

Committee on Education and Labor of House of Representatives treated as referring to Committee on Economic and Educational Opportunities of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Economic and Educational Opportunities of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Fifth Congress, Jan. 7, 1997.

EFFECTIVE DATE OF 1981 AMENDMENT

Section 540(a) of Pub. L. 97–35 provided that the amendment made by Pub. L. 97–35 is effective Oct. 1, 1981.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–374 effective Oct. 1, 1980, see section 1393(a) of Pub. L. 96–374, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–482 effective 30 days after Oct. 12, 1976, except either as specifically otherwise provided or, if not so specifically otherwise provided, effective July 1, 1976, for those amendments providing for authorization of appropriations, see section 532 of Pub. L. 94–482, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Section 8 of Pub. L. 94–142 provided that:

''(a) Notwithstanding any other provision of law, the amendments made by sections 2(a), 2(b), and 2(c) [amending sections 1411 and 1412 of this title as in effect through Sept. 30, 1977, and amending provisions set out as notes under sections 1411 to 1413 of this title] shall take effect on July 1, 1975.

''(b) The amendments made by sections 2(d), 2(e), 3, 6, and 7 [enacting sections 1405 and 1406 of this title, amending this section and sections 1412 and 1453 of this title, enacting provisions set out as a note under section 1411 of this title, and amending provisions set out as a note under section 1401 of this title] shall take effect on the date of the enactment of this Act [Nov. 29, 1975].

''(c) The amendments made by sections 4 and 5(a) [enacting sections 1415 to 1420 of this title and amending sections 1401, 1411, 1412, 1413, and 1414 of this title] shall take effect on October 1, 1977, except that the provisions of clauses (A), (C), (D), and (E) of paragraph (2) of section 612 of the Act [section 1412 of this title], as amended by this Act, section 617(a)(1)(D) of the Act [section 1417(a)(1)(D) of this title], as amended by this Act, section 617(b) of the Act [section 1417(b) of this title], as amended by this Act, and section 618(a) of the Act [section 1418(a) of this title], as amended by this Act, shall take effect on the date of the enactment of this Act [Nov. 29, 1975].

''(d) The provisions of section 5(b) [amending section 1411 of this title and enacting provisions set out as notes under section 1411 of this title] shall take effect on the date of the enactment of this Act [Nov. 29, 1975].''

EFFECTIVE DATE OF 1974 AMENDMENT

Section 509(b) of Pub. L. 93–380 provided that: ''The amendment made by paragraph (2) of subsection (a) [amending this section] shall be effective on the date of enactment of this [Aug. 21, 1974] and shall be effective with respect to the provisions of this Act [see Short Title note set out under section 821 of this title].''

STUDY AND REPORT ON RULES AND REGULATIONS

Pub. L. 92–318, title V, § 503, June 23, 1972, 86 Stat. 346, provided for a study by the Commissioner of all rules, regulations, etc., in connection with the administration of any program to which the General Education Provisions Act [this chapter] applies, with a report to be submitted to Congress not later than one year after June 23, 1972. Such section further mandated the publication of all rules, regulations, etc., in the Federal Register not later than 60 days after submission of such report, followed by a public hearing on such matters within the 60 day period following such publication. Such section then required a subsequent report to the relevant Congressional Committees on such hearings, and a republication of all rules and regulations in the Federal Register, such republished rules, etc., to supercede all preceding rules and regulations.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 927, 1078, 1087g, 1098a, 2466a of this title; title 25 section 2019.

§ 1232–1. Repealed. Pub. L. 98–511, title I, § 109(b), Oct. 19, 1984, 98 Stat. 2369

Section, Pub. L. 90–247, title IV, § 431A, as added Pub. L. 94–482, title III, § 323(b), Oct. 12, 1976, 90 Stat. 2218; amended Pub. L. 95–561, title XII, § 1249, Nov. 1, 1978, 92 Stat. 2355; Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, provided for mainte-

nance of effort determinations, providing in subsection: (a) for promulgation of regulations and determination of amount expended, (b) for waiver of requirements, (c) for objective criteria in carrying out waiver authority, and (d) for duration of effectiveness of requirements.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1985, see section 711(b) of Pub. L. 98–511, set out as an Effective Date of 1984 Amendment note under section 1226c of this title.

§ 1232a. Prohibition against Federal control of education

No provision of any applicable program shall be construed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution, school, or school system, or over the selection of library resources, textbooks, or other printed or published instructional materials by any educational institution or school system, or to require the assignment or transportation of students or teachers in order to overcome racial imbalance.

(Pub. L. 90–247, title IV, § 438, formerly § 422, as added Pub. L. 91–230, title IV, § 401(a)(10), Apr. 13, 1970, 84 Stat. 169; renumbered § 432 and amended Pub. L. 92–318, title III, § 301(a)(1), title VII, § 717(b), June 23, 1972, 86 Stat. 326, 369; Pub. L. 94–482, title IV, § 404(b), Oct. 12, 1976, 90 Stat. 2230; renumbered § 438, Pub. L. 103–382, title II, § 212(b)(1), Oct. 20, 1994, 108 Stat. 3913.)

PRIOR PROVISIONS

A prior section 438 of Pub. L. 90–247 was renumbered section 444, and is classified to section 1232g of this title.

Another prior section 438 of Pub. L. 90–247 was renumbered section 448, and was classified to section 1233g of this title prior to repeal by Pub. L. 103–382.

AMENDMENTS

1976—Pub. L. 94–482 substituted provisions prohibiting any applicable program from exercising Federal control of education, for provisions prohibiting such specific Federal laws as the Act of Sept. 30, 1950, National Defense Education Act of 1958, Act of Sept. 23, 1950, Higher Education Facilities Act of 1963, Elementary and Secondary Education Act of 1965, Higher Education Act of 1965, International Education Act of 1966, Emergency School Aid Act, and the Vocational Education Act of 1963 from exercising such Federal control.

1972—Pub. L. 92–318, § 717(b), inserted ''the Emergency School Aid Act;'' after ''the International Education Act of 1966;''.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–482 effective 30 days after Oct. 12, 1976, except either as specifically otherwise provided or, if not so specifically otherwise provided, effective July 1, 1976, for those amendments providing for authorization of appropriations, see section 532 of Pub. L. 94–482, set out as a note under section 1001 of this title.

CROSS REFERENCES

Job training partnership provisions, prohibition of Federal control of education, see section 1555 of Title 29, Labor.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3921 of this title.

§ 1232b. Labor standards

All laborers and mechanics employed by contractors or subcontractors on all construction and minor remodeling projects assisted under any applicable program shall be paid wages at rates not less than those prevailing on similar construction and minor remodeling in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended [40 U.S.C. 276a et seq.]. The Secretary of Labor shall have, with respect to the labor standards specified in this section, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 and section 276c of title 40.

(Pub. L. 90–247, title IV, § 439, formerly § 423, as added Pub. L. 91–230, title IV, § 401(a)(10), Apr. 13, 1970, 84 Stat. 169; renumbered § 433, Pub. L. 92–318, title III, § 301(a)(1), June 23, 1972, 86 Stat. 326; renumbered § 439 and amended Pub. L. 103–382, title II, §§ 212(b)(1), 261(d), Oct. 20, 1994, 108 Stat. 3913, 3927.)

REFERENCES IN TEXT

The Davis-Bacon Act, as amended, referred to in text, is act Mar. 3, 1931, ch. 411, 46 Stat. 1494, as amended, which is classified generally to section 276a to 276a–5 of Title 40, Public Buildings, Property, and Works. For complete classification of this Act to the Code, see Short Title note set out under section 276a of Title 40 and Tables.

Reorganization Plan Numbered 14 of 1950, referred to in text, is set out in the Appendix to Title 5, Government Organization and Employees.

PRIOR PROVISIONS

A prior section 439 of Pub. L. 90–247 was renumbered section 445, and is classified to section 1232h of this title.

AMENDMENTS

1994—Pub. L. 103–382, § 261(d), substituted ''All laborers'' for ''Except for emergency relief under section 241–1 of this title, all laborers''.

PART 3—ADMINISTRATION OF EDUCATION PROGRAMS AND PROJECTS BY STATES AND LOCAL EDUCATIONAL AGENCIES

§ 1232c. State agency monitoring and enforcement

(a) State plan

In the case of any applicable program in which Federal funds are made available to local agencies in a State through or under the supervision of a State board or agency, the Secretary may require the State to submit a plan for monitoring compliance by local agencies with Federal requirements under such program and for enforcement by the State of such requirements. The Secretary may require such plan to provide—

(1) for periodic visits by State personnel of programs administered by local agencies to determine whether such programs are being conducted in accordance with such requirements;

(2) for periodic audits of expenditures under such programs by auditors of the State or other auditors not under the control, direction, or supervision of the local educational agency; and

(3) that the State investigate and resolve all complaints received by the State, or referred to the State by the Secretary, relating to the administration of such programs.

(b) State enforcement of Federal requirements

In order to enforce the Federal requirements under any applicable program the State may—

(1) withhold approval, in whole or in part, of the application of a local agency for funds under the program until the State is satisfied that such requirements will be met; except that the State shall not finally disapprove such an application unless the State provides the local agency an opportunity for a hearing before an impartial hearing officer and such officer determines that there has been a substantial failure by the local agency to comply with any of such requirements;

(2) suspend payments to any local agency, in whole or in part, under the program if the State has reason to believe that the local agency has failed substantially to comply with any of such requirements, except that (A) the State shall not suspend such payments until fifteen days after the State provides the local agency an opportunity to show cause why such action should not be taken and (B) no such suspension shall continue in effect longer than sixty days unless the State within such period provides the notice for a hearing required under paragraph (3) of this subsection;

(3) withhold payments, in whole or in part, under any such program if the State finds, after reasonable notice and opportunity for a hearing before an impartial hearing officer, that the local agency has failed substantially to comply with any of such requirements.

(c) Withholding of payments

Any withholding of payments under subsection (b)(3) of this subsection[1] shall continue until the State is satisfied that there is no longer a failure to comply substantially with any of such requirements.

(Pub. L. 90–247, title IV, § 440, formerly § 434, as added Pub. L. 95–561, title XII, § 1231(a)(3), Nov. 1, 1978, 92 Stat. 2342; renumbered § 440 and amended Pub. L. 103–382, title II, §§ 212(b)(1), 261(e), Oct. 20, 1994, 108 Stat. 3913, 3927.)

PRIOR PROVISIONS

A prior section 1232c, Pub. L. 90–247, title IV, § 434, formerly § 424, as added Pub. L. 91–230, title IV, § 401(a)(10), Apr. 13, 1970, 84 Stat. 169; renumbered § 434 and amended Pub. L. 92–318, title III, § 301(a)(1), title V, § 501, June 23, 1972, 86 Stat. 326, 345; Pub. L. 93–380, title V, §§ 510, 511(a), Aug. 21, 1974, 88 Stat. 568, 569; Pub. L. 94–482, title V, § 501(f)(1), Oct. 12, 1976, 90 Stat. 2237, related to administration of education programs and projects, prior to repeal by section 1231(a)(3) of Pub. L. 95–561.

A prior section 440 of Pub. L. 90–247 was renumbered section 446, and is classified to section 1232i of this title.

AMENDMENTS

1994—Pub. L. 103–382, § 261(e)(1), struck out ''educational'' after ''State'' in section catchline.

Subsec. (a). Pub. L. 103–382, § 261(e)(2)(A), substituted ''Secretary'' for ''Commissioner'' wherever appearing.

Subsecs. (b), (c). Pub. L. 103–382, § 261(e)(2)(B), (C), redesignated provision following par. (3) of subsec. (b) as subsec. (c) and substituted ''subsection (b)(3)'' for ''paragraph (3)''.

EFFECTIVE DATE

Section 1261 of Pub. L. 95–561 provided that: ''The amendments made by section 1231 [enacting this section and sections 1232d, 1232e, and 1232f of this title and amending section 1088f–1 of this title] shall take effect with respect to appropriations for fiscal year 1980 and subsequent fiscal years. The amendments made by section 1232 [enacting sections 1234, 1234a, 1234b, 1234c, 1234d, and 1234e of this title] shall take effect 120 days after the enactment of this Act [Nov. 1, 1978].''

APPLICABILITY OF ADMINISTRATIVE PROCEDURE TO OFFICE OF EDUCATION OR ACTIONS BY COMMISSIONER UNAFFECTED BY SUBSECTIONS (b) TO (e)

Pub. L. 93–380, title V, § 511(b)(2), Aug. 21, 1974, 88 Stat. 571, provided that nothing in the amendment made by subsec. (a) of section 511 of Pub. L. 93–380, which enacted prior subsecs. (b) to (e) and deleted former subsec. (b) of this section, would be construed to affect the applicability of chapter 5 of Title 5, Government Organization and Employees, to the Office of Education or actions by the Commissioner.

§ 1232d. Single State application

(a) Submission of general application; approval by State supervisory authority

In the case of any State which applies, contracts, or submits a plan for participation in any applicable program in which Federal funds are made available for assistance to local educational agencies through, or under the supervision of, the State educational agency of that State, such State shall submit (subject to the provisions of part C of title V of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 7261 et seq.])[1] to the Secretary a general application containing the assurances set forth in subsection (b) of this section. Such application may be submitted jointly for all programs covered by the application, or it may be submitted separately for each such program or for groups of programs. Each application submitted under this section must be approved by each official, agency, board, or other entity within the State which, under State law, is primarily responsible for supervision of the activities conducted under each program covered by the application.

(b) Assurances

An application submitted under subsection (a) of this section shall set forth assurances, satisfactory to the Secretary—

(1) that each program will be administered in accordance with all applicable statutes, regulations, program plans, and applications;

(2) that the control of funds provided under each program and title to property acquired with program funds will be in a public agency, or in a nonprofit private agency, institution, or organization if the statute authorizing the program provides for grants to such entities, and that the public agency or nonprofit private agency, institution, or organization will administer such funds and property;

(3) that the State will adopt and use proper methods of administering each applicable program, including—

[1] So in original. Probably should be ''section''.

[1] See 1994 Amendment note below.

(A) monitoring of agencies, institutions, and organizations responsible for carrying out each program, and the enforcement of any obligations imposed on those agencies, institutions, and organizations under law,

(B) providing technical assistance, where necessary, to such agencies, institutions, and organizations,

(C) encouraging the adoption of promising or innovative educational techniques by such agencies, institutions, and organizations,

(D) the dissemination throughout the State of information on program requirements and successful practices, and

(E) the correction of deficiencies in program operations that are identified through monitoring or evaluation;

(4) that the State will evaluate the effectiveness of covered programs in meeting their statutory objectives, at such intervals (not less often than once every three years) and in accordance with such procedures as the Secretary may prescribe by regulation, and that the State will cooperate in carrying out any evaluation of each program conducted by or for the Secretary or other Federal official;

(5) that the State will use fiscal control and fund accounting procedures that will ensure proper disbursement of, and accounting for, Federal funds paid to the State under each program;

(6) that the State will make reports to the Secretary (including reports on the results of evaluations required under paragraph (4)) as may reasonably be necessary to enable the Secretary to perform his duties under each program, and that the State will maintain such records, in accordance with the requirements of section 1232f of this title, and afford access to the records as the Secretary may find necessary to carry out his duties;

(7) that the State will provide reasonable opportunities for the participation by local agencies, representatives of the class of individuals affected by each program and other interested institutions, organizations, and individuals in the planning for and operation of each program, including the following:

(A) the State will consult with relevant advisory committees, local agencies, interest groups, and experienced professionals in the development of program plans required by statute;

(B) the State will publish each proposed plan, in a manner that will ensure circulation throughout the State, at least sixty days prior to the date on which the plan is submitted to the Secretary or on which the plan becomes effective, whichever occurs earlier, with an opportunity for public comments on such plan to be accepted for at least thirty days;

(C) the State will hold public hearings on the proposed plans if required by the Secretary by regulation; and

(D) the State will provide an opportunity for interested agencies, organizations, and individuals to suggest improvements in the administration of the program and to allege that there has been a failure by any entity to comply with applicable statutes and regulations; and

(8) that none of the funds expended under any applicable program will be used to acquire equipment (including computer software) in any instance in which such acquisition results in a direct financial benefit to any organization representing the interests of the purchasing entity or its employees or any affiliate of such an organization.

(c) Effective term of general application

Each general application submitted under this section shall remain in effect for the duration of any program it covers. The Secretary shall not require the resubmission or amendment of that application unless required by changes in Federal or State law or by other significant changes in the circumstances affecting an assurance in that application.

(Pub. L. 90–247, title IV, §441, formerly §435, as added Pub. L. 95–561, title XII, §1231(a)(3), Nov. 1, 1978, 92 Stat. 2343; amended Pub. L. 98–511, title VII, §706(a), Oct. 19, 1984, 98 Stat. 2406; Pub. L. 100–297, title III, §3501(c), Apr. 28, 1988, 102 Stat. 357; renumbered §441 and amended Pub. L. 103–382, title II, §§212(b)(1), (3)(A), 261(f), Oct. 20, 1994, 108 Stat. 3913, 3928.)

REFERENCES IN TEXT

The Elementary and Secondary Education Act of 1965, referred to in subsec. (a), is Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, as amended generally by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519. Part C of title V of the Act is classified generally to part C (§7261 et seq.) of subchapter V of chapter 70 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

CODIFICATION

A prior section 1232d was renumbered by Pub. L. 95–561, §1231(a)(1), and was transferred to section 1226a–1 of this title.

PRIOR PROVISIONS

Another prior section 441 of Pub. L. 90–247 was classified to section 1233 of this title prior to repeal by Pub. L. 103–382.

AMENDMENTS

1994—Pub. L. 103–382, §261(f)(1), substituted ''Secretary'' for ''Commissioner'' wherever appearing.

Subsec. (a). Pub. L. 103–382, §261(f)(2), struck out the comma after ''submits a plan'', struck out '', in the case of programs under chapter 1 and chapter 2 of title I of the Elementary and Secondary Education Act of 1965,'' after ''(subject'', and directed the substitution of ''part C of title V of the Elementary and Secondary Education Act of 1965'' for ''title V of such Act'' which was executed as if the amendment by Pub. L. 100–297 had not struck out '', to the provisions of title V of such Act'', to reflect the probable intent of Congress.

Subsec. (b)(6). Pub. L. 103–382, §212(b)(3), made technical amendment to reference to section 1232f of this title to reflect renumbering of corresponding section of original act.

1988—Subsec. (a). Pub. L. 100–297 substituted ''chapter 1 and chapter 2 of title I of the Elementary and Secondary Education Act of 1965)'' for ''titles I and IV of the Elementary and Secondary Education Act of 1965, to the provisions of title V of such Act)''.

1984—Subsec. (b)(8). Pub. L. 98–511 added par. (8).

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–297 effective 180 days after Apr. 28, 1988, but not applicable to recipients receiving

written notice to return funds prior to that date, see section 3501(b) of Pub. L. 100–297, set out as a note under section 1234 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–511 effective Oct. 19, 1984, see section 711(a) of Pub. L. 98–511, set out as a note under section 1226c of this title.

EFFECTIVE DATE

Section effective with respect to appropriations for fiscal year 1980 and subsequent fiscal years, see section 1261 of Pub. L. 95–561, set out as a note under section 1232c of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1206, 1234d, 1234g, 8853 of this title.

§ 1232e. Single local educational agency application

(a) General application to State agency or board

Each local educational agency which participates in an applicable program under which Federal funds are made available to such agency through a State agency or board shall submit to such agency or board a general application containing the assurances set forth in subsection (b) of this section. That application shall cover the participation by that local educational agency in all such programs.

(b) Assurances

The general application submitted by a local educational agency under subsection (a) of this section shall set forth assurances—

(1) that the local educational agency will administer each program covered by the application in accordance with all applicable statutes, regulations, program plans, and applications;

(2) that the control of funds provided to the local educational agency under each program, and title to property acquired with those funds, will be in a public agency and that a public agency will administer those funds and property;

(3) that the local educational agency will use fiscal control and fund accounting procedures that will ensure proper disbursement of, and accounting for, Federal funds paid to that agency under each program;

(4) that the local educational agency will make reports to the State agency or board and to the Secretary as may reasonably be necessary to enable the State agency or board and the Secretary to perform their duties and that the local educational agency will maintain such records, including the records required under section 1232f of this title, and provide access to those records, as the State agency or board or the Secretary deem necessary to perform their duties;

(5) that the local educational agency will provide reasonable opportunities for the participation by teachers, parents, and other interested agencies, organizations, and individuals in the planning for and operation of each program;

(6) that any application, evaluation, periodic program plan or report relating to each program will be made readily available to parents and other members of the general public;

(7) that in the case of any project involving construction—

(A) the project is not inconsistent with overall State plans for the construction of school facilities, and

(B) in developing plans for construction, due consideration will be given to excellence of architecture and design and to compliance with standards prescribed by the Secretary under section 794 of title 29 in order to ensure that facilities constructed with the use of Federal funds are accessible to and usable by individuals with disabilities;

(8) that the local educational agency has adopted effective procedures for acquiring and disseminating to teachers and administrators participating in each program significant information from educational research, demonstrations, and similar projects, and for adopting, where appropriate, promising educational practices developed through such projects; and

(9) that none of the funds expended under any applicable program will be used to acquire equipment (including computer software) in any instance in which such acquisition results in a direct financial benefit to any organization representing the interests of the purchasing entity or its employees or any affiliate of such an organization.

(c) Effective term of general application

A general application submitted under this section shall remain in effect for the duration of the programs it covers. The State agencies or boards administering the programs covered by the application shall not require the submission or amendment of such application unless required by changes in Federal or State law or by other significant change in the circumstances affecting an assurance in such application.

(Pub. L. 90–247, title IV, § 442, formerly § 436, as added Pub. L. 95–561, title XII, § 1231(a)(3), Nov. 1, 1978, 92 Stat. 2345; amended Pub. L. 98–511, title VII, § 706(b), Oct. 19, 1984, 98 Stat. 2407; renumbered § 442 and amended Pub. L. 103–382, title II, §§ 212(b)(1), (3)(B), 261(g), Oct. 20, 1994, 108 Stat. 3913, 3928.)

PRIOR PROVISIONS

A prior section 1232e, Pub. L. 90–247, title IV, § 436, formerly § 426, as added Pub. L. 91–230, title IV, § 401(a)(10), Apr. 13, 1970, 84 Stat. 170; renumbered § 436, Pub. L. 92–318, title III, § 301(a)(1), June 23, 1972, 86 Stat. 326, related to authority of Commissioner to vest title in equipment, prior to repeal by section 1231(a)(3) of Pub. L. 95–561.

A prior section 442 of Pub. L. 90–247 was classified to section 1233a of this title prior to repeal by Pub. L. 103–382.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–382, § 261(g)(1), substituted ''that local educational agency'' for ''that local education agency''.

Subsec. (b)(2). Pub. L. 103–382, § 261(g)(2)(A), inserted comma after ''program''.

Subsec. (b)(4). Pub. L. 103–382, § 261(g)(2)(B), substituted ''Secretary'' for ''Commissioner'' wherever appearing.

Pub. L. 103–382, § 212(b)(3)(B), made technical amendment to reference to section 1232f of this title to reflect renumbering of corresponding section of original act.

Subsec. (b)(7)(B). Pub. L. 103–382, §261(g)(2)(C), substituted ''individuals with disabilities'' for ''handicapped individuals''.

1984—Subsec. (b)(9). Pub. L. 98–511 added par. (9).

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–511 effective Oct. 19, 1984, see section 711(a) of Pub. L. 98–511, set out as a note under section 1226c of this title.

EFFECTIVE DATE

Section effective with respect to appropriations for fiscal year 1980 and subsequent fiscal years, see section 1261 of Pub. L. 95–561, set out as a note under section 1232c of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 8856 of this title.

PART 4—RECORDS; PRIVACY; LIMITATION ON WITHHOLDING FEDERAL FUNDS

§ 1232f. Records

(a) Records kept by recipient; full disclosure; five-year maintenance period

Each recipient of Federal funds under any applicable program through any grant, subgrant, cooperative agreement, loan, or other arrangement shall keep records which fully disclose the amount and disposition by the recipient of those funds, the total cost of the activity for which the funds are used, the share of that cost provided from other sources, and such other records as will facilitate an effective financial or programmatic audit. The recipient shall maintain such records for three years after the completion of the activity for which the funds are used.

(b) Audit examination

The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access, for the purpose of audit examination, to any records maintained by a recipient that may be related, or pertinent to, grants, subgrants, cooperative agreements, loans, or other arrangements to which reference is made in subsection (a) of this section, or which may relate to the compliance of the recipient with any requirement of an applicable program.

(Pub. L. 90–247, title IV, §443, formerly §437, as added Pub. L. 95–561, title XII, §1231(c), Nov. 1, 1978, 92 Stat. 2346; renumbered §443 and amended Pub. L. 103–382, title II, §§212(b)(1), 248, Oct. 20, 1994, 108 Stat. 3913, 3924.)

PRIOR PROVISIONS

A prior section 443 of Pub. L. 90–247 was classified to section 1233b of this title prior to repeal by Pub. L. 103–382.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–382, §248(1), substituted ''grant, subgrant, cooperative agreement, loan, or other arrangement'' for ''grant, subgrant, contract, subcontract, loan, or other arrangement (other than procurement contracts awarded by an administrative head of an educational agency)'', inserted ''financial or programmatic'' before ''audit.'', and substituted ''three years'' for ''five years''.

Subsec. (b). Pub. L. 103–382, §248(2), substituted ''to any records maintained by a recipient that may be related, or pertinent to, grants, subgrants, cooperative agreements, loans, or other arrangements'' for ''to any records of a recipient which may be related, or pertinent to, the grants, subgrants, contracts, subcontracts, loans, or other arrangements''.

EFFECTIVE DATE

Section effective with respect to appropriations for fiscal year 1980 and subsequent fiscal years, see section 1261 of Pub. L. 95–561, set out as a note under section 1232c of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1232d, 1232e of this title.

§ 1232g. Family educational and privacy rights

(a) Conditions for availability of funds to educational agencies or institutions; inspection and review of education records; specific information to be made available; procedure for access to education records; reasonableness of time for such access; hearings; written explanations by parents; definitions

(1)(A) No funds shall be made available under any applicable program to any educational agency or institution which has a policy of denying, or which effectively prevents, the parents of students who are or have been in attendance at a school of such agency or at such institution, as the case may be, the right to inspect and review the education records of their children. If any material or document in the education record of a student includes information on more than one student, the parents of one of such students shall have the right to inspect and review only such part of such material or document as relates to such student or to be informed of the specific information contained in such part of such material. Each educational agency or institution shall establish appropriate procedures for the granting of a request by parents for access to the education records of their children within a reasonable period of time, but in no case more than forty-five days after the request has been made.

(B) No funds under any applicable program shall be made available to any State educational agency (whether or not that agency is an educational agency or institution under this section) that has a policy of denying, or effectively prevents, the parents of students the right to inspect and review the education records maintained by the State educational agency on their children who are or have been in attendance at any school of an educational agency or institution that is subject to the provisions of this section.

(C) The first sentence of subparagraph (A) shall not operate to make available to students in institutions of postsecondary education the following materials:

(i) financial records of the parents of the student or any information contained therein;

(ii) confidential letters and statements of recommendation, which were placed in the education records prior to January 1, 1975, if such letters or statements are not used for purposes other than those for which they were specifically intended;

(iii) if the student has signed a waiver of the student's right of access under this subsection

in accordance with subparagraph (D), confidential recommendations—

(I) respecting admission to any educational agency or institution,

(II) respecting an application for employment, and

(III) respecting the receipt of an honor or honorary recognition.

(D) A student or a person applying for admission may waive his right of access to confidential statements described in clause (iii) of subparagraph (C), except that such waiver shall apply to recommendations only if (i) the student is, upon request, notified of the names of all persons making confidential recommendations and (ii) such recommendations are used solely for the purpose for which they were specifically intended. Such waivers may not be required as a condition for admission to, receipt of financial aid from, or receipt of any other services or benefits from such agency or institution.

(2) No funds shall be made available under any applicable program to any educational agency or institution unless the parents of students who are or have been in attendance at a school of such agency or at such institution are provided an opportunity for a hearing by such agency or institution, in accordance with regulations of the Secretary, to challenge the content of such student's education records, in order to insure that the records are not inaccurate, misleading, or otherwise in violation of the privacy rights of students, and to provide an opportunity for the correction or deletion of any such inaccurate, misleading or otherwise inappropriate data contained therein and to insert into such records a written explanation of the parents respecting the content of such records.

(3) For the purposes of this section the term ''educational agency or institution'' means any public or private agency or institution which is the recipient of funds under any applicable program.

(4)(A) For the purposes of this section, the term ''education records'' means, except as may be provided otherwise in subparagraph (B), those records, files, documents, and other materials which—

(i) contain information directly related to a student; and

(ii) are maintained by an educational agency or institution or by a person acting for such agency or institution.

(B) The term ''education records'' does not include—

(i) records of instructional, supervisory, and administrative personnel and educational personnel ancillary thereto which are in the sole possession of the maker thereof and which are not accessible or revealed to any other person except a substitute;

(ii) records maintained by a law enforcement unit of the educational agency or institution that were created by that law enforcement unit for the purpose of law enforcement;

(iii) in the case of persons who are employed by an educational agency or institution but who are not in attendance at such agency or institution, records made and maintained in the normal course of business which relate exclusively to such person in that person's capacity as an employee and are not available for use for any other purpose; or

(iv) records on a student who is eighteen years of age or older, or is attending an institution of postsecondary education, which are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in his professional or paraprofessional capacity, or assisting in that capacity, and which are made, maintained, or used only in connection with the provision of treatment to the student, and are not available to anyone other than persons providing such treatment, except that such records can be personally reviewed by a physician or other appropriate professional of the student's choice.

(5)(A) For the purposes of this section the term ''directory information'' relating to a student includes the following: the student's name, address, telephone listing, date and place of birth, major field of study, participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance, degrees and awards received, and the most recent previous educational agency or institution attended by the student.

(B) Any educational agency or institution making public directory information shall give public notice of the categories of information which it has designated as such information with respect to each student attending the institution or agency and shall allow a reasonable period of time after such notice has been given for a parent to inform the institution or agency that any or all of the information designated should not be released without the parent's prior consent.

(6) For the purposes of this section, the term ''student'' includes any person with respect to whom an educational agency or institution maintains education records or personally identifiable information, but does not include a person who has not been in attendance at such agency or institution.

(b) Release of education records; parental consent requirement; exceptions; compliance with judicial orders and subpoenas; audit and evaluation of federally-supported education programs; recordkeeping

(1) No funds shall be made available under any applicable program to any educational agency or institution which has a policy or practice of permitting the release of education records (or personally identifiable information contained therein other than directory information, as defined in paragraph (5) of subsection (a) of this section) of students without the written consent of their parents to any individual, agency, or organization, other than to the following—

(A) other school officials, including teachers within the educational institution or local educational agency, who have been determined by such agency or institution to have legitimate educational interests, including the educational interests of the child for whom consent would otherwise be required;

(B) officials of other schools or school systems in which the student seeks or intends to

enroll, upon condition that the student's parents be notified of the transfer, receive a copy of the record if desired, and have an opportunity for a hearing to challenge the content of the record;

(C) authorized representatives of (i) the Comptroller General of the United States, (ii) the Secretary, or (iii) State educational authorities, under the conditions set forth in paragraph (3) of this subsection;

(D) in connection with a student's application for, or receipt of, financial aid;

(E) State and local officials or authorities to whom such information is specifically allowed to be reported or disclosed pursuant to State statute adopted—

(i) before November 19, 1974, if the allowed reporting or disclosure concerns the juvenile justice system and such system's ability to effectively serve the student whose records are released, or

(ii) after November 19, 1974, if—

(I) the allowed reporting or disclosure concerns the juvenile justice system and such system's ability to effectively serve, prior to adjudication, the student whose records are released; and

(II) the officials and authorities to whom such information is disclosed certify in writing to the educational agency or institution that the information will not be disclosed to any other party except as provided under State law without the prior written consent of the parent of the student.[1]

(F) organizations conducting studies for, or on behalf of, educational agencies or institutions for the purpose of developing, validating, or administering predictive tests, administering student aid programs, and improving instruction, if such studies are conducted in such a manner as will not permit the personal identification of students and their parents by persons other than representatives of such organizations and such information will be destroyed when no longer needed for the purpose for which it is conducted;

(G) accrediting organizations in order to carry out their accrediting functions;

(H) parents of a dependent student of such parents, as defined in section 152 of title 26;

(I) subject to regulations of the Secretary, in connection with an emergency, appropriate persons if the knowledge of such information is necessary to protect the health or safety of the student or other persons; and

(J)(i) the entity or persons designated in a Federal grand jury subpoena, in which case the court shall order, for good cause shown, the educational agency or institution (and any officer, director, employee, agent, or attorney for such agency or institution) on which the subpoena is served, to not disclose to any person the existence or contents of the subpoena or any information furnished to the grand jury in response to the subpoena; and

(ii) the entity or persons designated in any other subpoena issued for a law enforcement purpose, in which case the court or other issuing agency may order, for good cause shown, the educational agency or institution (and any officer, director, employee, agent, or attorney for such agency or institution) on which the subpoena is served, to not disclose to any person the existence or contents of the subpoena or any information furnished in response to the subpoena.

Nothing in clause (E) of this paragraph shall prevent a State from further limiting the number or type of State or local officials who will continue to have access thereunder.

(2) No funds shall be made available under any applicable program to any educational agency or institution which has a policy or practice of releasing, or providing access to, any personally identifiable information in education records other than directory information, or as is permitted under paragraph (1) of this subsection, unless—

(A) there is written consent from the student's parents specifying records to be released, the reasons for such release, and to whom, and with a copy of the records to be released to the student's parents and the student if desired by the parents, or

(B) except as provided in paragraph (1)(J), such information is furnished in compliance with judicial order, or pursuant to any lawfully issued subpoena, upon condition that parents and the students are notified of all such orders or subpoenas in advance of the compliance therewith by the educational institution or agency.

(3) Nothing contained in this section shall preclude authorized representatives of (A) the Comptroller General of the United States, (B) the Secretary, or (C) State educational authorities from having access to student or other records which may be necessary in connection with the audit and evaluation of Federally-supported education programs, or in connection with the enforcement of the Federal legal requirements which relate to such programs: *Provided*, That except when collection of personally identifiable information is specifically authorized by Federal law, any data collected by such officials shall be protected in a manner which will not permit the personal identification of students and their parents by other than those officials, and such personally identifiable data shall be destroyed when no longer needed for such audit, evaluation, and enforcement of Federal legal requirements.

(4)(A) Each educational agency or institution shall maintain a record, kept with the education records of each student, which will indicate all individuals (other than those specified in paragraph (1)(A) of this subsection), agencies, or organizations which have requested or obtained access to a student's education records maintained by such educational agency or institution, and which will indicate specifically the legitimate interest that each such person, agency, or organization has in obtaining this information. Such record of access shall be available only to parents, to the school official and his assistants who are responsible for the custody of such records, and to persons or organizations au-

[1] So in original. The period probably should be a semicolon.

thorized in, and under the conditions of, clauses (A) and (C) of paragraph (1) as a means of auditing the operation of the system.

(B) With respect to this subsection, personal information shall only be transferred to a third party on the condition that such party will not permit any other party to have access to such information without the written consent of the parents of the student. If a third party outside the educational agency or institution permits access to information in violation of paragraph (2)(A), or fails to destroy information in violation of paragraph (1)(F), the educational agency or institution shall be prohibited from permitting access to information from education records to that third party for a period of not less than five years.

(5) Nothing in this section shall be construed to prohibit State and local educational officials from having access to student or other records which may be necessary in connection with the audit and evaluation of any federally or State supported education program or in connection with the enforcement of the Federal legal requirements which relate to any such program, subject to the conditions specified in the proviso in paragraph (3).

(6) Nothing in this section shall be construed to prohibit an institution of postsecondary education from disclosing, to an alleged victim of any crime of violence (as that term is defined in section 16 of title 18), the results of any disciplinary proceeding conducted by such institution against the alleged perpetrator of such crime with respect to such crime.

(c) Surveys or data-gathering activities; regulations

Not later than 240 days after October 20, 1994, the Secretary shall adopt appropriate regulations or procedures, or identify existing regulations or procedures, which protect the rights of privacy of students and their families in connection with any surveys or data-gathering activities conducted, assisted, or authorized by the Secretary or an administrative head of an education agency. Regulations established under this subsection shall include provisions controlling the use, dissemination, and protection of such data. No survey or data-gathering activities shall be conducted by the Secretary, or an administrative head of an education agency under an applicable program, unless such activities are authorized by law.

(d) Students' rather than parents' permission or consent

For the purposes of this section, whenever a student has attained eighteen years of age, or is attending an institution of postsecondary education, the permission or consent required of and the rights accorded to the parents of the student shall thereafter only be required of and accorded to the student.

(e) Informing parents or students of rights under this section

No funds shall be made available under any applicable program to any educational agency or institution unless such agency or institution effectively informs the parents of students, or the students, if they are eighteen years of age or older, or are attending an institution of postsecondary education, of the rights accorded them by this section.

(f) Enforcement; termination of assistance

The Secretary shall take appropriate actions to enforce this section and to deal with violations of this section, in accordance with this chapter, except that action to terminate assistance may be taken only if the Secretary finds there has been a failure to comply with this section, and he has determined that compliance cannot be secured by voluntary means.

(g) Office and review board; creation; functions

The Secretary shall establish or designate an office and review board within the Department for the purpose of investigating, processing, reviewing, and adjudicating violations of this section and complaints which may be filed concerning alleged violations of this section. Except for the conduct of hearings, none of the functions of the Secretary under this section shall be carried out in any of the regional offices of such Department.

(h) Disciplinary records; disclosure

Nothing in this section shall prohibit an educational agency or institution from—

(1) including appropriate information in the education record of any student concerning disciplinary action taken against such student for conduct that posed a significant risk to the safety or well-being of that student, other students, or other members of the school community; or

(2) disclosing such information to teachers and school officials, including teachers and school officials in other schools, who have legitimate educational interests in the behavior of the student.

(Pub. L. 90–247, title IV, § 444, formerly § 438, as added Pub. L. 93–380, title V, § 513(a), Aug. 21, 1974, 88 Stat. 571; amended Pub. L. 93–568, § 2(a), Dec. 31, 1974, 88 Stat. 1858; Pub. L. 96–46, § 4(c), Aug. 6, 1979, 93 Stat. 342; Pub. L. 101–542, title II, § 203, Nov. 8, 1990, 104 Stat. 2385; Pub. L. 102–325, title XV, § 1555(a), July 23, 1992, 106 Stat. 840; renumbered § 444 and amended Pub. L. 103–382, title II, §§ 212(b)(1), 249, 261(h), Oct. 20, 1994, 108 Stat. 3913, 3924, 3928.)

PRIOR PROVISIONS

A prior section 444 of Pub. L. 90–247 was classified to section 1233c of this title prior to repeal by Pub. L. 103–382.

AMENDMENTS

1994—Subsec. (a)(1)(B). Pub. L. 103–382, § 249(1)(A)(ii), added subpar. (B). Former subpar. (B) redesignated (C).

Subsec. (a)(1)(C). Pub. L. 103–382, § 249(1)(A)(i), (iii), redesignated subpar. (B) as (C) and substituted ''subparagraph (D)'' for ''subparagraph (C)'' in cl. (iii). Former subpar. (C) redesignated (D).

Subsec. (a)(1)(D). Pub. L. 103–382, § 249(1)(A)(i), (iv), redesignated subpar. (C) as (D) and substituted ''subparagraph (C)'' for ''subparagraph (B)''.

Subsec. (a)(2). Pub. L. 103–382, § 249(1)(B), substituted ''privacy rights'' for ''privacy or other rights''.

Subsec. (a)(4)(B)(ii). Pub. L. 103–382, § 261(h)(1), substituted semicolon for period at end.

Subsec. (b)(1)(A). Pub. L. 103–382, § 249(2)(A)(i), inserted before semicolon '', including the educational interests of the child for whom consent would otherwise be required''.

Subsec. (b)(1)(C). Pub. L. 103–382, §261(h)(2)(A), substituted ''or (iii)'' for ''(iii) an administrative head of an education agency (as defined in section 1221e–3(c) of this title), or (iv)''.

Subsec. (b)(1)(E). Pub. L. 103–382, §249(2)(A)(ii), amended subpar. (E) generally. Prior to amendment, subpar. (E) read as follows: ''State and local officials or authorities to whom such information is specifically required to be reported or disclosed pursuant to State statute adopted prior to November 19, 1974;''.

Subsec. (b)(1)(H). Pub. L. 103–382, §261(h)(2)(B), substituted ''the Internal Revenue Code of 1986'' for ''the Internal Revenue Code of 1954'', which for purposes of codification was translated as ''title 26'' thus requiring no change in text.

Subsec. (b)(1)(J). Pub. L. 103–382, §249(2)(A)(iii)–(v), added subpar. (J).

Subsec. (b)(2). Pub. L. 103–382, §249(2)(B)(i), which directed amendment of matter preceding subpar. (A) by substituting '', unless—'' for the period, was executed by substituting a comma for the period before ''unless—'' to reflect the probable intent of Congress.

Subsec. (b)(2)(B). Pub. L. 103–382, §249(2)(B)(ii), inserted ''except as provided in paragraph (1)(J),'' before ''such information''.

Subsec. (b)(3). Pub. L. 103–382, §261(h)(2)(C), substituted ''or (C)'' for ''(C) an administrative head of an education agency or (D)'' and ''education programs'' for ''education program''.

Subsec. (b)(4). Pub. L. 103–382, §249(2)(C), inserted at end ''If a third party outside the educational agency or institution permits access to information in violation of paragraph (2)(A), or fails to destroy information in violation of paragraph (1)(F), the educational agency or institution shall be prohibited from permitting access to information from education records to that third party for a period of not less than five years.''

Subsec. (c). Pub. L. 103–382, §249(3), substituted ''Not later than 240 days after October 20, 1994, the Secretary shall adopt appropriate regulations or procedures, or identify existing regulations or procedures, which'' for ''The Secretary shall adopt appropriate regulations to''.

Subsec. (d). Pub. L. 103–382, §261(h)(3), inserted a comma after ''education''.

Subsec. (e). Pub. L. 103–382, §249(4), inserted ''effectively'' before ''informs''.

Subsec. (f). Pub. L. 103–382, §261(h)(4), struck out '', or an administrative head of an education agency,'' after ''The Secretary'' and substituted ''enforce this section'' for ''enforce provisions of this section'', ''in accordance with'' for ''according to the provisions of'', and ''comply with this section'' for ''comply with the provisions of this section''.

Subsec. (g). Pub. L. 103–382, §261(h)(5), struck out ''of Health, Education, and Welfare'' after ''the Department'' and ''the provisions of'' after ''adjudicating violations of''.

Subsec. (h). Pub. L. 103–382, §249(5), added subsec. (h).

1992—Subsec. (a)(4)(B)(ii). Pub. L. 102–325 amended cl. (ii) generally. Prior to amendment, cl. (ii) read as follows: ''if the personnel of a law enforcement unit do not have access to education records under subsection (b)(1) of this section, the records and documents of such law enforcement unit which (I) are kept apart from records described in subparagraph (A), (II) are maintained solely for law enforcement purposes, and (III) are not made available to persons other than law enforcement officials of the same jurisdiction;''.

1990—Subsec. (b)(6). Pub. L. 101–542 added par. (6).

1979—Subsec. (b)(5). Pub. L. 96–46 added par. (5).

1974—Subsec. (a)(1). Pub. L. 93–568, §2(a)(1)(A)–(C), (2)(A)–(C), (3), designated existing par. (1) as subpar. (A), substituted reference to educational agencies and institutions for reference to state or local educational agencies, institutions of higher education, community colleges, schools, agencies offering preschool programs, and other educational institutions, substituted the generic term education records for the enumeration of such records, and extended the right to inspect and review such records to parents of children who have been in attendance, and added subpars. (B) and (C).

Subsec. (a)(2). Pub. L. 93–568, §2(a)(4), substituted provisions making the availability of funds to educational agencies and institutions conditional on the granting of an opportunity for a hearing to parents of students who are or have been in attendance at such institution or agency to challenge the contents of the student's education records for provisions granting the parents an opportunity for such hearing, and inserted provisions authorizing insertion into the records a written explanation of the parents respecting the content of such records.

Subsec. (a)(3) to (6). Pub. L. 93–568, §2(a)(1)(G), (2)(F), (5), added pars. (3) to (6).

Subsec. (b)(1). Pub. L. 93–568, §2(a)(1)(D), (2)(D), (6), (8)(A)–(C), (10)(A), in provisions preceding subpar. (A), substituted ''educational agency or institution which has a policy of permitting the release of education records (or personally identifiable information contained therein other than directory information, as defined in paragraph (5) of subsection (a) of this section)'' for ''state or local educational agency, any institution of higher education, any community college, any school, agency offering a preschool program, or any other educational institution which has a policy or practice of permitting the release of personally identifiable records or files (or personal information contained therein)'', in subpar. (A), substituted ''educational agency, who have been determined by such agency or institution to have'' for ''educational agency who have'', in subpar. (B), substituted ''the student seeks or intends to'' for ''the student intends to'', in subpar. (C), substituted reference to ''section 408(c)'' for reference to ''section 409 of this Act'' which for purposes of codification has been translated as ''section 1221e–3(c) of this title'', and added subpars. (E) to (I).

Subsec. (b)(2). Pub. L. 93–568, §2(a)(1)(E), (2)(E), substituted ''educational agency or institution which has a policy or practice of releasing, or providing access to, any personally identifiable information in education records other than directory information, or as is permitted under paragraph (1) of this subsection'' for ''state or local educational agency, any institution of higher education, any community college, any school, agency offering a preschool program, or any other educational institution which has a policy or practice of furnishing, in any form, any personally identifiable information contained in personal school records, to any persons other than those listed in subsection (b)(1) of this section''.

Subsec. (b)(3). Pub. L. 93–568, §2(a)(8)(D), substituted ''information is specifically authorized by Federal law, any data collected by such officials shall be protected in a manner which will not permit the personal identification of students and their parents by other than those officials, and such personally identifiable data shall be destroyed when no longer needed for such audit, evaluation, and enforcement of Federal legal requirements'' for ''data is specifically authorized by Federal law, any data collected by such officials with respect to individual students shall not include information (including social security numbers) which would permit the personal identification of such students or their parents after the data so obtained has been collected''.

Subsec. (b)(4). Pub. L. 93–568, §2(a)(9), substituted provisions that each educational agency or institution maintain a record, kept with the education records of each student, indicating individuals, agencies, or organizations who obtained access to the student's record and the legitimate interest in obtaining such information, that such record of access shall be available only to parents, school officials, and their assistants having responsibility for the custody of such records, and as a means of auditing the operation of the system, for provisions that with respect to subsecs. (c)(1), (c)(2), and (c)(3) of this section, all persons, agencies, or organizations desiring access to the records of a student shall be required to sign forms to be kept with the records of

the student, but only for inspection by the parents or the student, indicating specifically the legitimate educational or other interest of the person seeking such information, and that the form shall be available to parents and school officials having responsibility for record maintenance as a means of auditing the operation of the system.

Subsec. (e). Pub. L. 93–568, § 2(a)(1)(F), substituted ''to any educational agency or institution unless such agency or institution'' for ''unless the recipient of such funds''.

Subsec. (g). Pub. L. 93–568, § 2(a)(7), (10)(B), struck out reference to sections 1232c and 1232f of this title and inserted provisions that except for the conduct of hearings, none of the functions of the Secretary under this section shall be carried out in any of the regional offices of such Department.

EFFECTIVE DATE OF 1992 AMENDMENT

Section 1555(b) of Pub. L. 102–325 provided that: ''The amendment made by this section [amending this section] shall take effect on the date of enactment of this Act [July 23, 1992].''

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–46 effective Oct. 1, 1978, see section 8 of Pub. L. 96–46, set out as a note under section 930 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Section 2(b) of Pub. L. 93–568 provided that: ''The amendments made by subsection (a) [amending this section] shall be effective, and retroactive to, November 19, 1974.''

EFFECTIVE DATE

Section 513(b)(1) of Pub. L. 93–380 provided that: ''The provisions of this section [enacting this section and provisions set out as a note under section 1221 of this title] shall become effective ninety days after the date of enactment [Aug. 21, 1974] of section 438 [now 444] of the General Education Provisions Act [this section].''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1232i, 1417, 5917 of this title; title 8 section 1372; title 25 section 3205; title 42 section 11432.

§ 1232h. Protection of pupil rights

(a) Inspection of instructional materials by parents or guardians

All instructional materials, including teacher's manuals, films, tapes, or other supplementary material which will be used in connection with any survey, analysis, or evaluation as part of any applicable program shall be available for inspection by the parents or guardians of the children.

(b) Limits on survey, analysis, or evaluations

No student shall be required, as part of any applicable program, to submit to a survey, analysis, or evaluation that reveals information concerning—

(1) political affiliations;

(2) mental and psychological problems potentially embarrassing to the student or his family;

(3) sex behavior and attitudes;

(4) illegal, anti-social, self-incriminating and demeaning behavior;

(5) critical appraisals of other individuals with whom respondents have close family relationships;

(6) legally recognized privileged or analogous relationships, such as those of lawyers, physicians, and ministers; or

(7) income (other than that required by law to determine eligibility for participation in a program or for receiving financial assistance under such program),

without the prior consent of the student (if the student is an adult or emancipated minor), or in the case of an unemancipated minor, without the prior written consent of the parent.

(c) Notice

Educational agencies and institutions shall give parents and students effective notice of their rights under this section.

(d) Enforcement

The Secretary shall take such action as the Secretary determines appropriate to enforce this section, except that action to terminate assistance provided under an applicable program shall be taken only if the Secretary determines that—

(1) there has been a failure to comply with such section; and

(2) compliance with such section cannot be secured by voluntary means.

(e) Office and review board

The Secretary shall establish or designate an office and review board within the Department of Education to investigate, process, review, and adjudicate violations of the rights established under this section.

(Pub. L. 90–247, title IV, § 445, formerly § 439, as added Pub. L. 93–380, title V, § 514(a), Aug. 21, 1974, 88 Stat. 574; amended Pub. L. 95–561, title XII, § 1250, Nov. 1, 1978, 92 Stat. 2355; Pub. L. 103–227, title X, § 1017, Mar. 31, 1994, 108 Stat. 268; renumbered § 445, Pub. L. 103–382, title II, § 212(b)(1), Oct. 20, 1994, 108 Stat. 3913.)

PRIOR PROVISIONS

A prior section 445 of Pub. L. 90–247 was classified to section 1233d of this title prior to repeal by Pub. L. 103–382.

AMENDMENTS

1994—Pub. L. 103–227 amended section generally, substituting in subsec. (a), provisions relating to inspection of instructional materials by parents or guardians for similar provisions, in subsec. (b), provisions relating to limits on survey, analysis, or evaluations for provisions relating to psychiatric or psychological examinations, testing, or treatment, and adding subsecs. (c) to (e).

1978—Pub. L. 95–561 designated existing provisions as subsec. (a) and added subsec. (b).

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–561 effective Oct. 1, 1978, see section 1530(a) of Pub. L. 95–561, set out as a note under section 1221e–3 of this title.

EFFECTIVE DATE

Section 514(b) of Pub. L. 93–380 provided that: ''The amendment made by subsection (a) [enacting this section] shall be effective upon enactment of this Act [Aug. 21, 1974].''

§ 1232i. Limitations on withholding of Federal assistance

(a) Refusal to supply personal data on students or families

Except as provided in section 1232g(b)(1)(D) of this title, the refusal of a State or local edu-

cational agency or institution of higher education, community college, school, agency offering a preschool program, or other educational institution to provide personally identifiable data on students or their families, as a part of any applicable program, to any Federal office, agency, department, or other third party, on the grounds that it constitutes a violation of the right to privacy and confidentiality of students or their parents, shall not constitute sufficient grounds for the suspension or termination of Federal assistance. Such a refusal shall also not constitute sufficient grounds for a denial of, a refusal to consider, or a delay in the consideration of, funding for such a recipient in succeeding fiscal years. In the case of any dispute arising under this section, reasonable notice and opportunity for a hearing shall be afforded the applicant.

(b) Noncompliance with nondiscrimination provisions of Federal law

The extension of Federal financial assistance to a local educational agency may not be limited, deferred, or terminated by the Secretary on the ground of noncompliance with title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.] or any other nondiscrimination provision of Federal law unless such agency is accorded the right of due process of law, which shall include—

(1) at least 30 days prior written notice of deferral to the agency, setting forth the particular program or programs which the Secretary finds to be operated in noncompliance with a specific provision of Federal law;

(2) the opportunity for a hearing on the record before a duly appointed administrative law judge within a 60-day period (unless such period is extended by mutual consent of the Secretary and such agency) from the commencement of any deferral;

(3) the conclusion of such hearing and the rendering of a decision on the merits by the administrative law judge within a period not to exceed 90 days from the commencement of such hearing, unless the judge finds by a decision that such hearing cannot be concluded or such decision cannot be rendered within such period, in which case such judge may extend such period for not to exceed 60 additional days;

(4) the limitation of any deferral of Federal financial assistance which may be imposed by the Secretary to a period not to exceed 15 days after the rendering of such decision unless there has been an express finding on such record that such agency has failed to comply with any such nondiscrimination provision of Federal law; and

(5) procedures, which shall be established by the Secretary, to ensure the availability of sufficient funds, without regard to any fiscal year limitations, to comply with the decision of such judge.

(c) Failure to comply with imposition of quotas

It shall be unlawful for the Secretary to defer or limit any Federal financial assistance on the basis of any failure to comply with the imposition of quotas (or any other numerical requirements which have the effect of imposing quotas) on the student admission practices of an institution of higher education or community college receiving Federal financial assistance.

(Pub. L. 90–247, title IV, §446, formerly §440, as added Pub. L. 93–380, title V, §515(a), Aug. 21, 1974, 88 Stat. 574; amended Pub. L. 94–482, title IV, §§407, 408, Oct. 12, 1976, 90 Stat. 2232, 2233; renumbered §446 and amended Pub. L. 103–382, title II, §212(b)(1), (3)(C), Oct. 20, 1994, 108 Stat. 3913.)

REFERENCES IN TEXT

The Civil Rights Act of 1964, referred to in subsec. (b), is Pub. L. 88–352, July 2, 1964, 78 Stat. 241, as amended. Title VI of the Civil Rights Act of 1964 is classified generally to subchapter V (§2000d et seq.) of chapter 21 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of this title and Tables.

PRIOR PROVISIONS

A prior section 446 of Pub. L. 90–247 was classified to section 1233e of this title prior to repeal by Pub. L. 103–382.

Prior sections 1233 to 1233h comprising a former subchapter IV of this chapter were repealed by Pub. L. 103–382, title II, §212(a)(2), Oct. 20, 1994, 108 Stat. 3913.

Section 1233, Pub. L. 90–247, title IV, §441, formerly §431, as added Pub. L. 91–230, title IV, §401(a)(10), Apr. 13, 1970, 84 Stat. 170; renumbered §441, Pub. L. 92–318, title III, §301(a)(1), June 23, 1972, 86 Stat. 326; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, defined terms for purposes of former subchapter IV of this chapter.

Section 1233a, Pub. L. 90–247, title IV, §442, formerly §432, as added Pub. L. 91–230, title IV, §401(a)(10), Apr. 13, 1970, 84 Stat. 171; renumbered §442, Pub. L. 92–318, title III, §301(a)(1), June 23, 1972, 86 Stat. 326; amended Pub. L. 96–88, title III, §301(a)(1), (b)(2), title V, §507, Oct. 17, 1979, 93 Stat. 677, 678, 692, authorized Secretary to establish necessary advisory councils.

Section 1233b, Pub. L. 90–247, title IV, §443, formerly §433, as added Pub. L. 91–230, title IV, §401(a)(10), Apr. 13, 1970, 84 Stat. 171; renumbered §443, Pub. L. 92–318, title III, §301(a)(1), June 23, 1972, 86 Stat. 326; amended Pub. L. 93–380, title V, §516(a), Aug. 21, 1974, 88 Stat. 575; Pub. L. 94–482, title IV, §411, title V, §501(a)(10), Oct. 12, 1976, 90 Stat. 2234, 2235; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to statutory advisory councils.

Section 1233c, Pub. L. 90–247, title IV, §444, formerly §434, as added Pub. L. 91–230, title IV, §401(a)(10), Apr. 13, 1970, 84 Stat. 171; renumbered §444, Pub. L. 92–318, title III, §301(a)(1), June 23, 1972, 86 Stat. 326; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to compensation and travel expenses of members of advisory councils.

Section 1233d, Pub. L. 90–247, title IV, §445, formerly §435, as added Pub. L. 91–230, title IV, §401(a)(10), Apr. 13, 1970, 84 Stat. 171; renumbered §445, Pub. L. 92–318, title III, §301(a)(1), June 23, 1972, 86 Stat. 326; amended Pub. L. 93–380, title V, §517(a), Aug. 21, 1974, 88 Stat. 575; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to professional, technical, and clerical staff of advisory councils.

Section 1233e, Pub. L. 90–247, title IV, §446, formerly §436, as added Pub. L. 91–230, title IV, §401(a)(10), Apr. 13, 1970, 84 Stat. 172; renumbered §446, Pub. L. 92–318, title III, §301(a)(1), June 23, 1972, 86 Stat. 326; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to advisory council meetings.

Section 1233f, Pub. L. 90–247, title IV, §447, formerly §437, as added Pub. L. 91–230, title IV, §401(a)(10), Apr. 13, 1970, 84 Stat. 172; renumbered §447, Pub. L. 92–318, title III, §301(a)(1), June 23, 1972, 86 Stat. 326; amended Pub. L. 93–380, title V, §517(b), Aug. 21, 1974, 88 Stat. 575; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to auditing and review of advisory council activities.

Section 1233g, Pub. L. 90–247, title IV, § 448, formerly § 438, as added Pub. L. 91–230, title IV, § 401(a)(10), Apr. 13, 1970, 84 Stat. 172; renumbered § 448, Pub. L. 92–318, title III, § 301(a)(1), June 23, 1972, 86 Stat. 326; amended S. Res. 4, Feb. 4, 1977; Pub. L. 95–43, § 1(d), June 15, 1977, 91 Stat. 219; S. Res. 30, Mar. 7, 1979; Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692; Pub. L. 103–437, § 7(a)(1), Nov. 2, 1994, 108 Stat. 4587, related to reports by Secretary.

Section 1233h, Pub. L. 90–247, title IV, § 449, as added Pub. L. 93–380, title V, § 518(a), Aug. 21, 1974, 88 Stat. 575, related to application of other laws to advisory councils under former subchapter IV of this chapter.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–382, § 212(b)(3)(C), made technical amendment to reference to section 1232g(b)(1)(D) of this title to reflect renumbering of corresponding section of original act.

1976—Pub. L. 94–482 designated existing provisions as subsec. (a) and added subsecs. (b) and (c).

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–482 effective 30 days after Oct. 12, 1976, except either as specifically otherwise provided or, if not so specifically otherwise provided, effective July 1, 1976, for those amendments providing for authorization of appropriations, see section 532 of Pub. L. 94–482, set out as a note under section 1001 of this title.

EFFECTIVE DATE

Section 515(b) of Pub. L. 93–380 provided that: ''The amendment made by subsection (a) [enacting this section] shall be effective upon enactment of this Act [Aug. 21, 1974].''

SUBCHAPTER IV—ENFORCEMENT

PRIOR PROVISIONS

A prior subchapter IV, consisting of sections 1233 to 1233h, was repealed by Pub. L. 103–382, title II, § 212(a)(2), Oct. 20, 1994, 108 Stat. 3913. See note set out under section 1232i of this title.

AMENDMENTS

1994—Pub. L. 103–382, title II, § 212(b)(2), Oct. 20, 1994, 108 Stat. 3913, redesignated subchapter V of this chapter as this subchapter.

§ 1234. Office of Administrative Law Judges

(a) Establishment; duties

The Secretary shall establish in the Department of Education an Office of Administrative Law Judges (hereinafter in this subchapter referred to as the ''Office'') which shall conduct—

(1) recovery of funds hearings pursuant to section 1234a of this title,

(2) withholding hearings pursuant to section 1234d of this title,

(3) cease and desist hearings pursuant to section 1234e of this title, and

(4) other proceedings designated by the Secretary.

(b) Appointment

The administrative law judges (hereinafter ''judges'') of the Office shall be appointed by the Secretary in accordance with section 3105 of title 5.

(c) Employment requirements; chief judge

The judges shall be officers or employees of the Department. The judges shall meet the requirements imposed for administrative law judges pursuant to section 3105 of title 5. In choosing among equally qualified candidates for such positions the Secretary shall give favorable consideration to the candidates' experience in State or local educational agencies and their knowledge of the workings of Federal education programs in such agencies. The Secretary shall designate one of the judges of the Office to be the chief judge.

(d) Assignment of judges

For the purposes of conducting hearings described in subsection (a) of this section, the chief judge shall assign a judge to each case or class of cases. A judge shall be disqualified in any case in which the judge has a substantial interest, has been of counsel, is or has been a material witness, or is so related to or connected with any party or the party's attorney as to make it improper for the judge to be assigned to the case.

(e) Review and evidentiary functions

The judge shall review and may require that evidence be taken on the sufficiency of the preliminary departmental determination as set forth in section 1234a of this title.

(f) Conduct of proceedings; costs and fees of parties

(1) The proceedings of the Office shall be conducted according to such rules as the Secretary shall prescribe by regulation in conformance with the rules relating to hearings in title 5, sections 554, 556, and 557.

(2) The provisions of title 5, section 504, relating to costs and fees of parties, shall apply to the proceedings before the Department.

(g) Discovery; scope, time, etc.; issue and enforcement of subpoenas

(1) In order to secure a fair, expeditious, and economical resolution of cases and where the judge determines that the discovered information is likely to elicit relevant information with respect to an issue in the case, is not sought primarily for the purposes of delay or harassment, and would serve the ends of justice, the judge may order a party to—

(A) produce relevant documents;

(B) answer written interrogatories that inquire into relevant matters; and

(C) have depositions taken.

The judge shall set a time limit of 90 days on the discovery period. The judge may extend this period for good cause shown. At the request of any party, the judge may establish a specific schedule for the conduct of discovery.

(2) In order to carry out the provisions of subsections (f)(1) and (g)(1) of this section, the judge is authorized to issue subpoenas and apply to the appropriate court of the United States for enforcement of a subpoena. The court may enforce the subpoena as if it pertained to a proceeding before that court.

(h) Mediation of disputes

The Secretary shall establish a process for the voluntary mediation of disputes pending before the Office. The mediator shall be agreed to by all parties involved in mediation and shall be independent of the parties to the dispute. In the

mediation of disputes the Secretary shall consider mitigating circumstances and proportion of harm pursuant to section 1234b of this title. In accordance with rule 408 of the Federal Rules of Evidence, evidence of conduct or statements made in compromise negotiations shall not be admissible in proceedings before the Office. Mediation shall be limited to 120 days, except that the mediator may grant extensions of such period.

(i) Professional personnel; employment, assignment, or transfer

The Secretary shall employ, assign, or transfer sufficient professional personnel, including judges of the Office, to ensure that all matters brought before the Office may be dealt with in a timely manner.

(Pub. L. 90–247, title IV, § 451, as added Pub. L. 95–561, title XII, § 1232, Nov. 1, 1978, 92 Stat. 2346; amended Pub. L. 100–297, title III, § 3501(a), Apr. 28, 1988, 102 Stat. 349.)

REFERENCES IN TEXT

The Federal Rules of Evidence, referred to in subsec. (h), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

AMENDMENTS

1988—Pub. L. 100–297 amended section generally, substituting provisions relating to Office of Administrative Law Judges for provisions relating to Education Appeal Board.

EFFECTIVE DATE OF 1988 AMENDMENT

Section 3501(b) of Pub. L. 100–297 provided that:

''(1) Except as provided in paragraph (2), the amendments made by this section [enacting sections 1234f to 1234i of this title and amending this section and sections 1232d and 1234a to 1234e of this title] shall be effective 180 days after the date of enactment of this Act [Apr. 28, 1988].

''(2) The amendments made by this part [part D (§ 3501) of title III of Pub. L. 100–297, enacting sections 1234f to 1234i of this title and amending this section and sections 1232d and 1234a to 1234e of this title] shall not apply to any case in which the recipient, prior to the effective date of this part, received a written notice that such recipient must return funds to the Department.''

EFFECTIVE DATE

Subchapter effective 120 days after Nov. 1, 1978, see section 1261 of Pub. L. 95–561, set out as a note under section 1232c of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1234d of this title.

§ 1234a. Recovery of funds

(a) Preliminary departmental decision; grounds of determination; notice requirements; prima facie case; amount of funds recoverable

(1) Whenever the Secretary determines that a recipient of a grant or cooperative agreement under an applicable program must return funds because the recipient has made an expenditure of funds that is not allowable under that grant or cooperative agreement, or has otherwise failed to discharge its obligation to account properly for funds under the grant or cooperative agreement, the Secretary shall give the recipient written notice of a preliminary departmental decision and notify the recipient of its right to have that decision reviewed by the Office and of its right to request mediation.

(2) In a preliminary departmental decision, the Secretary shall have the burden of establishing a prima facie case for the recovery of funds, including an analysis reflecting the value of the program services actually obtained in a determination of harm to the Federal interest. The facts to serve as the basis of the preliminary departmental decision may come from an audit report, an investigative report, a monitoring report, or other evidence. The amount of funds to be recovered shall be determined on the basis of section 1234b of this title.

(3) For the purpose of paragraph (2), failure by a recipient to maintain records required by law, or to allow the Secretary access to such records, shall constitute a prima facie case.

(b) Review of preliminary departmental decision; form and contents of application for review; inadequate preliminary decisions; duties of recipient to subrecipients after preliminary decision; burden of proof

(1) A recipient that has received written notice of a preliminary departmental decision and that desires to have such decision reviewed by the Office shall submit to the Office an application for review not later than 60 days after receipt of notice of the preliminary departmental decision. The application shall be in the form and contain the information specified by the Office. As expeditiously as possible, the Office shall return to the Secretary for such action as the Secretary considers appropriate any preliminary departmental decision which the Office determines does not meet the requirements of subsection (a)(2) of this section.

(2) In cases where the preliminary departmental decision requests a recovery of funds from a State recipient, that State recipient may not recover funds from an affected local educational agency unless that State recipient has—

(A) transmitted a copy of the preliminary departmental decision to any affected subrecipient within 10 days of the date that the State recipient in a State administered program received such written notice; and

(B) consulted with each affected subrecipient to determine whether the State recipient should submit an application for review under paragraph (1).

(3) In any proceeding before the Office under this section, the burden shall be upon the recipient to demonstrate that it should not be required to return the amount of funds for which recovery is sought in the preliminary departmental decision under subsection (a) of this section.

(c) Time for hearing

A hearing shall be set 90 days after receipt of a request for review of a preliminary departmental decision by the Office, except that such 90-day requirement may be waived at the discretion of the judge for good cause.

(d) Review of findings of fact in preliminary decision; conclusiveness; remand; new or modified findings

(1) Upon review of a decision of the Office by the Secretary, the findings of fact by the Office, if supported by substantial evidence, shall be conclusive. However, the Secretary, for good cause shown, may remand the case to the Office to take further evidence, and the Office may thereupon make new or modified findings of fact and may modify its previous action. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(2) During the conduct of such review, there shall not be any ex parte contact between the Secretary and individuals representing the Department or the recipient.

(e) Time for filing petition for review of preliminary decision

Parties to the proceeding shall have 30 days to file a petition for review of a decision of the administrative law judges with the Office of the Secretary.

(f) Stay of collection or other adverse action by Secretary against recipient

(1) If a recipient submits a timely application for review of a preliminary departmental decision, the Secretary shall take no collection action until the decision of the Office upholding the preliminary Department decision in whole or in part becomes final agency action under subsection (g) of this section.

(2) If a recipient files a timely petition for judicial review under section 1234g of this title, the Secretary shall take no collection action until judicial review is completed.

(3) The filing of an application for review under paragraph (1) or a petition for judicial review under paragraph (2) shall not affect the authority of the Secretary to take any other adverse action under this subchapter against the recipient.

(g) Preliminary decision as final agency action

A decision of the Office regarding the review of a preliminary departmental decision shall become final agency action 60 days after the recipient receives written notice of the decision unless the Secretary either—

(1) modifies or sets aside the decision, in whole or in part, in which case the decision of the Secretary shall become final agency action when the recipient receives written notice of the Secretary's action, or

(2) remands the decision to the Office.

(h) Publication of decisions as final agency actions

The Secretary shall publish decisions that have become final agency action under subsection (g) of this section in the Federal Register or in another appropriate publication within 60 days.

(i) Collection amounts and procedures

The amount of a preliminary departmental decision under subsection (a) of this section for which review has not been requested in accordance with subsection (b) of this section, and the amount sustained by a decision of the Office or the Secretary which becomes final agency action under subsection (g) of this section, may be collected by the Secretary in accordance with chapter 37 of title 31.

(j) Compromise of preliminary departmental decisions; preconditions; notice requirements

(1) Notwithstanding any other provision of law, the Secretary may, subject to the notice requirements of paragraph (2), compromise any preliminary departmental decision under this section which does not exceed the amount agreed to be returned by more than $200,000, if the Secretary determines that (A) the collection of any or all or the amount thereof would not be practical or in the public interest, and (B) the practice which resulted in the preliminary departmental decision has been corrected and will not recur.

(2) Not less than 45 days prior to the exercise of the authority to compromise a preliminary departmental decision pursuant to paragraph (1), the Secretary shall publish in the Federal Register a notice of intention to do so. The notice shall provide interested persons an opportunity to comment on any proposed action under this subsection through the submission of written data, views, or arguments.

(k) Limitation period respecting return of funds

No recipient under an applicable program shall be liable to return funds which were expended in a manner not authorized by law more than 5 years before the recipient received written notice of a preliminary departmental decision.

***(l)* Foregoing of interest during period of administrative review**

No interest shall be charged arising from a claim during the administrative review of the preliminary departmental decision.

(Pub. L. 90–247, title IV, § 452, as added Pub. L. 95–561, title XII, § 1232, Nov. 1, 1978, 92 Stat. 2347; amended Pub. L. 100–297, title III, § 3501(a), Apr. 28, 1988, 102 Stat. 350; Pub. L. 103–382, title II, § 250(a), Oct. 20, 1994, 108 Stat. 3926.)

AMENDMENTS

1994—Subsec. (a)(2). Pub. L. 103–382, § 250(a)(1), substituted ''establishing a prima facie case for the recovery of funds, including an analysis reflecting the value of the program services actually obtained in a determination of harm to the Federal interest.'' for ''stating a prima facie case for the recovery of funds.''

Subsec. (b)(1). Pub. L. 103–382, § 250(a)(2), substituted ''60 days'' for ''30 days''.

Subsec. (d). Pub. L. 103–382, § 250(a)(3), designated existing provisions as par. (1) and added par. (2).

1988—Pub. L. 100–297 amended section generally, substituting provisions relating to recovery of funds for provisions relating to audit determinations.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–297 effective 180 days after Apr. 28, 1988, but not applicable to recipients receiving written notice to return funds prior to that date, see section 3501(b) of Pub. L. 100–297, set out as a note under section 1234 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1234, 1234c, 1234g, 1234h of this title.

§ 1234b. Measure of recovery

(a) Amount returned proportionate to extent of harm violation caused to an identifiable Federal interest; reduction; determination of identifiable Federal interest

(1) A recipient determined to have made an unallowable expenditure, or to have otherwise failed to discharge its responsibility to account properly for funds, shall be required to return funds in an amount that is proportionate to the extent of the harm its violation caused to an identifiable Federal interest associated with the program under which the recipient received the award. Such amount shall be reduced in whole or in part by an amount that is proportionate to the extent the mitigating circumstances caused the violation.

(2) For the purpose of paragraph (1), an identifiable Federal interest includes, but is not limited to, serving only eligible beneficiaries; providing only authorized services or benefits; complying with expenditure requirements and conditions (such as set-aside, excess cost, maintenance of effort, comparability, supplement-not-supplant, and matching requirements); preserving the integrity of planning, application, recordkeeping, and reporting requirements; and maintaining accountability for the use of funds.

(b) Reduction or waiver of amount based on mitigating circumstances; burden of proof; determination of mitigating circumstances; weight, etc., of written request for guidance

(1) When a State or local educational agency is determined to have made an unallowable expenditure, or to have otherwise failed to discharge its responsibility to account properly for funds, and mitigating circumstances exist, as described in paragraph (2), the judge shall reduce such amount by an amount that is proportionate to the extent the mitigating circumstances caused the violation. Furthermore, the judge is authorized to determine that no recovery is justified when mitigating circumstances warrant. The burden of demonstrating the existence of mitigating circumstances shall be upon the State or local educational agency.

(2) For the purpose of paragraph (1), mitigating circumstances exist only when it would be unjust to compel the recovery of funds because the State or local educational agency—

(A) actually and reasonably relied upon erroneous written guidance provided by the Department;

(B) made an expenditure or engaged in a practice after—

(i) the State or local educational agency submitted to the Secretary, in good faith, a written request for guidance with respect to the expenditure or practice at issue, and

(ii) a Department official did not respond within 90 days of receipt by the Department of such request; or

(C) actually and reasonably relied upon a judicial decree issued to the recipient.

(3) A written request for guidance as described in paragraph (2) sent by certified mail (return receipt requested) shall be conclusive proof of receipt by the Department.

(4) If the Secretary responds to a written request for guidance described in paragraph (2)(B) more than 90 days after its receipt, the State or local educational agency that submitted the request shall comply with the guidance received at the earliest practicable time.

(5) In order to demonstrate the existence of the mitigating circumstances described in paragraph (2)(B), the State or local educational agency shall demonstrate that—

(A) the written request for guidance accurately described the proposed expenditure or practice and included the facts necessary for a determination of its legality; and

(B) the written request for guidance contained a certification by the chief legal officer of the State educational agency that such officer had examined the proposed expenditure or practice and believed the proposed expenditure or practice was permissible under then applicable State and Federal law; and

(C) the State or local educational agency reasonably believed that the proposed expenditure or practice was permissible under then applicable State and Federal law.

(6) The Secretary shall disseminate to State educational agencies responses to written requests for guidance, described in paragraph (5), that reflect significant interpretations of applicable law or policy.

(c) Review of written requests for guidance on periodic basis

The Secretary shall periodically review the written requests for guidance submitted under this section to determine the need for new or supplementary regulatory or other guidance under applicable programs.

(Pub. L. 90–247, title IV, § 453, as added Pub. L. 95–561, title XII, § 1232, Nov. 1, 1978, 92 Stat. 2349; amended Pub. L. 100–297, title III, § 3501(a), Apr. 28, 1988, 102 Stat. 353.)

AMENDMENTS

1988—Pub. L. 100–297 amended section generally, substituting provisions relating to measure of recovery for provisions relating to withholdings. See section 1234d of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–297 effective 180 days after Apr. 28, 1988, but not applicable to recipients receiving written notice to return funds prior to that date, see section 3501(b) of Pub. L. 100–297, set out as a note under section 1234 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1234a of this title.

§ 1234c. Remedies for existing violations

(a) Whenever the Secretary has reason to believe that any recipient of funds under any applicable program is failing to comply substantially with any requirement of law applicable to such funds, the Secretary may—

(1) withhold further payments under that program, as authorized by section 1234d of this title;

(2) issue a complaint to compel compliance through a cease and desist order of the Office, as authorized by section 1234e of this title;

(3) enter into a compliance agreement with a recipient to bring it into compliance, as authorized by section 1234f of this title; or

(4) take any other action authorized by law with respect to the recipient.

(b) Any action, or failure to take action, by the Secretary under this section shall not preclude the Secretary from seeking a recovery of funds under section 1234a of this title.

(Pub. L. 90–247, title IV, § 454, as added Pub. L. 95–561, title XII, § 1232, Nov. 1, 1978, 92 Stat. 2349; amended Pub. L. 100–297, title III, § 3501(a), Apr. 28, 1988, 102 Stat. 354.)

AMENDMENTS

1988—Pub. L. 100–297 amended section generally, substituting provisions relating to remedies for existing violations for provisions relating to cease and desist orders. See section 1234e of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–297 effective 180 days after Apr. 28, 1988, but not applicable to recipients receiving written notice to return funds prior to that date, see section 3501(b) of Pub. L. 100–297, set out as a note under section 1234 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1234d, 1234e, 1234f of this title.

§ 1234d. Withholding

(a) Discretionary authority over further payments under applicable program

In accordance with section 1234c of this title, the Secretary may withhold from a recipient, in whole or in part, further payments (including payments for administrative costs) under an applicable program.

(b) Notice requirements

Before withholding payments, the Secretary shall notify the recipient, in writing, of—

(1) the intent to withhold payments;

(2) the factual and legal basis for the Secretary's belief that the recipient has failed to comply substantially with a requirement of law; and

(3) an opportunity for a hearing to be held on a date at least 30 days after the notification has been sent to the recipient.

(c) Hearing

The hearing shall be held before the Office and shall be conducted in accordance with the rules prescribed pursuant to subsections (f) and (g) of section 1234 of this title.

(d) Suspension of payments, authorities, etc.

Pending the outcome of any hearing under this section, the Secretary may suspend payments to a recipient, suspend the authority of the recipient to obligate Federal funds, or both, after such recipient has been given reasonable notice and an opportunity to show cause why future payments or authority to obligate Federal funds should not be suspended.

(e) Findings of fact

Upon review of a decision of the Office by the Secretary, the findings of fact by the Office, if supported by substantial evidence, shall be conclusive. However, the Secretary, for good cause shown, may remand the case to the Office to take further evidence, and the Office may thereupon make new or modified findings of fact and may modify its previous action. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(f) Final agency action

The decision of the Office in any hearing under this section shall become final agency action 60 days after the recipient receives written notice of the decision unless the Secretary either—

(1) modifies or sets aside the decision, in whole or in part, in which case the decision of the Secretary shall become final agency action when the recipient receives written notice of the Secretary's action; or

(2) remands the decision of the Office.

(Pub. L. 90–247, title IV, § 455, as added Pub. L. 95–561, title XII, § 1232, Nov. 1, 1978, 92 Stat. 2350; amended Pub. L. 100–297, title III, § 3501(a), Apr. 28, 1988, 102 Stat. 354.)

AMENDMENTS

1988—Pub. L. 100–297 amended section generally, substituting provisions relating to withholding for provisions relating to judicial review. See section 1234g of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–297 effective 180 days after Apr. 28, 1988, but not applicable to recipients receiving written notice to return funds prior to that date, see section 3501(b) of Pub. L. 100–297, set out as a note under section 1234 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1234, 1234c, 1234g of this title.

§ 1234e. Cease and desist orders

(a) Issuance and contents of complaint

In accordance with section 1234c of this title, the Secretary may issue to a recipient under an applicable program a complaint which—

(1) describes the factual and legal basis for the Secretary's belief that the recipient is failing to comply substantially with a requirement of law; and

(2) contains a notice of a hearing to be held before the Office on a date at least 30 days after the service of the complaint.

(b) Appearance contesting order

The recipient upon which a complaint has been served shall have the right to appear before the Office on the date specified and to show cause why an order should not be entered by the Office requiring the recipient to cease and desist from the violation of law charged in the complaint.

(c) Report; issuance of cease and desist order

The testimony in any hearing held under this section shall be reduced to writing and filed with the Office. If upon that hearing the Office is of the opinion that the recipient is in violation of any requirement of law as charged in the complaint, the Office shall—

(1) make a report in writing stating its findings of fact; and

(2) issue to the recipient an order requiring the recipient to cease and desist from the practice, policy, or procedure which resulted in the violation.

(d) Report and order as final agency action

The report and order of the Office under this section shall become the final agency action when the recipient receives the report and order.

(e) Enforcement of final order

The Secretary may enforce a final order of the Office under this section which becomes final agency action by—

(1) withholding from the recipient any portion of the amount payable to it, including the amount payable for administrative costs, under the applicable program; or

(2) certifying the facts to the Attorney General who shall cause an appropriate proceeding to be brought for the enforcement of the order.

(Pub. L. 90–247, title IV, § 456, as added Pub. L. 95–561, title XII, § 1232, Nov. 1, 1978, 92 Stat. 2351; amended Pub. L. 100–297, title III, § 3501(a), Apr. 28, 1988, 102 Stat. 355.)

AMENDMENTS

1988—Pub. L. 100–297 amended section generally, substituting provisions relating to cease and desist orders for provisions relating to use of recovered funds. See section 1234h of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–297 effective 180 days after Apr. 28, 1988, but not applicable to recipients receiving written notice to return funds prior to that date, see section 3501(b) of Pub. L. 100–297, set out as a note under section 1234 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1234, 1234c, 1234g of this title.

§ 1234f. Compliance agreements

(a) Discretionary authority; purposes of agreement

In accordance with section 1234c of this title, the Secretary may enter into a compliance agreement with a recipient under an applicable program. The purpose of any compliance agreement under this section shall be to bring the recipient into full compliance with the applicable requirements of law as soon as feasible and not to excuse or remedy past violations of such requirements.

(b) Procedures applicable

(1) Before entering into a compliance agreement with a recipient, the Secretary shall hold a hearing at which the recipient, affected students and parents or their representatives, and other interested parties are invited to participate. The recipient shall have the burden of persuading the Secretary that full compliance with the applicable requirements of law is not feasible until a future date.

(2) If the Secretary determines, on the basis of all the evidence presented, that full compliance is genuinely not feasible until a future date, the Secretary shall make written findings to that effect and shall publish those findings, along with the substance of any compliance agreement, in the Federal Register.

(c) Contents

A compliance agreement under this section shall contain—

(1) an expiration date not later than 3 years from the date of the written findings under subsection (b)(2) of this section, by which the recipient shall be in full compliance with the applicable requirements of law, and

(2) those terms and conditions with which the recipient must comply until it is in full compliance.

(d) Failure of recipient to comply with terms and conditions

If a recipient fails to comply with the terms and conditions of a compliance agreement under this section, the Secretary may consider that compliance agreement to be no longer in effect, and the Secretary may take any action authorized by law with respect to the recipient.

(Pub. L. 90–247, title IV, § 457, as added Pub. L. 100–297, title III, § 3501(a), Apr. 28, 1988, 102 Stat. 355.)

EFFECTIVE DATE

Section effective 180 days after Apr. 28, 1988, but not applicable to recipients receiving written notice to return funds prior to that date, see section 3501(b) of Pub. L. 100–297, set out as an Effective Date of 1988 Amendment note under section 1234 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1234c of this title.

§ 1234g. Judicial review

(a) Recipients entitled to review; stay of action by Secretary

Any recipient of funds under an applicable program that would be adversely affected by a final agency action under section 1234a, 1234d, or 1234e of this title, and any State entitled to receive funds under a program described in section 1232d(a) of this title whose application has been disapproved by the Secretary, shall be entitled to judicial review of such action in accordance with the provisions of this section. The Secretary may not take any action on the basis of a final agency action until judicial review is completed.

(b) Petition for review; filing of record

A recipient that desires judicial review of an action described in subsection (a) of this section shall, within 60 days of that action, file with the United States Court of Appeals for the circuit in which that recipient is located, a petition for review of such action. A copy of the petition shall be transmitted by the clerk of the court to the Secretary. The Secretary shall file in the court the record of the proceedings on which the action was based, as provided in section 2112 of title 28.

(c) Findings of fact

The findings of fact by the Office, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Office to take further evidence, and the Office may make new or modified findings of fact and may modify its previous action, and shall certify to the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(d) Scope of review; review by Supreme Court

The court shall have jurisdiction to affirm the action of the Office or the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28.

(Pub. L. 90–247, title IV, § 458, as added Pub. L. 100–297, title III, § 3501(a), Apr. 28, 1988, 102 Stat. 356; amended Pub. L. 103–382, title II, § 212(b)(3)(D), Oct. 20, 1994, 108 Stat. 3913.)

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–382 made technical amendment to reference to section 1232d(a) of this title to reflect renumbering of corresponding section of original act.

EFFECTIVE DATE

Section effective 180 days after Apr. 28, 1988, but not applicable to recipients receiving written notice to return funds prior to that date, see section 3501(b) of Pub. L. 100–297, set out as an Effective Date of 1988 Amendment note under section 1234 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1234a, 1234h of this title.

§ 1234h. Use of recovered funds

(a) Repayment to recipient; factors considered

Whenever the Secretary recovers funds paid to a recipient under a grant or cooperative agreement made under an applicable program because the recipient made an expenditure of funds that was not allowable, or otherwise failed to discharge its responsibility to account properly for funds, the Secretary may consider those funds to be additional funds available for that program and may arrange to repay to the recipient affected by that action an amount not to exceed 75 percent of the recovered funds if the Secretary determines that—

(1) the practices or procedures of the recipient that resulted in the violation of law have been corrected, and that the recipient is in all other respects in compliance with the requirements of that program, provided that the recipient was notified of any noncompliance with such requirements and given a reasonable period of time to remedy such noncompliance;

(2) the recipient has submitted to the Secretary a plan for the use of those funds pursuant to the requirements of that program and, to the extent possible, for the benefit of the population that was affected by the failure to comply or by the misuse of funds that resulted in the recovery; and

(3) the use of those funds in accordance with that plan would serve to achieve the purposes of the program under which the funds were originally paid.

(b) Terms and conditions of repayment

Any payments by the Secretary under this section shall be subject to such other terms and conditions as the Secretary considers necessary to accomplish the purposes of the affected programs, including—

(1) the submission of periodic reports on the use of funds provided under this section; and

(2) consultation by the recipient with students, parents, or representatives of the population that will benefit from the payments.

(c) Availability of funds

Notwithstanding any other provisions of law, the funds made available under this section shall remain available for expenditure for a period of time deemed reasonable by the Secretary, but in no case to exceed more than three fiscal years following the later of—

(1) the fiscal year in which final agency action under section 1234a(e) of this title is taken; or

(2) if such recipient files a petition for judicial review, the fiscal year in which final judicial action under section 1234g of this title is taken.

(d) Publication in Federal Register of notice of intent to enter into repayment arrangement

At least 30 days prior to entering into an arrangement under this section, the Secretary shall publish in the Federal Register a notice of intent to enter into such an arrangement and the terms and conditions under which payments will be made. Interested persons shall have an opportunity for at least 30 days to submit comments to the Secretary regarding the proposed arrangement.

(Pub. L. 90–247, title IV, § 459, as added Pub. L. 100–297, title III, § 3501(a), Apr. 28, 1988, 102 Stat. 356; amended Pub. L. 103–382, title II, § 250(b), Oct. 20, 1994, 108 Stat. 3927.)

AMENDMENTS

1994—Subsec. (a)(1). Pub. L. 103–382, § 250(b)(1), inserted before semicolon ‘‘, provided that the recipient was notified of any noncompliance with such requirements and given a reasonable period of time to remedy such noncompliance’’.

Subsec. (c). Pub. L. 103–382, § 250(b)(2), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: ‘‘Notwithstanding any other provisions of law, the funds made available under this section shall remain available for expenditure for a period of time deemed reasonable by the Secretary, but in no case to exceed more than 3 fiscal years following the fiscal year in which final agency action under section 1234a(e) of this title is taken.’’

EFFECTIVE DATE

Section effective 180 days after Apr. 28, 1988, but not applicable to recipients receiving written notice to return funds prior to that date, see section 3501(b) of Pub. L. 100–297, set out as an Effective Date of 1988 Amendment note under section 1234 of this title.

§ 1234i. Definitions

For purposes of this subchapter:

(1) The term ‘‘recipient’’ means a recipient of a grant or cooperative agreement under an applicable program.

(2) The term ‘‘applicable program’’ excludes programs authorized by the Higher Education Act of 1965 [20 U.S.C. 1001 et seq.] and assistance programs provided under the Act of September 30, 1950[1] (Public Law 874, 81st Congress), and the Act of September 23, 1950[1] (Public Law 815, 81st Congress).

(Pub. L. 90–247, title IV, § 460, as added Pub. L. 100–297, title III, § 3501(a), Apr. 28, 1988, 102 Stat. 357.)

[1] See References in Text note below.

REFERENCES IN TEXT

The Higher Education Act of 1965, referred to in par. (2), is Pub. L. 89–329, Nov. 8, 1965, 79 Stat. 1219, as amended, which is classified principally to chapter 28 (§ 1001 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

Act of September 30, 1950 (Public Law 874, 81st Congress), referred to in par. (2), is act Sept. 30, 1950, ch. 1124, 64 Stat. 1100, as amended, which was classified generally to chapter 13 (§ 236 et seq.) of this title prior to repeal by Pub. L. 103–382, title III, § 331(b), Oct. 20, 1994, 108 Stat. 3965. For complete classification of this Act to the Code, see Tables.

Act of September 23, 1950 (Public Law 815, 81st Congress), referred to in par. (2), is act Sept. 23, 1950, ch. 995, as amended generally by act Aug. 12, 1958, Pub. L. 85–620, title I, 72 Stat. 548, which was classified generally to chapter 19 (§ 631 et seq.) of this title prior to repeal by Pub. L. 103–382, title III, § 331(a), Oct. 20, 1994, 108 Stat. 3965. For complete classification of this Act to the Code, see Tables.

EFFECTIVE DATE

Section effective 180 days after Apr. 28, 1988, but not applicable to recipients receiving written notice to return funds prior to that date, see section 3501(b) of Pub. L. 100–297, set out as an Effective Date of 1988 Amendment note under section 1234 of this title.

SUBCHAPTER V—READY TO LEARN TELEVISION

CODIFICATION

This subchapter was classified to part G (§ 3161 et seq.) of subchapter IV of chapter 47 of this title prior to its renumbering by Pub. L. 103–252, title I, § 121(a)(1), May 18, 1994, 108 Stat. 649.

PRIOR PROVISIONS

A prior subchapter V, consisting of sections 1234 to 1234i, was renumbered subchapter IV by Pub. L. 103–382, title II, § 212(b)(2), Oct. 20, 1994, 108 Stat. 3913.

CROSS REFERENCE

For similar provisions related to ready-to-learn television, see section 6921 et seq. of this title.

§ 1235. Ready to learn

(a) In general

The Secretary of Education (hereafter referred to in this subchapter as the ''Secretary'') is authorized to enter into contracts, cooperative agreements, or grants with entities described in section 1235a(b) of this title to develop, produce, and distribute educational and instructional video programming for preschool and elementary school children and their parents in order to facilitate the achievement of the national education goals.

(b) Availability

In making such contracts, cooperative agreements, or grants, the Secretary shall ensure that recipients make programming widely available with support materials as appropriate to young children, their parents, child care workers, and Head Start providers to increase the effective use of such programming.

(Pub. L. 90–247, title IV, § 471, formerly Pub. L. 89–10, title IV, § 4701, as added Pub. L. 102–545, § 3, Oct. 27, 1992, 106 Stat. 3586; renumbered § 471 of Pub. L. 90–247 and amended Pub. L. 103–252, title I, § 121(a)(1), (2)(A), May 18, 1994, 108 Stat. 649.)

CODIFICATION

Section was formerly classified to section 3161 of this title prior to renumbering by Pub. L. 103–252.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–252, § 121(a)(2)(A), substituted ''Secretary of Education (hereafter referred to in this subchapter as the 'Secretary')'' for ''Secretary'' and ''1235a(b)'' for ''3161a(b)''.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–252 effective May 18, 1994, but not applicable to Head Start agencies and other recipients of financial assistance under the Head Start Act (42 U.S.C. 9831 et seq.) until Oct. 1, 1994, see section 127 of Pub. L. 103–252, set out as a note under section 9832 of Title 42, The Public Health and Welfare.

CONGRESSIONAL STATEMENT OF PURPOSE

Section 2 of Pub. L. 102–545 provided that: ''It is the purpose of this Act [enacting this subchapter] to—

''(1) expand the availability of educational and instructional video programming and supporting educational resources for preschool and elementary school children and their parents as a tool to improve school readiness and literacy; and

''(2) to develop and distribute educational and instructional video programming and support materials for parents, child care providers, and educators of young children.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1235c, 1235d of this title.

§ 1235a. Educational programming

(a) Awards

The Secretary shall award contracts, cooperative agreements, or grants to eligible entities to—

(1) facilitate the development directly or through contracts with producers of children and family educational television programming, educational programming for preschool and elementary school children, and accompanying support materials and services that promote the effective use of such programming; and

(2) contract with entities (such as public broadcasting entities and those funded under the Star Schools Assistance Act) in order that programs developed under this section are disseminated and distributed to the widest possible audience appropriate to be served by the programming by the most appropriate distribution technologies.

(b) Eligible entities

To be eligible to receive a contract, cooperative agreement, or grant under subsection (a) of this section, an entity shall be—

(1) a nonprofit entity (including public telecommunications entities) able to demonstrate a capacity for the development and distribution of educational and instructional television programming of high quality for preschool and elementary school children; and

(2) able to demonstrate a capacity to contract with the producers of children's television programming for the purpose of developing educational television programming of high quality for preschool and elementary school children.

(c) Cultural experiences

Programming developed under this section shall reflect the recognition of diverse cultural experiences and the needs and experiences of both boys and girls in engaging and preparing young children for schooling.

(Pub. L. 90–247, title IV, § 472, formerly Pub. L. 89–10, title IV, § 4702, as added Pub. L. 102–545, § 3, Oct. 27, 1992, 106 Stat. 3586; renumbered § 472 of Pub. L. 90–247 and amended Pub. L. 103–252, title I, § 121(a)(1), (b), May 18, 1994, 108 Stat. 649.)

REFERENCES IN TEXT

The Star Schools Assistance Act, referred to in subsec. (a)(2), probably means the Star Schools Program Assistance Act, title IX of Pub. L. 98–377, as added by Pub. L. 100–297, title II, § 2302, Apr. 28, 1988, 102 Stat. 320, which was classified generally to subchapter IX (§ 4081 et seq.) of chapter 52 of this title prior to repeal by Pub. L. 103–382, title III, § 364, Oct. 20, 1994, 108 Stat. 3975. See section 6891 et seq. of this title.

CODIFICATION

Section was formerly classified to section 3161a of this title prior to renumbering by Pub. L. 103–252.

AMENDMENTS

1994—Subsec. (b)(1). Pub. L. 103–252, § 121(b), substituted ''entity (including public telecommunications entities)'' for '', nongovernmental entity''.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–252 effective May 18, 1994, but not applicable to Head Start agencies and other recipients of financial assistance under the Head Start Act (42 U.S.C. 9831 et seq.) until Oct. 1, 1994, see section 127 of Pub. L. 103–252, set out as a note under section 9832 of Title 42, The Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1235, 1235d, 1235e, 1235f of this title.

§ 1235b. Duties of Secretary

The Secretary is authorized—

(1) to establish and administer a Special Projects of National Significance program to award contracts, cooperative agreements, or grants to public and nonprofit private entities, or local public television stations or such public television stations that are part of a consortium with one or more State educational agencies, local educational agencies, local schools, institutions of higher education, or community-based organizations of demonstrated effectiveness, for the purpose of—

(A) addressing the learning needs of young children in limited English proficient households, and developing appropriate educational and instructional television programming to foster the school readiness of such children;

(B) developing programming and support materials to increase family literacy skills among parents to assist parents in teaching their children and utilizing educational television programming to promote school readiness; and

(C) identifying, supporting, and enhancing the effective use and outreach of innovative programs that promote school readiness;

(2) to establish within the Department a clearinghouse to compile and provide information, referrals and model program materials and programming obtained or developed under this subchapter to parents, child care providers, and other appropriate individuals or entities to assist such individuals and entities in accessing programs and projects under this subchapter; and

(3) to develop and disseminate training materials, including—

(A) interactive programs and programs adaptable to distance learning technologies that are designed to enhance knowledge of children's social and cognitive skill development and positive adult-child interactions; and

(B) support materials to promote the effective use of materials developed under paragraph (2);

among parents, Head Start providers, in-home and center based day care providers, early childhood development personnel, and elementary school teachers, public libraries, and after school program personnel caring for preschool and elementary school children;

(4) coordinate activities with the Secretary of Health and Human Services in order to—

(A) maximize the utilization of quality educational programming by preschool and elementary school children, and make such programming widely available to federally funded programs serving such populations; and

(B) provide information to grantees of Federal programs that have major training components for early childhood development, including Head Start, Even Start, and State training activities funded under the Child Care Development Block Grant Act of 1990 [42 U.S.C. 9858 et seq.] regarding the availability and utilization of materials developed under paragraph (3) to enhance parent and child care provider skills in early childhood development and education.

(Pub. L. 90–247, title IV, § 473, formerly Pub. L. 89–10, title IV, § 4703, as added Pub. L. 102–545, § 3, Oct. 27, 1992, 106 Stat. 3587; renumbered § 473 of Pub. L. 90–247, Pub. L. 103–252, title I, § 121(a)(1), May 18, 1994, 108 Stat. 649.)

REFERENCES IN TEXT

The Child Care and Development Block Grant Act of 1990, referred to in par. (4)(B), is subchapter C (§ 658A et seq.) of chapter 8 of subtitle A of title VI of Pub. L. 97–35, as added by Pub. L. 101–508, title V, § 5082(2), Nov. 5, 1990, 104 Stat. 1388–236, as amended, which is classified generally to subchapter II–B (§ 9858 et seq.) of chapter 105 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 9801 of Title 42 and Tables.

CODIFICATION

Section was formerly classified to section 3161b of this title prior to renumbering by Pub. L. 103–252.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1235c, 1235d, 1235e of this title.

§ 1235c. Applications

Each eligible entity desiring a contract, cooperative agreement, or grant under section 1235

or 1235b of this title shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

(Pub. L. 90–247, title IV, § 474, formerly Pub. L. 89–10, title IV, § 4704, as added Pub. L. 102–545, § 3, Oct. 27, 1992, 106 Stat. 3588; renumbered § 474 of Pub. L. 90–247 and amended Pub. L. 103–252, title I, § 121(a)(1), (2)(B), May 18, 1994, 108 Stat. 649.)

CODIFICATION

Section was formerly classified to section 3161c of this title prior to renumbering by Pub. L. 103–252.

AMENDMENTS

1994—Pub. L. 103–252, § 121(a)(2)(B), substituted ''1235 or 1235b'' for ''3161 or 3161b''.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–252 effective May 18, 1994, but not applicable to Head Start agencies and other recipients of financial assistance under the Head Start Act (42 U.S.C. 9831 et seq.) until Oct. 1, 1994, see section 127 of Pub. L. 103–252, set out as a note under section 9832 of Title 42, The Public Health and Welfare.

§ 1235d. Reports and evaluation

(a) Annual report to Secretary

An entity receiving funds under section 1235 of this title shall prepare and submit to the Secretary an annual report which contains such information as the Secretary may require. At a minimum, the report shall describe the program activities undertaken with funds received under this section, including—

(1) the programming that has been developed directly or indirectly by the entity, and the target population of the programs developed;

(2) the support materials that have been developed to accompany the programming, and the method by which such materials are distributed to consumers and users of the programming;

(3) the means by which programming developed under this section has been distributed, including the distance learning technologies that have been utilized to make programming available and the geographic distribution achieved through such technologies; and

(4) the initiatives undertaken by the entity to develop public-private partnerships to secure non-Federal support for the development and distribution and broadcast of educational and instructional programming.

(b) Report to Congress

The Secretary shall prepare and submit to the relevant committees of Congress a biannual report which includes—

(1) a summary of the information made available under section 1235a(a) of this title;

(2) a description of the training materials made available under section 1235b(3) of this title, the manner in which outreach has been conducted to inform parents and child care providers of the availability of such materials, and the manner in which such materials have been distributed in accordance with such section.

(Pub. L. 90–247, title IV, § 475, formerly Pub. L. 89–10, title IV, § 4705, as added Pub. L. 102–545, § 3, Oct. 27, 1992, 106 Stat. 3588; renumbered § 475 of Pub. L. 90–247 and amended Pub. L. 103–252, title I, § 121(a)(1), (2)(C), May 18, 1994, 108 Stat. 649.)

CODIFICATION

Section was formerly classified to section 3161d of this title prior to renumbering by Pub. L. 103–252.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–252, § 121(a)(2)(C)(i), substituted ''1235'' for ''3161''.

Subsec. (b)(1). Pub. L. 103–252, § 121(a)(2)(C)(ii)(I), substituted ''1235a(a)'' for ''3161a(a)''.

Subsec. (b)(2). Pub. L. 103–252, § 121(a)(2)(C)(ii)(II), which directed the substitution of ''1235b(3)'' for ''3161b(3)'' in par. (1), was executed by making the substitution in par. (2) to reflect the probable intent of Congress.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–252 effective May 18, 1994, but not applicable to Head Start agencies and other recipients of financial assistance under the Head Start Act (42 U.S.C. 9831 et seq.) until Oct. 1, 1994, see section 127 of Pub. L. 103–252, set out as a note under section 9832 of Title 42, The Public Health and Welfare.

§ 1235e. Authorization of appropriations

(a) In general

There are authorized to be appropriated to carry out this subchapter, $30,000,000 for fiscal year 1995, and such sums as may be necessary for each of fiscal years 1996 and 1998. Not less than 60 percent of the amounts appropriated under this subsection for each fiscal year shall be used to carry out section 1235a[1] of this title.

(b) Special projects

Of the amount appropriated under subsection (1)[2] for each fiscal year, at least 10 percent of such amount shall be utilized in each such fiscal year for activities under section 1235b(1)(C) of this title.

(Pub. L. 90–247, title IV, § 476, formerly Pub. L. 89–10, title IV, § 4706, as added Pub. L. 102–545, § 3, Oct. 27, 1992, 106 Stat. 3589; renumbered § 476 of Pub. L. 90–247 and amended Pub. L. 103–252, title I, § 121(a)(1), (2)(D), (c), May 18, 1994, 108 Stat. 649.)

REFERENCES IN TEXT

Section 1235a of this title, referred to in subsec. (a), was in the original a reference to section 4702, meaning section 4702 of the Elementary and Secondary Education Act of 1965. Section 4702 of that Act was renumbered section 472 of the General Education Provisions Act by Pub. L. 103–252, title I, § 121(a)(1), May 18, 1994, 108 Stat. 649, and was transferred to section 1235a of this title.

CODIFICATION

Section was formerly classified to section 3161e of this title prior to renumbering by Pub. L. 103–252.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–252, § 121(c), substituted ''$30,000,000 for fiscal year 1995'' for ''$25,000,000 for fiscal year 1993'' and ''for each of fiscal years 1996 and 1998'' for ''for fiscal year 1994''.

Subsec. (b). Pub. L. 103–252, § 121(a)(2)(D), substituted ''1235b(1)(C)'' for ''3161b(1)(C)''.

[1] See References in Text note below.

[2] So in original. Probably should be subsection ''(a)''.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–252 effective May 18, 1994, but not applicable to Head Start agencies and other recipients of financial assistance under the Head Start Act (42 U.S.C. 9831 et seq.) until Oct. 1, 1994, see section 127 of Pub. L. 103–252, set out as a note under section 9832 of Title 42, The Public Health and Welfare.

§ 1235f. Administrative costs

With respect to the implementation of section 1235a[1] of this title, entities receiving a contract, cooperative agreement, or grant from the Secretary may use up to 5 percent of the amounts received under such section for the normal and customary expenses of administering the contract, cooperative agreement, or grant.

(Pub. L. 90–247, title IV, § 477, formerly Pub. L. 89–10, title IV, § 4707, as added Pub. L. 102–545, § 3, Oct. 27, 1992, 106 Stat. 3589; renumbered § 477 of Pub. L. 90–247, Pub. L. 103–252, title I, § 121(a)(1), May 18, 1994, 108 Stat. 649.)

REFERENCES IN TEXT

Section 1235a of this title, referred to in text, was in the original a reference to section 4702, meaning section 4702 of the Elementary and Secondary Education Act of 1965. Section 4702 of that Act was renumbered section 472 of the General Education Provisions Act by Pub. L. 103–252, title I, § 121(a)(1), May 18, 1994, 108 Stat. 649, and was transferred to section 1235a of this title.

CODIFICATION

Section was formerly classified to section 3161f of this title prior to renumbering by Pub. L. 103–252.

§ 1235g. "Distance learning" defined

For the purposes of this subchapter, the term ''distance learning'' means the transmission of educational or instructional programming to geographically dispersed individuals and groups via telecommunications.

(Pub. L. 90–247, title IV, § 478, formerly Pub. L. 89–10, title IV, § 4708, as added Pub. L. 102–545, § 3, Oct. 27, 1992, 106 Stat. 3589; renumbered § 478 of Pub. L. 90–247, Pub. L. 103–252, title I, § 121(a)(1), May 18, 1994, 108 Stat. 649.)

CODIFICATION

Section was formerly classified to section 3161g of this title prior to renumbering by Pub. L. 103–252.

CHAPTER 32—VOCATIONAL EDUCATION

CODIFICATION

The Vocational Education Act of 1963, Pub. L. 88–210, title I, as added Pub. L. 90–576, title I, Oct. 16, 1968, 82 Stat. 1064, formerly classified to this chapter, was completely amended and reorganized by the Education Amendments of 1976, Pub. L. 94–482, title II, § 202(a), Oct. 12, 1976, 90 Stat. 2169, and was classified to section 2301 et seq. of this title. For subsequent revision of Pub. L. 88–210 and redesignation as the Carl D. Perkins Vocational and Applied Technology Education Act, see note set out preceding section 2301 of this title.

§§ 1241 to 1244. Omitted

CODIFICATION

Section 1241, Pub. L. 88–210, title I, § 101, as added Pub. L. 90–576, title I, § 101(b), Oct. 16, 1968, 82 Stat. 1064, set forth Congressional declaration of purpose for vocational education assistance by Federal government.

Section 1242, Pub. L. 88–210, title I, § 102, as added Pub. L. 90–576, title I, § 101(b), Oct. 16, 1968, 82 Stat. 1064; amended Pub. L. 91–230, title VII, § 701, Apr. 13, 1970, 84 Stat. 188; Pub. L. 92–318, title II, § 201, June 23, 1972, 86 Stat. 325; Pub. L. 93–380, title VIII, § 841(a)(1), Aug. 21, 1974, 88 Stat. 606; Pub. L. 94–482, title II, § 201(a)–(c), Oct. 12, 1976, 90 Stat. 2168, authorized appropriations for vocational education assistance programs, etc.

Section 1243, Pub. L. 88–210, title I, § 103, as added Pub. L. 90–576, title I, § 101(b), Oct. 16, 1968, 82 Stat. 1065; amended Pub. L. 91–230, title VII, § 702, Apr. 13, 1970, 84 Stat. 189; Pub. L. 94–273, § 9(3), Apr. 21, 1976, 90 Stat. 378; Pub. L. 94–482, title II, § 201(d), Oct. 12, 1976, 90 Stat. 2168, set forth provisions relating to allotments among States of vocational education assistance.

Section 1244, Pub. L. 88–210, title I, § 104, as added Pub. L. 90–576, title I, § 101(b), Oct. 16, 1968, 82 Stat. 1066; amended Pub. L. 91–230, title IV, § 401(h)(6), title VII, § 703, Apr. 13, 1970, 84 Stat. 174, 189; Pub. L. 92–318, title II, § 209, title V, § 509(b), June 23, 1972, 86 Stat. 326, 353; Pub. L. 93–380, title VIII, §§ 841(a)(1)–(3), 845(g), Aug. 21, 1974, 88 Stat. 606, 607, 612; Pub. L. 93–567, title I, § 108, Dec. 31, 1974, 88 Stat. 1849; Pub. L. 94–273, § 3(13), Apr. 21, 1976, 90 Stat. 376; Pub. L. 94–482, title II, § 201(e), (f), Oct. 12, 1976, 90 Stat. 2168, authorized establishment of National and State Advisory Councils on Vocational Education and set forth provisions relating to membership, functions, etc., of such councils.

§§ 1245, 1246. Repealed. Pub. L. 91–230, title IV, § 401(f)(8), (g)(6), Apr. 13, 1970, 84 Stat. 174

Sections 1245, 1246, Pub. L. 88–210, title I, §§ 105, 106, as added Pub. L. 90–576, title I, § 101(b), Oct. 16, 1968, 82 Stat. 1069, prohibited Federal control of education (curriculum, program of instruction, administration, or personnel of any educational institution or school system), and related to labor standards requirement (prevailing wage rates), and were superseded by sections 1232a and 1232b of this title, respectively.

§§ 1247 to 1393f. Omitted

CODIFICATION

Section 1247, Pub. L. 88–210, title I, § 107, as added Pub. L. 90–576, title I, § 101(b), Oct. 16, 1968, 82 Stat. 1069, set forth limitations on payments for vocational education assistance.

Section 1248, Pub. L. 88–210, title I, § 108, as added Pub. L. 90–576, title I, § 101(b), Oct. 16, 1968, 82 Stat. 1069; amended Pub. L. 92–318, title II, § 202, June 23, 1972, 86 Stat. 325; Pub. L. 93–380, title VIII, § 841(a)(4), Aug. 21, 1974, 88 Stat. 607, defined ''vocational education'', ''area vocational education school'', ''school facilities'', ''construction''. ''Commissioner'', ''handicapped'', ''State'', ''State board'', ''local educational agency'', ''high school'', ''private vocational training institution'', ''Vocational Education Act of 1946'', ''supplementary vocational education Acts'', ''vocational training'', and ''postsecondary educational institution''.

Section 1261, Pub. L. 88–210, title I, § 121, as added Pub. L. 90–576, title I, § 101(b), Oct. 16, 1968, 82 Stat. 1072, authorized grants for State vocational education programs.

Section 1262, Pub. L. 88–210, title I, § 122, as added Pub. L. 90–576, title I, § 101(b), Oct. 16, 1968, 82 Stat. 1072; amended Pub. L. 93–380, title VIII, § 841(a)(1), (5), Aug. 21, 1974, 88 Stat. 606, 607, set forth authorized purposes for use of Federal grants for State vocational education programs.

Section 1263, Pub. L. 88–210, title I, § 123, as added Pub. L. 90–576, title I, § 101(b), Oct. 16, 1968, 82 Stat. 1073, set forth requirements for and procedures applicable to State plans.

Section 1264, Pub. L. 88–210, title I, § 124, as added Pub. L. 90–576, title I, § 101(b), Oct. 16, 1968, 82 Stat. 1078, set forth procedures applicable to payments to States for covered State vocational education programs.

Section 1281, Pub. L. 88–210, title I, § 131, as added Pub. L. 90–576, title I, § 101(b), Oct. 16, 1968, 82 Stat. 1078,

[1] See References in Text note below.

authorized grants and contracts for research and training in vocational education.

Section 1282, Pub. L. 88–210, title I, §132, as added Pub. L. 90–576, title I, §101(b), Oct. 16, 1968, 82 Stat. 1079, set forth authorized purposes for use of Federal funds in grants and contracts for research and training in vocational education.

Section 1283, Pub. L. 88–210, title I, §133, as added Pub. L. 90–576, title I, §101(b), Oct. 16, 1968, 82 Stat. 1079, set forth requirements for applications for grants and contracts for research and training in vocational education.

Section 1284, Pub. L. 88–210, title I, §134, as added Pub. L. 90–576, title I, §101(b), Oct. 16, 1968, 82 Stat. 1080, authorized payments for amounts expended by applicants for grants and contracts for research and training in vocational education.

Section 1301, Pub. L. 88–210, title I, §141, as added Pub. L. 90–576, title I, §101(b), Oct. 16, 1968, 82 Stat. 1080, set forth Congressional findings and declaration of purpose of exemplary programs and projects in vocational education.

Section 1302, Pub. L. 88–210, title I, §142, as added Pub. L. 90–576, title I, §101(b), Oct. 16, 1968, 82 Stat. 1080; amended Pub. L. 92–318, title II, §203, June 23, 1972, 86 Stat. 325; Pub. L. 94–482, title II, §201(g), Oct. 12, 1976, 90 Stat. 2168, set forth funding provisions for exemplary programs and projects in vocational education.

Section 1303, Pub. L. 88–210, title I, §143, as added Pub. L. 90–576, title I, §101(b), Oct. 16, 1968, 82 Stat. 1081, set forth authorized purposes for uses of funds for grants and contracts for exemplary programs and projects in vocational education.

Section 1304, Pub. L. 88–210, title I, §144, as added Pub. L. 90–576, title I, §101(b), Oct. 16, 1968, 82 Stat. 1082, authorized payments for amounts expended by applicants for grants and contracts for exemplary programs and projects in vocational education.

Section 1305, Pub. L. 88–210, title I, §145, as added Pub. L. 90–576, title I, §101(b), Oct. 16, 1968, 82 Stat. 1082, limited duration of assistance for exemplary programs and projects in vocational education.

Section 1321, Pub. L. 88–210, title I, §151, as added Pub. L. 90–576, title I, §101(b), Oct. 16, 1968, 82 Stat. 1082; amended Pub. L. 92–318, title II, §204(a), June 23, 1972, 86 Stat. 326; Pub. L. 94–482, title II, §201(h), Oct. 12, 1976, 90 Stat. 2168, authorized establishment of demonstration schools for residential vocational education programs.

Section 1322, Pub. L. 88–210, title I, §152, as added Pub. L. 90–576, title I, §101(b), Oct. 16, 1968, 82 Stat. 1083; amended Pub. L. 91–230, title VII, §704(a), Apr. 13, 1970, 84 Stat. 189; Pub. L. 92–318, title II, §204(b), June 23, 1972, 86 Stat. 326; Pub. L. 94–482, title II, §201(i), Oct. 12, 1976, 90 Stat. 2168, set forth funding provisions for State programs for residential vocational education facilities.

Section 1323, Pub. L. 88–210, title I, §153, as added Pub. L. 90–576, title I, §101(b), Oct. 16, 1968, 82 Stat. 1084; amended Pub. L. 91–230, title VII, §704(b), Apr. 13, 1970, 84 Stat. 189; Pub. L. 92–318, title II, §204(c), June 23, 1972, 86 Stat. 326; Pub. L. 94–482, title II, §201(j), Oct. 12, 1976, 90 Stat. 2168, authorized grants for the reduction of borrowing costs for construction of schools and dormitories for residential vocational education programs.

Section 1341, Pub. L. 88–210, title I, §161, as added Pub. L. 90–576, title I, §101(b), Oct. 16, 1968, 82 Stat. 1085; amended Pub. L. 91–230, title VII, §705, Apr. 13, 1970, 84 Stat. 189; Pub. L. 92–318, title II, §205, June 23, 1972, 86 Stat. 326; Pub. L. 94–135, title II, §204, Nov. 28, 1975, 89 Stat. 727; Pub. L. 94–482, title II, §201(k), (*l*), Oct. 12, 1976, 90 Stat. 2168, set forth authorization and funding provisions for consumer and homemaking education programs.

Section 1351, Pub. L. 88–210, title I, §171, as added Pub. L. 90–576, title I, §101(b), Oct. 16, 1968, 82 Stat. 1086, set forth Congressional findings and declaration of purpose for cooperative vocational education programs.

Section 1352, Pub. L. 88–210, title I, §172, as added Pub. L. 90–576, title I, §101(b), Oct. 16, 1968, 82 Stat. 1086; amended Pub. L. 92–318, title II, §206, June 23, 1972, 86 Stat. 326; Pub. L. 94–482, title II, §201(m), Oct. 12, 1976, 90 Stat. 2169, set forth funding provisions for cooperative vocational education programs.

Section 1353, Pub. L. 88–210, title I, §173, as added Pub. L. 90–576, title I, §101(b), Oct. 16, 1968, 82 Stat. 1087, set forth requirements of State plan for participation in cooperative vocational education program funding.

Section 1354, Pub. L. 88–210, title I, §174, as added Pub. L. 90–576, title I, §101(b), Oct. 16, 1968, 82 Stat. 1087, limited use of funds for cooperative vocational education programs.

Section 1355, Pub. L. 88–210, title I, §175, as added Pub. L. 90–576, title I, §101(b), Oct. 16, 1968, 82 Stat. 1087, defined ''cooperative work-study program''.

Section 1371, Pub. L. 88–210, title I, §181, as added Pub. L. 90–576, title I, §101(b), Oct. 16, 1968, 82 Stat. 1088; amended Pub. L. 91–230, title VII, §706(a), Apr. 13, 1970, 84 Stat. 189; Pub. L. 92–318, title II, §207, June 23, 1972, 86 Stat. 326; Pub. L. 94–482, title II, §201(n), Oct. 12, 1976, 90 Stat. 2169, set forth funding provisions for work-study programs for vocational education students.

Section 1372, Pub. L. 88–210, title I, §182, as added Pub. L. 90–576, title I, §101(b), Oct. 16, 1968, 82 Stat. 1088, set forth requirements of State plan for participation in student work-study program funding.

Section 1373, Pub. L. 88–210, title I, §183, as added Pub. L. 90–576, title I, §101(b), Oct. 16, 1968, 82 Stat. 1089; amended Pub. L. 91–230, title VII, §706(b), Apr. 13, 1970, 84 Stat. 189, authorized manner of payments for State work-study programs for vocational education students.

Section 1374, Pub. L. 88–210, title I, §184, as added Pub. L. 90–576, title I, §101(b), Oct. 16, 1968, 82 Stat. 1090, set forth status of participants in work-study programs.

Section 1391, Pub. L. 88–210, title I, §189, formerly §191, as added Pub. L. 90–576, title I, §101(b), Oct. 16, 1968, 82 Stat. 1090; amended Pub. L. 91–230, title VII, §707, Apr. 13, 1970, 84 Stat. 189; Pub. L. 92–318, title II, §208, June 23, 1972, 86 Stat. 326; renumbered Pub. L. 93–380, title VIII, §841(a)(6), Aug. 21, 1974, 88 Stat. 607; amended Pub. L. 94–482, title II, §201(*o*), Oct. 12, 1976, 90 Stat. 2169, set forth requirements for curriculum development programs in vocational and technical education and authorized funding for such programs.

Section 1393, Pub. L. 88–210, title I, §191, as added Pub. L. 93–380, title VIII, §841(a)(7), Aug. 21, 1974, 88 Stat. 607, set forth congressional findings for establishment of bilingual vocational training programs.

Section 1393a, Pub. L. 88–210, title I, §192, as added Pub. L. 93–380, title VIII, §841(a)(7), Aug. 21, 1974, 88 Stat. 608, set out general responsibilities of Commissioner and Secretary of Labor in administering bilingual vocational training programs.

Section 1393b, Pub. L. 88–210, title I, §193, as added Pub. L. 93–380, title VIII, §841(a)(7), Aug. 21, 1974, 88 Stat. 608; amended Pub. L. 94–482, title II, §201(p), Oct. 12, 1976, 90 Stat. 2169, authorized appropriations for bilingual vocational training programs.

Section 1393c, Pub. L. 88–210, title I, §194, as added Pub. L. 93–380, title VIII, §841(a)(7), Aug. 21, 1974, 88 Stat. 608; amended Pub. L. 94–482, title V, §501(j)(1), Oct. 12, 1976, 90 Stat. 2237, authorized grants and contracts for bilingual vocational training programs.

Section 1393d, Pub. L. 88–210, title I, §195, as added Pub. L. 93–380, title VIII, §841(a)(7), Aug. 21, 1974, 88 Stat. 608, set forth authorized purposes of grants and contracts for bilingual vocational training programs.

Section 1393e, Pub. L. 88–210, title I, §196, as added Pub. L. 93–380, title VIII, §841(a)(7), Aug. 21, 1974, 88 Stat. 609, set forth application requirements for grants and contracts for bilingual vocational training programs.

Section 1393f, Pub. L. 88–210, title I, §197, as added Pub. L. 93–380, title VIII, §841(a)(7), Aug. 21, 1974, 88 Stat. 609; amended Pub. L. 94–482, title V, §501(j)(2), Oct. 12, 1976, 90 Stat. 2237, set forth criteria for approval by Commissioner of applications for grants and contracts for bilingual vocational training programs.

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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 1141, 1203a, 1206a, 2321, 2323, 3441, 4356, 6062, 6143, 6314, 6365, 6493, 6645, 6648, 6649, 7426, 7703, 8921 of this title; title 5 section 5924; title 10 section 2164; title 25 sections 2503, 2504; title 29 sections 721, 1533, 1645, 2618; title 42 sections 290ff–2, 290ff–4, 300x–1, 1760, 1769h, 6024, 9855d.

SUBCHAPTER I—GENERAL PROVISIONS

CODIFICATION

Part A of the Individuals with Disabilities Education Act (part A of title VI of Pub. L. 91–230), comprising this subchapter, was originally enacted by Pub. L. 91–230, title VI, Apr. 13, 1970, 84 Stat. 175, and amended by Pub. L. 93–380, Aug. 21, 1974, 88 Stat. 484; Pub. L. 94–142, Nov. 29, 1975, 89 Stat. 773; Pub. L. 98–199, Dec. 2, 1983, 97 Stat. 1357; Pub. L. 99–457, Oct. 8, 1986, 100 Stat. 1145; Pub. L. 100–630, Nov. 7, 1988, 102 Stat. 3289; Pub. L. 101–476, Oct. 30, 1990, 104 Stat. 1103; Pub. L. 102–73, July 25, 1991, 105 Stat. 333; Pub. L. 102–119, Oct. 7, 1991, 105 Stat. 587; Pub. L. 103–382, Oct. 20, 1994, 108 Stat. 3518. Such part is shown herein, however, as having been added by Pub. L. 105–17, title I, §101, June 4, 1997, 111

Stat. 37, without reference to such intervening amendments because of the extensive revision of part A by Pub. L. 105–17.

§ 1400. Congressional statements and declarations

(a) Short title

This chapter may be cited as the ''Individuals with Disabilities Education Act''.

(b) Omitted

(c) Findings

The Congress finds the following:

(1) Disability is a natural part of the human experience and in no way diminishes the right of individuals to participate in or contribute to society. Improving educational results for children with disabilities is an essential element of our national policy of ensuring equality of opportunity, full participation, independent living, and economic self-sufficiency for individuals with disabilities.

(2) Before the date of the enactment of the Education for All Handicapped Children Act of 1975 (Public Law 94–142)—

(A) the special educational needs of children with disabilities were not being fully met;

(B) more than one-half of the children with disabilities in the United States did not receive appropriate educational services that would enable such children to have full equality of opportunity;

(C) 1,000,000 of the children with disabilities in the United States were excluded entirely from the public school system and did not go through the educational process with their peers;

(D) there were many children with disabilities throughout the United States participating in regular school programs whose disabilities prevented such children from having a successful educational experience because their disabilities were undetected; and

(E) because of the lack of adequate services within the public school system, families were often forced to find services outside the public school system, often at great distance from their residence and at their own expense.

(3) Since the enactment and implementation of the Education for All Handicapped Children Act of 1975, this chapter has been successful in ensuring children with disabilities and the families of such children access to a free appropriate public education and in improving educational results for children with disabilities.

(4) However, the implementation of this chapter has been impeded by low expectations, and an insufficient focus on applying replicable research on proven methods of teaching and learning for children with disabilities.

(5) Over 20 years of research and experience has demonstrated that the education of children with disabilities can be made more effective by—

(A) having high expectations for such children and ensuring their access in the general curriculum to the maximum extent possible;

(B) strengthening the role of parents and ensuring that families of such children have meaningful opportunities to participate in the education of their children at school and at home;

(C) coordinating this chapter with other local, educational service agency, State, and Federal school improvement efforts in order to ensure that such children benefit from such efforts and that special education can become a service for such children rather than a place where they are sent;

(D) providing appropriate special education and related services and aids and supports in the regular classroom to such children, whenever appropriate;

(E) supporting high-quality, intensive professional development for all personnel who work with such children in order to ensure that they have the skills and knowledge necessary to enable them—

(i) to meet developmental goals and, to the maximum extent possible, those challenging expectations that have been established for all children; and

(ii) to be prepared to lead productive, independent, adult lives, to the maximum extent possible;

(F) providing incentives for whole-school approaches and pre-referral intervention to reduce the need to label children as disabled in order to address their learning needs; and

(G) focusing resources on teaching and learning while reducing paperwork and requirements that do not assist in improving educational results.

(6) While States, local educational agencies, and educational service agencies are responsible for providing an education for all children with disabilities, it is in the national interest that the Federal Government have a role in assisting State and local efforts to educate children with disabilities in order to improve results for such children and to ensure equal protection of the law.

(7)(A) The Federal Government must be responsive to the growing needs of an increasingly more diverse society. A more equitable allocation of resources is essential for the Federal Government to meet its responsibility to provide an equal educational opportunity for all individuals.

(B) America's racial profile is rapidly changing. Between 1980 and 1990, the rate of increase in the population for white Americans was 6 percent, while the rate of increase for racial and ethnic minorities was much higher: 53 percent for Hispanics, 13.2 percent for African-Americans, and 107.8 percent for Asians.

(C) By the year 2000, this Nation will have 275,000,000 people, nearly one of every three of whom will be either African-American, Hispanic, Asian-American, or American Indian.

(D) Taken together as a group, minority children are comprising an ever larger percentage of public school students. Large-city school populations are overwhelmingly minority, for example: for fall 1993, the figure for Miami was 84 percent; Chicago, 89 percent; Philadelphia, 78 percent; Baltimore, 84 per-

cent; Houston, 88 percent; and Los Angeles, 88 percent.

(E) Recruitment efforts within special education must focus on bringing larger numbers of minorities into the profession in order to provide appropriate practitioner knowledge, role models, and sufficient manpower to address the clearly changing demography of special education.

(F) The limited English proficient population is the fastest growing in our Nation, and the growth is occurring in many parts of our Nation. In the Nation's 2 largest school districts, limited English proficient students make up almost half of all students initially entering school at the kindergarten level. Studies have documented apparent discrepancies in the levels of referral and placement of limited English proficient children in special education. The Department of Education has found that services provided to limited English proficient students often do not respond primarily to the pupil's academic needs. These trends pose special challenges for special education in the referral, assessment, and services for our Nation's students from non-English language backgrounds.

(8)(A) Greater efforts are needed to prevent the intensification of problems connected with mislabeling and high dropout rates among minority children with disabilities.

(B) More minority children continue to be served in special education than would be expected from the percentage of minority students in the general school population.

(C) Poor African-American children are 2.3 times more likely to be identified by their teacher as having mental retardation than their white counterpart.

(D) Although African-Americans represent 16 percent of elementary and secondary enrollments, they constitute 21 percent of total enrollments in special education.

(E) The drop-out rate is 68 percent higher for minorities than for whites.

(F) More than 50 percent of minority students in large cities drop out of school.

(9)(A) The opportunity for full participation in awards for grants and contracts; boards of organizations receiving funds under this chapter; and peer review panels; and training of professionals in the area of special education by minority individuals, organizations, and historically black colleges and universities is essential if we are to obtain greater success in the education of minority children with disabilities.

(B) In 1993, of the 915,000 college and university professors, 4.9 percent were African-American and 2.4 percent were Hispanic. Of the 2,940,000 teachers, prekindergarten through high school, 6.8 percent were African-American and 4.1 percent were Hispanic.

(C) Students from minority groups comprise more than 50 percent of K–12 public school enrollment in seven States yet minority enrollment in teacher training programs is less than 15 percent in all but six States.

(D) As the number of African-American and Hispanic students in special education increases, the number of minority teachers and related service personnel produced in our colleges and universities continues to decrease.

(E) Ten years ago, 12 percent of the United States teaching force in public elementary and secondary schools were members of a minority group. Minorities comprised 21 percent of the national population at that time and were clearly underrepresented then among employed teachers. Today, the elementary and secondary teaching force is 13 percent minority, while one-third of the students in public schools are minority children.

(F) As recently as 1991, historically black colleges and universities enrolled 44 percent of the African-American teacher trainees in the Nation. However, in 1993, historically black colleges and universities received only 4 percent of the discretionary funds for special education and related services personnel training under this chapter.

(G) While African-American students constitute 28 percent of total enrollment in special education, only 11.2 percent of individuals enrolled in preservice training programs for special education are African-American.

(H) In 1986–87, of the degrees conferred in education at the B.A., M.A., and Ph.D. levels, only 6, 8, and 8 percent, respectively, were awarded to African-American or Hispanic students.

(10) Minorities and underserved persons are socially disadvantaged because of the lack of opportunities in training and educational programs, undergirded by the practices in the private sector that impede their full participation in the mainstream of society.

(d) Purposes

The purposes of this chapter are—

(1)(A) to ensure that all children with disabilities have available to them a free appropriate public education that emphasizes special education and related services designed to meet their unique needs and prepare them for employment and independent living;

(B) to ensure that the rights of children with disabilities and parents of such children are protected; and

(C) to assist States, localities, educational service agencies, and Federal agencies to provide for the education of all children with disabilities;

(2) to assist States in the implementation of a statewide, comprehensive, coordinated, multidisciplinary, interagency system of early intervention services for infants and toddlers with disabilities and their families;

(3) to ensure that educators and parents have the necessary tools to improve educational results for children with disabilities by supporting systemic-change activities; coordinated research and personnel preparation; coordinated technical assistance, dissemination, and support; and technology development and media services; and

(4) to assess, and ensure the effectiveness of, efforts to educate children with disabilities.

(Pub. L. 91–230, title VI, § 601, as added Pub. L. 105–17, title I, § 101, June 4, 1997, 111 Stat. 37.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (c), was in the original ''this Act'' and has been translated

throughout this chapter as reading ''this title'', meaning title VI of Pub. L. 91–230, as amended, popularly known as the ''Individuals with Disabilities Education Act'', to reflect the probable intent of Congress.

The Education for All Handicapped Children Act of 1975, referred to in subsec. (c)(2), (3), is Pub. L. 94–142, Nov. 29, 1975, 89 Stat. 773, as amended. For complete classification of this Act to the Code, see Short Title of 1975 Amendment note set out below and Tables.

CODIFICATION

Section is comprised of section 601 of Pub. L. 91–230. Subsec. (b) of section 601 of Pub. L. 91–230 set out the table of contents for the Individuals with Disabilities Education Act.

PRIOR PROVISIONS

A prior section 1400, Pub. L. 91–230, title VI, §601, Apr. 13, 1970, 84 Stat. 175; Pub. L. 94–142, §3, Nov. 29, 1975, 89 Stat. 774; Pub. L. 101–476, title IX, §901(a)(1), (b)(1)–(9), Oct. 30, 1990, 104 Stat. 1141, 1142; Pub. L. 102–119, §25(b), Oct. 7, 1991, 105 Stat. 607, contained short title for this chapter and related to congressional statements and declarations, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 105–17. This section had been classified as a note under former section 1401 of this title prior to being amended by Pub. L. 94–142.

EFFECTIVE DATE

Section 201(a) of Pub. L. 105–17 provided that:

''(1) IN GENERAL.—Except as provided in paragraph (2), parts A and B of the Individuals with Disabilities Education Act [subchapters I and II of this chapter], as amended by title I, shall take effect upon the enactment of this Act [June 4, 1997].

''(2) EXCEPTIONS.—

''(A) IN GENERAL.—Sections 612(a)(4), 612(a)(14), 612(a)(16), 614(d) (except for paragraph (6)), and 618 of the Individuals with Disabilities Education Act [20 U.S.C. 1412(a)(4), (14), (16), 1414(d) (except for par. (6)), 1418], as amended by title I, shall take effect on July 1, 1998.

''(B) SECTION 617.—Section 617 of the Individuals with Disabilities Education Act [20 U.S.C. 1417], as amended by title I, shall take effect on October 1, 1997.

''(C) INDIVIDUALIZED EDUCATION PROGRAMS AND COMPREHENSIVE SYSTEM OF PERSONNEL DEVELOPMENT.—Section 618 of the Individuals with Disabilities Education Act [20 U.S.C. 1418], as in effect on the day before the date of the enactment of this Act [June 4, 1997], and the provisions of parts A and B of the Individuals with Disabilities Education Act [subchapters I and II of this chapter] relating to individualized education programs and the State's comprehensive system of personnel development, as so in effect, shall remain in effect until July 1, 1998.

''(D) SECTIONS 611 AND 619.—Sections 611 and 619 [20 U.S.C. 1411, 1419], as amended by title I, shall take effect beginning with funds appropriated for fiscal year 1998.''

SHORT TITLE OF 1997 AMENDMENT

Section 1 of Pub. L. 105–17 provided that: ''This Act [enacting subchapters I to IV of this chapter, repealing former subchapters III and V to IX of this chapter, and enacting provisions set out as notes under this section and sections 1431 and 1451 of this title] may be cited as the 'Individuals with Disabilities Education Act Amendments of 1997'.''

SHORT TITLE OF 1991 AMENDMENT

Pub. L. 102–119, §1, Oct. 7, 1991, 105 Stat. 587, provided that: ''This Act [see Tables for classification] may be cited as the 'Individuals with Disabilities Education Act Amendments of 1991'.''

SHORT TITLE OF 1990 AMENDMENT

Pub. L. 101–476, §1(a), Oct. 30, 1990, 104 Stat. 1103, provided that: ''This Act [see Tables for classification] may be cited as the 'Education of the Handicapped Act Amendments of 1990'.''

SHORT TITLE OF 1988 AMENDMENT

Pub. L. 100–630, §1, Nov. 7, 1988, 102 Stat. 3289, provided that: ''This Act [amending sections 101, 1401, 1404, 1406, 1407, 1411 to 1419, 1421 to 1425, 1431 to 1433, 1441, 1443, 1451, 1452, 1461, 1471, 1472, and 1475 to 1482 of this title, sections 702, 705, 706, 709, 711, 713, 717, 720 to 723, 731, 732, 740, 741, 750, 752, 761 to 762, 770, 772, 774 to 776, 777 to 777b, 777d, 777f, 780, 781 to 783, 791 to 794, 794b, 794d, 795a, 795g to 795i, 795*l* to 795n, 795q, 796a to 796g, 796i, and 1904 of Title 29, Labor, and section 155 of Title 36, Patriotic Societies and Observances, enacting provisions set out as notes under sections 101, 1419, and 1432 of this title and sections 731 and 777c of Title 29, and repealing provisions set out as a note under section 795m of Title 29] may be cited as the 'Handicapped Programs Technical Amendments Act of 1988'.''

SHORT TITLE OF 1986 AMENDMENTS

Pub. L. 99–457, §1(a), Oct. 8, 1986, 100 Stat. 1145, provided that: ''This Act [enacting sections 1408, 1461, 1462, and 1471 to 1485 of this title, amending sections 1401, 1406, 1411 to 1413, 1418, 1419, 1421 to 1424, 1424a, 1425, 1427, 1431 to 1433, 1435, 1441, 1443, 1444, 1452, and 1454 of this title, repealing sections 1403 and 1453 of this title, and enacting provisions set out as notes under sections 1419 and 1485 of this title] may be cited as the 'Education of the Handicapped Act Amendments of 1986'.''

Pub. L. 99–372, §1, Aug. 5, 1986, 100 Stat. 796, provided that: ''This Act [amending section 1415 of this title and enacting provisions set out as notes under section 1415 of this title] may be cited as the 'Handicapped Children's Protection Act of 1986'.''

SHORT TITLE OF 1983 AMENDMENT

Pub. L. 98–199, §1, Dec. 2, 1983, 97 Stat. 1357, provided: ''That this Act [enacting sections 1407 and 1427 of this title, amending sections 1401 to 1404, 1406, 1411 to 1414, 1416 to 1426, 1431 to 1435, 1441 to 1444, 1452, 1454, and 1461 of this title, repealing section 1461 of this title, omitting section 1436 of this title, enacting a provision set out as a note under section 1401 of this title, and amending provisions set out as notes under sections 101, 681, and 1411 of this title] may be cited as the 'Education of the Handicapped Act Amendments of 1983'.''

SHORT TITLE OF 1977 AMENDMENT

Pub. L. 95–49, §1, June 17, 1977, 91 Stat. 230, provided: ''That this Act [amending sections 1426, 1436, 1441, 1444, and 1454 of this title, and enacting provisions set out as a note under section 1426 of this title] may be cited as the 'Education of the Handicapped Amendments of 1977'.''

SHORT TITLE OF 1975 AMENDMENT

Pub. L. 94–142, §1, Nov. 29, 1975, 89 Stat. 773, provided: ''That this Act [enacting sections 1405, 1406, 1415, 1416, 1417, 1418, 1419, and 1420 of this title, amending this section and sections 1232, 1401, 1411, 1411 notes, 1412, 1412 note, 1413, 1413 note, 1414, and 1453 of this title, and enacting provisions set out as a note under section 1411 of this title] may be cited as the 'Education for All Handicapped Children Act of 1975'.''

SHORT TITLE OF 1974 AMENDMENT

Pub. L. 93–380, title VI, §611, Aug. 21, 1974, 88 Stat. 579, provided that: ''This title [enacting section 1424a of this title, amending sections 1402, 1403, 1411 to 1413, 1426, 1436, 1444, 1452, 1454, and 1461 of this title, and enacting provisions set out as notes under sections 1402 and 1411 to 1413 of this title] may be cited as the 'Education of the Handicapped Amendments of 1974'.''

REFERENCES TO EDUCATION OF THE HANDICAPPED ACT

Pub. L. 101–476, title IX, §901(a)(3), Oct. 30, 1990, 104 Stat. 1142, provided that: ''Any other Act and any regu-

lation which refers to the Education of the Handicapped Act shall be considered to refer to the Individuals with Disabilities Education Act.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1411, 1412 of this title.

§ 1401. Definitions

Except as otherwise provided, as used in this chapter:

(1) Assistive technology device

The term ''assistive technology device'' means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve functional capabilities of a child with a disability.

(2) Assistive technology service

The term ''assistive technology service'' means any service that directly assists a child with a disability in the selection, acquisition, or use of an assistive technology device. Such term includes—

(A) the evaluation of the needs of such child, including a functional evaluation of the child in the child's customary environment;

(B) purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by such child;

(C) selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing of assistive technology devices;

(D) coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;

(E) training or technical assistance for such child, or, where appropriate, the family of such child; and

(F) training or technical assistance for professionals (including individuals providing education and rehabilitation services), employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of such child.

(3) Child with a disability

(A) In general

The term ''child with a disability'' means a child—

(i) with mental retardation, hearing impairments (including deafness), speech or language impairments, visual impairments (including blindness), serious emotional disturbance (hereinafter referred to as ''emotional disturbance''), orthopedic impairments, autism, traumatic brain injury, other health impairments, or specific learning disabilities; and

(ii) who, by reason thereof, needs special education and related services.

(B) Child aged 3 through 9

The term ''child with a disability'' for a child aged 3 through 9 may, at the discretion of the State and the local educational agency, include a child—

(i) experiencing developmental delays, as defined by the State and as measured by appropriate diagnostic instruments and procedures, in one or more of the following areas: physical development, cognitive development, communication development, social or emotional development, or adaptive development; and

(ii) who, by reason thereof, needs special education and related services.

(4) Educational service agency

The term ''educational service agency''—

(A) means a regional public multiservice agency—

(i) authorized by State law to develop, manage, and provide services or programs to local educational agencies; and

(ii) recognized as an administrative agency for purposes of the provision of special education and related services provided within public elementary and secondary schools of the State; and

(B) includes any other public institution or agency having administrative control and direction over a public elementary or secondary school.

(5) Elementary school

The term ''elementary school'' means a nonprofit institutional day or residential school that provides elementary education, as determined under State law.

(6) Equipment

The term ''equipment'' includes—

(A) machinery, utilities, and built-in equipment and any necessary enclosures or structures to house such machinery, utilities, or equipment; and

(B) all other items necessary for the functioning of a particular facility as a facility for the provision of educational services, including items such as instructional equipment and necessary furniture; printed, published, and audio-visual instructional materials; telecommunications, sensory, and other technological aids and devices; and books, periodicals, documents, and other related materials.

(7) Excess costs

The term ''excess costs'' means those costs that are in excess of the average annual per-student expenditure in a local educational agency during the preceding school year for an elementary or secondary school student, as may be appropriate, and which shall be computed after deducting—

(A) amounts received—

(i) under subchapter II of this chapter;

(ii) under part A of title I of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6311 et seq.]; or

(iii) under part A of title VII of that Act [20 U.S.C. 7401 et seq.]; and

(B) any State or local funds expended for programs that would qualify for assistance under any of those parts.

(8) Free appropriate public education

The term ''free appropriate public education'' means special education and related services that—

(A) have been provided at public expense, under public supervision and direction, and without charge;

(B) meet the standards of the State educational agency;

(C) include an appropriate preschool, elementary, or secondary school education in the State involved; and

(D) are provided in conformity with the individualized education program required under section 1414(d) of this title.

(9) Indian

The term ''Indian'' means an individual who is a member of an Indian tribe.

(10) Indian tribe

The term ''Indian tribe'' means any Federal or State Indian tribe, band, rancheria, pueblo, colony, or community, including any Alaska Native village or regional village corporation (as defined in or established under the Alaska Native Claims Settlement Act [43 U.S.C. 1601 et seq.]).

(11) Individualized education program

The term ''individualized education program'' or ''IEP'' means a written statement for each child with a disability that is developed, reviewed, and revised in accordance with section 1414(d) of this title.

(12) Individualized family service plan

The term ''individualized family service plan'' has the meaning given such term in section 1436 of this title.

(13) Infant or toddler with a disability

The term ''infant or toddler with a disability'' has the meaning given such term in section 1432 of this title.

(14) Institution of higher education

The term ''institution of higher education''—

(A) has the meaning given that term in section 1141(a) of this title; and

(B) also includes any community college receiving funding from the Secretary of the Interior under the Tribally Controlled Community College Assistance Act of 1978 [25 U.S.C. 1801 et seq.].

(15) Local educational agency

(A) The term ''local educational agency'' means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or for such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools.

(B) The term includes—

(i) an educational service agency, as defined in paragraph (4); and

(ii) any other public institution or agency having administrative control and direction of a public elementary or secondary school.

(C) The term includes an elementary or secondary school funded by the Bureau of Indian Affairs, but only to the extent that such inclusion makes the school eligible for programs for which specific eligibility is not provided to the school in another provision of law and the school does not have a student population that is smaller than the student population of the local educational agency receiving assistance under this chapter with the smallest student population, except that the school shall not be subject to the jurisdiction of any State educational agency other than the Bureau of Indian Affairs.

(16) Native language

The term ''native language'', when used with reference to an individual of limited English proficiency, means the language normally used by the individual, or in the case of a child, the language normally used by the parents of the child.

(17) Nonprofit

The term ''nonprofit'', as applied to a school, agency, organization, or institution, means a school, agency, organization, or institution owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(18) Outlying area

The term ''outlying area'' means the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(19) Parent

The term ''parent''—

(A) includes a legal guardian; and

(B) except as used in sections 1415(b)(2) and 1439(a)(5) of this title, includes an individual assigned under either of those sections to be a surrogate parent.

(20) Parent organization

The term ''parent organization'' has the meaning given that term in section 1482(g) of this title.

(21) Parent training and information center

The term ''parent training and information center'' means a center assisted under section 1482 or 1483 of this title.

(22) Related services

The term ''related services'' means transportation, and such developmental, corrective, and other supportive services (including speech-language pathology and audiology services, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, social work services, counseling services, including rehabilitation counseling, orientation and mobility services, and medical services, except that such medical services shall be for diagnostic and evaluation purposes only) as may be required to assist a

child with a disability to benefit from special education, and includes the early identification and assessment of disabling conditions in children.

(23) Secondary school

The term ''secondary school'' means a nonprofit institutional day or residential school that provides secondary education, as determined under State law, except that it does not include any education beyond grade 12.

(24) Secretary

The term ''Secretary'' means the Secretary of Education.

(25) Special education

The term ''special education'' means specially designed instruction, at no cost to parents, to meet the unique needs of a child with a disability, including—

(A) instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings; and

(B) instruction in physical education.

(26) Specific learning disability

(A) In general

The term ''specific learning disability'' means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, which disorder may manifest itself in imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations.

(B) Disorders included

Such term includes such conditions as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia.

(C) Disorders not included

Such term does not include a learning problem that is primarily the result of visual, hearing, or motor disabilities, of mental retardation, of emotional disturbance, or of environmental, cultural, or economic disadvantage.

(27) State

The term ''State'' means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and each of the outlying areas.

(28) State educational agency

The term ''State educational agency'' means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law.

(29) Supplementary aids and services

The term ''supplementary aids and services'' means,[1] aids, services, and other supports that are provided in regular education classes or other education-related settings to enable children with disabilities to be educated with nondisabled children to the maximum extent appropriate in accordance with section 1412(a)(5) of this title.

(30) Transition services

The term ''transition services'' means a coordinated set of activities for a student with a disability that—

(A) is designed within an outcome-oriented process, which promotes movement from school to post-school activities, including post-secondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation;

(B) is based upon the individual student's needs, taking into account the student's preferences and interests; and

(C) includes instruction, related services, community experiences, the development of employment and other post-school adult living objectives, and, when appropriate, acquisition of daily living skills and functional vocational evaluation.

(Pub. L. 91–230, title VI, § 602, as added Pub. L. 105–17, title I, § 101, June 4, 1997, 111 Stat. 42.)

REFERENCES IN TEXT

The Elementary and Secondary Education Act of 1965, referred to in par. (7)(A)(ii), (iii), is Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, as amended generally by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519. Part A of title I and part A of title VII of the Act are classified generally to part A (§ 6311 et seq.) of subchapter I and part A (§ 7401 et seq.) of subchapter VII, respectively, of chapter 70 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

The Alaska Native Claims Settlement Act, referred to in par. (10), is Pub. L. 92–203, Dec. 18, 1971, 85 Stat. 688, as amended, which is classified generally to chapter 33 (§ 1601 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 43 and Tables.

The Tribally Controlled Community College Assistance Act of 1978, referred to in par. (14)(B), is Pub. L. 95–471, Oct. 17, 1978, 92 Stat. 1325, as amended, which is classified principally to chapter 20 (§ 1801 et seq.) of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of Title 25 and Tables.

PRIOR PROVISIONS

A prior section 1401, Pub. L. 91–230, title VI, § 602, Apr. 13, 1970, 84 Stat. 175; Pub. L. 94–142, § 4(a), Nov. 29, 1975, 89 Stat. 775; Pub. L. 98–199, §§ 2, 3(b), Dec. 2, 1983, 97 Stat. 1357, 1358; Pub. L. 99–457, title IV, § 402, Oct. 8, 1986, 100 Stat. 1172; Pub. L. 100–630, title I, § 101(a), Nov. 7, 1988, 102 Stat. 3289; Pub. L. 101–476, title I, § 101, title IX, § 901(b)(10)–(20), Oct. 30, 1990, 104 Stat. 1103, 1142, 1143; Pub. L. 102–73, title VIII, § 802(d)(1), July 25, 1991, 105 Stat. 361; Pub. L. 102–119, §§ 3, 25(a)(1), (b), Oct. 7, 1991, 105 Stat. 587, 605, 607; Pub. L. 103–382, title III, § 391(f)(1), Oct. 20, 1994, 108 Stat. 4023, related to definitions of terms used in this chapter, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 105–17.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1087ee, 1087ii, 1412, 1414, 1418, 5802, 6063, 6103, 8801, 8923 of this title; title 10 section 2164; title 42 sections 290ff–2, 1396n, 9835, 12511.

[1] So in original. The comma probably should not appear.

§ 1402. Office of Special Education Programs

(a) Establishment

There shall be, within the Office of Special Education and Rehabilitative Services in the Department of Education, an Office of Special Education Programs, which shall be the principal agency in such Department for administering and carrying out this chapter and other programs and activities concerning the education of children with disabilities.

(b) Director

The Office established under subsection (a) of this section shall be headed by a Director who shall be selected by the Secretary and shall report directly to the Assistant Secretary for Special Education and Rehabilitative Services.

(c) Voluntary and uncompensated services

Notwithstanding section 1342 of title 31, the Secretary is authorized to accept voluntary and uncompensated services in furtherance of the purposes of this chapter.

(Pub. L. 91–230, title VI, § 603, as added Pub. L. 105–17, title I, § 101, June 4, 1997, 111 Stat. 46.)

PRIOR PROVISIONS

A prior section 1402, Pub. L. 91–230, title VI, § 603, Apr. 13, 1970, 84 Stat. 177; Pub. L. 93–380, title VI, § 612(a), Aug. 21, 1974, 88 Stat. 579; Pub. L. 98–199, § 3(a), Dec. 2, 1983, 97 Stat. 1357; Pub. L. 101–476, title IX, § 901(b)(21), Oct. 30, 1990, 104 Stat. 1143; Pub. L. 102–119, § 25(b), Oct. 7, 1991, 105 Stat. 607, related to the Office of Special Education Programs, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 105–17.

§ 1403. Abrogation of State sovereign immunity

(a) In general

A State shall not be immune under the eleventh amendment to the Constitution of the United States from suit in Federal court for a violation of this chapter.

(b) Remedies

In a suit against a State for a violation of this chapter, remedies (including remedies both at law and in equity) are available for such a violation to the same extent as those remedies are available for such a violation in the suit against any public entity other than a State.

(c) Effective date

Subsections (a) and (b) of this section apply with respect to violations that occur in whole or part after October 30, 1990.

(Pub. L. 91–230, title VI, § 604, as added Pub. L. 105–17, title I, § 101, June 4, 1997, 111 Stat. 47.)

PRIOR PROVISIONS

A prior section 1403, Pub. L. 91–230, title VI, § 604, as added Pub. L. 101–476, title I, § 103, Oct. 30, 1990, 104 Stat. 1106, related to abrogation of State sovereign immunity, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 105–17.

Another prior section 1403, Pub. L. 91–230, title VI, § 604, Apr. 13, 1970, 84 Stat. 177; Pub. L. 93–380, title VI, § 613, Aug. 21, 1974, 88 Stat. 580; Pub. L. 94–273, §§ 3(14), 13(2), Apr. 21, 1976, 90 Stat. 376, 378; Pub. L. 98–199, § 4, Dec. 2, 1983, 97 Stat. 1358, established the National Advisory Committee on the Education of Handicapped Children and Youth, prior to repeal by Pub. L. 99–457, title IV, § 407, Oct. 8, 1986, 100 Stat. 1177.

§ 1404. Acquisition of equipment; construction or alteration of facilities

(a) In general

If the Secretary determines that a program authorized under this chapter would be improved by permitting program funds to be used to acquire appropriate equipment, or to construct new facilities or alter existing facilities, the Secretary is authorized to allow the use of those funds for those purposes.

(b) Compliance with certain regulations

Any construction of new facilities or alteration of existing facilities under subsection (a) of this section shall comply with the requirements of—

(1) appendix A of part 36 of title 28, Code of Federal Regulations (commonly known as the ''Americans with Disabilities Accessibility Guidelines for Buildings and Facilities''); or

(2) appendix A of part 101–19.6 of title 41, Code of Federal Regulations (commonly known as the ''Uniform Federal Accessibility Standards'').

(Pub. L. 91–230, title VI, § 605, as added Pub. L. 105–17, title I, § 101, June 4, 1997, 111 Stat. 47.)

PRIOR PROVISIONS

A prior section 1404, Pub. L. 91–230, title VI, § 605, Apr. 13, 1970, 84 Stat. 177; Pub. L. 98–199, § 3(b), Dec. 2, 1983, 97 Stat. 1358; Pub. L. 100–630, title I, § 101(b), Nov. 7, 1988, 102 Stat. 3290; Pub. L. 102–119, § 25(a)(2), Oct. 7, 1991, 105 Stat. 605, related to acquisition of equipment and construction of necessary facilities, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 105–17.

§ 1405. Employment of individuals with disabilities

The Secretary shall ensure that each recipient of assistance under this chapter makes positive efforts to employ and advance in employment qualified individuals with disabilities in programs assisted under this chapter.

(Pub. L. 91–230, title VI, § 606, as added Pub. L. 105–17, title I, § 101, June 4, 1997, 111 Stat. 47.)

PRIOR PROVISIONS

A prior section 1405, Pub. L. 91–230, title VI, § 606, as added Pub. L. 94–142, § 6(a), Nov. 29, 1975, 89 Stat. 795; amended Pub. L. 101–476, title IX, § 901(b)(22), (23), Oct. 30, 1990, 104 Stat. 1143; Pub. L. 102–119, § 25(b), Oct. 7, 1991, 105 Stat. 607, related to employment of individuals with disabilities by recipients of assistance under this chapter, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 105–17.

§ 1406. Requirements for prescribing regulations

(a) Public comment period

The Secretary shall provide a public comment period of at least 90 days on any regulation proposed under subchapter II or subchapter III of this chapter on which an opportunity for public comment is otherwise required by law.

(b) Protections provided to children

The Secretary may not implement, or publish in final form, any regulation prescribed pursuant to this chapter that would procedurally or substantively lessen the protections provided to children with disabilities under this chapter, as

embodied in regulations in effect on July 20, 1983 (particularly as such protections relate to parental consent to initial evaluation or initial placement in special education, least restrictive environment, related services, timelines, attendance of evaluation personnel at individualized education program meetings, or qualifications of personnel), except to the extent that such regulation reflects the clear and unequivocal intent of the Congress in legislation.

(c) Policy letters and statements

The Secretary may not, through policy letters or other statements, establish a rule that is required for compliance with, and eligibility under, this subchapter without following the requirements of section 553 of title 5.

(d) Correspondence from Department of Education describing interpretations of this chapter

(1) In general

The Secretary shall, on a quarterly basis, publish in the Federal Register, and widely disseminate to interested entities through various additional forms of communication, a list of correspondence from the Department of Education received by individuals during the previous quarter that describes the interpretations of the Department of Education of this chapter or the regulations implemented pursuant to this chapter.

(2) Additional information

For each item of correspondence published in a list under paragraph (1), the Secretary shall identify the topic addressed by the correspondence and shall include such other summary information as the Secretary determines to be appropriate.

(e) Issues of national significance

If the Secretary receives a written request regarding a policy, question, or interpretation under subchapter II of this chapter, and determines that it raises an issue of general interest or applicability of national significance to the implementation of subchapter II of this chapter, the Secretary shall—

(1) include a statement to that effect in any written response;

(2) widely disseminate that response to State educational agencies, local educational agencies, parent and advocacy organizations, and other interested organizations, subject to applicable laws relating to confidentiality of information; and

(3) not later than one year after the date on which the Secretary responds to the written request, issue written guidance on such policy, question, or interpretation through such means as the Secretary determines to be appropriate and consistent with law, such as a policy memorandum, notice of interpretation, or notice of proposed rulemaking.

(f) Explanation

Any written response by the Secretary under subsection (e) of this section regarding a policy, question, or interpretation under subchapter II of this chapter shall include an explanation that the written response—

(1) is provided as informal guidance and is not legally binding; and

(2) represents the interpretation by the Department of Education of the applicable statutory or regulatory requirements in the context of the specific facts presented.

(Pub. L. 91–230, title VI, § 607, as added Pub. L. 105–17, title I, § 101, June 4, 1997, 111 Stat. 47.)

PRIOR PROVISIONS

Prior sections 1406 to 1409 were omitted in the general amendment of subchapters I to IV of this chapter by Pub. L. 105–17.

Section 1406, Pub. L. 91–230, title VI, § 607, as added Pub. L. 94–142, § 6(a), Nov. 29, 1975, 89 Stat. 795; amended Pub. L. 98–199, §§ 3(b), 5, Dec. 2, 1983, 97 Stat. 1358; Pub. L. 99–457, title IV, § 401, Oct. 8, 1986, 100 Stat. 1172; Pub. L. 100–630, title I, § 101(c), Nov. 7, 1988, 102 Stat. 3290, related to grants for removal of architectural barriers.

Section 1407, Pub. L. 91–230, title VI, § 608, as added Pub. L. 98–199, § 6, Dec. 2, 1983, 97 Stat. 1359; amended Pub. L. 100–630, title I, § 101(d), Nov. 7, 1988, 102 Stat. 3290; Pub. L. 101–476, title IX, § 901(b)(24), Oct. 30, 1990, 104 Stat. 1143; Pub. L. 102–119, § 25(b), Oct. 7, 1991, 105 Stat. 607, related to regulation requirements.

Section 1408, Pub. L. 91–230, title VI, § 609, as added Pub. L. 99–457, title II, § 202, Oct. 8, 1986, 100 Stat. 1158, related to eligibility for financial assistance.

Section 1409, Pub. L. 91–230, title VI, § 610, as added Pub. L. 101–476, title I, § 104, Oct. 30, 1990, 104 Stat. 1106, provided administrative provisions applicable to former subchapters III to VII of this chapter and former section 1418 of this title.

SUBCHAPTER II—ASSISTANCE FOR EDUCATION OF ALL CHILDREN WITH DISABILITIES

CODIFICATION

Part B of the Individuals with Disabilities Education Act (part B of title VI of Pub. L. 91–230), comprising this subchapter, was originally enacted by Pub. L. 91–230, title VI, Apr. 13, 1970, 84 Stat. 178, and amended by Pub. L. 92–318, June 23, 1972, 86 Stat. 235; Pub. L. 93–380, Aug. 21, 1974, 88 Stat. 484; Pub. L. 94–142, Nov. 29, 1975, 89 Stat. 773; Pub. L. 95–561, Nov. 1, 1978, 92 Stat. 2143; Pub. L. 96–270, June 14, 1980, 94 Stat. 487; Pub. L. 98–199, Dec. 2, 1983, 97 Stat. 1357; Pub. L. 99–159, Nov. 22, 1985, 99 Stat. 887; Pub. L. 99–362, July 9, 1986, 100 Stat. 769; Pub. L. 99–372, Aug. 5, 1986, 100 Stat. 796; Pub. L. 99–457, Oct. 8, 1986, 100 Stat. 1145; Pub. L. 100–630, Nov. 7, 1988, 102 Stat. 3289; Pub. L. 101–476, Oct. 30, 1990, 104 Stat. 1103; Pub. L. 102–73, July 25, 1991, 105 Stat. 333; Pub. L. 102–119, Oct. 7, 1991, 105 Stat. 587; Pub. L. 103–382, Oct. 20, 1994, 108 Stat. 3518. Such part is shown herein, however, as having been added by Pub. L. 105–17, title I, § 101, June 4, 1997, 111 Stat. 37, without reference to such intervening amendments because of the extensive revision of part B by Pub. L. 105–17.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 927, 1401, 1406, 1435, 1437, 1438, 1444, 1453, 1461, 1473, 1474, 1476, 1477, 1478, 1479, 1481, 1482, 1491n, 2321, 2325, 4304, 7908, 8066 of this title; title 10 section 2164; title 29 sections 721, 2211, 2231, 2243; title 42 sections 290ff–1, 290ff–2, 1396b, 12511.

§ 1411. Authorization; allotment; use of funds; authorization of appropriations

(a) Grants to States

(1) Purpose of grants

The Secretary shall make grants to States and the outlying areas, and provide funds to the Secretary of the Interior, to assist them to provide special education and related services

to children with disabilities in accordance with this subchapter.

(2) Maximum amounts

The maximum amount of the grant a State may receive under this section for any fiscal year is—

(A) the number of children with disabilities in the State who are receiving special education and related services—

(i) aged 3 through 5 if the State is eligible for a grant under section 1419 of this title; and

(ii) aged 6 through 21; multiplied by

(B) 40 percent of the average per-pupil expenditure in public elementary and secondary schools in the United States.

(b) Outlying areas and freely associated States

(1) Funds reserved

From the amount appropriated for any fiscal year under subsection (j) of this section, the Secretary shall reserve not more than one percent, which shall be used—

(A) to provide assistance to the outlying areas in accordance with their respective populations of individuals aged 3 through 21; and

(B) for fiscal years 1998 through 2001, to carry out the competition described in paragraph (2), except that the amount reserved to carry out that competition shall not exceed the amount reserved for fiscal year 1996 for the competition under this subchapter described under the heading ''SPECIAL EDUCATION'' in Public Law 104–134.

(2) Limitation for freely associated States

(A) Competitive grants

The Secretary shall use funds described in paragraph (1)(B) to award grants, on a competitive basis, to Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the freely associated States to carry out the purposes of this subchapter.

(B) Award basis

The Secretary shall award grants under subparagraph (A) on a competitive basis, pursuant to the recommendations of the Pacific Region Educational Laboratory in Honolulu, Hawaii. Those recommendations shall be made by experts in the field of special education and related services.

(C) Assistance requirements

Any freely associated State that wishes to receive funds under this subchapter shall include, in its application for assistance—

(i) information demonstrating that it will meet all conditions that apply to States under this subchapter;

(ii) an assurance that, notwithstanding any other provision of this subchapter, it will use those funds only for the direct provision of special education and related services to children with disabilities and to enhance its capacity to make a free appropriate public education available to all children with disabilities;

(iii) the identity of the source and amount of funds, in addition to funds under this subchapter, that it will make available to ensure that a free appropriate public education is available to all children with disabilities within its jurisdiction; and

(iv) such other information and assurances as the Secretary may require.

(D) Termination of eligibility

Notwithstanding any other provision of law, the freely associated States shall not receive any funds under this subchapter for any program year that begins after September 30, 2001.

(E) Administrative costs

The Secretary may provide not more than five percent of the amount reserved for grants under this paragraph to pay the administrative costs of the Pacific Region Educational Laboratory under subparagraph (B).

(3) Limitation

An outlying area is not eligible for a competitive award under paragraph (2) unless it receives assistance under paragraph (1)(A).

(4) Special rule

The provisions of Public Law 95–134, permitting the consolidation of grants by the outlying areas, shall not apply to funds provided to those areas or to the freely associated States under this section.

(5) Eligibility for discretionary programs

The freely associated States shall be eligible to receive assistance under part B of subchapter IV of this chapter until September 30, 2001.

(6) "Freely associated States" defined

As used in this subsection, the term ''freely associated States'' means the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

(c) Secretary of the Interior

From the amount appropriated for any fiscal year under subsection (j) of this section, the Secretary shall reserve 1.226 percent to provide assistance to the Secretary of the Interior in accordance with subsection (i) of this section.

(d) Allocations to States

(1) In general

After reserving funds for studies and evaluations under section 1474(e) of this title, and for payments to the outlying areas and the Secretary of the Interior under subsections (b) and (c) of this section, the Secretary shall allocate the remaining amount among the States in accordance with paragraph (2) or subsection (e) of this section, as the case may be.

(2) Interim formula

Except as provided in subsection (e) of this section, the Secretary shall allocate the amount described in paragraph (1) among the States in accordance with section 611(a)(3), (4), and (5) and (b)(1), (2), and (3) of this Act, as in effect prior to June 4, 1997, except that the determination of the number of children with

disabilities receiving special education and related services under such section 611(a)(3) may, at the State's discretion, be calculated as of the last Friday in October or as of December 1 of the fiscal year for which the funds are appropriated.

(e) Permanent formula

(1) Establishment of base year

The Secretary shall allocate the amount described in subsection (d)(1) of this section among the States in accordance with this subsection for each fiscal year beginning with the first fiscal year for which the amount appropriated under subsection (j) of this section is more than $4,924,672,200.

(2) Use of base year

(A) "Base year" defined

As used in this subsection, the term ''base year'' means the fiscal year preceding the first fiscal year in which this subsection applies.

(B) Special rule for use of base year amount

If a State received any funds under this section for the base year on the basis of children aged 3 through 5, but does not make a free appropriate public education available to all children with disabilities aged 3 through 5 in the State in any subsequent fiscal year, the Secretary shall compute the State's base year amount, solely for the purpose of calculating the State's allocation in that subsequent year under paragraph (3) or (4), by subtracting the amount allocated to the State for the base year on the basis of those children.

(3) Increase in funds

If the amount available for allocations to States under paragraph (1) is equal to or greater than the amount allocated to the States under this paragraph for the preceding fiscal year, those allocations shall be calculated as follows:

(A)(i) Except as provided in subparagraph (B), the Secretary shall—

(I) allocate to each State the amount it received for the base year;

(II) allocate 85 percent of any remaining funds to States on the basis of their relative populations of children aged 3 through 21 who are of the same age as children with disabilities for whom the State ensures the availability of a free appropriate public education under this subchapter; and

(III) allocate 15 percent of those remaining funds to States on the basis of their relative populations of children described in subclause (II) who are living in poverty.

(ii) For the purpose of making grants under this paragraph, the Secretary shall use the most recent population data, including data on children living in poverty, that are available and satisfactory to the Secretary.

(B) Notwithstanding subparagraph (A), allocations under this paragraph shall be subject to the following:

(i) No State's allocation shall be less than its allocation for the preceding fiscal year.

(ii) No State's allocation shall be less than the greatest of—

(I) the sum of—

(aa) the amount it received for the base year; and

(bb) one third of one percent of the amount by which the amount appropriated under subsection (j) of this section exceeds the amount appropriated under this section for the base year;

(II) the sum of—

(aa) the amount it received for the preceding fiscal year; and

(bb) that amount multiplied by the percentage by which the increase in the funds appropriated from the preceding fiscal year exceeds 1.5 percent; or

(III) the sum of—

(aa) the amount it received for the preceding fiscal year; and

(bb) that amount multiplied by 90 percent of the percentage increase in the amount appropriated from the preceding fiscal year.

(iii) Notwithstanding clause (ii), no State's allocation under this paragraph shall exceed the sum of—

(I) the amount it received for the preceding fiscal year; and

(II) that amount multiplied by the sum of 1.5 percent and the percentage increase in the amount appropriated.

(C) If the amount available for allocations under this paragraph is insufficient to pay those allocations in full, those allocations shall be ratably reduced, subject to subparagraph (B)(i).

(4) Decrease in funds

If the amount available for allocations to States under paragraph (1) is less than the amount allocated to the States under this section for the preceding fiscal year, those allocations shall be calculated as follows:

(A) If the amount available for allocations is greater than the amount allocated to the States for the base year, each State shall be allocated the sum of—

(i) the amount it received for the base year; and

(ii) an amount that bears the same relation to any remaining funds as the increase the State received for the preceding fiscal year over the base year bears to the total of all such increases for all States.

(B)(i) If the amount available for allocations is equal to or less than the amount allocated to the States for the base year, each State shall be allocated the amount it received for the base year.

(ii) If the amount available is insufficient to make the allocations described in clause (i), those allocations shall be ratably reduced.

(f) State-level activities

(1) General

(A) Each State may retain not more than the amount described in subparagraph (B) for administration and other State-level activities in accordance with paragraphs (2) and (3).

(B) For each fiscal year, the Secretary shall determine and report to the State educational agency an amount that is 25 percent of the amount the State received under this section for fiscal year 1997, cumulatively adjusted by the Secretary for each succeeding fiscal year by the lesser of—

(i) the percentage increase, if any, from the preceding fiscal year in the State's allocation under this section; or

(ii) the rate of inflation, as measured by the percentage increase, if any, from the preceding fiscal year in the Consumer Price Index For All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor.

(C) A State may use funds it retains under subparagraph (A) without regard to—

(i) the prohibition on commingling of funds in section 1412(a)(18)(B) of this title; and

(ii) the prohibition on supplanting other funds in section 1412(a)(18)(C) of this title.

(2) State administration

(A) For the purpose of administering this subchapter, including section 1419 of this title (including the coordination of activities under this subchapter with, and providing technical assistance to, other programs that provide services to children with disabilities)—

(i) each State may use not more than twenty percent of the maximum amount it may retain under paragraph (1)(A) for any fiscal year or $500,000 (adjusted by the cumulative rate of inflation since fiscal year 1998, as measured by the percentage increase, if any, in the Consumer Price Index For All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor), whichever is greater; and

(ii) each outlying area may use up to five percent of the amount it receives under this section for any fiscal year or $35,000, whichever is greater.

(B) Funds described in subparagraph (A) may also be used for the administration of subchapter III of this chapter, if the State educational agency is the lead agency for the State under that subchapter.

(3) Other State-level activities

Each State shall use any funds it retains under paragraph (1) and does not use for administration under paragraph (2) for any of the following:

(A) Support and direct services, including technical assistance and personnel development and training.

(B) Administrative costs of monitoring and complaint investigation, but only to the extent that those costs exceed the costs incurred for those activities during fiscal year 1985.

(C) To establish and implement the mediation process required by section 1415(e) of this title, including providing for the costs of mediators and support personnel.

(D) To assist local educational agencies in meeting personnel shortages.

(E) To develop a State Improvement Plan under part A of subchapter IV of this chapter.

(F) Activities at the State and local levels to meet the performance goals established by the State under section 1412(a)(16) of this title and to support implementation of the State Improvement Plan under part A of subchapter IV of this chapter if the State receives funds under that part.

(G) To supplement other amounts used to develop and implement a Statewide coordinated services system designed to improve results for children and families, including children with disabilities and their families, but not to exceed one percent of the amount received by the State under this section. This system shall be coordinated with and, to the extent appropriate, build on the system of coordinated services developed by the State under subchapter III of this chapter.

(H) For subgrants to local educational agencies for the purposes described in paragraph (4)(A).

(4)(A) Subgrants to local educational agencies for capacity-building and improvement

In any fiscal year in which the percentage increase in the State's allocation under this section exceeds the rate of inflation (as measured by the percentage increase, if any, from the preceding fiscal year in the Consumer Price Index For All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor), each State shall reserve, from its allocation under this section, the amount described in subparagraph (B) to make subgrants to local educational agencies, unless that amount is less than $100,000, to assist them in providing direct services and in making systemic change to improve results for children with disabilities through one or more of the following:

(i) Direct services, including alternative programming for children who have been expelled from school, and services for children in correctional facilities, children enrolled in State-operated or State-supported schools, and children in charter schools.

(ii) Addressing needs or carrying out improvement strategies identified in the State's Improvement Plan under part A of subchapter IV of this chapter.

(iii) Adopting promising practices, materials, and technology, based on knowledge derived from education research and other sources.

(iv) Establishing, expanding, or implementing interagency agreements and arrangements between local educational agencies and other agencies or organizations concerning the provision of services to children with disabilities and their families.

(v) Increasing cooperative problem-solving between parents and school personnel and

promoting the use of alternative dispute resolution.

(B) Maximum subgrant

For each fiscal year, the amount referred to in subparagraph (A) is—

(i) the maximum amount the State was allowed to retain under paragraph (1)(A) for the prior fiscal year, or for fiscal year 1998, 25 percent of the State's allocation for fiscal year 1997 under this section; multiplied by

(ii) the difference between the percentage increase in the State's allocation under this section and the rate of inflation, as measured by the percentage increase, if any, from the preceding fiscal year in the Consumer Price Index For All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor.

(5) Report on use of funds

As part of the information required to be submitted to the Secretary under section 1412 of this title, each State shall annually describe—

(A) how amounts retained under paragraph (1) will be used to meet the requirements of this subchapter;

(B) how those amounts will be allocated among the activities described in paragraphs (2) and (3) to meet State priorities based on input from local educational agencies; and

(C) the percentage of those amounts, if any, that will be distributed to local educational agencies by formula.

(g) Subgrants to local educational agencies

(1) Subgrants required

Each State that receives a grant under this section for any fiscal year shall distribute any funds it does not retain under subsection (f) of this section (at least 75 percent of the grant funds) to local educational agencies in the State that have established their eligibility under section 1413 of this title, and to State agencies that received funds under section 614A(a) of this Act for fiscal year 1997, as then in effect, and have established their eligibility under section 1413 of this title, for use in accordance with this subchapter.

(2) Allocations to local educational agencies

(A) Interim procedure

For each fiscal year for which funds are allocated to States under subsection (d)(2) of this section, each State shall allocate funds under paragraph (1) in accordance with section 611(d) of this Act, as in effect prior to June 4, 1997.

(B) Permanent procedure

For each fiscal year for which funds are allocated to States under subsection (e) of this section, each State shall allocate funds under paragraph (1) as follows:

(i) Base payments

The State shall first award each agency described in paragraph (1) the amount that agency would have received under this section for the base year, as defined in subsection (e)(2)(A) of this section, if the State had distributed 75 percent of its grant for that year under section 611(d), as then in effect.

(ii) Allocation of remaining funds

After making allocations under clause (i), the State shall—

(I) allocate 85 percent of any remaining funds to those agencies on the basis of the relative numbers of children enrolled in public and private elementary and secondary schools within the agency's jurisdiction; and

(II) allocate 15 percent of those remaining funds to those agencies in accordance with their relative numbers of children living in poverty, as determined by the State educational agency.

(3) Former chapter 1 State agencies

(A) To the extent necessary, the State—

(i) shall use funds that are available under subsection (f)(1)(A) of this section to ensure that each State agency that received fiscal year 1994 funds under subpart 2 of part D of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 receives, from the combination of funds under subsection (f)(1)(A) of this section and funds provided under paragraph (1) of this subsection, an amount equal to—

(I) the number of children with disabilities, aged 6 through 21, to whom the agency was providing special education and related services on December 1 of the fiscal year for which the funds were appropriated, subject to the limitation in subparagraph (B); multiplied by

(II) the per-child amount provided under such subpart for fiscal year 1994; and

(ii) may use those funds to ensure that each local educational agency that received fiscal year 1994 funds under that subpart for children who had transferred from a State-operated or State-supported school or program assisted under that subpart receives, from the combination of funds available under subsection (f)(1)(A) of this section and funds provided under paragraph (1) of this subsection, an amount for each such child, aged 3 through 21 to whom the agency was providing special education and related services on December 1 of the fiscal year for which the funds were appropriated, equal to the per-child amount the agency received under that subpart for fiscal year 1994.

(B) The number of children counted under subparagraph (A)(i)(I) shall not exceed the number of children aged 3 through 21 for whom the agency received fiscal year 1994 funds under subpart 2 of part D of chapter 1 of title I of the Elementary and Secondary Education Act of 1965.

(4) Reallocation of funds

If a State educational agency determines that a local educational agency is adequately providing a free appropriate public education to all children with disabilities residing in the area served by that agency with State and local funds, the State educational agency may

reallocate any portion of the funds under this subchapter that are not needed by that local agency to provide a free appropriate public education to other local educational agencies in the State that are not adequately providing special education and related services to all children with disabilities residing in the areas they serve.

(h) Definitions

For the purpose of this section—

(1) the term ''average per-pupil expenditure in public elementary and secondary schools in the United States'' means—

(A) without regard to the source of funds—

(i) the aggregate current expenditures, during the second fiscal year preceding the fiscal year for which the determination is made (or, if satisfactory data for that year are not available, during the most recent preceding fiscal year for which satisfactory data are available) of all local educational agencies in the 50 States and the District of Columbia); plus

(ii) any direct expenditures by the State for the operation of those agencies; divided by

(B) the aggregate number of children in average daily attendance to whom those agencies provided free public education during that preceding year; and

(2) the term ''State'' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

(i) Use of amounts by Secretary of the Interior

(1) Provision of amounts for assistance

(A) In general

The Secretary of Education shall provide amounts to the Secretary of the Interior to meet the need for assistance for the education of children with disabilities on reservations aged 5 to 21, inclusive, enrolled in elementary and secondary schools for Indian children operated or funded by the Secretary of the Interior. The amount of such payment for any fiscal year shall be equal to 80 percent of the amount allotted under subsection (c) of this section for that fiscal year.

(B) Calculation of number of children

In the case of Indian students aged 3 to 5, inclusive, who are enrolled in programs affiliated with the Bureau of Indian Affairs (hereafter in this subsection referred to as ''BIA'') schools and that are required by the States in which such schools are located to attain or maintain State accreditation, and which schools have such accreditation prior to October 7, 1991, the school shall be allowed to count those children for the purpose of distribution of the funds provided under this paragraph to the Secretary of the Interior. The Secretary of the Interior shall be responsible for meeting all of the requirements of this subchapter for these children, in accordance with paragraph (2).

(C) Additional requirement

With respect to all other children aged 3 to 21, inclusive, on reservations, the State educational agency shall be responsible for ensuring that all of the requirements of this subchapter are implemented.

(2) Submission of information

The Secretary of Education may provide the Secretary of the Interior amounts under paragraph (1) for a fiscal year only if the Secretary of the Interior submits to the Secretary of Education information that—

(A) demonstrates that the Department of the Interior meets the appropriate requirements, as determined by the Secretary of Education, of sections 1412 (including monitoring and evaluation activities) and 1413 of this title;

(B) includes a description of how the Secretary of the Interior will coordinate the provision of services under this subchapter with local educational agencies, tribes and tribal organizations, and other private and Federal service providers;

(C) includes an assurance that there are public hearings, adequate notice of such hearings, and an opportunity for comment afforded to members of tribes, tribal governing bodies, and affected local school boards before the adoption of the policies, programs, and procedures described in subparagraph (A);

(D) includes an assurance that the Secretary of the Interior will provide such information as the Secretary of Education may require to comply with section 1418 of this title;

(E) includes an assurance that the Secretary of the Interior and the Secretary of Health and Human Services have entered into a memorandum of agreement, to be provided to the Secretary of Education, for the coordination of services, resources, and personnel between their respective Federal, State, and local offices and with State and local educational agencies and other entities to facilitate the provision of services to Indian children with disabilities residing on or near reservations (such agreement shall provide for the apportionment of responsibilities and costs including, but not limited to, child find, evaluation, diagnosis, remediation or therapeutic measures, and (where appropriate) equipment and medical or personal supplies as needed for a child to remain in school or a program); and

(F) includes an assurance that the Department of the Interior will cooperate with the Department of Education in its exercise of monitoring and oversight of this application, and any agreements entered into between the Secretary of the Interior and other entities under this subchapter, and will fulfill its duties under this subchapter.

Section 1416(a) of this title shall apply to the information described in this paragraph.

(3) Payments for education and services for Indian children with disabilities aged 3 through 5

(A) In general

With funds appropriated under subsection (j) of this section, the Secretary of Edu-

cation shall make payments to the Secretary of the Interior to be distributed to tribes or tribal organizations (as defined under section 450b of title 25) or consortia of the above to provide for the coordination of assistance for special education and related services for children with disabilities aged 3 through 5 on reservations served by elementary and secondary schools for Indian children operated or funded by the Department of the Interior. The amount of such payments under subparagraph (B) for any fiscal year shall be equal to 20 percent of the amount allotted under subsection (c) of this section.

(B) Distribution of funds

The Secretary of the Interior shall distribute the total amount of the payment under subparagraph (A) by allocating to each tribe or tribal organization an amount based on the number of children with disabilities ages 3 through 5 residing on reservations as reported annually, divided by the total of those children served by all tribes or tribal organizations.

(C) Submission of information

To receive a payment under this paragraph, the tribe or tribal organization shall submit such figures to the Secretary of the Interior as required to determine the amounts to be allocated under subparagraph (B). This information shall be compiled and submitted to the Secretary of Education.

(D) Use of funds

The funds received by a tribe or tribal organization shall be used to assist in child find, screening, and other procedures for the early identification of children aged 3 through 5, parent training, and the provision of direct services. These activities may be carried out directly or through contracts or cooperative agreements with the BIA, local educational agencies, and other public or private nonprofit organizations. The tribe or tribal organization is encouraged to involve Indian parents in the development and implementation of these activities. The above entities shall, as appropriate, make referrals to local, State, or Federal entities for the provision of services or further diagnosis.

(E) Biennial report

To be eligible to receive a grant pursuant to subparagraph (A), the tribe or tribal organization shall provide to the Secretary of the Interior a biennial report of activities undertaken under this paragraph, including the number of contracts and cooperative agreements entered into, the number of children contacted and receiving services for each year, and the estimated number of children needing services during the 2 years following the one in which the report is made. The Secretary of the Interior shall include a summary of this information on a biennial basis in the report to the Secretary of Education required under this subsection. The Secretary of Education may require any additional information from the Secretary of the Interior.

(F) Prohibitions

None of the funds allocated under this paragraph may be used by the Secretary of the Interior for administrative purposes, including child count and the provision of technical assistance.

(4) Plan for coordination of services

The Secretary of the Interior shall develop and implement a plan for the coordination of services for all Indian children with disabilities residing on reservations covered under this chapter. Such plan shall provide for the coordination of services benefiting these children from whatever source, including tribes, the Indian Health Service, other BIA divisions, and other Federal agencies. In developing the plan, the Secretary of the Interior shall consult with all interested and involved parties. It shall be based on the needs of the children and the system best suited for meeting those needs, and may involve the establishment of cooperative agreements between the BIA, other Federal agencies, and other entities. The plan shall also be distributed upon request to States, State and local educational agencies, and other agencies providing services to infants, toddlers, and children with disabilities, to tribes, and to other interested parties.

(5) Establishment of advisory board

To meet the requirements of section 1412(a)(21) of this title, the Secretary of the Interior shall establish, not later than 6 months after June 4, 1997, under the BIA, an advisory board composed of individuals involved in or concerned with the education and provision of services to Indian infants, toddlers, children, and youth with disabilities, including Indians with disabilities, Indian parents or guardians of such children, teachers, service providers, State and local educational officials, representatives of tribes or tribal organizations, representatives from State Interagency Coordinating Councils under section 1441 of this title in States having reservations, and other members representing the various divisions and entities of the BIA. The chairperson shall be selected by the Secretary of the Interior. The advisory board shall—

(A) assist in the coordination of services within the BIA and with other local, State, and Federal agencies in the provision of education for infants, toddlers, and children with disabilities;

(B) advise and assist the Secretary of the Interior in the performance of the Secretary's responsibilities described in this subsection;

(C) develop and recommend policies concerning effective inter- and intra-agency collaboration, including modifications to regulations, and the elimination of barriers to inter- and intra-agency programs and activities;

(D) provide assistance and disseminate information on best practices, effective program coordination strategies, and recommendations for improved educational programming for Indian infants, toddlers, and children with disabilities; and

(E) provide assistance in the preparation of information required under paragraph (2)(D).

(6) Annual reports

(A) In general

The advisory board established under paragraph (5) shall prepare and submit to the Secretary of the Interior and to the Congress an annual report containing a description of the activities of the advisory board for the preceding year.

(B) Availability

The Secretary of the Interior shall make available to the Secretary of Education the report described in subparagraph (A).

(j) Authorization of appropriations

For the purpose of carrying out this subchapter, other than section 1419 of this title, there are authorized to be appropriated such sums as may be necessary.

(Pub. L. 91–230, title VI, § 611, as added Pub. L. 105–17, title I, § 101, June 4, 1997, 111 Stat. 49.)

REFERENCES IN TEXT

Provisions under the heading ''SPECIAL EDUCATION'' in Public Law 104–134, referred to in subsec. (b)(1)(B), are provisions of Pub. L. 104–134, title I, § 101(d) [title III], Apr. 26, 1996, 110 Stat. 1321–211, 1321–231, which are not classified to the Code.

Public Law 95–134, referred to in subsec. (b)(4), is Pub. L. 95–134, Oct. 15, 1977, 91 Stat. 1159, as amended. Provisions relating to consolidation of grants are contained in section 501 of Pub. L. 95–134 which is classified to section 1469a of Title 48, Territories and Insular Possessions.

Section 611 of this Act, as in effect prior to June 4, 1997, referred to in subsecs. (d)(2) and (g)(2)(A), (B)(i), means section 611 of Pub. L. 91–230, title VI, Apr. 13, 1970, 84 Stat. 178, as amended, which was classified to section 1411 of this title prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 105–17, title I, § 101, June 4, 1997, 111 Stat. 37.

Section 614A of this Act for fiscal year 1997, as then in effect, referred to in subsec. (g)(1), means section 614A of Pub. L. 91–230, title VI, as added by Pub. L. 103–382, title III, § 312, Oct. 20, 1994, 108 Stat. 3934, which was classified to section 1414a of this title prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 105–17, title I, § 101, June 4, 1997, 111 Stat. 37.

Subpart 2 of part D of chapter 1 of title I of the Elementary and Secondary Education Act of 1965, referred to in subsec. (g)(3), is subpart 2 of part D of chapter 1 of title I of Pub. L. 89–10, as added by Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 179, as amended, which was classified generally to subpart 2 (§ 2791 et seq.) of part D of div. I of subchapter I of chapter 47 of this title prior to being omitted in the general amendment of Pub. L. 89–10 by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519.

PRIOR PROVISIONS

A prior section 1411, Pub. L. 91–230, title VI, § 611, Apr. 13, 1970, 84 Stat. 178; Pub. L. 93–380, title VI, § 614(a), (e)(1), (2), Aug. 21, 1974, 88 Stat. 580, 582; Pub. L. 94–142, §§ 2(a)(1)–(3), 5(a), (c), Nov. 29, 1975, 89 Stat. 773, 776, 794; Pub. L. 95–561, title XIII, § 1341(a), Nov. 1, 1978, 92 Stat. 2364; Pub. L. 96–270, § 13, June 14, 1980, 94 Stat. 498; Pub. L. 98–199, §§ 3(b), 15, Dec. 2, 1983, 97 Stat. 1358, 1374; Pub. L. 99–159, title VI, § 601, Nov. 22, 1985, 99 Stat. 904; Pub. L. 99–362, § 2, July 9, 1986, 100 Stat. 769; Pub. L. 99–457, title II, § 201(b), title IV, §§ 403, 404, Oct. 8, 1986, 100 Stat. 1158, 1173; Pub. L. 100–630, title I, § 102(a), Nov. 7, 1988, 102 Stat. 3290; Pub. L. 101–476, title II, § 201, title IX, § 901(b)(25)–(32), Oct. 30, 1990, 104 Stat. 1111, 1143; Pub. L. 102–73, title VIII, § 802(d)(2), (3), July 25, 1991, 105 Stat. 361; Pub. L. 102–119, §§ 4, 25(a)(4), (19), (b), Oct. 7, 1991, 105 Stat. 587, 606, 607; Pub. L. 103–382, title III, § 311, Oct. 20, 1994, 108 Stat. 3931, related to entitlements and allocations, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 105–17.

EFFECTIVE DATE

Section effective beginning with funds appropriated for fiscal year 1998, see section 201(a)(2)(D) of Pub. L. 105–17, set out as a note under section 1400 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1412, 1413, 1416, 1419, 1443, 1453, 1474, 1484 of this title.

§ 1412. State eligibility

(a) In general

A State is eligible for assistance under this subchapter for a fiscal year if the State demonstrates to the satisfaction of the Secretary that the State has in effect policies and procedures to ensure that it meets each of the following conditions:

(1) Free appropriate public education

(A) In general

A free appropriate public education is available to all children with disabilities residing in the State between the ages of 3 and 21, inclusive, including children with disabilities who have been suspended or expelled from school.

(B) Limitation

The obligation to make a free appropriate public education available to all children with disabilities does not apply with respect to children:

(i) aged 3 through 5 and 18 through 21 in a State to the extent that its application to those children would be inconsistent with State law or practice, or the order of any court, respecting the provision of public education to children in those age ranges; and

(ii) aged 18 through 21 to the extent that State law does not require that special education and related services under this subchapter be provided to children with disabilities who, in the educational placement prior to their incarceration in an adult correctional facility:

(I) were not actually identified as being a child with a disability under section 1401(3) of this title; or

(II) did not have an individualized education program under this subchapter.

(2) Full educational opportunity goal

The State has established a goal of providing full educational opportunity to all children with disabilities and a detailed timetable for accomplishing that goal.

(3) Child find

(A) In general

All children with disabilities residing in the State, including children with disabilities attending private schools, regardless of

the severity of their disabilities, and who are in need of special education and related services, are identified, located, and evaluated and a practical method is developed and implemented to determine which children with disabilities are currently receiving needed special education and related services.

(B) Construction

Nothing in this chapter requires that children be classified by their disability so long as each child who has a disability listed in section 1401 of this title and who, by reason of that disability, needs special education and related services is regarded as a child with a disability under this subchapter.

(4) Individualized education program

An individualized education program, or an individualized family service plan that meets the requirements of section 1436(d) of this title, is developed, reviewed, and revised for each child with a disability in accordance with section 1414(d) of this title.

(5) Least restrictive environment

(A) In general

To the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are not disabled, and special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only when the nature or severity of the disability of a child is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

(B) Additional requirement

(i) In general

If the State uses a funding mechanism by which the State distributes State funds on the basis of the type of setting in which a child is served, the funding mechanism does not result in placements that violate the requirements of subparagraph (A).

(ii) Assurance

If the State does not have policies and procedures to ensure compliance with clause (i), the State shall provide the Secretary an assurance that it will revise the funding mechanism as soon as feasible to ensure that such mechanism does not result in such placements.

(6) Procedural safeguards

(A) In general

Children with disabilities and their parents are afforded the procedural safeguards required by section 1415 of this title.

(B) Additional procedural safeguards

Procedures to ensure that testing and evaluation materials and procedures utilized for the purposes of evaluation and placement of children with disabilities will be selected and administered so as not to be racially or culturally discriminatory. Such materials or procedures shall be provided and administered in the child's native language or mode of communication, unless it clearly is not feasible to do so, and no single procedure shall be the sole criterion for determining an appropriate educational program for a child.

(7) Evaluation

Children with disabilities are evaluated in accordance with subsections (a) through (c) of section 1414 of this title.

(8) Confidentiality

Agencies in the State comply with section 1417(c) of this title (relating to the confidentiality of records and information).

(9) Transition from subchapter III to preschool programs

Children participating in early-intervention programs assisted under subchapter III of this chapter, and who will participate in preschool programs assisted under this subchapter, experience a smooth and effective transition to those preschool programs in a manner consistent with section 1437(a)(8) of this title. By the third birthday of such a child, an individualized education program or, if consistent with sections 1414(d)(2)(B) and 1436(d) of this title, an individualized family service plan, has been developed and is being implemented for the child. The local educational agency will participate in transition planning conferences arranged by the designated lead agency under section 1437(a)(8) of this title.

(10) Children in private schools

(A) Children enrolled in private schools by their parents

(i) In general

To the extent consistent with the number and location of children with disabilities in the State who are enrolled by their parents in private elementary and secondary schools, provision is made for the participation of those children in the program assisted or carried out under this subchapter by providing for such children special education and related services in accordance with the following requirements, unless the Secretary has arranged for services to those children under subsection (f) of this section:

(I) Amounts expended for the provision of those services by a local educational agency shall be equal to a proportionate amount of Federal funds made available under this subchapter.

(II) Such services may be provided to children with disabilities on the premises of private, including parochial, schools, to the extent consistent with law.

(ii) Child-find requirement

The requirements of paragraph (3) of this subsection (relating to child find) shall apply with respect to children with disabilities in the State who are enrolled in private, including parochial, elementary and secondary schools.

(B) Children placed in, or referred to, private schools by public agencies

(i) In general

Children with disabilities in private schools and facilities are provided special education and related services, in accordance with an individualized education program, at no cost to their parents, if such children are placed in, or referred to, such schools or facilities by the State or appropriate local educational agency as the means of carrying out the requirements of this subchapter or any other applicable law requiring the provision of special education and related services to all children with disabilities within such State.

(ii) Standards

In all cases described in clause (i), the State educational agency shall determine whether such schools and facilities meet standards that apply to State and local educational agencies and that children so served have all the rights they would have if served by such agencies.

(C) Payment for education of children enrolled in private schools without consent of or referral by the public agency

(i) In general

Subject to subparagraph (A), this subchapter does not require a local educational agency to pay for the cost of education, including special education and related services, of a child with a disability at a private school or facility if that agency made a free appropriate public education available to the child and the parents elected to place the child in such private school or facility.

(ii) Reimbursement for private school placement

If the parents of a child with a disability, who previously received special education and related services under the authority of a public agency, enroll the child in a private elementary or secondary school without the consent of or referral by the public agency, a court or a hearing officer may require the agency to reimburse the parents for the cost of that enrollment if the court or hearing officer finds that the agency had not made a free appropriate public education available to the child in a timely manner prior to that enrollment.

(iii) Limitation on reimbursement

The cost of reimbursement described in clause (ii) may be reduced or denied—

(I) if—

(aa) at the most recent IEP meeting that the parents attended prior to removal of the child from the public school, the parents did not inform the IEP Team that they were rejecting the placement proposed by the public agency to provide a free appropriate public education to their child, including stating their concerns and their intent to enroll their child in a private school at public expense; or

(bb) 10 business days (including any holidays that occur on a business day) prior to the removal of the child from the public school, the parents did not give written notice to the public agency of the information described in division (aa);

(II) if, prior to the parents' removal of the child from the public school, the public agency informed the parents, through the notice requirements described in section 1415(b)(7) of this title, of its intent to evaluate the child (including a statement of the purpose of the evaluation that was appropriate and reasonable), but the parents did not make the child available for such evaluation; or

(III) upon a judicial finding of unreasonableness with respect to actions taken by the parents.

(iv) Exception

Notwithstanding the notice requirement in clause (iii)(I), the cost of reimbursement may not be reduced or denied for failure to provide such notice if—

(I) the parent is illiterate and cannot write in English;

(II) compliance with clause (iii)(I) would likely result in physical or serious emotional harm to the child;

(III) the school prevented the parent from providing such notice; or

(IV) the parents had not received notice, pursuant to section 1415 of this title, of the notice requirement in clause (iii)(I).

(11) State educational agency responsible for general supervision

(A) In general

The State educational agency is responsible for ensuring that—

(i) the requirements of this subchapter are met; and

(ii) all educational programs for children with disabilities in the State, including all such programs administered by any other State or local agency—

(I) are under the general supervision of individuals in the State who are responsible for educational programs for children with disabilities; and

(II) meet the educational standards of the State educational agency.

(B) Limitation

Subparagraph (A) shall not limit the responsibility of agencies in the State other than the State educational agency to provide, or pay for some or all of the costs of, a free appropriate public education for any child with a disability in the State.

(C) Exception

Notwithstanding subparagraphs (A) and (B), the Governor (or another individual pursuant to State law), consistent with State law, may assign to any public agency in the State the responsibility of ensuring that the requirements of this subchapter are met

with respect to children with disabilities who are convicted as adults under State law and incarcerated in adult prisons.

(12) Obligations related to and methods of ensuring services

(A) Establishing responsibility for services

The Chief Executive Officer or designee of the officer shall ensure that an interagency agreement or other mechanism for interagency coordination is in effect between each public agency described in subparagraph (B) and the State educational agency, in order to ensure that all services described in subparagraph (B)(i) that are needed to ensure a free appropriate public education are provided, including the provision of such services during the pendency of any dispute under clause (iii). Such agreement or mechanism shall include the following:

(i) Agency financial responsibility

An identification of, or a method for defining, the financial responsibility of each agency for providing services described in subparagraph (B)(i) to ensure a free appropriate public education to children with disabilities, provided that the financial responsibility of each public agency described in subparagraph (B), including the State Medicaid agency and other public insurers of children with disabilities, shall precede the financial responsibility of the local educational agency (or the State agency responsible for developing the child's IEP).

(ii) Conditions and terms of reimbursement

The conditions, terms, and procedures under which a local educational agency shall be reimbursed by other agencies.

(iii) Interagency disputes

Procedures for resolving interagency disputes (including procedures under which local educational agencies may initiate proceedings) under the agreement or other mechanism to secure reimbursement from other agencies or otherwise implement the provisions of the agreement or mechanism.

(iv) Coordination of services procedures

Policies and procedures for agencies to determine and identify the interagency coordination responsibilities of each agency to promote the coordination and timely and appropriate delivery of services described in subparagraph (B)(i).

(B) Obligation of public agency

(i) In general

If any public agency other than an educational agency is otherwise obligated under Federal or State law, or assigned responsibility under State policy or pursuant to subparagraph (A), to provide or pay for any services that are also considered special education or related services (such as, but not limited to, services described in sections 1401(1) relating to assistive technology devices, 1401(2) relating to assistive technology services, 1401(22) relating to related services, 1401(29) relating to supplementary aids and services, and 1401(30) of this title relating to transition services) that are necessary for ensuring a free appropriate public education to children with disabilities within the State, such public agency shall fulfill that obligation or responsibility, either directly or through contract or other arrangement.

(ii) Reimbursement for services by public agency

If a public agency other than an educational agency fails to provide or pay for the special education and related services described in clause (i), the local educational agency (or State agency responsible for developing the child's IEP) shall provide or pay for such services to the child. Such local educational agency or State agency may then claim reimbursement for the services from the public agency that failed to provide or pay for such services and such public agency shall reimburse the local educational agency or State agency pursuant to the terms of the interagency agreement or other mechanism described in subparagraph (A)(i) according to the procedures established in such agreement pursuant to subparagraph (A)(ii).

(C) Special rule

The requirements of subparagraph (A) may be met through—

(i) state[1] statute or regulation;

(ii) signed agreements between respective agency officials that clearly identify the responsibilities of each agency relating to the provision of services; or

(iii) other appropriate written methods as determined by the Chief Executive Officer of the State or designee of the officer.

(13) Procedural requirements relating to local educational agency eligibility

The State educational agency will not make a final determination that a local educational agency is not eligible for assistance under this subchapter without first affording that agency reasonable notice and an opportunity for a hearing.

(14) Comprehensive system of personnel development

The State has in effect, consistent with the purposes of this chapter and with section 1435(a)(8) of this title, a comprehensive system of personnel development that is designed to ensure an adequate supply of qualified special education, regular education, and related services personnel that meets the requirements for a State improvement plan relating to personnel development in subsections (b)(2)(B) and (c)(3)(D) of section 1453 of this title.

(15) Personnel standards

(A) In general

The State educational agency has established and maintains standards to ensure

[1] So in original. Probably should be capitalized.

that personnel necessary to carry out this subchapter are appropriately and adequately prepared and trained.

(B) Standards described

Such standards shall—

(i) be consistent with any State-approved or State-recognized certification, licensing, registration, or other comparable requirements that apply to the professional discipline in which those personnel are providing special education or related services;

(ii) to the extent the standards described in subparagraph (A) are not based on the highest requirements in the State applicable to a specific profession or discipline, the State is taking steps to require retraining or hiring of personnel that meet appropriate professional requirements in the State; and

(iii) allow paraprofessionals and assistants who are appropriately trained and supervised, in accordance with State law, regulations, or written policy, in meeting the requirements of this subchapter to be used to assist in the provision of special education and related services to children with disabilities under this subchapter.

(C) Policy

In implementing this paragraph, a State may adopt a policy that includes a requirement that local educational agencies in the State make an ongoing good-faith effort to recruit and hire appropriately and adequately trained personnel to provide special education and related services to children with disabilities, including, in a geographic area of the State where there is a shortage of such personnel, the most qualified individuals available who are making satisfactory progress toward completing applicable course work necessary to meet the standards described in subparagraph (B)(i), consistent with State law, and the steps described in subparagraph (B)(ii) within three years.

(16) Performance goals and indicators

The State—

(A) has established goals for the performance of children with disabilities in the State that—

(i) will promote the purposes of this chapter, as stated in section 1400(d) of this title; and

(ii) are consistent, to the maximum extent appropriate, with other goals and standards for children established by the State;

(B) has established performance indicators the State will use to assess progress toward achieving those goals that, at a minimum, address the performance of children with disabilities on assessments, drop-out rates, and graduation rates;

(C) will, every two years, report to the Secretary and the public on the progress of the State, and of children with disabilities in the State, toward meeting the goals established under subparagraph (A); and

(D) based on its assessment of that progress, will revise its State improvement plan under part A of subchapter IV of this chapter as may be needed to improve its performance, if the State receives assistance under that part.

(17) Participation in assessments

(A) In general

Children with disabilities are included in general State and district-wide assessment programs, with appropriate accommodations, where necessary. As appropriate, the State or local educational agency—

(i) develops guidelines for the participation of children with disabilities in alternate assessments for those children who cannot participate in State and district-wide assessment programs; and

(ii) develops and, beginning not later than July 1, 2000, conducts those alternate assessments.

(B) Reports

The State educational agency makes available to the public, and reports to the public with the same frequency and in the same detail as it reports on the assessment of nondisabled children, the following:

(i) The number of children with disabilities participating in regular assessments.

(ii) The number of those children participating in alternate assessments.

(iii)(I) The performance of those children on regular assessments (beginning not later than July 1, 1998) and on alternate assessments (not later than July 1, 2000), if doing so would be statistically sound and would not result in the disclosure of performance results identifiable to individual children.

(II) Data relating to the performance of children described under subclause (I) shall be disaggregated—

(aa) for assessments conducted after July 1, 1998; and

(bb) for assessments conducted before July 1, 1998, if the State is required to disaggregate such data prior to July 1, 1998.

(18) Supplementation of State, local, and other Federal funds

(A) Expenditures

Funds paid to a State under this subchapter will be expended in accordance with all the provisions of this subchapter.

(B) Prohibition against commingling

Funds paid to a State under this subchapter will not be commingled with State funds.

(C) Prohibition against supplantation and conditions for waiver by Secretary

Except as provided in section 1413 of this title, funds paid to a State under this subchapter will be used to supplement the level of Federal, State, and local funds (including funds that are not under the direct control of State or local educational agencies) expended for special education and related services provided to children with disabilities under this subchapter and in no case to

supplant such Federal, State, and local funds, except that, where the State provides clear and convincing evidence that all children with disabilities have available to them a free appropriate public education, the Secretary may waive, in whole or in part, the requirements of this subparagraph if the Secretary concurs with the evidence provided by the State.

(19) Maintenance of State financial support

(A) In general

The State does not reduce the amount of State financial support for special education and related services for children with disabilities, or otherwise made available because of the excess costs of educating those children, below the amount of that support for the preceding fiscal year.

(B) Reduction of funds for failure to maintain support

The Secretary shall reduce the allocation of funds under section 1411 of this title for any fiscal year following the fiscal year in which the State fails to comply with the requirement of subparagraph (A) by the same amount by which the State fails to meet the requirement.

(C) Waivers for exceptional or uncontrollable circumstances

The Secretary may waive the requirement of subparagraph (A) for a State, for one fiscal year at a time, if the Secretary determines that—

(i) granting a waiver would be equitable due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the State; or

(ii) the State meets the standard in paragraph (18)(C) of this section for a waiver of the requirement to supplement, and not to supplant, funds received under this subchapter.

(D) Subsequent years

If, for any year, a State fails to meet the requirement of subparagraph (A), including any year for which the State is granted a waiver under subparagraph (C), the financial support required of the State in future years under subparagraph (A) shall be the amount that would have been required in the absence of that failure and not the reduced level of the State's support.

(E) Regulations

(i) The Secretary shall, by regulation, establish procedures (including objective criteria and consideration of the results of compliance reviews of the State conducted by the Secretary) for determining whether to grant a waiver under subparagraph (C)(ii).

(ii) The Secretary shall publish proposed regulations under clause (i) not later than 6 months after June 4, 1997, and shall issue final regulations under clause (i) not later than 1 year after June 4, 1997.

(20) Public participation

Prior to the adoption of any policies and procedures needed to comply with this section (including any amendments to such policies and procedures), the State ensures that there are public hearings, adequate notice of the hearings, and an opportunity for comment available to the general public, including individuals with disabilities and parents of children with disabilities.

(21) State advisory panel

(A) In general

The State has established and maintains an advisory panel for the purpose of providing policy guidance with respect to special education and related services for children with disabilities in the State.

(B) Membership

Such advisory panel shall consist of members appointed by the Governor, or any other official authorized under State law to make such appointments, that is representative of the State population and that is composed of individuals involved in, or concerned with, the education of children with disabilities, including—

(i) parents of children with disabilities;

(ii) individuals with disabilities;

(iii) teachers;

(iv) representatives of institutions of higher education that prepare special education and related services personnel;

(v) State and local education officials;

(vi) administrators of programs for children with disabilities;

(vii) representatives of other State agencies involved in the financing or delivery of related services to children with disabilities;

(viii) representatives of private schools and public charter schools;

(ix) at least one representative of a vocational, community, or business organization concerned with the provision of transition services to children with disabilities; and

(x) representatives from the State juvenile and adult corrections agencies.

(C) Special rule

A majority of the members of the panel shall be individuals with disabilities or parents of children with disabilities.

(D) Duties

The advisory panel shall—

(i) advise the State educational agency of unmet needs within the State in the education of children with disabilities;

(ii) comment publicly on any rules or regulations proposed by the State regarding the education of children with disabilities;

(iii) advise the State educational agency in developing evaluations and reporting on data to the Secretary under section 1418 of this title;

(iv) advise the State educational agency in developing corrective action plans to address findings identified in Federal monitoring reports under this subchapter; and

(v) advise the State educational agency in developing and implementing policies

relating to the coordination of services for children with disabilities.

(22) Suspension and expulsion rates

(A) In general

The State educational agency examines data to determine if significant discrepancies are occurring in the rate of long-term suspensions and expulsions of children with disabilities—

(i) among local educational agencies in the State; or

(ii) compared to such rates for nondisabled children within such agencies.

(B) Review and revision of policies

If such discrepancies are occurring, the State educational agency reviews and, if appropriate, revises (or requires the affected State or local educational agency to revise) its policies, procedures, and practices relating to the development and implementation of IEPs, the use of behavioral interventions, and procedural safeguards, to ensure that such policies, procedures, and practices comply with this chapter.

(b) State educational agency as provider of free appropriate public education or direct services

If the State educational agency provides free appropriate public education to children with disabilities, or provides direct services to such children, such agency—

(1) shall comply with any additional requirements of section 1413(a) of this title, as if such agency were a local educational agency; and

(2) may use amounts that are otherwise available to such agency under this subchapter to serve those children without regard to section 1413(a)(2)(A)(i) of this title (relating to excess costs).

(c) Exception for prior State plans

(1) In general

If a State has on file with the Secretary policies and procedures that demonstrate that such State meets any requirement of subsection (a) of this section, including any policies and procedures filed under this subchapter as in effect before the effective date of the Individuals with Disabilities Education Act Amendments of 1997, the Secretary shall consider such State to have met such requirement for purposes of receiving a grant under this subchapter.

(2) Modifications made by State

Subject to paragraph (3), an application submitted by a State in accordance with this section shall remain in effect until the State submits to the Secretary such modifications as the State deems necessary. This section shall apply to a modification to an application to the same extent and in the same manner as this section applies to the original plan.

(3) Modifications required by Secretary

If, after the effective date of the Individuals with Disabilities Education Act Amendments of 1997, the provisions of this chapter are amended (or the regulations developed to carry out this chapter are amended), or there is a new interpretation of this chapter by a Federal court or a State's highest court, or there is an official finding of noncompliance with Federal law or regulations, the Secretary may require a State to modify its application only to the extent necessary to ensure the State's compliance with this subchapter.

(d) Approval by Secretary

(1) In general

If the Secretary determines that a State is eligible to receive a grant under this subchapter, the Secretary shall notify the State of that determination.

(2) Notice and hearing

The Secretary shall not make a final determination that a State is not eligible to receive a grant under this subchapter until after providing the State—

(A) with reasonable notice; and

(B) with an opportunity for a hearing.

(e) Assistance under other Federal programs

Nothing in this chapter permits a State to reduce medical and other assistance available, or to alter eligibility, under titles V and XIX of the Social Security Act [42 U.S.C. 701 et seq., 1396 et seq.] with respect to the provision of a free appropriate public education for children with disabilities in the State.

(f) By-pass for children in private schools

(1) In general

If, on December 2, 1983, a State educational agency is prohibited by law from providing for the participation in special programs of children with disabilities enrolled in private elementary and secondary schools as required by subsection (a)(10)(A) of this section, the Secretary shall, notwithstanding such provision of law, arrange for the provision of services to such children through arrangements which shall be subject to the requirements of such subsection.

(2) Payments

(A) Determination of amounts

If the Secretary arranges for services pursuant to this subsection, the Secretary, after consultation with the appropriate public and private school officials, shall pay to the provider of such services for a fiscal year an amount per child that does not exceed the amount determined by dividing—

(i) the total amount received by the State under this subchapter for such fiscal year; by

(ii) the number of children with disabilities served in the prior year, as reported to the Secretary by the State under section 1418 of this title.

(B) Withholding of certain amounts

Pending final resolution of any investigation or complaint that could result in a determination under this subsection, the Secretary may withhold from the allocation of the affected State educational agency the amount the Secretary estimates would be necessary to pay the cost of services described in subparagraph (A).

(C) Period of payments

The period under which payments are made under subparagraph (A) shall continue until the Secretary determines that there will no longer be any failure or inability on the part of the State educational agency to meet the requirements of subsection (a)(10)(A) of this section.

(3) Notice and hearing

(A) In general

The Secretary shall not take any final action under this subsection until the State educational agency affected by such action has had an opportunity, for at least 45 days after receiving written notice thereof, to submit written objections and to appear before the Secretary or the Secretary's designee to show cause why such action should not be taken.

(B) Review of action

If a State educational agency is dissatisfied with the Secretary's final action after a proceeding under subparagraph (A), such agency may, not later than 60 days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file in the court the record of the proceedings on which the Secretary based the Secretary's action, as provided in section 2112 of title 28.

(C) Review of findings of fact

The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify the Secretary's previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(D) Jurisdiction of court of appeals; review by United States Supreme Court

Upon the filing of a petition under subparagraph (B), the United States court of appeals shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28.

(Pub. L. 91–230, title VI, § 612, as added Pub. L. 105–17, title I, § 101, June 4, 1997, 111 Stat. 60.)

REFERENCES IN TEXT

For the effective date of the Individuals with Disabilities Education Act Amendments of 1997, referred to in subsec. (c)(1), (3), see section 201 of Pub. L. 105–17, set out as an Effective Date note under section 1400 of this title.

The Social Security Act, referred to in subsec. (e), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Titles V and XIX of the Act are classified generally to subchapters V (§ 701 et seq.) and XIX (§ 1396 et seq.), respectively, of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

PRIOR PROVISIONS

A prior section 1412, Pub. L. 91–230, title VI, § 612, Apr. 13, 1970, 84 Stat. 178; Pub. L. 92–318, title IV, § 421(b)(1)(C), June 23, 1972, 86 Stat. 341; Pub. L. 93–380, title VI, §§ 614(b), (f)(1), 615(a), title VIII, § 843(b), Aug. 21, 1974, 88 Stat. 581, 582, 611; Pub. L. 94–142, §§ 2(a)(4), (c), (d), 5(a), Nov. 29, 1975, 89 Stat. 773, 774, 780; Pub. L. 98–199, § 3(b), Dec. 2, 1983, 97 Stat. 1358; Pub. L. 99–457, title II, § 203(a), Oct. 8, 1986, 100 Stat. 1158; Pub. L. 100–630, title I, § 102(b), Nov. 7, 1988, 102 Stat. 3291; Pub. L. 101–476, title IX, § 901(b)(33)–(46), (c), Oct. 30, 1990, 104 Stat. 1143, 1144, 1151; Pub. L. 102–119, § 25(a)(5), (b), Oct. 7, 1991, 105 Stat. 606, 607, related to eligibility requirements, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 105–17.

EFFECTIVE DATE

Section effective June 4, 1997, except subsec. (a)(4), (14), (16), effective July 1, 1998, see section 201(a)(1), (2)(A), of Pub. L. 105–17, set out as a note under section 1400 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1401, 1411, 1413, 1414, 1415, 1416, 1419, 1435, 1453, 2328, 2468e of this title.

§ 1413. Local educational agency eligibility

(a) In general

A local educational agency is eligible for assistance under this subchapter for a fiscal year if such agency demonstrates to the satisfaction of the State educational agency that it meets each of the following conditions:

(1) Consistency with State policies

The local educational agency, in providing for the education of children with disabilities within its jurisdiction, has in effect policies, procedures, and programs that are consistent with the State policies and procedures established under section 1412 of this title.

(2) Use of amounts

(A) In general

Amounts provided to the local educational agency under this subchapter shall be expended in accordance with the applicable provisions of this subchapter and—

(i) shall be used only to pay the excess costs of providing special education and related services to children with disabilities;

(ii) shall be used to supplement State, local, and other Federal funds and not to supplant such funds; and

(iii) shall not be used, except as provided in subparagraphs (B) and (C), to reduce the level of expenditures for the education of children with disabilities made by the local educational agency from local funds below the level of those expenditures for the preceding fiscal year.

(B) Exception

Notwithstanding the restriction in subparagraph (A)(iii), a local educational agency may reduce the level of expenditures where such reduction is attributable to—

(i) the voluntary departure, by retirement or otherwise, or departure for just cause, of special education personnel;

(ii) a decrease in the enrollment of children with disabilities;

(iii) the termination of the obligation of the agency, consistent with this subchapter, to provide a program of special education to a particular child with a disability that is an exceptionally costly program, as determined by the State educational agency, because the child—

(I) has left the jurisdiction of the agency;

(II) has reached the age at which the obligation of the agency to provide a free appropriate public education to the child has terminated; or

(III) no longer needs such program of special education; or

(iv) the termination of costly expenditures for long-term purchases, such as the acquisition of equipment or the construction of school facilities.

(C) Treatment of Federal funds in certain fiscal years

(i) Notwithstanding clauses (ii) and (iii) of subparagraph (A), for any fiscal year for which amounts appropriated to carry out section 1411 of this title exceeds $4,100,000,000, a local educational agency may treat as local funds, for the purpose of such clauses, up to 20 percent of the amount of funds it receives under this subchapter that exceeds the amount it received under this subchapter for the previous fiscal year.

(ii) Notwithstanding clause (i), if a State educational agency determines that a local educational agency is not meeting the requirements of this subchapter, the State educational agency may prohibit the local educational agency from treating funds received under this subchapter as local funds under clause (i) for any fiscal year, only if it is authorized to do so by the State constitution or a State statute.

(D) Schoolwide programs under title I of the ESEA

Notwithstanding subparagraph (A) or any other provision of this subchapter, a local educational agency may use funds received under this subchapter for any fiscal year to carry out a schoolwide program under section 1114 of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6314], except that the amount so used in any such program shall not exceed—

(i) the number of children with disabilities participating in the schoolwide program; multiplied by

(ii)(I) the amount received by the local educational agency under this subchapter for that fiscal year; divided by

(II) the number of children with disabilities in the jurisdiction of that agency.

(3) Personnel development

The local educational agency—

(A) shall ensure that all personnel necessary to carry out this subchapter are appropriately and adequately prepared, consistent with the requirements of section 1453(c)(3)(D) of this title; and

(B) to the extent such agency determines appropriate, shall contribute to and use the comprehensive system of personnel development of the State established under section 1412(a)(14) of this title.

(4) Permissive use of funds

Notwithstanding paragraph (2)(A) or section 1412(a)(18)(B) of this title (relating to commingled funds), funds provided to the local educational agency under this subchapter may be used for the following activities:

(A) Services and aids that also benefit nondisabled children

For the costs of special education and related services and supplementary aids and services provided in a regular class or other education-related setting to a child with a disability in accordance with the individualized education program of the child, even if one or more nondisabled children benefit from such services.

(B) Integrated and coordinated services system

To develop and implement a fully integrated and coordinated services system in accordance with subsection (f) of this section.

(5) Treatment of charter schools and their students

In carrying out this subchapter with respect to charter schools that are public schools of the local educational agency, the local educational agency—

(A) serves children with disabilities attending those schools in the same manner as it serves children with disabilities in its other schools; and

(B) provides funds under this subchapter to those schools in the same manner as it provides those funds to its other schools.

(6) Information for State educational agency

The local educational agency shall provide the State educational agency with information necessary to enable the State educational agency to carry out its duties under this subchapter, including, with respect to paragraphs (16) and (17) of section 1412(a) of this title, information relating to the performance of children with disabilities participating in programs carried out under this subchapter.

(7) Public information

The local educational agency shall make available to parents of children with disabilities and to the general public all documents relating to the eligibility of such agency under this subchapter.

(b) Exception for prior local plans

(1) In general

If a local educational agency or State agency has on file with the State educational agency policies and procedures that demonstrate that such local educational agency, or such State agency, as the case may be, meets any

requirement of subsection (a) of this section, including any policies and procedures filed under this subchapter as in effect before the effective date of the Individuals with Disabilities Education Act Amendments of 1997, the State educational agency shall consider such local educational agency or State agency, as the case may be, to have met such requirement for purposes of receiving assistance under this subchapter.

(2) Modification made by local educational agency

Subject to paragraph (3), an application submitted by a local educational agency in accordance with this section shall remain in effect until it submits to the State educational agency such modifications as the local educational agency deems necessary.

(3) Modifications required by State educational agency

If, after the effective date of the Individuals with Disabilities Education Act Amendments of 1997, the provisions of this chapter are amended (or the regulations developed to carry out this chapter are amended), or there is a new interpretation of this chapter by Federal or State courts, or there is an official finding of noncompliance with Federal or State law or regulations, the State educational agency may require a local educational agency to modify its application only to the extent necessary to ensure the local educational agency's compliance with this subchapter or State law.

(c) Notification of local educational agency or State agency in case of ineligibility

If the State educational agency determines that a local educational agency or State agency is not eligible under this section, the State educational agency shall notify the local educational agency or State agency, as the case may be, of that determination and shall provide such local educational agency or State agency with reasonable notice and an opportunity for a hearing.

(d) Local educational agency compliance

(1) In general

If the State educational agency, after reasonable notice and an opportunity for a hearing, finds that a local educational agency or State agency that has been determined to be eligible under this section is failing to comply with any requirement described in subsection (a) of this section, the State educational agency shall reduce or shall not provide any further payments to the local educational agency or State agency until the State educational agency is satisfied that the local educational agency or State agency, as the case may be, is complying with that requirement.

(2) Additional requirement

Any State agency or local educational agency in receipt of a notice described in paragraph (1) shall, by means of public notice, take such measures as may be necessary to bring the pendency of an action pursuant to this subsection to the attention of the public within the jurisdiction of such agency.

(3) Consideration

In carrying out its responsibilities under paragraph (1), the State educational agency shall consider any decision made in a hearing held under section 1415 of this title that is adverse to the local educational agency or State agency involved in that decision.

(e) Joint establishment of eligibility

(1) Joint establishment

(A) In general

A State educational agency may require a local educational agency to establish its eligibility jointly with another local educational agency if the State educational agency determines that the local educational agency would be ineligible under this section because the local educational agency would not be able to establish and maintain programs of sufficient size and scope to effectively meet the needs of children with disabilities.

(B) Charter school exception

A State educational agency may not require a charter school that is a local educational agency to jointly establish its eligibility under subparagraph (A) unless it is explicitly permitted to do so under the State's charter school statute.

(2) Amount of payments

If a State educational agency requires the joint establishment of eligibility under paragraph (1), the total amount of funds made available to the affected local educational agencies shall be equal to the sum of the payments that each such local educational agency would have received under section 1411(g) of this title if such agencies were eligible for such payments.

(3) Requirements

Local educational agencies that establish joint eligibility under this subsection shall—

(A) adopt policies and procedures that are consistent with the State's policies and procedures under section 1412(a) of this title; and

(B) be jointly responsible for implementing programs that receive assistance under this subchapter.

(4) Requirements for educational service agencies

(A) In general

If an educational service agency is required by State law to carry out programs under this subchapter, the joint responsibilities given to local educational agencies under this subsection shall—

(i) not apply to the administration and disbursement of any payments received by that educational service agency; and

(ii) be carried out only by that educational service agency.

(B) Additional requirement

Notwithstanding any other provision of this subsection, an educational service agency shall provide for the education of children with disabilities in the least restrictive envi-

ronment, as required by section 1412(a)(5) of this title.

(f) Coordinated services system

(1) In general

A local educational agency may not use more than 5 percent of the amount such agency receives under this subchapter for any fiscal year, in combination with other amounts (which shall include amounts other than education funds), to develop and implement a coordinated services system designed to improve results for children and families, including children with disabilities and their families.

(2) Activities

In implementing a coordinated services system under this subsection, a local educational agency may carry out activities that include—

(A) improving the effectiveness and efficiency of service delivery, including developing strategies that promote accountability for results;

(B) service coordination and case management that facilitates the linkage of individualized education programs under this subchapter and individualized family service plans under subchapter III of this chapter with individualized service plans under multiple Federal and State programs, such as title I of the Rehabilitation Act of 1973 [29 U.S.C. 720 et seq.] (vocational rehabilitation), title XIX of the Social Security Act [42 U.S.C. 1396 et seq.] (Medicaid), and title XVI of the Social Security Act [42 U.S.C. 1381 et seq.] (supplemental security income);

(C) developing and implementing interagency financing strategies for the provision of education, health, mental health, and social services, including transition services and related services under this chapter; and

(D) interagency personnel development for individuals working on coordinated services.

(3) Coordination with certain projects under Elementary and Secondary Education Act of 1965

If a local educational agency is carrying out a coordinated services project under title XI of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 8401 et seq.] and a coordinated services project under this subchapter in the same schools, such agency shall use amounts under this subsection in accordance with the requirements of that title.

(g) School-based improvement plan

(1) In general

Each local educational agency may, in accordance with paragraph (2), use funds made available under this subchapter to permit a public school within the jurisdiction of the local educational agency to design, implement, and evaluate a school-based improvement plan that is consistent with the purposes described in section 1451(b) of this title and that is designed to improve educational and transitional results for all children with disabilities and, as appropriate, for other children consistent with subparagraphs (A) and (B) of subsection (a)(4) of this section in that public school.

(2) Authority

(A) In general

A State educational agency may grant authority to a local educational agency to permit a public school described in paragraph (1) (through a school-based standing panel established under paragraph (4)(B)) to design, implement, and evaluate a school-based improvement plan described in paragraph (1) for a period not to exceed 3 years.

(B) Responsibility of local educational agency

If a State educational agency grants the authority described in subparagraph (A), a local educational agency that is granted such authority shall have the sole responsibility of oversight of all activities relating to the design, implementation, and evaluation of any school-based improvement plan that a public school is permitted to design under this subsection.

(3) Plan requirements

A school-based improvement plan described in paragraph (1) shall—

(A) be designed to be consistent with the purposes described in section 1451(b) of this title and to improve educational and transitional results for all children with disabilities and, as appropriate, for other children consistent with subparagraphs (A) and (B) of subsection (a)(4) of this section, who attend the school for which the plan is designed and implemented;

(B) be designed, evaluated, and, as appropriate, implemented by a school-based standing panel established in accordance with paragraph (4)(B);

(C) include goals and measurable indicators to assess the progress of the public school in meeting such goals; and

(D) ensure that all children with disabilities receive the services described in the individualized education programs of such children.

(4) Responsibilities of the local educational agency

A local educational agency that is granted authority under paragraph (2) to permit a public school to design, implement, and evaluate a school-based improvement plan shall—

(A) select each school under the jurisdiction of such agency that is eligible to design, implement, and evaluate such a plan;

(B) require each school selected under subparagraph (A), in accordance with criteria established by such local educational agency under subparagraph (C), to establish a school-based standing panel to carry out the duties described in paragraph (3)(B);

(C) establish—

(i) criteria that shall be used by such local educational agency in the selection of an eligible school under subparagraph (A);

(ii) criteria that shall be used by a public school selected under subparagraph (A) in the establishment of a school-based standing panel to carry out the duties described

in paragraph (3)(B) and that shall ensure that the membership of such panel reflects the diversity of the community in which the public school is located and includes, at a minimum—

(I) parents of children with disabilities who attend such public school, including parents of children with disabilities from unserved and underserved populations, as appropriate;

(II) special education and general education teachers of such public school;

(III) special education and general education administrators, or the designee of such administrators, of such public school; and

(IV) related services providers who are responsible for providing services to the children with disabilities who attend such public school; and

(iii) criteria that shall be used by such local educational agency with respect to the distribution of funds under this subchapter to carry out this subsection;

(D) disseminate the criteria established under subparagraph (C) to local school district personnel and local parent organizations within the jurisdiction of such local educational agency;

(E) require a public school that desires to design, implement, and evaluate a school-based improvement plan to submit an application at such time, in such manner, and accompanied by such information as such local educational agency shall reasonably require; and

(F) establish procedures for approval by such local educational agency of a school-based improvement plan designed under this subsection.

(5) Limitation

A school-based improvement plan described in paragraph (1) may be submitted to a local educational agency for approval only if a consensus with respect to any matter relating to the design, implementation, or evaluation of the goals of such plan is reached by the school-based standing panel that designed such plan.

(6) Additional requirements

(A) Parental involvement

In carrying out the requirements of this subsection, a local educational agency shall ensure that the parents of children with disabilities are involved in the design, evaluation, and, where appropriate, implementation of school-based improvement plans in accordance with this subsection.

(B) Plan approval

A local educational agency may approve a school-based improvement plan of a public school within the jurisdiction of such agency for a period of 3 years, if—

(i) the approval is consistent with the policies, procedures, and practices established by such local educational agency and in accordance with this subsection; and

(ii) a majority of parents of children who are members of the school-based standing panel, and a majority of other members of the school-based standing panel, that designed such plan agree in writing to such plan.

(7) Extension of plan

If a public school within the jurisdiction of a local educational agency meets the applicable requirements and criteria described in paragraphs (3) and (4) at the expiration of the 3-year approval period described in paragraph (6)(B), such agency may approve a school-based improvement plan of such school for an additional 3-year period.

(h) Direct services by State educational agency

(1) In general

A State educational agency shall use the payments that would otherwise have been available to a local educational agency or to a State agency to provide special education and related services directly to children with disabilities residing in the area served by that local agency, or for whom that State agency is responsible, if the State educational agency determines that the local education[1] agency or State agency, as the case may be—

(A) has not provided the information needed to establish the eligibility of such agency under this section;

(B) is unable to establish and maintain programs of free appropriate public education that meet the requirements of subsection (a) of this section;

(C) is unable or unwilling to be consolidated with one or more local educational agencies in order to establish and maintain such programs; or

(D) has one or more children with disabilities who can best be served by a regional or State program or service-delivery system designed to meet the needs of such children.

(2) Manner and location of education and services

The State educational agency may provide special education and related services under paragraph (1) in such manner and at such locations (including regional or State centers) as the State agency considers appropriate. Such education and services shall be provided in accordance with this subchapter.

(i) State agency eligibility

Any State agency that desires to receive a subgrant for any fiscal year under section 1411(g) of this title shall demonstrate to the satisfaction of the State educational agency that—

(1) all children with disabilities who are participating in programs and projects funded under this subchapter receive a free appropriate public education, and that those children and their parents are provided all the rights and procedural safeguards described in this subchapter; and

(2) the agency meets such other conditions of this section as the Secretary determines to be appropriate.

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[1] So in original. Probably should be ''educational''.

(j) Disciplinary information

The State may require that a local educational agency include in the records of a child with a disability a statement of any current or previous disciplinary action that has been taken against the child and transmit such statement to the same extent that such disciplinary information is included in, and transmitted with, the student records of nondisabled children. The statement may include a description of any behavior engaged in by the child that required disciplinary action, a description of the disciplinary action taken, and any other information that is relevant to the safety of the child and other individuals involved with the child. If the State adopts such a policy, and the child transfers from one school to another, the transmission of any of the child's records must include both the child's current individualized education program and any such statement of current or previous disciplinary action that has been taken against the child.

(Pub. L. 91–230, title VI, § 613, as added Pub. L. 105–17, title I, § 101, June 4, 1997, 111 Stat. 73.)

REFERENCES IN TEXT

For the effective date of the Individuals with Disabilities Education Act Amendments of 1997, referred to in subsec. (b)(1), (3), see section 201 of Pub. L. 105–17, set out as an Effective Date note under section 1400 of this title.

The Rehabilitation Act of 1973, referred to in subsec. (f)(2)(B), is Pub. L. 93–112, Sept. 26, 1973, 87 Stat. 355, as amended. Title I of the Rehabilitation Act of 1973 is classified generally to subchapter I (§ 720 et seq.) of chapter 16 of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 701 of Title 29 and Tables.

The Social Security Act, referred to in subsec. (f)(2)(B), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Titles XVI and XIX of the Act are classified generally to subchapters XVI (§ 1381 et seq.) and XIX (§ 1396 et seq.), respectively, of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

The Elementary and Secondary Education Act of 1965, referred to in subsec. (f)(3), is Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, as amended generally by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519. Title XI of the Act is classified generally to subchapter XI (§ 8401 et seq.) of chapter 70 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

PRIOR PROVISIONS

A prior section 1413, Pub. L. 91–230, title VI, § 613, Apr. 13, 1970, 84 Stat. 179; Pub. L. 93–380, title VI, §§ 614(c), (d), 615(b), (c), title VIII, § 843(b)(2), Aug. 21, 1974, 88 Stat. 581, 583, 611; Pub. L. 94–142, § 5(a), Nov. 29, 1975, 89 Stat. 782; Pub. L. 98–199, §§ 3(b), 7, Dec. 2, 1983, 97 Stat. 1358, 1359; Pub. L. 99–457, title II, § 203(b), title IV, § 405, Oct. 8, 1986, 100 Stat. 1159, 1174; Pub. L. 100–630, title I, § 102(c), Nov. 7, 1988, 102 Stat. 3291; Pub. L. 101–476, title II, § 202, title IX, § 901(b)(47)–(58), Oct. 30, 1990, 104 Stat. 1111, 1144; Pub. L. 102–119, §§ 5, 25(a)(6), (b), Oct. 7, 1991, 105 Stat. 591, 606, 607; Pub. L. 103–382, title III, § 391(f)(2), Oct. 20, 1994, 108 Stat. 4023, related to requisite features of a State plan, approval of State plan by Secretary, and participation of children with disabilities enrolled in private schools, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 105–17.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1411, 1412, 1419, 1476 of this title; title 29 sections 725, 2212.

§ 1414. Evaluations, eligibility determinations, individualized education programs, and educational placements

(a) Evaluations and reevaluations

(1) Initial evaluations

(A) In general

A State educational agency, other State agency, or local educational agency shall conduct a full and individual initial evaluation, in accordance with this paragraph and subsection (b) of this section, before the initial provision of special education and related services to a child with a disability under this subchapter.

(B) Procedures

Such initial evaluation shall consist of procedures—

(i) to determine whether a child is a child with a disability (as defined in section 1401(3) of this title); and

(ii) to determine the educational needs of such child.

(C) Parental consent

(i) In general

The agency proposing to conduct an initial evaluation to determine if the child qualifies as a child with a disability as defined in section 1401(3)(A) or 1401(3)(B) of this title shall obtain an informed consent from the parent of such child before the evaluation is conducted. Parental consent for evaluation shall not be construed as consent for placement for receipt of special education and related services.

(ii) Refusal

If the parents of such child refuse consent for the evaluation, the agency may continue to pursue an evaluation by utilizing the mediation and due process procedures under section 1415 of this title, except to the extent inconsistent with State law relating to parental consent.

(2) Reevaluations

A local educational agency shall ensure that a reevaluation of each child with a disability is conducted—

(A) if conditions warrant a reevaluation or if the child's parent or teacher requests a reevaluation, but at least once every 3 years; and

(B) in accordance with subsections (b) and (c) of this section.

(b) Evaluation procedures

(1) Notice

The local educational agency shall provide notice to the parents of a child with a disability, in accordance with subsections (b)(3), (b)(4), and (c) of section 1415 of this title, that describes any evaluation procedures such agency proposes to conduct.

(2) Conduct of evaluation

In conducting the evaluation, the local educational agency shall—

(A) use a variety of assessment tools and strategies to gather relevant functional and

developmental information, including information provided by the parent, that may assist in determining whether the child is a child with a disability and the content of the child's individualized education program, including information related to enabling the child to be involved in and progress in the general curriculum or, for preschool children, to participate in appropriate activities;

(B) not use any single procedure as the sole criterion for determining whether a child is a child with a disability or determining an appropriate educational program for the child; and

(C) use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors.

(3) Additional requirements

Each local educational agency shall ensure that—

(A) tests and other evaluation materials used to assess a child under this section—

(i) are selected and administered so as not to be discriminatory on a racial or cultural basis; and

(ii) are provided and administered in the child's native language or other mode of communication, unless it is clearly not feasible to do so; and

(B) any standardized tests that are given to the child—

(i) have been validated for the specific purpose for which they are used;

(ii) are administered by trained and knowledgeable personnel; and

(iii) are administered in accordance with any instructions provided by the producer of such tests;

(C) the child is assessed in all areas of suspected disability; and

(D) assessment tools and strategies that provide relevant information that directly assists persons in determining the educational needs of the child are provided.

(4) Determination of eligibility

Upon completion of administration of tests and other evaluation materials—

(A) the determination of whether the child is a child with a disability as defined in section 1401(3) of this title shall be made by a team of qualified professionals and the parent of the child in accordance with paragraph (5); and

(B) a copy of the evaluation report and the documentation of determination of eligibility will be given to the parent.

(5) Special rule for eligibility determination

In making a determination of eligibility under paragraph (4)(A), a child shall not be determined to be a child with a disability if the determinant factor for such determination is lack of instruction in reading or math or limited English proficiency.

(c) Additional requirements for evaluation and reevaluations

(1) Review of existing evaluation data

As part of an initial evaluation (if appropriate) and as part of any reevaluation under this section, the IEP Team described in subsection (d)(1)(B) of this section and other qualified professionals, as appropriate, shall—

(A) review existing evaluation data on the child, including evaluations and information provided by the parents of the child, current classroom-based assessments and observations, and teacher and related services providers observation; and

(B) on the basis of that review, and input from the child's parents, identify what additional data, if any, are needed to determine—

(i) whether the child has a particular category of disability, as described in section 1401(3) of this title, or, in case of a reevaluation of a child, whether the child continues to have such a disability;

(ii) the present levels of performance and educational needs of the child;

(iii) whether the child needs special education and related services, or in the case of a reevaluation of a child, whether the child continues to need special education and related services; and

(iv) whether any additions or modifications to the special education and related services are needed to enable the child to meet the measurable annual goals set out in the individualized education program of the child and to participate, as appropriate, in the general curriculum.

(2) Source of data

The local educational agency shall administer such tests and other evaluation materials as may be needed to produce the data identified by the IEP Team under paragraph (1)(B).

(3) Parental consent

Each local educational agency shall obtain informed parental consent, in accordance with subsection (a)(1)(C) of this section, prior to conducting any reevaluation of a child with a disability, except that such informed parent consent need not be obtained if the local educational agency can demonstrate that it had taken reasonable measures to obtain such consent and the child's parent has failed to respond.

(4) Requirements if additional data are not needed

If the IEP Team and other qualified professionals, as appropriate, determine that no additional data are needed to determine whether the child continues to be a child with a disability, the local educational agency—

(A) shall notify the child's parents of—

(i) that determination and the reasons for it; and

(ii) the right of such parents to request an assessment to determine whether the child continues to be a child with a disability; and

(B) shall not be required to conduct such an assessment unless requested to by the child's parents.

(5) Evaluations before change in eligibility

A local educational agency shall evaluate a child with a disability in accordance with this

section before determining that the child is no longer a child with a disability.

(d) Individualized education programs

(1) Definitions

As used in this chapter:

(A) Individualized education program

The term ''individualized education program'' or ''IEP'' means a written statement for each child with a disability that is developed, reviewed, and revised in accordance with this section and that includes—

(i) a statement of the child's present levels of educational performance, including—

(I) how the child's disability affects the child's involvement and progress in the general curriculum; or

(II) for preschool children, as appropriate, how the disability affects the child's participation in appropriate activities;

(ii) a statement of measurable annual goals, including benchmarks or short-term objectives, related to—

(I) meeting the child's needs that result from the child's disability to enable the child to be involved in and progress in the general curriculum; and

(II) meeting each of the child's other educational needs that result from the child's disability;

(iii) a statement of the special education and related services and supplementary aids and services to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided for the child—

(I) to advance appropriately toward attaining the annual goals;

(II) to be involved and progress in the general curriculum in accordance with clause (i) and to participate in extracurricular and other nonacademic activities; and

(III) to be educated and participate with other children with disabilities and nondisabled children in the activities described in this paragraph;

(iv) an explanation of the extent, if any, to which the child will not participate with nondisabled children in the regular class and in the activities described in clause (iii);

(v)(I) a statement of any individual modifications in the administration of State or districtwide assessments of student achievement that are needed in order for the child to participate in such assessment; and

(II) if the IEP Team determines that the child will not participate in a particular State or districtwide assessment of student achievement (or part of such an assessment), a statement of—

(aa) why that assessment is not appropriate for the child; and

(bb) how the child will be assessed;

(vi) the projected date for the beginning of the services and modifications described in clause (iii), and the anticipated frequency, location, and duration of those services and modifications;

(vii)(I) beginning at age 14, and updated annually, a statement of the transition service needs of the child under the applicable components of the child's IEP that focuses on the child's courses of study (such as participation in advanced-placement courses or a vocational education program);

(II) beginning at age 16 (or younger, if determined appropriate by the IEP Team), a statement of needed transition services for the child, including, when appropriate, a statement of the interagency responsibilities or any needed linkages; and

(III) beginning at least one year before the child reaches the age of majority under State law, a statement that the child has been informed of his or her rights under this chapter, if any, that will transfer to the child on reaching the age of majority under section 1415(m) of this title; and

(viii) a statement of—

(I) how the child's progress toward the annual goals described in clause (ii) will be measured; and

(II) how the child's parents will be regularly informed (by such means as periodic report cards), at least as often as parents are informed of their nondisabled children's progress, of—

(aa) their child's progress toward the annual goals described in clause (ii); and

(bb) the extent to which that progress is sufficient to enable the child to achieve the goals by the end of the year.

(B) Individualized education program team

The term ''individualized education program team'' or ''IEP Team'' means a group of individuals composed of—

(i) the parents of a child with a disability;

(ii) at least one regular education teacher of such child (if the child is, or may be, participating in the regular education environment);

(iii) at least one special education teacher, or where appropriate, at least one special education provider of such child;

(iv) a representative of the local educational agency who—

(I) is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities;

(II) is knowledgeable about the general curriculum; and

(III) is knowledgeable about the availability of resources of the local educational agency;

(v) an individual who can interpret the instructional implications of evaluation results, who may be a member of the team described in clauses (ii) through (vi);

(vi) at the discretion of the parent or the agency, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate; and

(vii) whenever appropriate, the child with a disability.

(2) Requirement that program be in effect

(A) In general

At the beginning of each school year, each local educational agency, State educational agency, or other State agency, as the case may be, shall have in effect, for each child with a disability in its jurisdiction, an individualized education program, as defined in paragraph (1)(A).

(B) Program for child aged 3 through 5

In the case of a child with a disability aged 3 through 5 (or, at the discretion of the State educational agency, a 2 year-old[1] child with a disability who will turn age 3 during the school year), an individualized family service plan that contains the material described in section 1436 of this title, and that is developed in accordance with this section, may serve as the IEP of the child if using that plan as the IEP is—

(i) consistent with State policy; and

(ii) agreed to by the agency and the child's parents.

(3) Development of IEP

(A) In general

In developing each child's IEP, the IEP Team, subject to subparagraph (C), shall consider—

(i) the strengths of the child and the concerns of the parents for enhancing the education of their child; and

(ii) the results of the initial evaluation or most recent evaluation of the child.

(B) Consideration of special factors

The IEP Team shall—

(i) in the case of a child whose behavior impedes his or her learning or that of others, consider, when appropriate, strategies, including positive behavioral interventions, strategies, and supports to address that behavior;

(ii) in the case of a child with limited English proficiency, consider the language needs of the child as such needs relate to the child's IEP;

(iii) in the case of a child who is blind or visually impaired, provide for instruction in Braille and the use of Braille unless the IEP Team determines, after an evaluation of the child's reading and writing skills, needs, and appropriate reading and writing media (including an evaluation of the child's future needs for instruction in Braille or the use of Braille), that instruction in Braille or the use of Braille is not appropriate for the child;

(iv) consider the communication needs of the child, and in the case of a child who is deaf or hard of hearing, consider the child's language and communication needs, opportunities for direct communications with peers and professional personnel in the child's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the child's language and communication mode; and

(v) consider whether the child requires assistive technology devices and services.

(C) Requirement with respect to regular education teacher

The regular education teacher of the child, as a member of the IEP Team, shall, to the extent appropriate, participate in the development of the IEP of the child, including the determination of appropriate positive behavioral interventions and strategies and the determination of supplementary aids and services, program modifications, and support for school personnel consistent with paragraph (1)(A)(iii).

(4) Review and revision of IEP

(A) In general

The local educational agency shall ensure that, subject to subparagraph (B), the IEP Team—

(i) reviews the child's IEP periodically, but not less than annually to determine whether the annual goals for the child are being achieved; and

(ii) revises the IEP as appropriate to address—

(I) any lack of expected progress toward the annual goals and in the general curriculum, where appropriate;

(II) the results of any reevaluation conducted under this section;

(III) information about the child provided to, or by, the parents, as described in subsection (c)(1)(B) of this section;

(IV) the child's anticipated needs; or

(V) other matters.

(B) Requirement with respect to regular education teacher

The regular education teacher of the child, as a member of the IEP Team, shall, to the extent appropriate, participate in the review and revision of the IEP of the child.

(5) Failure to meet transition objectives

If a participating agency, other than the local educational agency, fails to provide the transition services described in the IEP in accordance with paragraph (1)(A)(vii), the local educational agency shall reconvene the IEP Team to identify alternative strategies to meet the transition objectives for the child set out in that program.

(6) Children with disabilities in adult prisons

(A) In general

The following requirements do not apply to children with disabilities who are convicted as adults under State law and incarcerated in adult prisons:

(i) The requirements contained in section 1412(a)(17) of this title and paragraph (1)(A)(v) of this subsection (relating to par-

[1] So in original. Probably should be ''2-year-old''.

ticipation of children with disabilities in general assessments).

(ii) The requirements of subclauses (I) and (II) of paragraph (1)(A)(vii) of this subsection (relating to transition planning and transition services), do not apply with respect to such children whose eligibility under this subchapter will end, because of their age, before they will be released from prison.

(B) Additional requirement

If a child with a disability is convicted as an adult under State law and incarcerated in an adult prison, the child's IEP Team may modify the child's IEP or placement notwithstanding the requirements of section 1412(a)(5)(A) of this title and subsection (d)(1)(A) of this section if the State has demonstrated a bona fide security or compelling penological interest that cannot otherwise be accommodated.

(e) Construction

Nothing in this section shall be construed to require the IEP Team to include information under one component of a child's IEP that is already contained under another component of such IEP.

(f) Educational placements

Each local educational agency or State educational agency shall ensure that the parents of each child with a disability are members of any group that makes decisions on the educational placement of their child.

(Pub. L. 91–230, title VI, § 614, as added Pub. L. 105–17, title I, § 101, June 4, 1997, 111 Stat. 81.)

PRIOR PROVISIONS

A prior section 1414, Pub. L. 91–230, title VI, § 614, Apr. 13, 1970, 84 Stat. 181; Pub. L. 94–142, § 5(a), Nov. 29, 1975, 89 Stat. 784; Pub. L. 98–199, § 3(b), Dec. 2, 1983, 97 Stat. 1358; Pub. L. 100–630, title I, § 102(d), Nov. 7, 1988, 102 Stat. 3293; Pub. L. 101–476, title IX, § 901(b)(59)–(70), Oct. 30, 1990, 104 Stat. 1144, 1145; Pub. L. 102–119, §§ 6, 25(b), Oct. 7, 1991, 105 Stat. 591, 607, related to requisite features of an application, approval of application by State educational agency, consolidated applications of local educational agencies, and provision of special education and related services directly to children with disabilities in areas not served by local educational agency, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 105–17.

A prior section 1414a, Pub. L. 91–230, title VI, § 614A, as added Pub. L. 103–382, title III, § 312, Oct. 20, 1994, 108 Stat. 3934, which related to treatment of State agencies that received funds for fiscal year 1994 under subpart 2 of part D of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (as in existence on the day preceding Oct. 20, 1994), was omitted in the general amendment of subchapters I to IV of this chapter by Pub. L. 105–17.

EFFECTIVE DATE

Section effective June 4, 1997, except subsec. (d)(1) to (5), effective July 1, 1998, see section 201(a)(1), (2)(A), of Pub. L. 105–17, set out as a note under section 1400 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1401, 1412, 1415, 1473, 2325, 2328, 2341, 2423, 2468e of this title; title 29 section 2211.

§ 1415. Procedural safeguards

(a) Establishment of procedures

Any State educational agency, State agency, or local educational agency that receives assistance under this subchapter shall establish and maintain procedures in accordance with this section to ensure that children with disabilities and their parents are guaranteed procedural safeguards with respect to the provision of free appropriate public education by such agencies.

(b) Types of procedures

The procedures required by this section shall include—

(1) an opportunity for the parents of a child with a disability to examine all records relating to such child and to participate in meetings with respect to the identification, evaluation, and educational placement of the child, and the provision of a free appropriate public education to such child, and to obtain an independent educational evaluation of the child;

(2) procedures to protect the rights of the child whenever the parents of the child are not known, the agency cannot, after reasonable efforts, locate the parents, or the child is a ward of the State, including the assignment of an individual (who shall not be an employee of the State educational agency, the local educational agency, or any other agency that is involved in the education or care of the child) to act as a surrogate for the parents;

(3) written prior notice to the parents of the child whenever such agency—

(A) proposes to initiate or change; or

(B) refuses to initiate or change;

the identification, evaluation, or educational placement of the child, in accordance with subsection (c) of this section, or the provision of a free appropriate public education to the child;

(4) procedures designed to ensure that the notice required by paragraph (3) is in the native language of the parents, unless it clearly is not feasible to do so;

(5) an opportunity for mediation in accordance with subsection (e) of this section;

(6) an opportunity to present complaints with respect to any matter relating to the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education to such child;

(7) procedures that require the parent of a child with a disability, or the attorney representing the child, to provide notice (which shall remain confidential)—

(A) to the State educational agency or local educational agency, as the case may be, in the complaint filed under paragraph (6); and

(B) that shall include—

(i) the name of the child, the address of the residence of the child, and the name of the school the child is attending;

(ii) a description of the nature of the problem of the child relating to such proposed initiation or change, including facts relating to such problem; and

(iii) a proposed resolution of the problem to the extent known and available to the parents at the time; and

(8) procedures that require the State educational agency to develop a model form to assist parents in filing a complaint in accordance with paragraph (7).

(c) Content of prior written notice

The notice required by subsection (b)(3) of this section shall include—

(1) a description of the action proposed or refused by the agency;

(2) an explanation of why the agency proposes or refuses to take the action;

(3) a description of any other options that the agency considered and the reasons why those options were rejected;

(4) a description of each evaluation procedure, test, record, or report the agency used as a basis for the proposed or refused action;

(5) a description of any other factors that are relevant to the agency's proposal or refusal;

(6) a statement that the parents of a child with a disability have protection under the procedural safeguards of this subchapter and, if this notice is not an initial referral for evaluation, the means by which a copy of a description of the procedural safeguards can be obtained; and

(7) sources for parents to contact to obtain assistance in understanding the provisions of this subchapter.

(d) Procedural safeguards notice

(1) In general

A copy of the procedural safeguards available to the parents of a child with a disability shall be given to the parents, at a minimum—

(A) upon initial referral for evaluation;

(B) upon each notification of an individualized education program meeting and upon reevaluation of the child; and

(C) upon registration of a complaint under subsection (b)(6) of this section.

(2) Contents

The procedural safeguards notice shall include a full explanation of the procedural safeguards, written in the native language of the parents, unless it clearly is not feasible to do so, and written in an easily understandable manner, available under this section and under regulations promulgated by the Secretary relating to—

(A) independent educational evaluation;

(B) prior written notice;

(C) parental consent;

(D) access to educational records;

(E) opportunity to present complaints;

(F) the child's placement during pendency of due process proceedings;

(G) procedures for students who are subject to placement in an interim alternative educational setting;

(H) requirements for unilateral placement by parents of children in private schools at public expense;

(I) mediation;

(J) due process hearings, including requirements for disclosure of evaluation results and recommendations;

(K) State-level appeals (if applicable in that State);

(L) civil actions; and

(M) attorneys' fees.

(e) Mediation

(1) In general

Any State educational agency or local educational agency that receives assistance under this subchapter shall ensure that procedures are established and implemented to allow parties to disputes involving any matter described in subsection (b)(6) of this section to resolve such disputes through a mediation process which, at a minimum, shall be available whenever a hearing is requested under subsection (f) or (k) of this section.

(2) Requirements

Such procedures shall meet the following requirements:

(A) The procedures shall ensure that the mediation process—

(i) is voluntary on the part of the parties;

(ii) is not used to deny or delay a parent's right to a due process hearing under subsection (f) of this section, or to deny any other rights afforded under this subchapter; and

(iii) is conducted by a qualified and impartial mediator who is trained in effective mediation techniques.

(B) A local educational agency or a State agency may establish procedures to require parents who choose not to use the mediation process to meet, at a time and location convenient to the parents, with a disinterested party who is under contract with—

(i) a parent training and information center or community parent resource center in the State established under section 1482 or 1483 of this title; or

(ii) an appropriate alternative dispute resolution entity;

to encourage the use, and explain the benefits, of the mediation process to the parents.

(C) The State shall maintain a list of individuals who are qualified mediators and knowledgeable in laws and regulations relating to the provision of special education and related services.

(D) The State shall bear the cost of the mediation process, including the costs of meetings described in subparagraph (B).

(E) Each session in the mediation process shall be scheduled in a timely manner and shall be held in a location that is convenient to the parties to the dispute.

(F) An agreement reached by the parties to the dispute in the mediation process shall be set forth in a written mediation agreement.

(G) Discussions that occur during the mediation process shall be confidential and may not be used as evidence in any subsequent due process hearings or civil proceedings and the parties to the mediation process may be required to sign a confidentiality pledge prior to the commencement of such process.

(f) Impartial due process hearing

(1) In general

Whenever a complaint has been received under subsection (b)(6) or (k) of this section,

the parents involved in such complaint shall have an opportunity for an impartial due process hearing, which shall be conducted by the State educational agency or by the local educational agency, as determined by State law or by the State educational agency.

(2) Disclosure of evaluations and recommendations

(A) In general

At least 5 business days prior to a hearing conducted pursuant to paragraph (1), each party shall disclose to all other parties all evaluations completed by that date and recommendations based on the offering party's evaluations that the party intends to use at the hearing.

(B) Failure to disclose

A hearing officer may bar any party that fails to comply with subparagraph (A) from introducing the relevant evaluation or recommendation at the hearing without the consent of the other party.

(3) Limitation on conduct of hearing

A hearing conducted pursuant to paragraph (1) may not be conducted by an employee of the State educational agency or the local educational agency involved in the education or care of the child.

(g) Appeal

If the hearing required by subsection (f) of this section is conducted by a local educational agency, any party aggrieved by the findings and decision rendered in such a hearing may appeal such findings and decision to the State educational agency. Such agency shall conduct an impartial review of such decision. The officer conducting such review shall make an independent decision upon completion of such review.

(h) Safeguards

Any party to a hearing conducted pursuant to subsection (f) or (k) of this section, or an appeal conducted pursuant to subsection (g) of this section, shall be accorded—

(1) the right to be accompanied and advised by counsel and by individuals with special knowledge or training with respect to the problems of children with disabilities;

(2) the right to present evidence and confront, cross-examine, and compel the attendance of witnesses;

(3) the right to a written, or, at the option of the parents, electronic verbatim record of such hearing; and

(4) the right to written, or, at the option of the parents, electronic findings of fact and decisions (which findings and decisions shall be made available to the public consistent with the requirements of section 1417(c) of this title (relating to the confidentiality of data, information, and records) and shall also be transmitted to the advisory panel established pursuant to section 1412(a)(21) of this title).

(i) Administrative procedures

(1) In general

(A) Decision made in hearing

A decision made in a hearing conducted pursuant to subsection (f) or (k) of this section shall be final, except that any party involved in such hearing may appeal such decision under the provisions of subsection (g) of this section and paragraph (2) of this subsection.

(B) Decision made at appeal

A decision made under subsection (g) of this section shall be final, except that any party may bring an action under paragraph (2) of this subsection.

(2) Right to bring civil action

(A) In general

Any party aggrieved by the findings and decision made under subsection (f) or (k) of this section who does not have the right to an appeal under subsection (g) of this section, and any party aggrieved by the findings and decision under this subsection, shall have the right to bring a civil action with respect to the complaint presented pursuant to this section, which action may be brought in any State court of competent jurisdiction or in a district court of the United States without regard to the amount in controversy.

(B) Additional requirements

In any action brought under this paragraph, the court—

(i) shall receive the records of the administrative proceedings;

(ii) shall hear additional evidence at the request of a party; and

(iii) basing its decision on the preponderance of the evidence, shall grant such relief as the court determines is appropriate.

(3) Jurisdiction of district courts; attorneys' fees

(A) In general

The district courts of the United States shall have jurisdiction of actions brought under this section without regard to the amount in controversy.

(B) Award of attorneys' fees

In any action or proceeding brought under this section, the court, in its discretion, may award reasonable attorneys' fees as part of the costs to the parents of a child with a disability who is the prevailing party.

(C) Determination of amount of attorneys' fees

Fees awarded under this paragraph shall be based on rates prevailing in the community in which the action or proceeding arose for the kind and quality of services furnished. No bonus or multiplier may be used in calculating the fees awarded under this subsection.

(D) Prohibition of attorneys' fees and related costs for certain services

(i) Attorneys' fees may not be awarded and related costs may not be reimbursed in any action or proceeding under this section for services performed subsequent to the time of a written offer of settlement to a parent if—

(I) the offer is made within the time prescribed by Rule 68 of the Federal Rules of

Civil Procedure or, in the case of an administrative proceeding, at any time more than 10 days before the proceeding begins;

(II) the offer is not accepted within 10 days; and

(III) the court or administrative hearing officer finds that the relief finally obtained by the parents is not more favorable to the parents than the offer of settlement.

(ii) Attorneys' fees may not be awarded relating to any meeting of the IEP Team unless such meeting is convened as a result of an administrative proceeding or judicial action, or, at the discretion of the State, for a mediation described in subsection (e) of this section that is conducted prior to the filing of a complaint under subsection (b)(6) or (k) of this section.

(E) Exception to prohibition on attorneys' fees and related costs

Notwithstanding subparagraph (D), an award of attorneys' fees and related costs may be made to a parent who is the prevailing party and who was substantially justified in rejecting the settlement offer.

(F) Reduction in amount of attorneys' fees

Except as provided in subparagraph (G), whenever the court finds that—

(i) the parent, during the course of the action or proceeding, unreasonably protracted the final resolution of the controversy;

(ii) the amount of the attorneys' fees otherwise authorized to be awarded unreasonably exceeds the hourly rate prevailing in the community for similar services by attorneys of reasonably comparable skill, reputation, and experience;

(iii) the time spent and legal services furnished were excessive considering the nature of the action or proceeding; or

(iv) the attorney representing the parent did not provide to the school district the appropriate information in the due process complaint in accordance with subsection (b)(7) of this section;

the court shall reduce, accordingly, the amount of the attorneys' fees awarded under this section.

(G) Exception to reduction in amount of attorneys' fees

The provisions of subparagraph (F) shall not apply in any action or proceeding if the court finds that the State or local educational agency unreasonably protracted the final resolution of the action or proceeding or there was a violation of this section.

(j) Maintenance of current educational placement

Except as provided in subsection (k)(7) of this section, during the pendency of any proceedings conducted pursuant to this section, unless the State or local educational agency and the parents otherwise agree, the child shall remain in the then-current educational placement of such child, or, if applying for initial admission to a public school, shall, with the consent of the parents, be placed in the public school program until all such proceedings have been completed.

(k) Placement in alternative educational setting

(1) Authority of school personnel

(A) School personnel under this section may order a change in the placement of a child with a disability—

(i) to an appropriate interim alternative educational setting, another setting, or suspension, for not more than 10 school days (to the extent such alternatives would be applied to children without disabilities); and

(ii) to an appropriate interim alternative educational setting for the same amount of time that a child without a disability would be subject to discipline, but for not more than 45 days if—

(I) the child carries a weapon to school or to a school function under the jurisdiction of a State or a local educational agency; or

(II) the child knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance while at school or a school function under the jurisdiction of a State or local educational agency.

(B) Either before or not later than 10 days after taking a disciplinary action described in subparagraph (A)—

(i) if the local educational agency did not conduct a functional behavioral assessment and implement a behavioral intervention plan for such child before the behavior that resulted in the suspension described in subparagraph (A), the agency shall convene an IEP meeting to develop an assessment plan to address that behavior; or

(ii) if the child already has a behavioral intervention plan, the IEP Team shall review the plan and modify it, as necessary, to address the behavior.

(2) Authority of hearing officer

A hearing officer under this section may order a change in the placement of a child with a disability to an appropriate interim alternative educational setting for not more than 45 days if the hearing officer—

(A) determines that the public agency has demonstrated by substantial evidence that maintaining the current placement of such child is substantially likely to result in injury to the child or to others;

(B) considers the appropriateness of the child's current placement;

(C) considers whether the public agency has made reasonable efforts to minimize the risk of harm in the child's current placement, including the use of supplementary aids and services; and

(D) determines that the interim alternative educational setting meets the requirements of paragraph (3)(B).

(3) Determination of setting

(A) In general

The alternative educational setting described in paragraph (1)(A)(ii) shall be determined by the IEP Team.

(B) Additional requirements

Any interim alternative educational setting in which a child is placed under paragraph (1) or (2) shall—

(i) be selected so as to enable the child to continue to participate in the general curriculum, although in another setting, and to continue to receive those services and modifications, including those described in the child's current IEP, that will enable the child to meet the goals set out in that IEP; and

(ii) include services and modifications designed to address the behavior described in paragraph (1) or paragraph (2) so that it does not recur.

(4) Manifestation determination review

(A) In general

If a disciplinary action is contemplated as described in paragraph (1) or paragraph (2) for a behavior of a child with a disability described in either of those paragraphs, or if a disciplinary action involving a change of placement for more than 10 days is contemplated for a child with a disability who has engaged in other behavior that violated any rule or code of conduct of the local educational agency that applies to all children—

(i) not later than the date on which the decision to take that action is made, the parents shall be notified of that decision and of all procedural safeguards accorded under this section; and

(ii) immediately, if possible, but in no case later than 10 school days after the date on which the decision to take that action is made, a review shall be conducted of the relationship between the child's disability and the behavior subject to the disciplinary action.

(B) Individuals to carry out review

A review described in subparagraph (A) shall be conducted by the IEP Team and other qualified personnel.

(C) Conduct of review

In carrying out a review described in subparagraph (A), the IEP Team may determine that the behavior of the child was not a manifestation of such child's disability only if the IEP Team—

(i) first considers, in terms of the behavior subject to disciplinary action, all relevant information, including—

(I) evaluation and diagnostic results, including such results or other relevant information supplied by the parents of the child;

(II) observations of the child; and

(III) the child's IEP and placement; and

(ii) then determines that—

(I) in relationship to the behavior subject to disciplinary action, the child's IEP and placement were appropriate and the special education services, supplementary aids and services, and behavior intervention strategies were provided consistent with the child's IEP and placement;

(II) the child's disability did not impair the ability of the child to understand the impact and consequences of the behavior subject to disciplinary action; and

(III) the child's disability did not impair the ability of the child to control the behavior subject to disciplinary action.

(5) Determination that behavior was not manifestation of disability

(A) In general

If the result of the review described in paragraph (4) is a determination, consistent with paragraph (4)(C), that the behavior of the child with a disability was not a manifestation of the child's disability, the relevant disciplinary procedures applicable to children without disabilities may be applied to the child in the same manner in which they would be applied to children without disabilities, except as provided in section 1412(a)(1) of this title.

(B) Additional requirement

If the public agency initiates disciplinary procedures applicable to all children, the agency shall ensure that the special education and disciplinary records of the child with a disability are transmitted for consideration by the person or persons making the final determination regarding the disciplinary action.

(6) Parent appeal

(A) In general

(i) If the child's parent disagrees with a determination that the child's behavior was not a manifestation of the child's disability or with any decision regarding placement, the parent may request a hearing.

(ii) The State or local educational agency shall arrange for an expedited hearing in any case described in this subsection when requested by a parent.

(B) Review of decision

(i) In reviewing a decision with respect to the manifestation determination, the hearing officer shall determine whether the public agency has demonstrated that the child's behavior was not a manifestation of such child's disability consistent with the requirements of paragraph (4)(C).

(ii) In reviewing a decision under paragraph (1)(A)(ii) to place the child in an interim alternative educational setting, the hearing officer shall apply the standards set out in paragraph (2).

(7) Placement during appeals

(A) In general

When a parent requests a hearing regarding a disciplinary action described in paragraph (1)(A)(ii) or paragraph (2) to challenge the interim alternative educational setting or the manifestation determination, the child shall remain in the interim alternative educational setting pending the decision of

the hearing officer or until the expiration of the time period provided for in paragraph (1)(A)(ii) or paragraph (2), whichever occurs first, unless the parent and the State or local educational agency agree otherwise.

(B) Current placement

If a child is placed in an interim alternative educational setting pursuant to paragraph (1)(A)(ii) or paragraph (2) and school personnel propose to change the child's placement after expiration of the interim alternative placement, during the pendency of any proceeding to challenge the proposed change in placement, the child shall remain in the current placement (the child's placement prior to the interim alternative educational setting), except as provided in subparagraph (C).

(C) Expedited hearing

(i) If school personnel maintain that it is dangerous for the child to be in the current placement (placement prior to removal to the interim alternative education setting) during the pendency of the due process proceedings, the local educational agency may request an expedited hearing.

(ii) In determining whether the child may be placed in the alternative educational setting or in another appropriate placement ordered by the hearing officer, the hearing officer shall apply the standards set out in paragraph (2).

(8) Protections for children not yet eligible for special education and related services

(A) In general

A child who has not been determined to be eligible for special education and related services under this subchapter and who has engaged in behavior that violated any rule or code of conduct of the local educational agency, including any behavior described in paragraph (1), may assert any of the protections provided for in this subchapter if the local educational agency had knowledge (as determined in accordance with this paragraph) that the child was a child with a disability before the behavior that precipitated the disciplinary action occurred.

(B) Basis of knowledge

A local educational agency shall be deemed to have knowledge that a child is a child with a disability if—

(i) the parent of the child has expressed concern in writing (unless the parent is illiterate or has a disability that prevents compliance with the requirements contained in this clause) to personnel of the appropriate educational agency that the child is in need of special education and related services;

(ii) the behavior or performance of the child demonstrates the need for such services;

(iii) the parent of the child has requested an evaluation of the child pursuant to section 1414 of this title; or

(iv) the teacher of the child, or other personnel of the local educational agency, has expressed concern about the behavior or performance of the child to the director of special education of such agency or to other personnel of the agency.

(C) Conditions that apply if no basis of knowledge

(i) In general

If a local educational agency does not have knowledge that a child is a child with a disability (in accordance with subparagraph (B)) prior to taking disciplinary measures against the child, the child may be subjected to the same disciplinary measures as measures applied to children without disabilities who engaged in comparable behaviors consistent with clause (ii).

(ii) Limitations

If a request is made for an evaluation of a child during the time period in which the child is subjected to disciplinary measures under paragraph (1) or (2), the evaluation shall be conducted in an expedited manner. If the child is determined to be a child with a disability, taking into consideration information from the evaluation conducted by the agency and information provided by the parents, the agency shall provide special education and related services in accordance with the provisions of this subchapter, except that, pending the results of the evaluation, the child shall remain in the educational placement determined by school authorities.

(9) Referral to and action by law enforcement and judicial authorities

(A) Nothing in this subchapter shall be construed to prohibit an agency from reporting a crime committed by a child with a disability to appropriate authorities or to prevent State law enforcement and judicial authorities from exercising their responsibilities with regard to the application of Federal and State law to crimes committed by a child with a disability.

(B) An agency reporting a crime committed by a child with a disability shall ensure that copies of the special education and disciplinary records of the child are transmitted for consideration by the appropriate authorities to whom it reports the crime.

(10) Definitions

For purposes of this subsection, the following definitions apply:

(A) Controlled substance

The term ''controlled substance'' means a drug or other substance identified under schedules I, II, III, IV, or V in section 202(c) of the Controlled Substances Act (21 U.S.C. 812(c)).

(B) Illegal drug

The term ''illegal drug''—

(i) means a controlled substance; but

(ii) does not include such a substance that is legally possessed or used under the supervision of a licensed health-care professional or that is legally possessed or used under any other authority under that

Act [21 U.S.C. 801 et seq.] or under any other provision of Federal law.

(C) Substantial evidence

The term ''substantial evidence'' means beyond a preponderance of the evidence.

(D) Weapon

The term ''weapon'' has the meaning given the term ''dangerous weapon'' under paragraph (2) of the first subsection (g) of section 930 of title 18.

(*l*) Rule of construction

Nothing in this chapter shall be construed to restrict or limit the rights, procedures, and remedies available under the Constitution, the Americans with Disabilities Act of 1990 [42 U.S.C. 12101 et seq.], title V of the Rehabilitation Act of 1973 [29 U.S.C. 790 et seq.], or other Federal laws protecting the rights of children with disabilities, except that before the filing of a civil action under such laws seeking relief that is also available under this subchapter, the procedures under subsections (f) and (g) of this section shall be exhausted to the same extent as would be required had the action been brought under this subchapter.

(m) Transfer of parental rights at age of majority

(1) In general

A State that receives amounts from a grant under this subchapter may provide that, when a child with a disability reaches the age of majority under State law (except for a child with a disability who has been determined to be incompetent under State law)—

(A) the public agency shall provide any notice required by this section to both the individual and the parents;

(B) all other rights accorded to parents under this subchapter transfer to the child;

(C) the agency shall notify the individual and the parents of the transfer of rights; and

(D) all rights accorded to parents under this subchapter transfer to children who are incarcerated in an adult or juvenile Federal, State, or local correctional institution.

(2) Special rule

If, under State law, a child with a disability who has reached the age of majority under State law, who has not been determined to be incompetent, but who is determined not to have the ability to provide informed consent with respect to the educational program of the child, the State shall establish procedures for appointing the parent of the child, or if the parent is not available, another appropriate individual, to represent the educational interests of the child throughout the period of eligibility of the child under this subchapter.

(Pub. L. 91–230, title VI, §615, as added Pub. L. 105–17, title I, §101, June 4, 1997, 111 Stat. 88.)

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in subsec. (i)(3)(D)(i)(I), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

The Controlled Substances Act, referred to in subsec. (k)(10)(B)(ii), is title II of Pub. L. 91–513, Oct. 27, 1970, 84 Stat. 1242, as amended, which is classified principally to subchapter I (§801 et seq.) of chapter 13 of Title 21, Food and Drugs. For complete classification of this Act to the Code, see Short Title note set out under section 801 of Title 21 and Tables.

The Americans with Disabilities Act of 1990, referred to in subsec. (*l*), is Pub. L. 101–336, July 26, 1990, 104 Stat. 327, as amended, which is classified principally to chapter 126 (§12101 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of Title 42 and Tables.

The Rehabilitation Act of 1973, referred to in subsec. (*l*), is Pub. L. 93–112, Sept. 26, 1973, 87 Stat. 355, as amended. Title V of the Act is classified generally to subchapter V (§790 et seq.) of chapter 16 of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 701 of Title 29 and Tables.

PRIOR PROVISIONS

A prior section 1415, Pub. L. 91–230, title VI, §615, as added Pub. L. 94–142, §5(a), Nov. 29, 1975, 89 Stat. 788; amended Pub. L. 99–372, §§2, 3, Aug. 5, 1986, 100 Stat. 796, 797; Pub. L. 100–630, title I, §102(e), Nov. 7, 1988, 102 Stat. 3294; Pub. L. 101–476, title IX, §901(b)(71)–(75), Oct. 30, 1990, 104 Stat. 1145; Pub. L. 102–119, §25(b), Oct. 7, 1991, 105 Stat. 607; Pub. L. 103–382, title III, §314(a)(1), Oct. 20, 1994, 108 Stat. 3936, related to procedural safeguards, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 105–17.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1401, 1411, 1412, 1413, 1414, 1418, 1419, 1439, 2328, 4304 of this title.

§1416. Withholding and judicial review

(a) Withholding of payments

(1) In general

Whenever the Secretary, after reasonable notice and opportunity for hearing to the State educational agency involved (and to any local educational agency or State agency affected by any failure described in subparagraph (B)), finds—

(A) that there has been a failure by the State to comply substantially with any provision of this subchapter; or

(B) that there is a failure to comply with any condition of a local educational agency's or State agency's eligibility under this subchapter, including the terms of any agreement to achieve compliance with this subchapter within the timelines specified in the agreement;

the Secretary shall, after notifying the State educational agency, withhold, in whole or in part, any further payments to the State under this subchapter, or refer the matter for appropriate enforcement action, which may include referral to the Department of Justice.

(2) Nature of withholding

If the Secretary withholds further payments under paragraph (1), the Secretary may determine that such withholding will be limited to programs or projects, or portions thereof, affected by the failure, or that the State educational agency shall not make further payments under this subchapter to specified local educational agencies or State agencies affected by the failure. Until the Secretary is satisfied that there is no longer any failure to comply with the provisions of this subchapter, as specified in subparagraph (A) or (B) of para-

graph (1), payments to the State under this subchapter shall be withheld in whole or in part, or payments by the State educational agency under this subchapter shall be limited to local educational agencies and State agencies whose actions did not cause or were not involved in the failure, as the case may be. Any State educational agency, State agency, or local educational agency that has received notice under paragraph (1) shall, by means of a public notice, take such measures as may be necessary to bring the pendency of an action pursuant to this subsection to the attention of the public within the jurisdiction of such agency.

(b) Judicial review

(1) In general

If any State is dissatisfied with the Secretary's final action with respect to the eligibility of the State under section 1412 of this title, such State may, not later than 60 days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file in the court the record of the proceedings upon which the Secretary's action was based, as provided in section 2112 of title 28.

(2) Jurisdiction; review by United States Supreme Court

Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28.

(3) Standard of review

The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify the Secretary's previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(c) Divided State agency responsibility

For purposes of this section, where responsibility for ensuring that the requirements of this subchapter are met with respect to children with disabilities who are convicted as adults under State law and incarcerated in adult prisons is assigned to a public agency other than the State educational agency pursuant to section 1412(a)(11)(C) of this title, the Secretary, in instances where the Secretary finds that the failure to comply substantially with the provisions of this subchapter are related to a failure by the public agency, shall take appropriate corrective action to ensure compliance with this subchapter, except—

(1) any reduction or withholding of payments to the State is proportionate to the total funds allotted under section 1411 of this title to the State as the number of eligible children with disabilities in adult prisons under the supervision of the other public agency is proportionate to the number of eligible individuals with disabilities in the State under the supervision of the State educational agency; and

(2) any withholding of funds under paragraph (1) shall be limited to the specific agency responsible for the failure to comply with this subchapter.

(Pub. L. 91–230, title VI, § 616, as added Pub. L. 105–17, title I, § 101, June 4, 1997, 111 Stat. 99.)

PRIOR PROVISIONS

A prior section 1416, Pub. L. 91–230, title VI, § 616, as added Pub. L. 94–142, § 5(a), Nov. 29, 1975, 89 Stat. 789; amended Pub. L. 98–199, § 3(b), Dec. 2, 1983, 97 Stat. 1358; Pub. L. 100–630, title I, § 102(f), Nov. 7, 1988, 102 Stat. 3294; Pub. L. 101–476, title IX, § 901(b)(76), Oct. 30, 1990, 104 Stat. 1145; Pub. L. 102–119, § 25(b), Oct. 7, 1991, 105 Stat. 607, related to withholding of payments, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 105–17.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1411, 1442, 1483 of this title.

§ 1417. Administration

(a) Responsibilities of Secretary

In carrying out this subchapter, the Secretary shall—

(1) cooperate with, and (directly or by grant or contract) furnish technical assistance necessary to, the State in matters relating to—

(A) the education of children with disabilities; and

(B) carrying out this subchapter; and

(2) provide short-term training programs and institutes.

(b) Rules and regulations

In carrying out the provisions of this subchapter, the Secretary shall issue regulations under this chapter only to the extent that such regulations are necessary to ensure that there is compliance with the specific requirements of this chapter.

(c) Confidentiality

The Secretary shall take appropriate action, in accordance with the provisions of section 1232g of this title, to assure the protection of the confidentiality of any personally identifiable data, information, and records collected or maintained by the Secretary and by State and local educational agencies pursuant to the provisions of this subchapter.

(d) Personnel

The Secretary is authorized to hire qualified personnel necessary to carry out the Secretary's duties under subsection (a) of this section and under sections 1418, 1461, and 1473 of this title (or their predecessor authorities through October 1, 1997) without regard to the provisions of title 5 relating to appointments in the competitive service and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and general schedule pay rates,

except that no more than twenty such personnel shall be employed at any time.

(Pub. L. 91–230, title VI, § 617, as added Pub. L. 105–17, title I, § 101, June 4, 1997, 111 Stat. 100.)

REFERENCES IN TEXT

The provisions of title 5 relating to appointments in the competitive service, referred to in subsec. (d), are classified generally to section 3301 et seq. of Title 5, Government Organization and Employees.

PRIOR PROVISIONS

A prior section 1417, Pub. L. 91–230, title VI, § 617, as added Pub. L. 94–142, § 5(a), Nov. 29, 1975, 89 Stat. 791; amended Pub. L. 98–199, § 3(b), Dec. 2, 1983, 97 Stat. 1358; Pub. L. 100–630, title I, § 102(g), Nov. 7, 1988, 102 Stat. 3295; Pub. L. 101–476, title IX, § 901(b)(77), (78), Oct. 30, 1990, 104 Stat. 1145; Pub. L. 102–119, § 25(a)(7), (b), Oct. 7, 1991, 105 Stat. 606, 607, related to Secretary's administrative duties, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 105–17.

EFFECTIVE DATE

Section effective Oct. 1, 1997, see section 201(a)(2)(B) of Pub. L. 105–17, set out as a note under section 1400 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1412, 1415, 1442, 1483 of this title.

§ 1418. Program information

(a) In general

Each State that receives assistance under this subchapter, and the Secretary of the Interior, shall provide data each year to the Secretary—

(1)(A) on—

(i) the number of children with disabilities, by race, ethnicity, and disability category, who are receiving a free appropriate public education;

(ii) the number of children with disabilities, by race and ethnicity, who are receiving early intervention services;

(iii) the number of children with disabilities, by race, ethnicity, and disability category, who are participating in regular education;

(iv) the number of children with disabilities, by race, ethnicity, and disability category, who are in separate classes, separate schools or facilities, or public or private residential facilities;

(v) the number of children with disabilities, by race, ethnicity, and disability category, who, for each year of age from age 14 to 21, stopped receiving special education and related services because of program completion or other reasons and the reasons why those children stopped receiving special education and related services;

(vi) the number of children with disabilities, by race and ethnicity, who, from birth through age 2, stopped receiving early intervention services because of program completion or for other reasons; and

(vii)(I) the number of children with disabilities, by race, ethnicity, and disability category, who under subparagraphs (A)(ii) and (B) of section 1415(k)(1) of this title, are removed to an interim alternative educational setting;

(II) the acts or items precipitating those removals; and

(III) the number of children with disabilities who are subject to long-term suspensions or expulsions; and

(B) on the number of infants and toddlers, by race and ethnicity, who are at risk of having substantial developmental delays (as described in section 1432 of this title), and who are receiving early intervention services under subchapter III of this chapter; and

(2) on any other information that may be required by the Secretary.

(b) Sampling

The Secretary may permit States and the Secretary of the Interior to obtain the data described in subsection (a) of this section through sampling.

(c) Disproportionality

(1) In general

Each State that receives assistance under this subchapter, and the Secretary of the Interior, shall provide for the collection and examination of data to determine if significant disproportionality based on race is occurring in the State with respect to—

(A) the identification of children as children with disabilities, including the identification of children as children with disabilities in accordance with a particular impairment described in section 1401(3) of this title; and

(B) the placement in particular educational settings of such children.

(2) Review and revision of policies, practices, and procedures

In the case of a determination of significant disproportionality with respect to the identification of children as children with disabilities, or the placement in particular educational settings of such children, in accordance with paragraph (1), the State or the Secretary of the Interior, as the case may be, shall provide for the review and, if appropriate, revision of the policies, procedures, and practices used in such identification or placement to ensure that such policies, procedures, and practices comply with the requirements of this chapter.

(Pub. L. 91–230, title VI, § 618, as added Pub. L. 105–17, title I, § 101, June 4, 1997, 111 Stat. 101.)

PRIOR PROVISIONS

A prior section 1418, Pub. L. 91–230, title VI, § 618, as added Pub. L. 94–142, § 5(a), Nov. 29, 1975, 89 Stat. 791; amended Pub. L. 98–199, §§ 3(b), 8, Dec. 2, 1983, 97 Stat. 1358, 1360; Pub. L. 99–457, title IV, § 406, Oct. 8, 1986, 100 Stat. 1174; Pub. L. 100–630, title I, § 102(h), Nov. 7, 1988, 102 Stat. 3295; Pub. L. 101–476, title II, § 203, Oct. 30, 1990, 104 Stat. 1112, related to evaluation and program information, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 105–17.

EFFECTIVE DATE

Section effective July 1, 1998, see section 201(a)(2)(A) of Pub. L. 105–17, set out as a note under section 1400 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1411, 1412, 1417, 1435, 1442, 1474, 4304 of this title; title 29 section 795n; title 42 section 6022.

§ 1419. Preschool grants

(a) In general

The Secretary shall provide grants under this section to assist States to provide special education and related services, in accordance with this subchapter—

(1) to children with disabilities aged 3 through 5, inclusive; and

(2) at the State's discretion, to 2-year-old children with disabilities who will turn 3 during the school year.

(b) Eligibility

A State shall be eligible for a grant under this section if such State—

(1) is eligible under section 1412 of this title to receive a grant under this subchapter; and

(2) makes a free appropriate public education available to all children with disabilities, aged 3 through 5, residing in the State.

(c) Allocations to States

(1) In general

After reserving funds for studies and evaluations under section 1474(e) of this title, the Secretary shall allocate the remaining amount among the States in accordance with paragraph (2) or (3), as the case may be.

(2) Increase in funds

If the amount available for allocations to States under paragraph (1) is equal to or greater than the amount allocated to the States under this section for the preceding fiscal year, those allocations shall be calculated as follows:

(A)(i) Except as provided in subparagraph (B), the Secretary shall—

(I) allocate to each State the amount it received for fiscal year 1997;

(II) allocate 85 percent of any remaining funds to States on the basis of their relative populations of children aged 3 through 5; and

(III) allocate 15 percent of those remaining funds to States on the basis of their relative populations of all children aged 3 through 5 who are living in poverty.

(ii) For the purpose of making grants under this paragraph, the Secretary shall use the most recent population data, including data on children living in poverty, that are available and satisfactory to the Secretary.

(B) Notwithstanding subparagraph (A), allocations under this paragraph shall be subject to the following:

(i) No State's allocation shall be less than its allocation for the preceding fiscal year.

(ii) No State's allocation shall be less than the greatest of—

(I) the sum of—

(aa) the amount it received for fiscal year 1997; and

(bb) one third of one percent of the amount by which the amount appropriated under subsection (j) of this section exceeds the amount appropriated under this section for fiscal year 1997;

(II) the sum of—

(aa) the amount it received for the preceding fiscal year; and

(bb) that amount multiplied by the percentage by which the increase in the funds appropriated from the preceding fiscal year exceeds 1.5 percent; or

(III) the sum of—

(aa) the amount it received for the preceding fiscal year; and

(bb) that amount multiplied by 90 percent of the percentage increase in the amount appropriated from the preceding fiscal year.

(iii) Notwithstanding clause (ii), no State's allocation under this paragraph shall exceed the sum of—

(I) the amount it received for the preceding fiscal year; and

(II) that amount multiplied by the sum of 1.5 percent and the percentage increase in the amount appropriated.

(C) If the amount available for allocations under this paragraph is insufficient to pay those allocations in full, those allocations shall be ratably reduced, subject to subparagraph (B)(i).

(3) Decrease in funds

If the amount available for allocations to States under paragraph (1) is less than the amount allocated to the States under this section for the preceding fiscal year, those allocations shall be calculated as follows:

(A) If the amount available for allocations is greater than the amount allocated to the States for fiscal year 1997, each State shall be allocated the sum of—

(i) the amount it received for fiscal year 1997; and

(ii) an amount that bears the same relation to any remaining funds as the increase the State received for the preceding fiscal year over fiscal year 1997 bears to the total of all such increases for all States.

(B) If the amount available for allocations is equal to or less than the amount allocated to the States for fiscal year 1997, each State shall be allocated the amount it received for that year, ratably reduced, if necessary.

(4) Outlying areas

The Secretary shall increase the fiscal year 1998 allotment of each outlying area under section 1411 of this title by at least the amount that that area received under this section for fiscal year 1997.

(d) Reservation for State activities

(1) In general

Each State may retain not more than the amount described in paragraph (2) for administration and other State-level activities in accordance with subsections (e) and (f) of this section.

(2) Amount described

For each fiscal year, the Secretary shall determine and report to the State educational

agency an amount that is 25 percent of the amount the State received under this section for fiscal year 1997, cumulatively adjusted by the Secretary for each succeeding fiscal year by the lesser of—

(A) the percentage increase, if any, from the preceding fiscal year in the State's allocation under this section; or

(B) the percentage increase, if any, from the preceding fiscal year in the Consumer Price Index For All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor.

(e) State administration

(1) In general

For the purpose of administering this section (including the coordination of activities under this subchapter with, and providing technical assistance to, other programs that provide services to children with disabilities) a State may use not more than 20 percent of the maximum amount it may retain under subsection (d) of this section for any fiscal year.

(2) Administration of subchapter III

Funds described in paragraph (1) may also be used for the administration of subchapter III of this chapter, if the State educational agency is the lead agency for the State under that subchapter.

(f) Other State-level activities

Each State shall use any funds it retains under subsection (d) of this section and does not use for administration under subsection (e) of this section—

(1) for support services (including establishing and implementing the mediation process required by section 1415(e) of this title), which may benefit children with disabilities younger than 3 or older than 5 as long as those services also benefit children with disabilities aged 3 through 5;

(2) for direct services for children eligible for services under this section;

(3) to develop a State improvement plan under part A of subchapter IV of this chapter;

(4) for activities at the State and local levels to meet the performance goals established by the State under section 1412(a)(16) of this title and to support implementation of the State improvement plan under part A of subchapter IV of this chapter if the State receives funds under that part; or

(5) to supplement other funds used to develop and implement a Statewide coordinated services system designed to improve results for children and families, including children with disabilities and their families, but not to exceed one percent of the amount received by the State under this section for a fiscal year.

(g) Subgrants to local educational agencies

(1) Subgrants required

Each State that receives a grant under this section for any fiscal year shall distribute any of the grant funds that it does not reserve under subsection (d) of this section to local educational agencies in the State that have established their eligibility under section 1413 of this title, as follows:

(A) Base payments

The State shall first award each agency described in paragraph (1) the amount that agency would have received under this section for fiscal year 1997 if the State had distributed 75 percent of its grant for that year under section 619(c)(3), as then in effect.

(B) Allocation of remaining funds

After making allocations under subparagraph (A), the State shall—

(i) allocate 85 percent of any remaining funds to those agencies on the basis of the relative numbers of children enrolled in public and private elementary and secondary schools within the agency's jurisdiction; and

(ii) allocate 15 percent of those remaining funds to those agencies in accordance with their relative numbers of children living in poverty, as determined by the State educational agency.

(2) Reallocation of funds

If a State educational agency determines that a local educational agency is adequately providing a free appropriate public education to all children with disabilities aged 3 through 5 residing in the area served by that agency with State and local funds, the State educational agency may reallocate any portion of the funds under this section that are not needed by that local agency to provide a free appropriate public education to other local educational agencies in the State that are not adequately providing special education and related services to all children with disabilities aged 3 through 5 residing in the areas they serve.

(h) Subchapter III inapplicable

Subchapter III of this chapter does not apply to any child with a disability receiving a free appropriate public education, in accordance with this subchapter, with funds received under this section.

(i) "State" defined

For the purpose of this section, the term ''State'' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

(j) Authorization of appropriations

For the purpose of carrying out this section, there are authorized to be appropriated to the Secretary $500,000,000 for fiscal year 1998 and such sums as may be necessary for each subsequent fiscal year.

(Pub. L. 91–230, title VI, §619, as added Pub. L. 105–17, title I, §101, June 4, 1997, 111 Stat. 102.)

REFERENCES IN TEXT

Section 619(c)(3), as then in effect, referred to in subsec. (g)(1)(A), means section 619 of Pub. L. 91–230, title VI, as added by Pub. L. 94–142, §5(a), Nov. 29, 1975, 89 Stat. 793, as amended, which was classified to this section prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 105–17, title I, §101, June 4, 1997, 111 Stat. 37.

PRIOR PROVISIONS

A prior section 1419, Pub. L. 91–230, title VI, §619, as added Pub. L. 94–142, §5(a), Nov. 29, 1975, 89 Stat. 793;

amended Pub. L. 98–199, §§3(b), 9, Dec. 2, 1983, 97 Stat. 1358, 1363; Pub. L. 99–457, title II, §201(a), Oct. 8, 1986, 100 Stat. 1155; Pub. L. 100–630, title I, §102(i), Nov. 7, 1988, 102 Stat. 3296; Pub. L. 101–476, title IX, §901(b)(79)–(93), Oct. 30, 1990, 104 Stat. 1145, 1146; Pub. L. 102–119, §§7, 25(b), Oct. 7, 1991, 105 Stat. 591, 607, related to preschool grants, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 105–17.

A prior section 1420, Pub. L. 91–230, title VI, §620, as added Pub. L. 94–142, §5(a), Nov. 29, 1975, 89 Stat. 793; amended Pub. L. 98–199, §3(b), Dec. 2, 1983, 97 Stat. 1358, which related to payments to States and distribution by States to local educational agencies and intermediate educational units, was omitted in the general amendment of subchapters I to IV of this chapter by Pub. L. 105–17.

Prior sections 1421 to 1427, which comprised former subchapter III of this chapter, were repealed by Pub. L. 105–17, title II, §203(c), June 4, 1997, 111 Stat. 157, effective Oct. 1, 1997.

Section 1421, Pub. L. 91–230, title VI, §621, Apr. 13, 1970, 84 Stat. 181; Pub. L. 98–199, §§3(b), 10, Dec. 2, 1983, 97 Stat. 1358, 1363; Pub. L. 99–457, title III, §301, Oct. 8, 1986, 100 Stat. 1159; Pub. L. 100–630, title I, §103(b), Nov. 7, 1988, 102 Stat. 3296; Pub. L. 101–476, title III, §301, title IX, §901(b)(95)–(99), Oct. 30, 1990, 104 Stat. 1117, 1146; Pub. L. 102–119, §25(b), Oct. 7, 1991, 105 Stat. 607, related to establishment and operation of regional and Federal resource centers.

Section 1422, Pub. L. 91–230, title VI, §622, Apr. 13, 1970, 84 Stat. 182; Pub. L. 98–199, §§3(b), 10, Dec. 2, 1983, 97 Stat. 1358, 1364; Pub. L. 99–457, title III, §302, Oct. 8, 1986, 100 Stat. 1160; Pub. L. 100–630, title I, §103(c), Nov. 7, 1988, 102 Stat. 3297; Pub. L. 101–476, title III, §302, Oct. 30, 1990, 104 Stat. 1118; Pub. L. 102–119, §25(a)(8), Oct. 7, 1991, 105 Stat. 606; Pub. L. 103–382, title III, §391(f)(3), Oct. 20, 1994, 108 Stat. 4023, related to services for deaf-blind children and youth.

Section 1423, Pub. L. 91–230, title VI, §623, Apr. 13, 1970, 84 Stat. 183; Pub. L. 98–199, §§3(b), 10, Dec. 2, 1983, 97 Stat. 1358, 1365; Pub. L. 99–457, title III, §303, Oct. 8, 1986, 100 Stat. 1161; Pub. L. 100–630, title I, §103(d), Nov. 7, 1988, 102 Stat. 3297; Pub. L. 101–476, title III, §303, title IX, §901(b)(100)–(106), Oct. 30, 1990, 104 Stat. 1121, 1146, 1147; Pub. L. 102–119, §§8, 25(a)(9), (b), Oct. 7, 1991, 105 Stat. 592, 606, 607, related to early education for children with disabilities.

Section 1424, Pub. L. 91–230, title VI, §624, Apr. 13, 1970, 84 Stat. 183; Pub. L. 98–199, §§3(b), 10, Dec. 2, 1983, 97 Stat. 1358, 1366; Pub. L. 99–457, title III, §304, Oct. 8, 1986, 100 Stat. 1162; Pub. L. 100–630, title I, §103(e), Nov. 7, 1988, 102 Stat. 3297; Pub. L. 101–476, title III, §304, title IX, §901(b)(107)–(110), Oct. 30, 1990, 104 Stat. 1122, 1147; Pub. L. 102–119, §25(a)(10), (b), Oct. 7, 1991, 105 Stat. 606, 607, related to programs for children with severe disabilities.

Section 1424a, Pub. L. 91–230, title VI, §625, as added Pub. L. 93–380, title VI, §616, Aug. 21, 1974, 88 Stat. 584; amended Pub. L. 98–199, §§3(b), 10, Dec. 2, 1983, 97 Stat. 1358, 1367; Pub. L. 99–457, title III, §305, Oct. 8, 1986, 100 Stat. 1162; Pub. L. 100–630, title I, §103(f), Nov. 7, 1988, 102 Stat. 3297; Pub. L. 101–476, title III, §305, title IX, §901(b)(111)–(118), Oct. 30, 1990, 104 Stat. 1123, 1147; Pub. L. 102–119, §25(b), Oct. 7, 1991, 105 Stat. 607; Pub. L. 102–421, title II, §201(a), Oct. 16, 1992, 106 Stat. 2164, related to programs of postsecondary, vocational, technical, continuing, or adult education for individuals with disabilities.

Section 1425, Pub. L. 91–230, title VI, §626, formerly §625, Apr. 13, 1970, 84 Stat. 183, renumbered §626, Pub. L. 93–380, title VI, §616, Aug. 21, 1974, 88 Stat. 584; amended Pub. L. 98–199, §§3(b), 10, Dec. 2, 1983, 97 Stat. 1358, 1367; Pub. L. 99–457, title III, §306, Oct. 8, 1986, 100 Stat. 1163; Pub. L. 100–630, title I, §103(g), Nov. 7, 1988, 102 Stat. 3298; Pub. L. 101–476, title III, §306, title IX, §901(b)(119)–(127), Oct. 30, 1990, 104 Stat. 1124, 1147, 1148; Pub. L. 102–119, §25(a)(11), (b), Oct. 7, 1991, 105 Stat. 606, 607, related to secondary education and transitional services for youth with disabilities.

Section 1426, Pub. L. 91–230, title VI, §627, formerly §626, Apr. 13, 1970, 84 Stat. 184, renumbered §627 and amended Pub. L. 93–380, title VI, §§616, 617, Aug. 21, 1974, 88 Stat. 584; Pub. L. 95–49, §2, June 17, 1977, 91 Stat. 230; Pub. L. 98–199, §10, Dec. 2, 1983, 97 Stat. 1368; Pub. L. 101–476, title III, §307, Oct. 30, 1990, 104 Stat. 1127, related to programs for children and youth with serious emotional disturbance.

Section 1427, Pub. L. 91–230, title VI, §628, as added Pub. L. 98–199, §10, Dec. 2, 1983, 97 Stat. 1368; amended Pub. L. 99–457, title III, §307, Oct. 8, 1986, 100 Stat. 1165; Pub. L. 101–476, title III, §308, Oct. 30, 1990, 104 Stat. 1128, authorized appropriations.

EFFECTIVE DATE

Section effective beginning with funds appropriated for fiscal year 1998, see section 201(a)(2)(D) of Pub. L. 105–17, set out as a note under section 1400 of this title.

PRESCHOOL GRANTS

Section 110 of Pub. L. 100–630, as amended by Pub. L. 101–476, title IX, §901(a)(3), Oct. 30, 1990, 104 Stat. 1142, provided that: ''The provisions of section 300.300(b)(3) of title 34, Code of Federal Regulations, shall not apply with respect to children aged 3 through 5, inclusive, in any State for any fiscal year for which the State receives a grant under section 619(a)(1) of the Individuals with Disabilities Education Act [20 U.S.C. 1419(a)(1)].''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1411, 1453, 1461, 1476 of this title.

SUBCHAPTER III—INFANTS AND TODDLERS WITH DISABILITIES

CODIFICATION

Part C of the Individuals with Disabilities Education Act (part C of title VI of Pub. L. 91–230), comprising this subchapter, was originally enacted by Pub. L. 91–230, title VI, Apr. 13, 1970, 84 Stat. 175, and amended by Pub. L. 93–380, Aug. 21, 1974, 88 Stat. 484; Pub. L. 95–49, June 17, 1977, 91 Stat. 230; Pub. L. 98–199, Dec. 2, 1983, 97 Stat. 1357; Pub. L. 99–457, Oct. 8, 1986, 100 Stat. 1145; Pub. L. 100–630, Nov. 7, 1988, 102 Stat. 3289; Pub. L. 101–476, Oct. 30, 1990, 104 Stat. 1103; Pub. L. 102–119, Oct. 7, 1991, 105 Stat. 587; Pub. L. 102–421, Oct. 16, 1992, 106 Stat. 2151; Pub. L. 103–382, Oct. 20, 1994, 108 Stat. 3518. Such part is shown herein, however, as having been added by Pub. L. 105–17, title I, §101, June 4, 1997, 111 Stat. 37, without reference to such intervening amendments. The prior part C, which was classified to former subchapter III (§§1421–1427) of this chapter, was repealed by Pub. L. 105–17, title II, §203(c), June 4, 1997, 111 Stat. 157, effective Oct. 1, 1997.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1406, 1408, 1409, 1411, 1412, 1418, 1419, 1421, 1424a, 1452, 1454, 1461, 1491n of this title; title 42 section 6024.

§ 1431. Findings and policy

(a) Findings

The Congress finds that there is an urgent and substantial need—

(1) to enhance the development of infants and toddlers with disabilities and to minimize their potential for developmental delay;

(2) to reduce the educational costs to our society, including our Nation's schools, by minimizing the need for special education and related services after infants and toddlers with disabilities reach school age;

(3) to minimize the likelihood of institutionalization of individuals with disabilities and maximize the potential for their independently living in society;

(4) to enhance the capacity of families to meet the special needs of their infants and toddlers with disabilities; and

(5) to enhance the capacity of State and local agencies and service providers to identify, evaluate, and meet the needs of historically underrepresented populations, particularly minority, low-income, inner-city, and rural populations.

(b) Policy

It is therefore the policy of the United States to provide financial assistance to States—

(1) to develop and implement a statewide, comprehensive, coordinated, multidisciplinary, interagency system that provides early intervention services for infants and toddlers with disabilities and their families;

(2) to facilitate the coordination of payment for early intervention services from Federal, State, local, and private sources (including public and private insurance coverage);

(3) to enhance their capacity to provide quality early intervention services and expand and improve existing early intervention services being provided to infants and toddlers with disabilities and their families; and

(4) to encourage States to expand opportunities for children under 3 years of age who would be at risk of having substantial developmental delay if they did not receive early intervention services.

(Pub. L. 91–230, title VI, §631, as added Pub. L. 105–17, title I, §101, June 4, 1997, 111 Stat. 106.)

PRIOR PROVISIONS

A prior section 1431, Pub. L. 91–230, title VI, §631, Apr. 13, 1970, 84 Stat. 184; Pub. L. 98–199, §§3(b), 11, Dec. 2, 1983, 97 Stat. 1358, 1369; Pub. L. 99–457, title III, §308, Oct. 8, 1986, 100 Stat. 1165; Pub. L. 100–630, title I, §104(b), Nov. 7, 1988, 102 Stat. 3298; Pub. L. 101–476, title IV, §401, title IX, §901(b)(129)–(142), Oct. 30, 1990, 104 Stat. 1129, 1148; Pub. L. 102–119, §§9(a), (b), 25(a)(12), (b), Oct. 7, 1991, 105 Stat. 593, 594, 606, 607; Pub. L. 102–421, title II, §202, Oct. 16, 1992, 106 Stat. 2165; Pub. L. 102–569, title IX, §912(a), Oct. 29, 1992, 106 Stat. 4486; Pub. L. 103–73, title III, §302, Aug. 11, 1993, 107 Stat. 736; Pub. L. 103–218, title IV, §401, Mar. 9, 1994, 108 Stat. 95, related to grants for personnel training, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 105–17.

EFFECTIVE DATE

Section 201(b) of Pub. L. 105–17 provided that: ''Part C of the Individuals with Disabilities Education Act [20 U.S.C. 1431–1445], as amended by title I, shall take effect on July 1, 1998.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5912 of this title; title 29 sections 725, 797b.

§ 1432. Definitions

As used in this subchapter:

(1) At-risk infant or toddler

The term ''at-risk infant or toddler'' means an individual under 3 years of age who would be at risk of experiencing a substantial developmental delay if early intervention services were not provided to the individual.

(2) Council

The term ''council'' means a State interagency coordinating council established under section 1441 of this title.

(3) Developmental delay

The term ''developmental delay'', when used with respect to an individual residing in a State, has the meaning given such term by the State under section 1435(a)(1) of this title.

(4) Early intervention services

The term ''early intervention services'' means developmental services that—

(A) are provided under public supervision;

(B) are provided at no cost except where Federal or State law provides for a system of payments by families, including a schedule of sliding fees;

(C) are designed to meet the developmental needs of an infant or toddler with a disability in any one or more of the following areas—

(i) physical development;

(ii) cognitive development;

(iii) communication development;

(iv) social or emotional development; or

(v) adaptive development;

(D) meet the standards of the State in which they are provided, including the requirements of this subchapter;

(E) include—

(i) family training, counseling, and home visits;

(ii) special instruction;

(iii) speech-language pathology and audiology services;

(iv) occupational therapy;

(v) physical therapy;

(vi) psychological services;

(vii) service coordination services;

(viii) medical services only for diagnostic or evaluation purposes;

(ix) early identification, screening, and assessment services;

(x) health services necessary to enable the infant or toddler to benefit from the other early intervention services;

(xi) social work services;

(xii) vision services;

(xiii) assistive technology devices and assistive technology services; and

(xiv) transportation and related costs that are necessary to enable an infant or toddler and the infant's or toddler's family to receive another service described in this paragraph;

(F) are provided by qualified personnel, including—

(i) special educators;

(ii) speech-language pathologists and audiologists;

(iii) occupational therapists;

(iv) physical therapists;

(v) psychologists;

(vi) social workers;

(vii) nurses;

(viii) nutritionists;

(ix) family therapists;

(x) orientation and mobility specialists; and

(xi) pediatricians and other physicians;

(G) to the maximum extent appropriate, are provided in natural environments, including the home, and community settings in which children without disabilities participate; and

(H) are provided in conformity with an individualized family service plan adopted in accordance with section 1436 of this title.

(5) Infant or toddler with a disability

The term ''infant or toddler with a disability''—

(A) means an individual under 3 years of age who needs early intervention services because the individual—

(i) is experiencing developmental delays, as measured by appropriate diagnostic instruments and procedures in one or more of the areas of cognitive development, physical development, communication development, social or emotional development, and adaptive development; or

(ii) has a diagnosed physical or mental condition which has a high probability of resulting in developmental delay; and

(B) may also include, at a State's discretion, at-risk infants and toddlers.

(Pub. L. 91–230, title VI, § 632, as added Pub. L. 105–17, title I, § 101, June 4, 1997, 111 Stat. 106.)

PRIOR PROVISIONS

A prior section 1432, Pub. L. 91–230, title VI, § 632, Apr. 13, 1970, 84 Stat. 184; Pub. L. 98–199, §§ 3(b), 11, Dec. 2, 1983, 97 Stat. 1358, 1371; Pub. L. 99–457, title III, § 309, Oct. 8, 1986, 100 Stat. 1168; Pub. L. 100–630, title I, § 104(c), Nov. 7, 1988, 102 Stat. 3298; Pub. L. 101–476, title IV, § 402, title IX, § 901(b)(143), Oct. 30, 1990, 104 Stat. 1132, 1148; Pub. L. 102–119, § 25(b), Oct. 7, 1991, 105 Stat. 607, related to grants to State educational agencies and institutions for traineeships, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 105–17.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1401, 1418 of this title.

§ 1433. General authority

The Secretary shall, in accordance with this subchapter, make grants to States (from their allotments under section 1443 of this title) to assist each State to maintain and implement a statewide, comprehensive, coordinated, multidisciplinary, interagency system to provide early intervention services for infants and toddlers with disabilities and their families.

(Pub. L. 91–230, title VI, § 633, as added Pub. L. 105–17, title I, § 101, June 4, 1997, 111 Stat. 108.)

PRIOR PROVISIONS

A prior section 1433, Pub. L. 91–230, title VI, § 633, Apr. 13, 1970, 84 Stat. 184; Pub. L. 98–199, §§ 3(b), 11, Dec. 2, 1983, 97 Stat. 1358, 1371; Pub. L. 99–457, title III, § 310, Oct. 8, 1986, 100 Stat. 1168; Pub. L. 100–630, title I, § 104(e), Nov. 7, 1988, 102 Stat. 3299; Pub. L. 101–476, title IV, § 403, title IX, § 901(b)(144), Oct. 30, 1990, 104 Stat. 1133, 1149; Pub. L. 102–119, § 25(b), Oct. 7, 1991, 105 Stat. 607, related to establishment of national clearinghouses, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 105–17.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1070a–51, 1090, 1434, 1435, 1436, 1437, 1438 of this title.

§ 1434. Eligibility

In order to be eligible for a grant under section 1433 of this title, a State shall demonstrate to the Secretary that the State—

(1) has adopted a policy that appropriate early intervention services are available to all infants and toddlers with disabilities in the State and their families, including Indian infants and toddlers with disabilities and their families residing on a reservation geographically located in the State; and

(2) has in effect a statewide system that meets the requirements of section 1435 of this title.

(Pub. L. 91–230, title VI, § 634, as added Pub. L. 105–17, title I, § 101, June 4, 1997, 111 Stat. 108.)

PRIOR PROVISIONS

A prior section 1434, Pub. L. 91–230, title VI, § 634, Apr. 13, 1970, 84 Stat. 185; Pub. L. 98–199, §§ 3(b), 11, Dec. 2, 1983, 97 Stat. 1358, 1372; Pub. L. 101–476, title IV, § 404, Oct. 30, 1990, 104 Stat. 1135; Pub. L. 102–119, § 9(c)(1), Oct. 7, 1991, 105 Stat. 595, related to reports to Secretary by recipients of grants and contracts, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 105–17.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1437 of this title.

§ 1435. Requirements for statewide system

(a) In general

A statewide system described in section 1433 of this title shall include, at a minimum, the following components:

(1) A definition of the term ''developmental delay'' that will be used by the State in carrying out programs under this subchapter.

(2) A State policy that is in effect and that ensures that appropriate early intervention services are available to all infants and toddlers with disabilities and their families, including Indian infants and toddlers and their families residing on a reservation geographically located in the State.

(3) A timely, comprehensive, multidisciplinary evaluation of the functioning of each infant or toddler with a disability in the State, and a family-directed identification of the needs of each family of such an infant or toddler, to appropriately assist in the development of the infant or toddler.

(4) For each infant or toddler with a disability in the State, an individualized family service plan in accordance with section 1436 of this title, including service coordination services in accordance with such service plan.

(5) A comprehensive child find system, consistent with subchapter II of this chapter, including a system for making referrals to service providers that includes timelines and provides for participation by primary referral sources.

(6) A public awareness program focusing on early identification of infants and toddlers with disabilities, including the preparation and dissemination by the lead agency designated or established under paragraph (10) to all primary referral sources, especially hospitals and physicians, of information for parents on the availability of early intervention services, and procedures for determining the extent to which such sources disseminate such information to parents of infants and toddlers.

(7) A central directory which includes information on early intervention services, resources, and experts available in the State and

research and demonstration projects being conducted in the State.

(8) A comprehensive system of personnel development, including the training of paraprofessionals and the training of primary referral sources respecting the basic components of early intervention services available in the State, that is consistent with the comprehensive system of personnel development described in section 1412(a)(14) of this title and may include—

(A) implementing innovative strategies and activities for the recruitment and retention of early education service providers;

(B) promoting the preparation of early intervention providers who are fully and appropriately qualified to provide early intervention services under this subchapter;

(C) training personnel to work in rural and inner-city areas; and

(D) training personnel to coordinate transition services for infants and toddlers served under this subchapter from an early intervention program under this subchapter to preschool or other appropriate services.

(9) Subject to subsection (b) of this section, policies and procedures relating to the establishment and maintenance of standards to ensure that personnel necessary to carry out this subchapter are appropriately and adequately prepared and trained, including—

(A) the establishment and maintenance of standards which are consistent with any State-approved or recognized certification, licensing, registration, or other comparable requirements which apply to the area in which such personnel are providing early intervention services; and

(B) to the extent such standards are not based on the highest requirements in the State applicable to a specific profession or discipline, the steps the State is taking to require the retraining or hiring of personnel that meet appropriate professional requirements in the State;

except that nothing in this subchapter, including this paragraph, prohibits the use of paraprofessionals and assistants who are appropriately trained and supervised, in accordance with State law, regulations, or written policy, to assist in the provision of early intervention services to infants and toddlers with disabilities under this subchapter.

(10) A single line of responsibility in a lead agency designated or established by the Governor for carrying out—

(A) the general administration and supervision of programs and activities receiving assistance under section 1433 of this title, and the monitoring of programs and activities used by the State to carry out this subchapter, whether or not such programs or activities are receiving assistance made available under section 1433 of this title, to ensure that the State complies with this subchapter;

(B) the identification and coordination of all available resources within the State from Federal, State, local, and private sources;

(C) the assignment of financial responsibility in accordance with section 1437(a)(2) of this title to the appropriate agencies;

(D) the development of procedures to ensure that services are provided to infants and toddlers with disabilities and their families under this subchapter in a timely manner pending the resolution of any disputes among public agencies or service providers;

(E) the resolution of intra- and interagency disputes; and

(F) the entry into formal interagency agreements that define the financial responsibility of each agency for paying for early intervention services (consistent with State law) and procedures for resolving disputes and that include all additional components necessary to ensure meaningful cooperation and coordination.

(11) A policy pertaining to the contracting or making of other arrangements with service providers to provide early intervention services in the State, consistent with the provisions of this subchapter, including the contents of the application used and the conditions of the contract or other arrangements.

(12) A procedure for securing timely reimbursements of funds used under this subchapter in accordance with section 1440(a) of this title.

(13) Procedural safeguards with respect to programs under this subchapter, as required by section 1439 of this title.

(14) A system for compiling data requested by the Secretary under section 1418 of this title that relates to this subchapter.

(15) A State interagency coordinating council that meets the requirements of section 1441 of this title.

(16) Policies and procedures to ensure that, consistent with section 1436(d)(5) of this title—

(A) to the maximum extent appropriate, early intervention services are provided in natural environments; and

(B) the provision of early intervention services for any infant or toddler occurs in a setting other than a natural environment only when early intervention cannot be achieved satisfactorily for the infant or toddler in a natural environment.

(b) Policy

In implementing subsection (a)(9) of this section, a State may adopt a policy that includes making ongoing good-faith efforts to recruit and hire appropriately and adequately trained personnel to provide early intervention services to infants and toddlers with disabilities, including, in a geographic area of the State where there is a shortage of such personnel, the most qualified individuals available who are making satisfactory progress toward completing applicable course work necessary to meet the standards described in subsection (a)(9) of this section, consistent with State law within 3 years.

(Pub. L. 91–230, title VI, §635, as added Pub. L. 105–17, title I, §101, June 4, 1997, 111 Stat. 108.)

PRIOR PROVISIONS

A prior section 1435, Pub. L. 91–230, title VI, §635, Apr. 13, 1970, 84 Stat. 185; Pub. L. 98–199, §§3(b), 11, Dec. 2, 1983, 97 Stat. 1358, 1372; Pub. L. 99–457, title III, §311, Oct. 8, 1986, 100 Stat. 1169; Pub. L. 101–476, title IV, §405, Oct. 30, 1990, 104 Stat. 1135; Pub. L. 102–119, §§9(c)(2), 10,

25(a)(13), Oct. 7, 1991, 105 Stat. 595, 606, authorized appropriations, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 105–17.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1412, 1432, 1434, 1437, 1439, 1441, 1442 of this title.

§ 1436. Individualized family service plan

(a) Assessment and program development

A statewide system described in section 1433 of this title shall provide, at a minimum, for each infant or toddler with a disability, and the infant's or toddler's family, to receive—

(1) a multidisciplinary assessment of the unique strengths and needs of the infant or toddler and the identification of services appropriate to meet such needs;

(2) a family-directed assessment of the resources, priorities, and concerns of the family and the identification of the supports and services necessary to enhance the family's capacity to meet the developmental needs of the infant or toddler; and

(3) a written individualized family service plan developed by a multidisciplinary team, including the parents, as required by subsection (e) of this section.

(b) Periodic review

The individualized family service plan shall be evaluated once a year and the family shall be provided a review of the plan at 6-month intervals (or more often where appropriate based on infant or toddler and family needs).

(c) Promptness after assessment

The individualized family service plan shall be developed within a reasonable time after the assessment required by subsection (a)(1) of this section is completed. With the parents' consent, early intervention services may commence prior to the completion of the assessment.

(d) Content of plan

The individualized family service plan shall be in writing and contain—

(1) a statement of the infant's or toddler's present levels of physical development, cognitive development, communication development, social or emotional development, and adaptive development, based on objective criteria;

(2) a statement of the family's resources, priorities, and concerns relating to enhancing the development of the family's infant or toddler with a disability;

(3) a statement of the major outcomes expected to be achieved for the infant or toddler and the family, and the criteria, procedures, and timelines used to determine the degree to which progress toward achieving the outcomes is being made and whether modifications or revisions of the outcomes or services are necessary;

(4) a statement of specific early intervention services necessary to meet the unique needs of the infant or toddler and the family, including the frequency, intensity, and method of delivering services;

(5) a statement of the natural environments in which early intervention services shall appropriately be provided, including a justification of the extent, if any, to which the services will not be provided in a natural environment;

(6) the projected dates for initiation of services and the anticipated duration of the services;

(7) the identification of the service coordinator from the profession most immediately relevant to the infant's or toddler's or family's needs (or who is otherwise qualified to carry out all applicable responsibilities under this subchapter) who will be responsible for the implementation of the plan and coordination with other agencies and persons; and

(8) the steps to be taken to support the transition of the toddler with a disability to preschool or other appropriate services.

(e) Parental consent

The contents of the individualized family service plan shall be fully explained to the parents and informed written consent from the parents shall be obtained prior to the provision of early intervention services described in such plan. If the parents do not provide consent with respect to a particular early intervention service, then the early intervention services to which consent is obtained shall be provided.

(Pub. L. 91–230, title VI, § 636, as added Pub. L. 105–17, title I, § 101, June 4, 1997, 111 Stat. 111.)

PRIOR PROVISIONS

A prior section 1436, Pub. L. 91–230, title VI, § 636, Apr. 13, 1970, 84 Stat. 185; Pub. L. 93–380, title VI, § 618, Aug. 21, 1974, 88 Stat. 584; Pub. L. 95–49, § 3, June 17, 1977, 91 Stat. 230, authorized appropriations, prior to the general amendment of this subchapter by Pub. L. 98–199, § 11, Dec. 2, 1983, 97 Stat. 1369.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1401, 1412, 1414, 1432, 1435 of this title.

§ 1437. State application and assurances

(a) Application

A State desiring to receive a grant under section 1433 of this title shall submit an application to the Secretary at such time and in such manner as the Secretary may reasonably require. The application shall contain—

(1) a designation of the lead agency in the State that will be responsible for the administration of funds provided under section 1433 of this title;

(2) a designation of an individual or entity responsible for assigning financial responsibility among appropriate agencies;

(3) information demonstrating eligibility of the State under section 1434 of this title, including—

(A) information demonstrating to the Secretary's satisfaction that the State has in effect the statewide system required by section 1433 of this title; and

(B) a description of services to be provided to infants and toddlers with disabilities and their families through the system;

(4) if the State provides services to at-risk infants and toddlers through the system, a description of such services;

(5) a description of the uses for which funds will be expended in accordance with this subchapter;

(6) a description of the procedure used to ensure that resources are made available under this subchapter for all geographic areas within the State;

(7) a description of State policies and procedures that ensure that, prior to the adoption by the State of any other policy or procedure necessary to meet the requirements of this subchapter, there are public hearings, adequate notice of the hearings, and an opportunity for comment available to the general public, including individuals with disabilities and parents of infants and toddlers with disabilities;

(8) a description of the policies and procedures to be used—

(A) to ensure a smooth transition for toddlers receiving early intervention services under this subchapter to preschool or other appropriate services, including a description of how—

(i) the families of such toddlers will be included in the transition plans required by subparagraph (C); and

(ii) the lead agency designated or established under section 1435(a)(10) of this title will—

(I) notify the local educational agency for the area in which such a child resides that the child will shortly reach the age of eligibility for preschool services under subchapter II of this chapter, as determined in accordance with State law;

(II) in the case of a child who may be eligible for such preschool services, with the approval of the family of the child, convene a conference among the lead agency, the family, and the local educational agency at least 90 days (and at the discretion of all such parties, up to 6 months) before the child is eligible for the preschool services, to discuss any such services that the child may receive; and

(III) in the case of a child who may not be eligible for such preschool services, with the approval of the family, make reasonable efforts to convene a conference among the lead agency, the family, and providers of other appropriate services for children who are not eligible for preschool services under subchapter II of this chapter, to discuss the appropriate services that the child may receive;

(B) to review the child's program options for the period from the child's third birthday through the remainder of the school year; and

(C) to establish a transition plan; and

(9) such other information and assurances as the Secretary may reasonably require.

(b) Assurances

The application described in subsection (a) of this section—

(1) shall provide satisfactory assurance that Federal funds made available under section 1443 of this title to the State will be expended in accordance with this subchapter;

(2) shall contain an assurance that the State will comply with the requirements of section 1440 of this title;

(3) shall provide satisfactory assurance that the control of funds provided under section 1443 of this title, and title to property derived from those funds, will be in a public agency for the uses and purposes provided in this subchapter and that a public agency will administer such funds and property;

(4) shall provide for—

(A) making such reports in such form and containing such information as the Secretary may require to carry out the Secretary's functions under this subchapter; and

(B) keeping such records and affording such access to them as the Secretary may find necessary to ensure the correctness and verification of those reports and proper disbursement of Federal funds under this subchapter;

(5) provide satisfactory assurance that Federal funds made available under section 1443 of this title to the State—

(A) will not be commingled with State funds; and

(B) will be used so as to supplement the level of State and local funds expended for infants and toddlers with disabilities and their families and in no case to supplant those State and local funds;

(6) shall provide satisfactory assurance that such fiscal control and fund accounting procedures will be adopted as may be necessary to ensure proper disbursement of, and accounting for, Federal funds paid under section 1443 of this title to the State;

(7) shall provide satisfactory assurance that policies and procedures have been adopted to ensure meaningful involvement of underserved groups, including minority, low-income, and rural families, in the planning and implementation of all the requirements of this subchapter; and

(8) shall contain such other information and assurances as the Secretary may reasonably require by regulation.

(c) Standard for disapproval of application

The Secretary may not disapprove such an application unless the Secretary determines, after notice and opportunity for a hearing, that the application fails to comply with the requirements of this section.

(d) Subsequent State application

If a State has on file with the Secretary a policy, procedure, or assurance that demonstrates that the State meets a requirement of this section, including any policy or procedure filed under part H (as in effect before July 1, 1998), the Secretary shall consider the State to have met the requirement for purposes of receiving a grant under this subchapter.

(e) Modification of application

An application submitted by a State in accordance with this section shall remain in effect until the State submits to the Secretary such modifications as the State determines nec-

essary. This section shall apply to a modification of an application to the same extent and in the same manner as this section applies to the original application.

(f) Modifications required by Secretary

The Secretary may require a State to modify its application under this section, but only to the extent necessary to ensure the State's compliance with this subchapter, if—

(1) an amendment is made to this chapter, or a Federal regulation issued under this chapter;

(2) a new interpretation of this chapter is made by a Federal court or the State's highest court; or

(3) an official finding of noncompliance with Federal law or regulations is made with respect to the State.

(Pub. L. 91–230, title VI, § 637, as added Pub. L. 105–17, title I, § 101, June 4, 1997, 111 Stat. 112.)

REFERENCES IN TEXT

Part H (as in effect before July 1, 1998), referred to in subsec. (d), means part H of Pub. L. 91–230, title VI, as added by Pub. L. 99–457, title I, § 101(a), Oct. 8, 1986, 100 Stat. 1145, which was classified generally to subchapter VIII (§ 1471 et seq.) of this chapter prior to repeal by Pub. L. 105–17, title II, § 203(b), June 4, 1997, 111 Stat. 157, effective July 1, 1998.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1412, 1435, 1438 of this title.

§ 1438. Uses of funds

In addition to using funds provided under section 1433 of this title to maintain and implement the statewide system required by such section, a State may use such funds—

(1) for direct early intervention services for infants and toddlers with disabilities, and their families, under this subchapter that are not otherwise funded through other public or private sources;

(2) to expand and improve on services for infants and toddlers and their families under this subchapter that are otherwise available;

(3) to provide a free appropriate public education, in accordance with subchapter II of this chapter, to children with disabilities from their third birthday to the beginning of the following school year; and

(4) in any State that does not provide services for at-risk infants and toddlers under section 1437(a)(4) of this title, to strengthen the statewide system by initiating, expanding, or improving collaborative efforts related to at-risk infants and toddlers, including establishing linkages with appropriate public or private community-based organizations, services, and personnel for the purposes of—

(A) identifying and evaluating at-risk infants and toddlers;

(B) making referrals of the infants and toddlers identified and evaluated under subparagraph (A); and

(C) conducting periodic follow-up on each such referral to determine if the status of the infant or toddler involved has changed with respect to the eligibility of the infant or toddler for services under this subchapter.

(Pub. L. 91–230, title VI, § 638, as added Pub. L. 105–17, title I, § 101, June 4, 1997, 111 Stat. 114.)

§ 1439. Procedural safeguards

(a) Minimum procedures

The procedural safeguards required to be included in a statewide system under section 1435(a)(13) of this title shall provide, at a minimum, the following:

(1) The timely administrative resolution of complaints by parents. Any party aggrieved by the findings and decision regarding an administrative complaint shall have the right to bring a civil action with respect to the complaint in any State court of competent jurisdiction or in a district court of the United States without regard to the amount in controversy. In any action brought under this paragraph, the court shall receive the records of the administrative proceedings, shall hear additional evidence at the request of a party, and, basing its decision on the preponderance of the evidence, shall grant such relief as the court determines is appropriate.

(2) The right to confidentiality of personally identifiable information, including the right of parents to written notice of and written consent to the exchange of such information among agencies consistent with Federal and State law.

(3) The right of the parents to determine whether they, their infant or toddler, or other family members will accept or decline any early intervention service under this subchapter in accordance with State law without jeopardizing other early intervention services under this subchapter.

(4) The opportunity for parents to examine records relating to assessment, screening, eligibility determinations, and the development and implementation of the individualized family service plan.

(5) Procedures to protect the rights of the infant or toddler whenever the parents of the infant or toddler are not known or cannot be found or the infant or toddler is a ward of the State, including the assignment of an individual (who shall not be an employee of the State lead agency, or other State agency, and who shall not be any person, or any employee of a person, providing early intervention services to the infant or toddler or any family member of the infant or toddler) to act as a surrogate for the parents.

(6) Written prior notice to the parents of the infant or toddler with a disability whenever the State agency or service provider proposes to initiate or change or refuses to initiate or change the identification, evaluation, or placement of the infant or toddler with a disability, or the provision of appropriate early intervention services to the infant or toddler.

(7) Procedures designed to ensure that the notice required by paragraph (6) fully informs the parents, in the parents' native language, unless it clearly is not feasible to do so, of all procedures available pursuant to this section.

(8) The right of parents to use mediation in accordance with section 1415(e) of this title, except that—

(A) any reference in the section to a State educational agency shall be considered to be a reference to a State's lead agency estab-

lished or designated under section 1435(a)(10) of this title;

(B) any reference in the section to a local educational agency shall be considered to be a reference to a local service provider or the State's lead agency under this subchapter, as the case may be; and

(C) any reference in the section to the provision of free appropriate public education to children with disabilities shall be considered to be a reference to the provision of appropriate early intervention services to infants and toddlers with disabilities.

(b) Services during pendency of proceedings

During the pendency of any proceeding or action involving a complaint by the parents of an infant or toddler with a disability, unless the State agency and the parents otherwise agree, the infant or toddler shall continue to receive the appropriate early intervention services currently being provided or, if applying for initial services, shall receive the services not in dispute.

(Pub. L. 91–230, title VI, § 639, as added Pub. L. 105–17, title I, § 101, June 4, 1997, 111 Stat. 115.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1401, 1435 of this title.

§ 1440. Payor of last resort

(a) Nonsubstitution

Funds provided under section 1443 of this title may not be used to satisfy a financial commitment for services that would have been paid for from another public or private source, including any medical program administered by the Secretary of Defense, but for the enactment of this subchapter, except that whenever considered necessary to prevent a delay in the receipt of appropriate early intervention services by an infant, toddler, or family in a timely fashion, funds provided under section 1443 of this title may be used to pay the provider of services pending reimbursement from the agency that has ultimate responsibility for the payment.

(b) Reduction of other benefits

Nothing in this subchapter shall be construed to permit the State to reduce medical or other assistance available or to alter eligibility under title V of the Social Security Act [42 U.S.C. 701 et seq.] (relating to maternal and child health) or title XIX of the Social Security Act [42 U.S.C. 1396 et seq.] (relating to Medicaid for infants or toddlers with disabilities) within the State.

(Pub. L. 91–230, title VI, § 640, as added Pub. L. 105–17, title I, § 101, June 4, 1997, 111 Stat. 116.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (b), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Titles V and XIX of the Act are classified generally to subchapters V (§ 701 et seq.) and XIX (§ 1396 et seq.), respectively, of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1435, 1437 of this title.

§ 1441. State interagency coordinating council

(a) Establishment

(1) In general

A State that desires to receive financial assistance under this subchapter shall establish a State interagency coordinating council.

(2) Appointment

The council shall be appointed by the Governor. In making appointments to the council, the Governor shall ensure that the membership of the council reasonably represents the population of the State.

(3) Chairperson

The Governor shall designate a member of the council to serve as the chairperson of the council, or shall require the council to so designate such a member. Any member of the council who is a representative of the lead agency designated under section 1435(a)(10) of this title may not serve as the chairperson of the council.

(b) Composition

(1) In general

The council shall be composed as follows:

(A) Parents

At least 20 percent of the members shall be parents of infants or toddlers with disabilities or children with disabilities aged 12 or younger, with knowledge of, or experience with, programs for infants and toddlers with disabilities. At least one such member shall be a parent of an infant or toddler with a disability or a child with a disability aged 6 or younger.

(B) Service providers

At least 20 percent of the members shall be public or private providers of early intervention services.

(C) State legislature

At least one member shall be from the State legislature.

(D) Personnel preparation

At least one member shall be involved in personnel preparation.

(E) Agency for early intervention services

At least one member shall be from each of the State agencies involved in the provision of, or payment for, early intervention services to infants and toddlers with disabilities and their families and shall have sufficient authority to engage in policy planning and implementation on behalf of such agencies.

(F) Agency for preschool services

At least one member shall be from the State educational agency responsible for preschool services to children with disabilities and shall have sufficient authority to engage in policy planning and implementation on behalf of such agency.

(G) Agency for health insurance

At least one member shall be from the agency responsible for the State governance of health insurance.

(H) Head Start agency

At least one representative from a Head Start agency or program in the State.

(I) Child care agency

At least one representative from a State agency responsible for child care.

(2) Other members

The council may include other members selected by the Governor, including a representative from the Bureau of Indian Affairs, or where there is no BIA-operated or BIA-funded school, from the Indian Health Service or the tribe or tribal council.

(c) Meetings

The council shall meet at least quarterly and in such places as it deems necessary. The meetings shall be publicly announced, and, to the extent appropriate, open and accessible to the general public.

(d) Management authority

Subject to the approval of the Governor, the council may prepare and approve a budget using funds under this subchapter to conduct hearings and forums, to reimburse members of the council for reasonable and necessary expenses for attending council meetings and performing council duties (including child care for parent representatives), to pay compensation to a member of the council if the member is not employed or must forfeit wages from other employment when performing official council business, to hire staff, and to obtain the services of such professional, technical, and clerical personnel as may be necessary to carry out its functions under this subchapter.

(e) Functions of council

(1) Duties

The council shall—

(A) advise and assist the lead agency designated or established under section 1435(a)(10) of this title in the performance of the responsibilities set forth in such section, particularly the identification of the sources of fiscal and other support for services for early intervention programs, assignment of financial responsibility to the appropriate agency, and the promotion of the interagency agreements;

(B) advise and assist the lead agency in the preparation of applications and amendments thereto;

(C) advise and assist the State educational agency regarding the transition of toddlers with disabilities to preschool and other appropriate services; and

(D) prepare and submit an annual report to the Governor and to the Secretary on the status of early intervention programs for infants and toddlers with disabilities and their families operated within the State.

(2) Authorized activity

The council may advise and assist the lead agency and the State educational agency regarding the provision of appropriate services for children from birth through age 5. The council may advise appropriate agencies in the State with respect to the integration of services for infants and toddlers with disabilities and at-risk infants and toddlers and their families, regardless of whether at-risk infants and toddlers are eligible for early intervention services in the State.

(f) Conflict of interest

No member of the council shall cast a vote on any matter that would provide direct financial benefit to that member or otherwise give the appearance of a conflict of interest under State law.

(Pub. L. 91–230, title VI, § 641, as added Pub. L. 105–17, title I, § 101, June 4, 1997, 111 Stat. 116.)

PRIOR PROVISIONS

A prior section 1441, Pub. L. 91–230, title VI, § 641, Apr. 13, 1970, 84 Stat. 185; Pub. L. 95–49, § 4, June 17, 1977, 91 Stat. 230; Pub. L. 98–199, §§ 3(b), 12, Dec. 2, 1983, 97 Stat. 1358, 1372; Pub. L. 99–457, title III, § 312, Oct. 8, 1986, 100 Stat. 1169; Pub. L. 100–630, title I, § 105(b), Nov. 7, 1988, 102 Stat. 3299; Pub. L. 101–476, title V, § 501, Oct. 30, 1990, 104 Stat. 1135; Pub. L. 102–421, title II, § 203, Oct. 16, 1992, 106 Stat. 2165, related to grants, contracts, and cooperative agreements for research and related activities, attention deficit disorder centers, and model demonstration programs, prior to repeal by Pub. L. 105–17, title II, § 203(c), June 4, 1997, 111 Stat. 157, effective Oct. 1, 1997.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1411, 1432, 1435 of this title.

§ 1442. Federal administration

Sections 1416, 1417, and 1418 of this title shall, to the extent not inconsistent with this subchapter, apply to the program authorized by this subchapter, except that—

(1) any reference in such sections to a State educational agency shall be considered to be a reference to a State's lead agency established or designated under section 1435(a)(10) of this title;

(2) any reference in such sections to a local educational agency, educational service agency, or a State agency shall be considered to be a reference to an early intervention service provider under this subchapter; and

(3) any reference to the education of children with disabilities or the education of all children with disabilities shall be considered to be a reference to the provision of appropriate early intervention services to infants and toddlers with disabilities.

(Pub. L. 91–230, title VI, § 642, as added Pub. L. 105–17, title I, § 101, June 4, 1997, 111 Stat. 118.)

PRIOR PROVISIONS

A prior section 1442, Pub. L. 91–230, title VI, § 642, Apr. 13, 1970, 84 Stat. 185; Pub. L. 98–199, §§ 3(b), 12, Dec. 2, 1983, 97 Stat. 1358, 1373; Pub. L. 101–476, title V, § 502, Oct. 30, 1990, 104 Stat. 1138; Pub. L. 102–119, § 25(a)(14), Oct. 7, 1991, 105 Stat. 606, related to research and demonstration projects in physical education and recreation for children with disabilities, prior to repeal by Pub. L. 105–17, title II, § 203(c), June 4, 1997, 111 Stat. 157, effective Oct. 1, 1997.

§ 1443. Allocation of funds

(a) Reservation of funds for outlying areas

(1) In general

From the sums appropriated to carry out this subchapter for any fiscal year, the Sec-

retary may reserve up to one percent for payments to Guam, American Samoa, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands in accordance with their respective needs.

(2) Consolidation of funds

The provisions of Public Law 95–134, permitting the consolidation of grants to the outlying areas, shall not apply to funds those areas receive under this subchapter.

(b) Payments to Indians

(1) In general

The Secretary shall, subject to this subsection, make payments to the Secretary of the Interior to be distributed to tribes, tribal organizations (as defined under section 450b of title 25), or consortia of the above entities for the coordination of assistance in the provision of early intervention services by the States to infants and toddlers with disabilities and their families on reservations served by elementary and secondary schools for Indian children operated or funded by the Department of the Interior. The amount of such payment for any fiscal year shall be 1.25 percent of the aggregate of the amount available to all States under this subchapter for such fiscal year.

(2) Allocation

For each fiscal year, the Secretary of the Interior shall distribute the entire payment received under paragraph (1) by providing to each tribe, tribal organization, or consortium an amount based on the number of infants and toddlers residing on the reservation, as determined annually, divided by the total of such children served by all tribes, tribal organizations, or consortia.

(3) Information

To receive a payment under this subsection, the tribe, tribal organization, or consortium shall submit such information to the Secretary of the Interior as is needed to determine the amounts to be distributed under paragraph (2).

(4) Use of funds

The funds received by a tribe, tribal organization, or consortium shall be used to assist States in child find, screening, and other procedures for the early identification of Indian children under 3 years of age and for parent training. Such funds may also be used to provide early intervention services in accordance with this subchapter. Such activities may be carried out directly or through contracts or cooperative agreements with the BIA, local educational agencies, and other public or private nonprofit organizations. The tribe, tribal organization, or consortium is encouraged to involve Indian parents in the development and implementation of these activities. The above entities shall, as appropriate, make referrals to local, State, or Federal entities for the provision of services or further diagnosis.

(5) Reports

To be eligible to receive a grant under paragraph (2), a tribe, tribal organization, or consortium shall make a biennial report to the Secretary of the Interior of activities undertaken under this subsection, including the number of contracts and cooperative agreements entered into, the number of children contacted and receiving services for each year, and the estimated number of children needing services during the 2 years following the year in which the report is made. The Secretary of the Interior shall include a summary of this information on a biennial basis to the Secretary of Education along with such other information as required under section 1411(i)(3)(E) of this title. The Secretary of Education may require any additional information from the Secretary of the Interior.

(6) Prohibited uses of funds

None of the funds under this subsection may be used by the Secretary of the Interior for administrative purposes, including child count, and the provision of technical assistance.

(c) State allotments

(1) In general

Except as provided in paragraphs (2), (3), and (4), from the funds remaining for each fiscal year after the reservation and payments under subsections (a) and (b) of this section, the Secretary shall first allot to each State an amount that bears the same ratio to the amount of such remainder as the number of infants and toddlers in the State bears to the number of infants and toddlers in all States.

(2) Minimum allotments

Except as provided in paragraphs (3) and (4), no State shall receive an amount under this section for any fiscal year that is less than the greatest of—

(A) one-half of one percent of the remaining amount described in paragraph (1); or

(B) $500,000.

(3) Special rule for 1998 and 1999

(A) In general

Except as provided in paragraph (4), no State may receive an amount under this section for either fiscal year 1998 or 1999 that is less than the sum of the amounts such State received for fiscal year 1994 under—

(i) part H (as in effect for such fiscal year); and

(ii) subpart 2 of part D of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (as in effect on the day before the date of the enactment of the Improving America's Schools Act of 1994) for children with disabilities under 3 years of age.

(B) Exception

If, for fiscal year 1998 or 1999, the number of infants and toddlers in a State, as determined under paragraph (1), is less than the number of infants and toddlers so determined for fiscal year 1994, the amount determined under subparagraph (A) for the State shall be reduced by the same percentage by which the number of such infants and toddlers so declined.

(4) Ratable reduction

(A) In general

If the sums made available under this subchapter for any fiscal year are insufficient

to pay the full amounts that all States are eligible to receive under this subsection for such year, the Secretary shall ratably reduce the allotments to such States for such year.

(B) Additional funds

If additional funds become available for making payments under this subsection for a fiscal year, allotments that were reduced under subparagraph (A) shall be increased on the same basis they were reduced.

(5) Definitions

For the purpose of this subsection—

(A) the terms ''infants'' and ''toddlers'' mean children under 3 years of age; and

(B) the term ''State'' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

(d) Reallotment of funds

If a State elects not to receive its allotment under subsection (c) of this section, the Secretary shall reallot, among the remaining States, amounts from such State in accordance with such subsection.

(Pub. L. 91–230, title VI, § 643, as added Pub. L. 105–17, title I, § 101, June 4, 1997, 111 Stat. 118.)

REFERENCES IN TEXT

Public Law 95–134, referred to in subsec. (a)(2), is Pub. L. 95–134, Oct. 15, 1977, 91 Stat. 1159, as amended. Provisions relating to consolidation of grants are contained in section 501 of Pub. L. 95–134 which is classified to section 1469a of Title 48, Territories and Insular Possessions.

Part H (as in effect for such fiscal year [1994]), referred to in subsec. (c)(3)(A)(i), means part H of Pub. L. 91–230, title VI, as added by Pub. L. 99–457, title I, § 101(a), Oct. 8, 1986, 100 Stat. 1145, which was classified generally to subchapter VIII (§ 1471 et seq.) of this chapter prior to repeal by Pub. L. 105–17, title II, § 203(b), June 4, 1997, 111 Stat. 157, effective July 1, 1998.

Subpart 2 of part D of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (as in effect on the day before the date of enactment of the Improving America's Schools Act of 1994), referred to in subsec. (c)(3)(A)(ii), means subpart 2 of part D of chapter 1 of title I of Pub. L. 89–10, as added by Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 179, as amended, which was classified generally to subpart 2 (§ 2791 et seq.) of part D of div. I of subchapter I of chapter 47 of this title prior to being omitted in the general amendment of Pub. L. 89–10 by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519. The date of enactment of the Improving America's Schools Act of 1994 is the date of enactment of Pub. L. 103–382, which was approved Oct. 20, 1994.

PRIOR PROVISIONS

A prior section 1443, Pub. L. 91–230, title VI, § 643, Apr. 13, 1970, 84 Stat. 185; Pub. L. 98–199, §§ 3(b), 12, Dec. 2, 1983, 97 Stat. 1358, 1373; Pub. L. 99–457, title III, § 313, Oct. 8, 1986, 100 Stat. 1170; Pub. L. 100–630, title I, § 105(c), Nov. 7, 1988, 102 Stat. 3299; Pub. L. 101–476, title IX, § 901(b)(145), (146), Oct. 30, 1990, 104 Stat. 1149; Pub. L. 102–119, § 25(b), Oct. 7, 1991, 105 Stat. 607, related to requirement of the Secretary to convene panels of experts to evaluate proposals for projects, prior to repeal by Pub. L. 101–476, title V, §§ 503, 1001, Oct. 30, 1990, 104 Stat. 1138, 1151, effective Oct. 1, 1990.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1433, 1437, 1440 of this title.

§ 1444. Federal Interagency Coordinating Council

(a) Establishment and purpose

(1) In general

The Secretary shall establish a Federal Interagency Coordinating Council in order to—

(A) minimize duplication of programs and activities across Federal, State, and local agencies, relating to—

(i) early intervention services for infants and toddlers with disabilities (including at-risk infants and toddlers) and their families; and

(ii) preschool or other appropriate services for children with disabilities;

(B) ensure the effective coordination of Federal early intervention and preschool programs and policies across Federal agencies;

(C) coordinate the provision of Federal technical assistance and support activities to States;

(D) identify gaps in Federal agency programs and services; and

(E) identify barriers to Federal interagency cooperation.

(2) Appointments

The council established under paragraph (1) (hereafter in this section referred to as the ''Council'') and the chairperson of the Council shall be appointed by the Secretary in consultation with other appropriate Federal agencies. In making the appointments, the Secretary shall ensure that each member has sufficient authority to engage in policy planning and implementation on behalf of the department, agency, or program that the member represents.

(b) Composition

The Council shall be composed of—

(1) a representative of the Office of Special Education Programs;

(2) a representative of the National Institute on Disability and Rehabilitation Research and a representative of the Office of Educational Research and Improvement;

(3) a representative of the Maternal and Child Health Services Block Grant Program;

(4) a representative of programs administered under the Developmental Disabilities Assistance and Bill of Rights Act [42 U.S.C. 6000 et seq.];

(5) a representative of the Health Care Financing Administration;

(6) a representative of the Division of Birth Defects and Developmental Disabilities of the Centers for Disease Control;

(7) a representative of the Social Security Administration;

(8) a representative of the special supplemental nutrition program for women, infants, and children of the Department of Agriculture;

(9) a representative of the National Institute of Mental Health;

(10) a representative of the National Institute of Child Health and Human Development;

(11) a representative of the Bureau of Indian Affairs of the Department of the Interior;

(12) a representative of the Indian Health Service;

(13) a representative of the Surgeon General;

(14) a representative of the Department of Defense;

(15) a representative of the Children's Bureau, and a representative of the Head Start Bureau, of the Administration for Children and Families;

(16) a representative of the Substance Abuse and Mental Health Services Administration;

(17) a representative of the Pediatric AIDS Health Care Demonstration Program in the Public Health Service;

(18) parents of children with disabilities age 12 or under (who shall constitute at least 20 percent of the members of the Council), of whom at least one must have a child with a disability under the age of 6;

(19) at least two representatives of State lead agencies for early intervention services to infants and toddlers, one of whom must be a representative of a State educational agency and the other a representative of a non-educational agency;

(20) other members representing appropriate agencies involved in the provision of, or payment for, early intervention services and special education and related services to infants and toddlers with disabilities and their families and preschool children with disabilities; and

(21) other persons appointed by the Secretary.

(c) Meetings

The Council shall meet at least quarterly and in such places as the Council deems necessary. The meetings shall be publicly announced, and, to the extent appropriate, open and accessible to the general public.

(d) Functions of Council

The Council shall—

(1) advise and assist the Secretary of Education, the Secretary of Health and Human Services, the Secretary of Defense, the Secretary of the Interior, the Secretary of Agriculture, and the Commissioner of Social Security in the performance of their responsibilities related to serving children from birth through age 5 who are eligible for services under this subchapter or under subchapter II of this chapter;

(2) conduct policy analyses of Federal programs related to the provision of early intervention services and special educational and related services to infants and toddlers with disabilities and their families, and preschool children with disabilities, in order to determine areas of conflict, overlap, duplication, or inappropriate omission;

(3) identify strategies to address issues described in paragraph (2);

(4) develop and recommend joint policy memoranda concerning effective interagency collaboration, including modifications to regulations, and the elimination of barriers to interagency programs and activities;

(5) coordinate technical assistance and disseminate information on best practices, effective program coordination strategies, and recommendations for improved early intervention programming for infants and toddlers with disabilities and their families and preschool children with disabilities; and

(6) facilitate activities in support of States' interagency coordination efforts.

(e) Conflict of interest

No member of the Council shall cast a vote on any matter that would provide direct financial benefit to that member or otherwise give the appearance of a conflict of interest under Federal law.

(f) Federal Advisory Committee Act

The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the establishment or operation of the Council.

(Pub. L. 91–230, title VI, § 644, as added Pub. L. 105–17, title I, § 101, June 4, 1997, 111 Stat. 121.)

REFERENCES IN TEXT

The Developmental Disabilities Assistance and Bill of Rights Act, referred to in subsec. (b)(4), is title I of Pub. L. 88–164, as added by Pub. L. 98–527, § 2, Oct. 19, 1984, 98 Stat. 2662, and amended, which is classified generally to chapter 75 (§ 6000 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 6000 of Title 42 and Tables.

The Federal Advisory Committee Act, referred to in subsec. (f), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

PRIOR PROVISIONS

A prior section 1444, Pub. L. 91–230, title VI, § 643, formerly § 644, Apr. 13, 1970, 84 Stat. 186; Pub. L. 93–380, title VI, § 619, Aug. 21, 1974, 88 Stat. 585; Pub. L. 95–49, § 5, June 17, 1977, 91 Stat. 231; Pub. L. 98–199, § 12, Dec. 2, 1983, 97 Stat. 1374; Pub. L. 99–457, title III, § 314, Oct. 8, 1986, 100 Stat. 1171; renumbered § 643 and amended Pub. L. 101–476, title V, §§ 503, 504, title IX, § 901(b)(147), (148), Oct. 30, 1990, 104 Stat. 1138, 1149; Pub. L. 102–119, § 25(b), Oct. 7, 1991, 105 Stat. 607, authorized appropriations, prior to repeal by Pub. L. 105–17, title II, § 203(c), June 4, 1997, 111 Stat. 157, effective Oct. 1, 1997.

§ 1445. Authorization of appropriations

For the purpose of carrying out this subchapter, there are authorized to be appropriated $400,000,000 for fiscal year 1998 and such sums as may be necessary for each of the fiscal years 1999 through 2002.

(Pub. L. 91–230, title VI, § 645, as added Pub. L. 105–17, title I, § 101, June 4, 1997, 111 Stat. 123.)

SUBCHAPTER IV—NATIONAL ACTIVITIES TO IMPROVE EDUCATION OF CHILDREN WITH DISABILITIES

CODIFICATION

Part D of the Individuals with Disabilities Education Act (part D of title VI of Pub. L. 91–230), comprising this subchapter, was originally enacted by Pub. L. 91–230, title VI, Apr. 13, 1970, 84 Stat. 175, and amended by Pub. L. 93–380, Aug. 21, 1974, 88 Stat. 484; Pub. L. 95–49, June 17, 1977, 91 Stat. 230; Pub. L. 98–199, Dec. 2, 1983, 97 Stat. 1357; Pub. L. 99–457, Oct. 8, 1986, 100 Stat. 1145; Pub. L. 100–630, Nov. 7, 1988, 102 Stat. 3289; Pub. L. 101–476, Oct. 30, 1990, 104 Stat. 1103; Pub. L. 102–119, Oct. 7, 1991, 105 Stat. 587; Pub. L. 102–421, Oct. 16, 1992, 106 Stat. 2151; Pub. L. 102–569, Oct. 29, 1992, 106 Stat. 4344; Pub. L. 103–73, Aug. 11, 1993, 107 Stat. 718; Pub. L. 103–218, Mar. 9, 1994, 108 Stat. 50. Such part is shown

herein, however, as having been added by Pub. L. 105–17, title I, § 101, June 4, 1997, 111 Stat. 37, without reference to such intervening amendments because of the extensive revision of part D by Pub. L. 105–17.

PART A—STATE PROGRAM IMPROVEMENT GRANTS FOR CHILDREN WITH DISABILITIES

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 1408, 1409, 1411, 1412, 1418, 1419, 1421, 1424a, 1461, 1491n of this title.

§ 1451. Findings and purpose

(a) Findings

The Congress finds the following:

(1) States are responding with some success to multiple pressures to improve educational and transitional services and results for children with disabilities in response to growing demands imposed by ever-changing factors, such as demographics, social policies, and labor and economic markets.

(2) In order for States to address such demands and to facilitate lasting systemic change that is of benefit to all students, including children with disabilities, States must involve local educational agencies, parents, individuals with disabilities and their families, teachers and other service providers, and other interested individuals and organizations in carrying out comprehensive strategies to improve educational results for children with disabilities.

(3) Targeted Federal financial resources are needed to assist States, working in partnership with others, to identify and make needed changes to address the needs of children with disabilities into the next century.

(4) State educational agencies, in partnership with local educational agencies and other individuals and organizations, are in the best position to identify and design ways to meet emerging and expanding demands to improve education for children with disabilities and to address their special needs.

(5) Research, demonstration, and practice over the past 20 years in special education and related disciplines have built a foundation of knowledge on which State and local systemic-change activities can now be based.

(6) Such research, demonstration, and practice in special education and related disciplines have demonstrated that an effective educational system now and in the future must—

(A) maintain high academic standards and clear performance goals for children with disabilities, consistent with the standards and expectations for all students in the educational system, and provide for appropriate and effective strategies and methods to ensure that students who are children with disabilities have maximum opportunities to achieve those standards and goals;

(B) create a system that fully addresses the needs of all students, including children with disabilities, by addressing the needs of children with disabilities in carrying out educational reform activities;

(C) clearly define, in measurable terms, the school and post-school results that children with disabilities are expected to achieve;

(D) promote service integration, and the coordination of State and local education, social, health, mental health, and other services, in addressing the full range of student needs, particularly the needs of children with disabilities who require significant levels of support to maximize their participation and learning in school and the community;

(E) ensure that children with disabilities are provided assistance and support in making transitions as described in section 1474(b)(3)(C) of this title;

(F) promote comprehensive programs of professional development to ensure that the persons responsible for the education or a transition of children with disabilities possess the skills and knowledge necessary to address the educational and related needs of those children;

(G) disseminate to teachers and other personnel serving children with disabilities research-based knowledge about successful teaching practices and models and provide technical assistance to local educational agencies and schools on how to improve results for children with disabilities;

(H) create school-based disciplinary strategies that will be used to reduce or eliminate the need to use suspension and expulsion as disciplinary options for children with disabilities;

(I) establish placement-neutral funding formulas and cost-effective strategies for meeting the needs of children with disabilities; and

(J) involve individuals with disabilities and parents of children with disabilities in planning, implementing, and evaluating systemic-change activities and educational reforms.

(b) Purpose

The purpose of this part is to assist State educational agencies, and their partners referred to in section 1452(b) of this title, in reforming and improving their systems for providing educational, early intervention, and transitional services, including their systems for professional development, technical assistance, and dissemination of knowledge about best practices, to improve results for children with disabilities.

(Pub. L. 91–230, title VI, § 651, as added Pub. L. 105–17, title I, § 101, June 4, 1997, 111 Stat. 123.)

PRIOR PROVISIONS

A prior section 1451, Pub. L. 91–230, title VI, § 651, Apr. 13, 1970, 84 Stat. 186; Pub. L. 100–630, title I, § 106(b), Nov. 7, 1988, 102 Stat. 3300; Pub. L. 101–476, title VI, § 601, title IX, § 901(b)(150), Oct. 30, 1990, 104 Stat. 1138, 1149; Pub. L. 102–119, § 25(b), Oct. 7, 1991, 105 Stat. 607, related to the purposes of former subchapter VI of this chapter, which included promoting general welfare of deaf and hard of hearing individuals and visually impaired individuals and educational advancement of individuals with disabilities, prior to repeal by Pub. L. 105–17, title II, § 203(c), June 4, 1997, 111 Stat. 157, effective Oct. 1, 1997.

EFFECTIVE DATE

Section 201(c) of Pub. L. 105–17 provided that:

''(1) IN GENERAL.—Except as provided in paragraph (2), part D of the Individuals with Disabilities Education Act [20 U.S.C. 1451 et seq.], as amended by title I, shall take effect on October 1, 1997.

''(2) EXCEPTION.—Paragraphs (1) and (2) of section 661(g) of the Individuals with Disabilities Education Act [20 U.S.C. 1461(g)(1), (2)], as amended by title I, shall take effect on January 1, 1998.''

TRANSITION PROVISIONS

Section 202 of Pub. L. 105–17 provided that: ''Notwithstanding any other provision of law, beginning on October 1, 1997, the Secretary of Education may use funds appropriated under part D of the Individuals with Disabilities Education Act [this subchapter] to make continuation awards for projects that were funded under section 618 [20 U.S.C. 1418] and parts C through G of such Act [former subchapters III to VII of this chapter] (as in effect on September 30, 1997).''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1413 of this title.

§ 1452. Eligibility and collaborative process

(a) Eligible applicants

A State educational agency may apply for a grant under this part for a grant period of not less than 1 year and not more than 5 years.

(b) Partners

(1) Required partners

(A) Contractual partners

In order to be considered for a grant under this part, a State educational agency shall establish a partnership with local educational agencies and other State agencies involved in, or concerned with, the education of children with disabilities.

(B) Other partners

In order to be considered for a grant under this part, a State educational agency shall work in partnership with other persons and organizations involved in, and concerned with, the education of children with disabilities, including—

(i) the Governor;

(ii) parents of children with disabilities;

(iii) parents of nondisabled children;

(iv) individuals with disabilities;

(v) organizations representing individuals with disabilities and their parents, such as parent training and information centers;

(vi) community-based and other nonprofit organizations involved in the education and employment of individuals with disabilities;

(vii) the lead State agency for subchapter III of this chapter;

(viii) general and special education teachers, and early intervention personnel;

(ix) the State advisory panel established under subchapter III of this chapter;

(x) the State interagency coordinating council established under subchapter III of this chapter; and

(xi) institutions of higher education within the State.

(2) Optional partners

A partnership under subparagraph (A) or (B) of paragraph (1) may also include—

(A) individuals knowledgeable about vocational education;

(B) the State agency for higher education;

(C) the State vocational rehabilitation agency;

(D) public agencies with jurisdiction in the areas of health, mental health, social services, and juvenile justice; and

(E) other individuals.

(Pub. L. 91–230, title VI, § 652, as added Pub. L. 105–17, title I, § 101, June 4, 1997, 111 Stat. 124.)

PRIOR PROVISIONS

A prior section 1452, Pub. L. 91–230, title VI, § 652, Apr. 13, 1970, 84 Stat. 186; Pub. L. 93–380, title VI, § 620(1), Aug. 21, 1974, 88 Stat. 585; Pub. L. 94–482, title V, § 501(h), Oct. 12, 1976, 90 Stat. 2237; Pub. L. 98–199, § 3(b), Dec. 2, 1983, 97 Stat. 1358; Pub. L. 99–457, title III, § 315, Oct. 8, 1986, 100 Stat. 1171; Pub. L. 100–630, title I, § 106(c), Nov. 7, 1988, 102 Stat. 3300; Pub. L. 101–476, title VI, § 602, title IX, § 901(b)(151), (152), Oct. 30, 1990, 104 Stat. 1139, 1149; Pub. L. 102–119, § 25(b), Oct. 7, 1991, 105 Stat. 607, related to establishment of a loan service of captioned films, television, descriptive video, and educational media for individuals with disabilities, prior to repeal by Pub. L. 105–17, title II, § 203(c), June 4, 1997, 111 Stat. 157, effective Oct. 1, 1997.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1451, 1454 of this title.

§ 1453. Applications

(a) In general

(1) Submission

A State educational agency that desires to receive a grant under this part shall submit to the Secretary an application at such time, in such manner, and including such information as the Secretary may require.

(2) State improvement plan

The application shall include a State improvement plan that—

(A) is integrated, to the maximum extent possible, with State plans under the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6301 et seq.] and the Rehabilitation Act of 1973 [29 U.S.C. 701 et seq.], as appropriate; and

(B) meets the requirements of this section.

(b) Determining child and program needs

(1) In general

Each State improvement plan shall identify those critical aspects of early intervention, general education, and special education programs (including professional development, based on an assessment of State and local needs) that must be improved to enable children with disabilities to meet the goals established by the State under section 1412(a)(16) of this title.

(2) Required analyses

To meet the requirement of paragraph (1), the State improvement plan shall include at least—

(A) an analysis of all information, reasonably available to the State educational agency, on the performance of children with disabilities in the State, including—

(i) their performance on State assessments and other performance indicators established for all children, including drop-out rates and graduation rates;

(ii) their participation in postsecondary education and employment; and

(iii) how their performance on the assessments and indicators described in clause (i) compares to that of non-disabled children;

(B) an analysis of State and local needs for professional development for personnel to serve children with disabilities that includes, at a minimum—

(i) the number of personnel providing special education and related services; and

(ii) relevant information on current and anticipated personnel vacancies and shortages (including the number of individuals described in clause (i) with temporary certification), and on the extent of certification or retraining necessary to eliminate such shortages, that is based, to the maximum extent possible, on existing assessments of personnel needs;

(C) an analysis of the major findings of the Secretary's most recent reviews of State compliance, as they relate to improving results for children with disabilities; and

(D) an analysis of other information, reasonably available to the State, on the effectiveness of the State's systems of early intervention, special education, and general education in meeting the needs of children with disabilities.

(c) Improvement strategies

Each State improvement plan shall—

(1) describe a partnership agreement that—

(A) specifies—

(i) the nature and extent of the partnership among the State educational agency, local educational agencies, and other State agencies involved in, or concerned with, the education of children with disabilities, and the respective roles of each member of the partnership; and

(ii) how such agencies will work in partnership with other persons and organizations involved in, and concerned with, the education of children with disabilities, including the respective roles of each of these persons and organizations; and

(B) is in effect for the period of the grant;

(2) describe how grant funds will be used in undertaking the systemic-change activities, and the amount and nature of funds from any other sources, including part B [subchapter II] funds retained for use at the State level under sections 1411(f) and 1419(d) of this title, that will be committed to the systemic-change activities;

(3) describe the strategies the State will use to address the needs identified under subsection (b) of this section, including—

(A) how the State will change State policies and procedures to address systemic barriers to improving results for children with disabilities;

(B) how the State will hold local educational agencies and schools accountable for educational progress of children with disabilities;

(C) how the State will provide technical assistance to local educational agencies and schools to improve results for children with disabilities;

(D) how the State will address the identified needs for in-service and pre-service preparation to ensure that all personnel who work with children with disabilities (including both professional and paraprofessional personnel who provide special education, general education, related services, or early intervention services) have the skills and knowledge necessary to meet the needs of children with disabilities, including a description of how—

(i) the State will prepare general and special education personnel with the content knowledge and collaborative skills needed to meet the needs of children with disabilities, including how the State will work with other States on common certification criteria;

(ii) the State will prepare professionals and paraprofessionals in the area of early intervention with the content knowledge and collaborative skills needed to meet the needs of infants and toddlers with disabilities;

(iii) the State will work with institutions of higher education and other entities that (on both a pre-service and an in-service basis) prepare personnel who work with children with disabilities to ensure that those institutions and entities develop the capacity to support quality professional development programs that meet State and local needs;

(iv) the State will work to develop collaborative agreements with other States for the joint support and development of programs to prepare personnel for which there is not sufficient demand within a single State to justify support or development of such a program of preparation;

(v) the State will work in collaboration with other States, particularly neighboring States, to address the lack of uniformity and reciprocity in the credentialing of teachers and other personnel;

(vi) the State will enhance the ability of teachers and others to use strategies, such as behavioral interventions, to address the conduct of children with disabilities that impedes the learning of children with disabilities and others;

(vii) the State will acquire and disseminate, to teachers, administrators, school board members, and related services personnel, significant knowledge derived from educational research and other sources, and how the State will, when appropriate, adopt promising practices, materials, and technology;

(viii) the State will recruit, prepare, and retain qualified personnel, including personnel with disabilities and personnel from groups that are underrepresented in the fields of regular education, special education, and related services;

(ix) the plan is integrated, to the maximum extent possible, with other professional development plans and activities, including plans and activities developed and carried out under other Federal and State laws that address personnel recruitment and training; and

(x) the State will provide for the joint training of parents and special education, related services, and general education personnel;

(E) strategies that will address systemic problems identified in Federal compliance reviews, including shortages of qualified personnel;

(F) how the State will disseminate results of the local capacity-building and improvement projects funded under section 1411(f)(4) of this title;

(G) how the State will address improving results for children with disabilities in the geographic areas of greatest need; and

(H) how the State will assess, on a regular basis, the extent to which the strategies implemented under this part have been effective; and

(4) describe how the improvement strategies described in paragraph (3) will be coordinated with public and private sector resources.

(d) Competitive awards

(1) In general

The Secretary shall make grants under this part on a competitive basis.

(2) Priority

The Secretary may give priority to applications on the basis of need, as indicated by such information as the findings of Federal compliance reviews.

(e) Peer review

(1) In general

The Secretary shall use a panel of experts who are competent, by virtue of their training, expertise, or experience, to evaluate applications under this part.

(2) Composition of panel

A majority of a panel described in paragraph (1) shall be composed of individuals who are not employees of the Federal Government.

(3) Payment of fees and expenses of certain members

The Secretary may use available funds appropriated to carry out this part to pay the expenses and fees of panel members who are not employees of the Federal Government.

(f) Reporting procedures

Each State educational agency that receives a grant under this part shall submit performance reports to the Secretary pursuant to a schedule to be determined by the Secretary, but not more frequently than annually. The reports shall describe the progress of the State in meeting the performance goals established under section 1412(a)(16) of this title, analyze the effectiveness of the State's strategies in meeting those goals, and identify any changes in the strategies needed to improve its performance.

(Pub. L. 91–230, title VI, § 653, as added Pub. L. 105–17, title I, § 101, June 4, 1997, 111 Stat. 125.)

REFERENCES IN TEXT

The Elementary and Secondary Education Act of 1965, referred to in subsec. (a)(2)(A), is Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, as amended generally by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519, which is classified generally to chapter 70 (§ 6301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

The Rehabilitation Act of 1973, referred to in subsec. (a)(2)(A), is Pub. L. 93–112, Sept. 26, 1973, 87 Stat. 355, as amended, which is classified generally to chapter 16 (§ 701 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 701 of Title 29 and Tables.

PRIOR PROVISIONS

A prior section 1453, Pub. L. 91–230, title VI, § 653, Apr. 13, 1970, 84 Stat. 187; Pub. L. 94–142, § 6(b), Nov. 29, 1975, 89 Stat. 795; Pub. L. 99–386, title II, § 204, Aug. 22, 1986, 100 Stat. 823, related to establishment and operation of centers on educational media and materials for handicapped, prior to repeal by Pub. L. 99–457, title III, § 316, Oct. 8, 1986, 100 Stat. 1171.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1412, 1413 of this title.

§ 1454. Use of funds

(a) In general

(1) Activities

A State educational agency that receives a grant under this part may use the grant to carry out any activities that are described in the State's application and that are consistent with the purpose of this part.

(2) Contracts and subgrants

Each such State educational agency—

(A) shall, consistent with its partnership agreement under section 1452(b) of this title, award contracts or subgrants to local educational agencies, institutions of higher education, and parent training and information centers, as appropriate, to carry out its State improvement plan under this part; and

(B) may award contracts and subgrants to other public and private entities, including the lead agency under subchapter III of this chapter, to carry out such plan.

(b) Use of funds for professional development

A State educational agency that receives a grant under this part—

(1) shall use not less than 75 percent of the funds it receives under the grant for any fiscal year—

(A) to ensure that there are sufficient regular education, special education, and related services personnel who have the skills and knowledge necessary to meet the needs of children with disabilities and developmental goals of young children; or

(B) to work with other States on common certification criteria; or

(2) shall use not less than 50 percent of such funds for such purposes, if the State demonstrates to the Secretary's satisfaction that it has the personnel described in paragraph (1)(A).

(c) Grants to outlying areas

Public Law 95–134, permitting the consolidation of grants to the outlying areas, shall not apply to funds received under this part.

(Pub. L. 91–230, title VI, § 654, as added Pub. L. 105–17, title I, § 101, June 4, 1997, 111 Stat. 128.)

REFERENCES IN TEXT

Public Law 95–134, referred to in subsec. (c), is Pub. L. 95–134, Oct. 15, 1977, 91 Stat. 1159, as amended. Provisions relating to consolidation of grants to the outlying areas are contained in section 501 of Pub. L. 95–134 which is classified to section 1469a of Title 48, Territories and Insular Possessions.

PRIOR PROVISIONS

A prior section 1454, Pub. L. 91–230, title VI, § 653, formerly § 654, Apr. 13, 1970, 84 Stat. 187; Pub. L. 93–380, title VI, § 620(2), Aug. 21, 1974, 88 Stat. 585; Pub. L. 95–49, § 6, June 17, 1977, 91 Stat. 231; Pub. L. 98–199, § 13, Dec. 2, 1983, 97 Stat. 1374; renumbered § 653 and amended Pub. L. 99–457, title III, § 316, Oct. 8, 1986, 100 Stat. 1171; Pub. L. 101–476, title VI, § 603, Oct. 30, 1990, 104 Stat. 1140, authorized appropriations, prior to repeal by Pub. L. 105–17, title II, § 203(c), June 4, 1997, 111 Stat. 157, effective Oct. 1, 1997.

§ 1455. Minimum State grant amounts

(a) In general

The Secretary shall make a grant to each State educational agency whose application the Secretary has selected for funding under this part in an amount for each fiscal year that is—

(1) not less than $500,000, nor more than $2,000,000, in the case of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico; and

(2) not less than $80,000, in the case of an outlying area.

(b) Inflation adjustment

Beginning with fiscal year 1999, the Secretary may increase the maximum amount described in subsection (a)(1) of this section to account for inflation.

(c) Factors

The Secretary shall set the amount of each grant under subsection (a) of this section after considering—

(1) the amount of funds available for making the grants;

(2) the relative population of the State or outlying area; and

(3) the types of activities proposed by the State or outlying area.

(Pub. L. 91–230, title VI, § 655, as added Pub. L. 105–17, title I, § 101, June 4, 1997, 111 Stat. 129.)

§ 1456. Authorization of appropriations

There are authorized to be appropriated to carry out this part such sums as may be necessary for each of the fiscal years 1998 through 2002.

(Pub. L. 91–230, title VI, § 656, as added Pub. L. 105–17, title I, § 101, June 4, 1997, 111 Stat. 129.)

PART B—COORDINATED RESEARCH, PERSONNEL PREPARATION, TECHNICAL ASSISTANCE, SUPPORT, AND DISSEMINATION OF INFORMATION

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 1411 of this title.

§ 1461. Administrative provisions

(a) Comprehensive plan

(1) In general

The Secretary shall develop and implement a comprehensive plan for activities carried out under this part in order to enhance the provision of educational, related, transitional, and early intervention services to children with disabilities under subchapters II and III of this chapter. The plan shall include mechanisms to address educational, related services, transitional, and early intervention needs identified by State educational agencies in applications submitted for State program improvement grants under part A of this subchapter.

(2) Participants in plan development

In developing the plan described in paragraph (1), the Secretary shall consult with—

(A) individuals with disabilities;

(B) parents of children with disabilities;

(C) appropriate professionals; and

(D) representatives of State and local educational agencies, private schools, institutions of higher education, other Federal agencies, the National Council on Disability, and national organizations with an interest in, and expertise in, providing services to children with disabilities and their families.

(3) Public comment

The Secretary shall take public comment on the plan.

(4) Distribution of funds

In implementing the plan, the Secretary shall, to the extent appropriate, ensure that funds are awarded to recipients under this part to carry out activities that benefit, directly or indirectly, children with disabilities of all ages.

(5) Reports to Congress

The Secretary shall periodically report to the Congress on the Secretary's activities under this subsection, including an initial report not later than the date that is 18 months after June 4, 1997.

(b) Eligible applicants

(1) In general

Except as otherwise provided in this part, the following entities are eligible to apply for a grant, contract, or cooperative agreement under this part:

(A) A State educational agency.

(B) A local educational agency.

(C) An institution of higher education.

(D) Any other public agency.

(E) A private nonprofit organization.

(F) An outlying area.

(G) An Indian tribe or a tribal organization (as defined under section 450b of title 25).

(H) A for-profit organization, if the Secretary finds it appropriate in light of the purposes of a particular competition for a grant, contract, or cooperative agreement under this part.

(2) Special rule

The Secretary may limit the entities eligible for an award of a grant, contract, or coop-

erative agreement to one or more categories of eligible entities described in paragraph (1).

(c) Use of funds by Secretary

Notwithstanding any other provision of law, and in addition to any authority granted the Secretary under subpart 1 of this part or subpart 2 of this part, the Secretary may use up to 20 percent of the funds available under either subpart 1 of this part or subpart 2 of this part for any fiscal year to carry out any activity, or combination of activities, subject to such conditions as the Secretary determines are appropriate effectively to carry out the purposes of such subparts, that—

(1) is consistent with the purposes of subpart 1 of this part, subpart 2 of this part, or both; and

(2) involves—

(A) research;

(B) personnel preparation;

(C) parent training and information;

(D) technical assistance and dissemination;

(E) technology development, demonstration, and utilization; or

(F) media services.

(d) Special populations

(1) Application requirement

In making an award of a grant, contract, or cooperative agreement under this part, the Secretary shall, as appropriate, require an applicant to demonstrate how the applicant will address the needs of children with disabilities from minority backgrounds.

(2) Outreach and technical assistance

(A) Requirement

Notwithstanding any other provision of this chapter, the Secretary shall ensure that at least one percent of the total amount of funds appropriated to carry out this part is used for either or both of the following activities:

(i) To provide outreach and technical assistance to Historically Black Colleges and Universities, and to institutions of higher education with minority enrollments of at least 25 percent, to promote the participation of such colleges, universities, and institutions in activities under this part.

(ii) To enable Historically Black Colleges and Universities, and the institutions described in clause (i), to assist other colleges, universities, institutions, and agencies in improving educational and transitional results for children with disabilities.

(B) Reservation of funds

The Secretary may reserve funds appropriated under this part to satisfy the requirement of subparagraph (A).

(e) Priorities

(1) In general

Except as otherwise explicitly authorized in this part, the Secretary shall ensure that a grant, contract, or cooperative agreement under subpart 1 or 2 of this part is awarded only—

(A) for activities that are designed to benefit children with disabilities, their families, or the personnel employed to work with such children or their families; or

(B) to benefit other individuals with disabilities that such subpart is intended to benefit.

(2) Priority for particular activities

Subject to paragraph (1), the Secretary, in making an award of a grant, contract, or cooperative agreement under this part, may, without regard to the rule making procedures under section 553 of title 5, limit competitions to, or otherwise give priority to—

(A) projects that address one or more—

(i) age ranges;

(ii) disabilities;

(iii) school grades;

(iv) types of educational placements or early intervention environments;

(v) types of services;

(vi) content areas, such as reading; or

(vii) effective strategies for helping children with disabilities learn appropriate behavior in the school and other community-based educational settings;

(B) projects that address the needs of children based on the severity of their disability;

(C) projects that address the needs of—

(i) low-achieving students;

(ii) underserved populations;

(iii) children from low-income families;

(iv) children with limited English proficiency;

(v) unserved and underserved areas;

(vi) particular types of geographic areas; or

(vii) children whose behavior interferes with their learning and socialization;

(D) projects to reduce inappropriate identification of children as children with disabilities, particularly among minority children;

(E) projects that are carried out in particular areas of the country, to ensure broad geographic coverage; and

(F) any activity that is expressly authorized in subpart 1 or 2 of this part.

(f) Applicant and recipient responsibilities

(1) Development and assessment of projects

The Secretary shall require that an applicant for, and a recipient of, a grant, contract, or cooperative agreement for a project under this part—

(A) involve individuals with disabilities or parents of individuals with disabilities in planning, implementing, and evaluating the project; and

(B) where appropriate, determine whether the project has any potential for replication and adoption by other entities.

(2) Additional responsibilities

The Secretary may require a recipient of a grant, contract, or cooperative agreement for a project under this part—

(A) to share in the cost of the project;

(B) to prepare the research and evaluation findings and products from the project in

formats that are useful for specific audiences, including parents, administrators, teachers, early intervention personnel, related services personnel, and individuals with disabilities;

(C) to disseminate such findings and products; and

(D) to collaborate with other such recipients in carrying out subparagraphs (B) and (C).

(g) Application management

(1) Standing panel

(A) In general

The Secretary shall establish and use a standing panel of experts who are competent, by virtue of their training, expertise, or experience, to evaluate applications under this part that, individually, request more than $75,000 per year in Federal financial assistance.

(B) Membership

The standing panel shall include, at a minimum—

(i) individuals who are representatives of institutions of higher education that plan, develop, and carry out programs of personnel preparation;

(ii) individuals who design and carry out programs of research targeted to the improvement of special education programs and services;

(iii) individuals who have recognized experience and knowledge necessary to integrate and apply research findings to improve educational and transitional results for children with disabilities;

(iv) individuals who administer programs at the State or local level in which children with disabilities participate;

(v) individuals who prepare parents of children with disabilities to participate in making decisions about the education of their children;

(vi) individuals who establish policies that affect the delivery of services to children with disabilities;

(vii) individuals who are parents of children with disabilities who are benefiting, or have benefited, from coordinated research, personnel preparation, and technical assistance; and

(viii) individuals with disabilities.

(C) Training

The Secretary shall provide training to the individuals who are selected as members of the standing panel under this paragraph.

(D) Term

No individual shall serve on the standing panel for more than 3 consecutive years, unless the Secretary determines that the individual's continued participation is necessary for the sound administration of this part.

(2) Peer-review panels for particular competitions

(A) Composition

The Secretary shall ensure that each subpanel selected from the standing panel that reviews applications under this part includes—

(i) individuals with knowledge and expertise on the issues addressed by the activities authorized by the[1] part; and

(ii) to the extent practicable, parents of children with disabilities, individuals with disabilities, and persons from diverse backgrounds.

(B) Federal employment limitation

A majority of the individuals on each subpanel that reviews an application under this part shall be individuals who are not employees of the Federal Government.

(3) Use of discretionary funds for administrative purposes

(A) Expenses and fees of non-Federal panel members

The Secretary may use funds available under this part to pay the expenses and fees of the panel members who are not officers or employees of the Federal Government.

(B) Administrative support

The Secretary may use not more than 1 percent of the funds appropriated to carry out this part to pay non-Federal entities for administrative support related to management of applications submitted under this part.

(C) Monitoring

The Secretary may use funds available under this part to pay the expenses of Federal employees to conduct on-site monitoring of projects receiving $500,000 or more for any fiscal year under this part.

(h) Program evaluation

The Secretary may use funds appropriated to carry out this part to evaluate activities carried out under the[1] part.

(i) Minimum funding required

(1) In general

Subject to paragraph (2), the Secretary shall ensure that, for each fiscal year, at least the following amounts are provided under this part to address the following needs:

(A) $12,832,000 to address the educational, related services, transitional, and early intervention needs of children with deaf-blindness.

(B) $4,000,000 to address the postsecondary, vocational, technical, continuing, and adult education needs of individuals with deafness.

(C) $4,000,000 to address the educational, related services, and transitional needs of children with an emotional disturbance and those who are at risk of developing an emotional disturbance.

(2) Ratable reduction

If the total amount appropriated to carry out sections 1472, 1473, and 1485 of this title for any fiscal year is less than $130,000,000, the amounts listed in paragraph (1) shall be ratably reduced.

(j) Eligibility for financial assistance

Effective for fiscal years for which the Secretary may make grants under section 1419(b) of

[1] So in original. Probably should be ''this''.

this title, no State or local educational agency or educational service agency or other public institution or agency may receive a grant under this part which relates exclusively to programs, projects, and activities pertaining to children aged 3 through 5, inclusive, unless the State is eligible to receive a grant under section 1419(b) of this title.

(Pub. L. 91–230, title VI, § 661, as added Pub. L. 105–17, title I, § 101, June 4, 1997, 111 Stat. 130.)

PRIOR PROVISIONS

A prior section 1461, Pub. L. 91–230, title VI, § 661, as added Pub. L. 99–457, title III, § 317, Oct. 8, 1986, 100 Stat. 1172; amended Pub. L. 100–630, title I, § 107(b), Nov. 7, 1988, 102 Stat. 3301; Pub. L. 101–476, title VII, § 701, title IX, § 901(b)(154)–(156), Oct. 30, 1990, 104 Stat. 1140, 1149; Pub. L. 102–119, § 25(a)(15), (b), Oct. 7, 1991, 105 Stat. 606, 607, related to financial assistance for the purpose of advancing use of new technology, media, and materials in education of students with disabilities and provision of related services and early intervention services to infants and toddlers with disabilities, prior to repeal by Pub. L. 105–17, title II, § 203(c), June 4, 1997, 111 Stat. 157, effective Oct. 1, 1997.

Another prior section 1461, Pub. L. 91–230, title VI, § 661, Apr. 13, 1970, 84 Stat. 187; Pub. L. 93–380, title VI, § 621, Aug. 21, 1974, 88 Stat. 585; Pub. L. 98–199, § 3(b), Dec. 2, 1983, 97 Stat. 1358, related to research, training, and model centers respecting special programs for children with specific learning disabilities, providing in subsec. (a), Secretary's grant and contract authority, functions of model centers, and considerations governing making of contracts and grants; subsec. (b), other considerations in making awards, geographical distribution of training programs and trained personnel, and a model center in each State; and subsec. (c), appropriations authorization of $10, $20, and $20 million dollars for fiscal years ending June 30, 1975 through 1977, respectively, prior to repeal by Pub. L. 98–199, § 14, Dec. 2, 1983, 97 Stat. 1374.

A prior section 1462, Pub. L. 91–230, title VI, § 662, as added Pub. L. 99–457, title III, § 317, Oct. 8, 1986, 100 Stat. 1172; amended Pub. L. 101–476, title VII, § 702, Oct. 30, 1990, 104 Stat. 1141, authorized appropriations, prior to repeal by Pub. L. 105–17, title II, § 203(c), June 4, 1997, 111 Stat. 157, effective Oct. 1, 1997.

A prior section 662 of Pub. L. 91–230, title VI, Apr. 13, 1970, 84 Stat. 188, eff. July 1, 1971, repealed sections 611 to 618, 621 to 624, and 871 to 880a of this title, and sections 2491 to 2494 and 2698 to 2698b of Title 42, The Public Health and Welfare, and amended section 676 of this title, prior to repeal by Pub. L. 98–199, § 14, Dec. 2, 1983, 97 Stat. 1374.

EFFECTIVE DATE

Section effective Oct. 1, 1997, except subsec. (g)(1), (2) effective Jan. 1, 1998, see section 201(c) of Pub. L. 105–17, set out as a note under section 1451 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1417 of this title.

SUBPART 1—IMPROVING EARLY INTERVENTION, EDUCATIONAL, AND TRANSITIONAL SERVICES AND RESULTS FOR CHILDREN WITH DISABILITIES THROUGH COORDINATED RESEARCH AND PERSONNEL PREPARATION

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in section 1461 of this title.

§ 1471.[1] Findings and purpose

(a) Findings

The Congress finds the following:

(1) The Federal Government has an ongoing obligation to support programs, projects, and activities that contribute to positive results for children with disabilities, enabling them—

(A) to meet their early intervention, educational, and transitional goals and, to the maximum extent possible, educational standards that have been established for all children; and

(B) to acquire the skills that will empower them to lead productive and independent adult lives.

(2)(A) As a result of more than 20 years of Federal support for research, demonstration projects, and personnel preparation, there is an important knowledge base for improving results for children with disabilities.

(B) Such knowledge should be used by States and local educational agencies to design and implement state-of-the-art educational systems that consider the needs of, and include, children with disabilities, especially in environments in which they can learn along with their peers and achieve results measured by the same standards as the results of their peers.

(3)(A) Continued Federal support is essential for the development and maintenance of a coordinated and high-quality program of research, demonstration projects, dissemination of information, and personnel preparation.

(B) Such support—

(i) enables State educational agencies and local educational agencies to improve their educational systems and results for children with disabilities;

(ii) enables State and local agencies to improve early intervention services and results for infants and toddlers with disabilities and their families; and

(iii) enhances the opportunities for general and special education personnel, related services personnel, parents, and paraprofessionals to participate in pre-service and in-service training, to collaborate, and to improve results for children with disabilities and their families.

(4) The Federal Government plays a critical role in facilitating the availability of an adequate number of qualified personnel—

(A) to serve effectively the over 5,000,000 children with disabilities;

(B) to assume leadership positions in administrative and direct-service capacities related to teacher training and research concerning the provision of early intervention services, special education, and related services; and

(C) to work with children with low-incidence disabilities and their families.

(5) The Federal Government performs the role described in paragraph (4)—

(A) by supporting models of personnel development that reflect successful practice, including strategies for recruiting, preparing, and retaining personnel;

(B) by promoting the coordination and integration of—

(i) personnel-development activities for teachers of children with disabilities; and

[1] Another section 1471 of this title is set out in subchapter VIII of this chapter following this subchapter.

(ii) other personnel-development activities supported under Federal law, including this subpart;

(C) by supporting the development and dissemination of information about teaching standards; and

(D) by promoting the coordination and integration of personnel-development activities through linkage with systemic-change activities within States and nationally.

(b) Purpose

The purpose of this subpart is to provide Federal funding for coordinated research, demonstration projects, outreach, and personnel-preparation activities that—

(1) are described in sections 1472 through 1474 of this title;

(2) are linked with, and promote, systemic change; and

(3) improve early intervention, educational, and transitional results for children with disabilities.

(Pub. L. 91–230, title VI, § 671, as added Pub. L. 105–17, title I, § 101, June 4, 1997, 111 Stat. 135.)

§ 1472.[1] Research and innovation to improve services and results for children with disabilities

(a) In general

The Secretary shall make competitive grants to, or enter into contracts or cooperative agreements with, eligible entities to produce, and advance the use of, knowledge—

(1) to improve—

(A) services provided under this chapter, including the practices of professionals and others involved in providing such services to children with disabilities; and

(B) educational results for children with disabilities;

(2) to address the special needs of preschool-aged children and infants and toddlers with disabilities, including infants and toddlers who would be at risk of having substantial developmental delays if early intervention services were not provided to them;

(3) to address the specific problems of over-identification and under-identification of children with disabilities;

(4) to develop and implement effective strategies for addressing inappropriate behavior of students with disabilities in schools, including strategies to prevent children with emotional and behavioral problems from developing emotional disturbances that require the provision of special education and related services;

(5) to improve secondary and postsecondary education and transitional services for children with disabilities; and

(6) to address the range of special education, related services, and early intervention needs of children with disabilities who need significant levels of support to maximize their participation and learning in school and in the community.

(b) New knowledge production; authorized activities

(1) In general

In carrying out this section, the Secretary shall support activities, consistent with the objectives described in subsection (a) of this section, that lead to the production of new knowledge.

(2) Authorized activities

Activities that may be carried out under this subsection include activities such as the following:

(A) Expanding understanding of the relationships between learning characteristics of children with disabilities and the diverse ethnic, cultural, linguistic, social, and economic backgrounds of children with disabilities and their families.

(B) Developing or identifying innovative, effective, and efficient curricula designs, instructional approaches, and strategies, and developing or identifying positive academic and social learning opportunities, that—

(i) enable children with disabilities to make effective transitions described in section 1474(b)(3)(C) of this title or transitions between educational settings; and

(ii) improve educational and transitional results for children with disabilities at all levels of the educational system in which the activities are carried out and, in particular, that improve the progress of the children, as measured by assessments within the general education curriculum involved.

(C) Advancing the design of assessment tools and procedures that will accurately and efficiently determine the special instructional, learning, and behavioral needs of children with disabilities, especially within the context of general education.

(D) Studying and promoting improved alignment and compatibility of general and special education reforms concerned with curricular and instructional reform, evaluation and accountability of such reforms, and administrative procedures.

(E) Advancing the design, development, and integration of technology, assistive technology devices, media, and materials, to improve early intervention, educational, and transitional services and results for children with disabilities.

(F) Improving designs, processes, and results of personnel preparation for personnel who provide services to children with disabilities through the acquisition of information on, and implementation of, research-based practices.

(G) Advancing knowledge about the coordination of education with health and social services.

(H) Producing information on the long-term impact of early intervention and education on results for individuals with disabilities through large-scale longitudinal studies.

[1] Another section 1472 of this title is set out in subchapter VIII of this chapter following this subchapter.

(c) Integration of research and practice; authorized activities

(1) In general

In carrying out this section, the Secretary shall support activities, consistent with the objectives described in subsection (a) of this section, that integrate research and practice, including activities that support State systemic-change and local capacity-building and improvement efforts.

(2) Authorized activities

Activities that may be carried out under this subsection include activities such as the following:

(A) Model demonstration projects to apply and test research findings in typical service settings to determine the usability, effectiveness, and general applicability of such research findings in such areas as improving instructional methods, curricula, and tools, such as textbooks and media.

(B) Demonstrating and applying research-based findings to facilitate systemic changes, related to the provision of services to children with disabilities, in policy, procedure, practice, and the training and use of personnel.

(C) Promoting and demonstrating the coordination of early intervention and educational services for children with disabilities with services provided by health, rehabilitation, and social service agencies.

(D) Identifying and disseminating solutions that overcome systemic barriers to the effective and efficient delivery of early intervention, educational, and transitional services to children with disabilities.

(d) Improving use of professional knowledge; authorized activities

(1) In general

In carrying out this section, the Secretary shall support activities, consistent with the objectives described in subsection (a) of this section, that improve the use of professional knowledge, including activities that support State systemic-change and local capacity-building and improvement efforts.

(2) Authorized activities

Activities that may be carried out under this subsection include activities such as the following:

(A) Synthesizing useful research and other information relating to the provision of services to children with disabilities, including effective practices.

(B) Analyzing professional knowledge bases to advance an understanding of the relationships, and the effectiveness of practices, relating to the provision of services to children with disabilities.

(C) Ensuring that research and related products are in appropriate formats for distribution to teachers, parents, and individuals with disabilities.

(D) Enabling professionals, parents of children with disabilities, and other persons, to learn about, and implement, the findings of research, and successful practices developed in model demonstration projects, relating to the provision of services to children with disabilities.

(E) Conducting outreach, and disseminating information relating to successful approaches to overcoming systemic barriers to the effective and efficient delivery of early intervention, educational, and transitional services, to personnel who provide services to children with disabilities.

(e) Balance among activities and age ranges

In carrying out this section, the Secretary shall ensure that there is an appropriate balance—

(1) among knowledge production, integration of research and practice, and use of professional knowledge; and

(2) across all age ranges of children with disabilities.

(f) Applications

An eligible entity that wishes to receive a grant, or enter into a contract or cooperative agreement, under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(g) Authorization of appropriations

There are authorized to be appropriated to carry out this section such sums as may be necessary for each of the fiscal years 1998 through 2002.

(Pub. L. 91–230, title VI, § 672, as added Pub. L. 105–17, title I, § 101, June 4, 1997, 111 Stat. 136.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1461, 1471 of this title.

§ 1473.[1] Personnel preparation to improve services and results for children with disabilities

(a) In general

The Secretary shall, on a competitive basis, make grants to, or enter into contracts or cooperative agreements with, eligible entities—

(1) to help address State-identified needs for qualified personnel in special education, related services, early intervention, and regular education, to work with children with disabilities; and

(2) to ensure that those personnel have the skills and knowledge, derived from practices that have been determined, through research and experience, to be successful, that are needed to serve those children.

(b) Low-incidence disabilities; authorized activities

(1) In general

In carrying out this section, the Secretary shall support activities, consistent with the objectives described in subsection (a) of this section, that benefit children with low-incidence disabilities.

(2) Authorized activities

Activities that may be carried out under this subsection include activities such as the following:

[1] Another section 1473 of this title is set out in subchapter VIII of this chapter following this subchapter.

(A) Preparing persons who—

(i) have prior training in educational and other related service fields; and

(ii) are studying to obtain degrees, certificates, or licensure that will enable them to assist children with disabilities to achieve the objectives set out in their individualized education programs described in section 1414(d) of this title, or to assist infants and toddlers with disabilities to achieve the outcomes described in their individualized family service plans described in section 1436 of this title.

(B) Providing personnel from various disciplines with interdisciplinary training that will contribute to improvement in early intervention, educational, and transitional results for children with disabilities.

(C) Preparing personnel in the innovative uses and application of technology to enhance learning by children with disabilities through early intervention, educational, and transitional services.

(D) Preparing personnel who provide services to visually impaired or blind children to teach and use Braille in the provision of services to such children.

(E) Preparing personnel to be qualified educational interpreters, to assist children with disabilities, particularly deaf and hard-of-hearing children in school and school-related activities and deaf and hard-of-hearing infants and toddlers and preschool children in early intervention and preschool programs.

(F) Preparing personnel who provide services to children with significant cognitive disabilities and children with multiple disabilities.

(3) "Low-incidence disability" defined

As used in this section, the term ''low-incidence disability'' means—

(A) a visual or hearing impairment, or simultaneous visual and hearing impairments;

(B) a significant cognitive impairment; or

(C) any impairment for which a small number of personnel with highly specialized skills and knowledge are needed in order for children with that impairment to receive early intervention services or a free appropriate public education.

(4) Selection of recipients

In selecting recipients under this subsection, the Secretary may give preference to applications that propose to prepare personnel in more than one low-incidence disability, such as deafness and blindness.

(5) Preparation in use of Braille

The Secretary shall ensure that all recipients of assistance under this subsection who will use that assistance to prepare personnel to provide services to visually impaired or blind children that can appropriately be provided in Braille will prepare those individuals to provide those services in Braille.

(c) Leadership preparation; authorized activities

(1) In general

In carrying out this section, the Secretary shall support leadership preparation activities that are consistent with the objectives described in subsection (a) of this section.

(2) Authorized activities

Activities that may be carried out under this subsection include activities such as the following:

(A) Preparing personnel at the advanced graduate, doctoral, and postdoctoral levels of training to administer, enhance, or provide services for children with disabilities.

(B) Providing interdisciplinary training for various types of leadership personnel, including teacher preparation faculty, administrators, researchers, supervisors, principals, and other persons whose work affects early intervention, educational, and transitional services for children with disabilities.

(d) Projects of national significance; authorized activities

(1) In general

In carrying out this section, the Secretary shall support activities, consistent with the objectives described in subsection (a) of this section, that are of national significance and have broad applicability.

(2) Authorized activities

Activities that may be carried out under this subsection include activities such as the following:

(A) Developing and demonstrating effective and efficient practices for preparing personnel to provide services to children with disabilities, including practices that address any needs identified in the State's improvement plan under subchapter III of this chapter;

(B) Demonstrating the application of significant knowledge derived from research and other sources in the development of programs to prepare personnel to provide services to children with disabilities.

(C) Demonstrating models for the preparation of, and interdisciplinary training of, early intervention, special education, and general education personnel, to enable the personnel—

(i) to acquire the collaboration skills necessary to work within teams to assist children with disabilities; and

(ii) to achieve results that meet challenging standards, particularly within the general education curriculum.

(D) Demonstrating models that reduce shortages of teachers, and personnel from other relevant disciplines, who serve children with disabilities, through reciprocity arrangements between States that are related to licensure and certification.

(E) Developing, evaluating, and disseminating model teaching standards for persons working with children with disabilities.

(F) Promoting the transferability, across State and local jurisdictions, of licensure and certification of teachers and administrators working with such children.

(G) Developing and disseminating models that prepare teachers with strategies, including behavioral interventions, for ad-

dressing the conduct of children with disabilities that impedes their learning and that of others in the classroom.

(H) Institutes that provide professional development that addresses the needs of children with disabilities to teachers or teams of teachers, and where appropriate, to school board members, administrators, principals, pupil-service personnel, and other staff from individual schools.

(I) Projects to improve the ability of general education teachers, principals, and other administrators to meet the needs of children with disabilities.

(J) Developing, evaluating, and disseminating innovative models for the recruitment, induction, retention, and assessment of new, qualified teachers, especially from groups that are underrepresented in the teaching profession, including individuals with disabilities.

(K) Supporting institutions of higher education with minority enrollments of at least 25 percent for the purpose of preparing personnel to work with children with disabilities.

(e) High-incidence disabilities; authorized activities

(1) In general

In carrying out this section, the Secretary shall support activities, consistent with the objectives described in subsection (a) of this section, to benefit children with high-incidence disabilities, such as children with specific learning disabilities, speech or language impairment, or mental retardation.

(2) Authorized activities

Activities that may be carried out under this subsection include the following:

(A) Activities undertaken by institutions of higher education, local educational agencies, and other local entities—

(i) to improve and reform their existing programs to prepare teachers and related services personnel—

(I) to meet the diverse needs of children with disabilities for early intervention, educational, and transitional services; and

(II) to work collaboratively in regular classroom settings; and

(ii) to incorporate best practices and research-based knowledge about preparing personnel so they will have the knowledge and skills to improve educational results for children with disabilities.

(B) Activities incorporating innovative strategies to recruit and prepare teachers and other personnel to meet the needs of areas in which there are acute and persistent shortages of personnel.

(C) Developing career opportunities for paraprofessionals to receive training as special education teachers, related services personnel, and early intervention personnel, including interdisciplinary training to enable them to improve early intervention, educational, and transitional results for children with disabilities.

(f) Applications

(1) In general

Any eligible entity that wishes to receive a grant, or enter into a contract or cooperative agreement, under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(2) Identified State needs

(A) Requirement to address identified needs

Any application under subsection (b), (c), or (e) of this section shall include information demonstrating to the satisfaction of the Secretary that the activities described in the application will address needs identified by the State or States the applicant proposes to serve.

(B) Cooperation with State educational agencies

Any applicant that is not a local educational agency or a State educational agency shall include information demonstrating to the satisfaction of the Secretary that the applicant and one or more State educational agencies have engaged in a cooperative effort to plan the project to which the application pertains, and will cooperate in carrying out and monitoring the project.

(3) Acceptance by States of personnel preparation requirements

The Secretary may require applicants to provide letters from one or more States stating that the States—

(A) intend to accept successful completion of the proposed personnel preparation program as meeting State personnel standards for serving children with disabilities or serving infants and toddlers with disabilities; and

(B) need personnel in the area or areas in which the applicant proposes to provide preparation, as identified in the States' comprehensive systems of personnel development under subchapters II and III of this chapter.

(g) Selection of recipients

(1) Impact of project

In selecting recipients under this section, the Secretary may consider the impact of the project proposed in the application in meeting the need for personnel identified by the States.

(2) Requirement on applicants to meet State and professional standards

The Secretary shall make grants under this section only to eligible applicants that meet State and professionally-recognized standards for the preparation of special education and related services personnel, if the purpose of the project is to assist personnel in obtaining degrees.

(3) Preferences

In selecting recipients under this section, the Secretary may—

(A) give preference to institutions of higher education that are educating regular edu-

cation personnel to meet the needs of children with disabilities in integrated settings and educating special education personnel to work in collaboration with regular educators in integrated settings; and

(B) give preference to institutions of higher education that are successfully recruiting and preparing individuals with disabilities and individuals from groups that are underrepresented in the profession for which they are preparing individuals.

(h) Service obligation

(1) In general

Each application for funds under subsections (b) and (e) of this section, and to the extent appropriate subsection (d) of this section, shall include an assurance that the applicant will ensure that individuals who receive a scholarship under the proposed project will subsequently provide special education and related services to children with disabilities for a period of 2 years for every year for which assistance was received or repay all or part of the cost of that assistance, in accordance with regulations issued by the Secretary.

(2) Leadership preparation

Each application for funds under subsection (c) of this section shall include an assurance that the applicant will ensure that individuals who receive a scholarship under the proposed project will subsequently perform work related to their preparation for a period of 2 years for every year for which assistance was received or repay all or part of such costs, in accordance with regulations issued by the Secretary.

(i) Scholarships

The Secretary may include funds for scholarships, with necessary stipends and allowances, in awards under subsections (b), (c), (d), and (e) of this section.

(j) Authorization of appropriations

There are authorized to be appropriated to carry out this section such sums as may be necessary for each of the fiscal years 1998 through 2002.

(Pub. L. 91–230, title VI, § 673, as added Pub. L. 105–17, title I, § 101, June 4, 1997, 111 Stat. 139.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1417, 1461, 1471 of this title.

§ 1474.[1] Studies and evaluations

(a) Studies and evaluations

(1) In general

The Secretary shall, directly or through grants, contracts, or cooperative agreements, assess the progress in the implementation of this chapter, including the effectiveness of State and local efforts to provide—

(A) a free appropriate public education to children with disabilities; and

(B) early intervention services to infants and toddlers with disabilities and infants and toddlers who would be at risk of having substantial developmental delays if early intervention services were not provided to them.

(2) Authorized activities

In carrying out this subsection, the Secretary may support studies, evaluations, and assessments, including studies that—

(A) analyze measurable impact, outcomes, and results achieved by State educational agencies and local educational agencies through their activities to reform policies, procedures, and practices designed to improve educational and transitional services and results for children with disabilities;

(B) analyze State and local needs for professional development, parent training, and other appropriate activities that can reduce the need for disciplinary actions involving children with disabilities;

(C) assess educational and transitional services and results for children with disabilities from minority backgrounds, including—

(i) data on—

(I) the number of minority children who are referred for special education evaluation;

(II) the number of minority children who are receiving special education and related services and their educational or other service placement; and

(III) the number of minority children who graduated from secondary and postsecondary education programs; and

(ii) the performance of children with disabilities from minority backgrounds on State assessments and other performance indicators established for all students;

(D) measure educational and transitional services and results of children with disabilities under this chapter, including longitudinal studies that—

(i) examine educational and transitional services and results for children with disabilities who are 3 through 17 years of age and are receiving special education and related services under this chapter, using a national, representative sample of distinct age cohorts and disability categories; and

(ii) examine educational results, postsecondary placement, and employment status of individuals with disabilities, 18 through 21 years of age, who are receiving or have received special education and related services under this chapter; and

(E) identify and report on the placement of children with disabilities by disability category.

(b) National assessment

(1) In general

The Secretary shall carry out a national assessment of activities carried out with Federal funds under this chapter in order—

(A) to determine the effectiveness of this chapter in achieving its purposes;

(B) to provide information to the President, the Congress, the States, local edu-

[1] Another section 1474 of this title is set out in subchapter VIII of this chapter following this subchapter.

cational agencies, and the public on how to implement the[2] chapter more effectively; and

(C) to provide the President and the Congress with information that will be useful in developing legislation to achieve the purposes of this chapter more effectively.

(2) Consultation

The Secretary shall plan, review, and conduct the national assessment under this subsection in consultation with researchers, State practitioners, local practitioners, parents of children with disabilities, individuals with disabilities, and other appropriate individuals.

(3) Scope of assessment

The national assessment shall examine how well schools, local educational agencies, States, other recipients of assistance under this chapter, and the Secretary are achieving the purposes of this chapter, including—

(A) improving the performance of children with disabilities in general scholastic activities and assessments as compared to nondisabled children;

(B) providing for the participation of children with disabilities in the general curriculum;

(C) helping children with disabilities make successful transitions from—

(i) early intervention services to preschool education;

(ii) preschool education to elementary school; and

(iii) secondary school to adult life;

(D) placing and serving children with disabilities, including minority children, in the least restrictive environment appropriate;

(E) preventing children with disabilities, especially children with emotional disturbances and specific learning disabilities, from dropping out of school;

(F) addressing behavioral problems of children with disabilities as compared to nondisabled children;

(G) coordinating services provided under this chapter with each other, with other educational and pupil services (including preschool services), and with health and social services funded from other sources;

(H) providing for the participation of parents of children with disabilities in the education of their children; and

(I) resolving disagreements between education personnel and parents through activities such as mediation.

(4) Interim and final reports

The Secretary shall submit to the President and the Congress—

(A) an interim report that summarizes the preliminary findings of the assessment not later than October 1, 1999; and

(B) a final report of the findings of the assessment not later than October 1, 2001.

(c) Annual report

The Secretary shall report annually to the Congress on—

(1) an analysis and summary of the data reported by the States and the Secretary of the Interior under section 1418 of this title;

(2) the results of activities conducted under subsection (a) of this section;

(3) the findings and determinations resulting from reviews of State implementation of this chapter.

(d) Technical assistance to LEA

The Secretary shall provide directly, or through grants, contracts, or cooperative agreements, technical assistance to local educational agencies to assist them in carrying out local capacity-building and improvement projects under section 1411(f)(4) of this title and other LEA systemic improvement activities under this chapter.

(e) Reservation for studies and technical assistance

(1) In general

Except as provided in paragraph (2) and notwithstanding any other provision of this chapter, the Secretary may reserve up to one-half of one percent of the amount appropriated under subchapters II and III of this chapter for each fiscal year to carry out this section.

(2) Maximum amount

For the first fiscal year in which the amount described in paragraph (1) is at least $20,000,000, the maximum amount the Secretary may reserve under paragraph (1) is $20,000,000. For each subsequent fiscal year, the maximum amount the Secretary may reserve under paragraph (1) is $20,000,000, increased by the cumulative rate of inflation since the fiscal year described in the previous sentence.

(3) Use of maximum amount

In any fiscal year described in paragraph (2) for which the Secretary reserves the maximum amount described in that paragraph, the Secretary shall use at least half of the reserved amount for activities under subsection (d) of this section.

(Pub. L. 91–230, title VI, § 674, as added Pub. L. 105–17, title I, § 101, June 4, 1997, 111 Stat. 143.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1411, 1419, 1451, 1471, 1472, 1481 of this title.

SUBPART 2—IMPROVING EARLY INTERVENTION, EDUCATIONAL, AND TRANSITIONAL SERVICES AND RESULTS FOR CHILDREN WITH DISABILITIES THROUGH COORDINATED TECHNICAL ASSISTANCE, SUPPORT, AND DISSEMINATION OF INFORMATION

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in section 1461 of this title.

§ 1481.[1] Findings and purposes

(a) In general

The Congress finds as follows:

(1) National technical assistance, support, and dissemination activities are necessary to

[2] So in original. Probably should be ''this''.

[1] Another section 1481 of this title is set out in subchapter VIII of this chapter following this subchapter.

ensure that subchapters II and III of this chapter are fully implemented and achieve quality early intervention, educational, and transitional results for children with disabilities and their families.

(2) Parents, teachers, administrators, and related services personnel need technical assistance and information in a timely, coordinated, and accessible manner in order to improve early intervention, educational, and transitional services and results at the State and local levels for children with disabilities and their families.

(3) Parent training and information activities have taken on increased importance in efforts to assist parents of a child with a disability in dealing with the multiple pressures of rearing such a child and are of particular importance in—

(A) ensuring the involvement of such parents in planning and decisionmaking with respect to early intervention, educational, and transitional services;

(B) achieving quality early intervention, educational, and transitional results for children with disabilities;

(C) providing such parents information on their rights and protections under this chapter to ensure improved early intervention, educational, and transitional results for children with disabilities;

(D) assisting such parents in the development of skills to participate effectively in the education and development of their children and in the transitions described in section 1474(b)(3)(C) of this title; and

(E) supporting the roles of such parents as participants within partnerships seeking to improve early intervention, educational, and transitional services and results for children with disabilities and their families.

(4) Providers of parent training and information activities need to ensure that such parents who have limited access to services and supports, due to economic, cultural, or linguistic barriers, are provided with access to appropriate parent training and information activities.

(5) Parents of children with disabilities need information that helps the parents to understand the rights and responsibilities of their children under subchapter II of this chapter.

(6) The provision of coordinated technical assistance and dissemination of information to State and local agencies, institutions of higher education, and other providers of services to children with disabilities is essential in—

(A) supporting the process of achieving systemic change;

(B) supporting actions in areas of priority specific to the improvement of early intervention, educational, and transitional results for children with disabilities;

(C) conveying information and assistance that are—

(i) based on current research (as of the date the information and assistance are conveyed);

(ii) accessible and meaningful for use in supporting systemic-change activities of State and local partnerships; and

(iii) linked directly to improving early intervention, educational, and transitional services and results for children with disabilities and their families; and

(D) organizing systems and information networks for such information, based on modern technology related to—

(i) storing and gaining access to information; and

(ii) distributing information in a systematic manner to parents, students, professionals, and policymakers.

(7) Federal support for carrying out technology research, technology development, and educational media services and activities has resulted in major innovations that have significantly improved early intervention, educational, and transitional services and results for children with disabilities and their families.

(8) Such Federal support is needed—

(A) to stimulate the development of software, interactive learning tools, and devices to address early intervention, educational, and transitional needs of children with disabilities who have certain disabilities;

(B) to make information available on technology research, technology development, and educational media services and activities to individuals involved in the provision of early intervention, educational, and transitional services to children with disabilities;

(C) to promote the integration of technology into curricula to improve early intervention, educational, and transitional results for children with disabilities;

(D) to provide incentives for the development of technology and media devices and tools that are not readily found or available because of the small size of potential markets;

(E) to make resources available to pay for such devices and tools and educational media services and activities;

(F) to promote the training of personnel—

(i) to provide such devices, tools, services, and activities in a competent manner; and

(ii) to assist children with disabilities and their families in using such devices, tools, services, and activities; and

(G) to coordinate the provision of such devices, tools, services, and activities—

(i) among State human services programs; and

(ii) between such programs and private agencies.

(b) Purposes

The purposes of this subpart are to ensure that—

(1) children with disabilities, and their parents, receive training and information on their rights and protections under this chapter, in order to develop the skills necessary to effectively participate in planning and decisionmaking relating to early intervention, educational, and transitional services and in systemic-change activities;

(2) parents, teachers, administrators, early intervention personnel, related services personnel, and transition personnel receive coordinated and accessible technical assistance and information to assist such persons, through systemic-change activities and other efforts, to improve early intervention, educational, and transitional services and results for children with disabilities and their families;

(3) appropriate technology and media are researched, developed, demonstrated, and made available in timely and accessible formats to parents, teachers, and all types of personnel providing services to children with disabilities to support their roles as partners in the improvement and implementation of early intervention, educational, and transitional services and results for children with disabilities and their families;

(4) on reaching the age of majority under State law, children with disabilities understand their rights and responsibilities under subchapter II of this chapter, if the State provides for the transfer of parental rights under section 1415(m) of this title; and

(5) the general welfare of deaf and hard-of-hearing individuals is promoted by—

(A) bringing to such individuals understanding and appreciation of the films and television programs that play an important part in the general and cultural advancement of hearing individuals;

(B) providing, through those films and television programs, enriched educational and cultural experiences through which deaf and hard-of-hearing individuals can better understand the realities of their environment; and

(C) providing wholesome and rewarding experiences that deaf and hard-of-hearing individuals may share.

(Pub. L. 91–230, title VI, § 681, as added Pub. L. 105–17, title I, § 101, June 4, 1997, 111 Stat. 146.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1486 of this title.

§ 1482.[1] Parent training and information centers

(a) Program authorized

The Secretary may make grants to, and enter into contracts and cooperative agreements with, parent organizations to support parent training and information centers to carry out activities under this section.

(b) Required activities

Each parent training and information center that receives assistance under this section shall—

(1) provide training and information that meets the training and information needs of parents of children with disabilities living in the area served by the center, particularly underserved parents and parents of children who may be inappropriately identified;

(2) assist parents to understand the availability of, and how to effectively use, procedural safeguards under this chapter, including encouraging the use, and explaining the benefits, of alternative methods of dispute resolution, such as the mediation process described in section 1415(e) of this title;

(3) serve the parents of infants, toddlers, and children with the full range of disabilities;

(4) assist parents to—

(A) better understand the nature of their children's disabilities and their educational and developmental needs;

(B) communicate effectively with personnel responsible for providing special education, early intervention, and related services;

(C) participate in decisionmaking processes and the development of individualized education programs under subchapter II of this chapter and individualized family service plans under subchapter III of this chapter;

(D) obtain appropriate information about the range of options, programs, services, and resources available to assist children with disabilities and their families;

(E) understand the provisions of this chapter for the education of, and the provision of early intervention services to, children with disabilities; and

(F) participate in school reform activities;

(5) in States where the State elects to contract with the parent training and information center, contract with State educational agencies to provide, consistent with subparagraphs (B) and (D) of section 1415(e)(2) of this title, individuals who meet with parents to explain the mediation process to them;

(6) network with appropriate clearinghouses, including organizations conducting national dissemination activities under section 1485(d) of this title, and with other national, State, and local organizations and agencies, such as protection and advocacy agencies, that serve parents and families of children with the full range of disabilities; and

(7) annually report to the Secretary on—

(A) the number of parents to whom it provided information and training in the most recently concluded fiscal year; and

(B) the effectiveness of strategies used to reach and serve parents, including underserved parents of children with disabilities.

(c) Optional activities

A parent training and information center that receives assistance under this section may—

(1) provide information to teachers and other professionals who provide special education and related services to children with disabilities;

(2) assist students with disabilities to understand their rights and responsibilities under section 1415(m) of this title on reaching the age of majority; and

(3) assist parents of children with disabilities to be informed participants in the development and implementation of the State's State improvement plan under part A of this subchapter.

[1] Another section 1482 of this title is set out in subchapter VIII of this chapter following this subchapter.

(d) Application requirements

Each application for assistance under this section shall identify with specificity the special efforts that the applicant will undertake—

(1) to ensure that the needs for training and information of underserved parents of children with disabilities in the area to be served are effectively met; and

(2) to work with community-based organizations.

(e) Distribution of funds

(1) In general

The Secretary shall make at least 1 award to a parent organization in each State, unless the Secretary does not receive an application from such an organization in each State of sufficient quality to warrant approval.

(2) Selection requirement

The Secretary shall select among applications submitted by parent organizations in a State in a manner that ensures the most effective assistance to parents, including parents in urban and rural areas, in the State.

(f) Quarterly review

(1) Requirements

(A) Meetings

The board of directors or special governing committee of each organization that receives an award under this section shall meet at least once in each calendar quarter to review the activities for which the award was made.

(B) Advising board

Each special governing committee shall directly advise the organization's governing board of its views and recommendations.

(2) Continuation award

When an organization requests a continuation award under this section, the board of directors or special governing committee shall submit to the Secretary a written review of the parent training and information program conducted by the organization during the preceding fiscal year.

(g) "Parent organization" defined

As used in this section, the term ''parent organization'' means a private nonprofit organization (other than an institution of higher education) that—

(1) has a board of directors—

(A) the majority of whom are parents of children with disabilities;

(B) that includes—

(i) individuals working in the fields of special education, related services, and early intervention; and

(ii) individuals with disabilities; and

(C) the parent and professional members of which are broadly representative of the population to be served; or

(2) has—

(A) a membership that represents the interests of individuals with disabilities and has established a special governing committee that meets the requirements of paragraph (1); and

(B) a memorandum of understanding between the special governing committee and the board of directors of the organization that clearly outlines the relationship between the board and the committee and the decisionmaking responsibilities and authority of each.

(Pub. L. 91–230, title VI, § 682, as added Pub. L. 105–17, title I, § 101, June 4, 1997, 111 Stat. 149.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1401, 1415, 1483, 1484, 1486 of this title.

§ 1483.[1] Community parent resource centers

(a) In general

The Secretary may make grants to, and enter into contracts and cooperative agreements with, local parent organizations to support parent training and information centers that will help ensure that underserved parents of children with disabilities, including low-income parents, parents of children with limited English proficiency, and parents with disabilities, have the training and information they need to enable them to participate effectively in helping their children with disabilities—

(1) to meet developmental goals and, to the maximum extent possible, those challenging standards that have been established for all children; and

(2) to be prepared to lead productive independent adult lives, to the maximum extent possible.

(b) Required activities

Each parent training and information center assisted under this section shall—

(1) provide training and information that meets the training and information needs of parents of children with disabilities proposed to be served by the grant, contract, or cooperative agreement;

(2) carry out the activities required of parent training and information centers under paragraphs (2) through (7) of section 1482(b) of this title;

(3) establish cooperative partnerships with the parent training and information centers funded under section 1482 of this title; and

(4) be designed to meet the specific needs of families who experience significant isolation from available sources of information and support.

(c) "Local parent organization" defined

As used is this section, the term ''local parent organization'' means a parent organization, as defined in section 1482(g) of this title, that either—

(1) has a board of directors the majority of whom are from the community to be served; or

(2) has—

(A) as a part of its mission, serving the interests of individuals with disabilities from such community; and

(B) a special governing committee to administer the grant, contract, or cooperative

[1] Another section 1483 of this title is set out in subchapter VIII of this chapter following this subchapter.

agreement, a majority of the members of which are individuals from such community.

(Pub. L. 91–230, title VI, § 683, as added Pub. L. 105–17, title I, § 101, June 4, 1997, 111 Stat. 151.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1401, 1415, 1484, 1486 of this title.

§ 1484.[1] Technical assistance for parent training and information centers

(a) In general

The Secretary may, directly or through awards to eligible entities, provide technical assistance for developing, assisting, and coordinating parent training and information programs carried out by parent training and information centers receiving assistance under sections 1482 and 1483 of this title.

(b) Authorized activities

The Secretary may provide technical assistance to a parent training and information center under this section in areas such as—

(1) effective coordination of parent training efforts;

(2) dissemination of information;

(3) evaluation by the center of itself;

(4) promotion of the use of technology, including assistive technology devices and assistive technology services;

(5) reaching underserved populations;

(6) including children with disabilities in general education programs;

(7) facilitation of transitions from—

(A) early intervention services to preschool;

(B) preschool to school; and

(C) secondary school to postsecondary environments; and

(8) promotion of alternative methods of dispute resolution.

(Pub. L. 91–230, title VI, § 684, as added Pub. L. 105–17, title I, § 101, June 4, 1997, 111 Stat. 152.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1486 of this title.

§ 1485.[1] Coordinated technical assistance and dissemination

(a) In general

The Secretary shall, by competitively making grants or entering into contracts and cooperative agreements with eligible entities, provide technical assistance and information, through such mechanisms as institutes, Regional Resource Centers, clearinghouses, and programs that support States and local entities in building capacity, to improve early intervention, educational, and transitional services and results for children with disabilities and their families, and address systemic-change goals and priorities.

(b) Systemic technical assistance; authorized activities

(1) In general

In carrying out this section, the Secretary shall carry out or support technical assistance activities, consistent with the objectives described in subsection (a) of this section, relating to systemic change.

(2) Authorized activities

Activities that may be carried out under this subsection include activities such as the following:

(A) Assisting States, local educational agencies, and other participants in partnerships established under part A of this subchapter with the process of planning systemic changes that will promote improved early intervention, educational, and transitional results for children with disabilities.

(B) Promoting change through a multistate or regional framework that benefits States, local educational agencies, and other participants in partnerships that are in the process of achieving systemic-change outcomes.

(C) Increasing the depth and utility of information in ongoing and emerging areas of priority need identified by States, local educational agencies, and other participants in partnerships that are in the process of achieving systemic-change outcomes.

(D) Promoting communication and information exchange among States, local educational agencies, and other participants in partnerships, based on the needs and concerns identified by the participants in the partnerships, rather than on externally imposed criteria or topics, regarding—

(i) the practices, procedures, and policies of the States, local educational agencies, and other participants in partnerships; and

(ii) accountability of the States, local educational agencies, and other participants in partnerships for improved early intervention, educational, and transitional results for children with disabilities.

(c) Specialized technical assistance; authorized activities

(1) In general

In carrying out this section, the Secretary shall carry out or support activities, consistent with the objectives described in subsection (a) of this section, relating to areas of priority or specific populations.

(2) Authorized activities

Examples of activities that may be carried out under this subsection include activities that—

(A) focus on specific areas of high-priority need that—

(i) are identified by States, local educational agencies, and other participants in partnerships;

(ii) require the development of new knowledge, or the analysis and synthesis of substantial bodies of information not readily available to the States, agencies, and other participants in partnerships; and

[1] Another section 1484 of this title is set out in subchapter VIII of this chapter following this subchapter.

[1] Another section 1485 of this title is set out in subchapter VIII of this chapter following this subchapter.

(iii) will contribute significantly to the improvement of early intervention, educational, and transitional services and results for children with disabilities and their families;

(B) focus on needs and issues that are specific to a population of children with disabilities, such as the provision of single-State and multi-State technical assistance and in-service training—

(i) to schools and agencies serving deaf-blind children and their families; and

(ii) to programs and agencies serving other groups of children with low-incidence disabilities and their families; or

(C) address the postsecondary education needs of individuals who are deaf or hard-of-hearing.

(d) National information dissemination; authorized activities

(1) In general

In carrying out this section, the Secretary shall carry out or support information dissemination activities that are consistent with the objectives described in subsection (a) of this section, including activities that address national needs for the preparation and dissemination of information relating to eliminating barriers to systemic-change and improving early intervention, educational, and transitional results for children with disabilities.

(2) Authorized activities

Examples of activities that may be carried out under this subsection include activities relating to—

(A) infants and toddlers with disabilities and their families, and children with disabilities and their families;

(B) services for populations of children with low-incidence disabilities, including deaf-blind children, and targeted age groupings;

(C) the provision of postsecondary services to individuals with disabilities;

(D) the need for and use of personnel to provide services to children with disabilities, and personnel recruitment, retention, and preparation;

(E) issues that are of critical interest to State educational agencies and local educational agencies, other agency personnel, parents of children with disabilities, and individuals with disabilities;

(F) educational reform and systemic change within States; and

(G) promoting schools that are safe and conducive to learning.

(3) Linking States to information sources

In carrying out this subsection, the Secretary may support projects that link States to technical assistance resources, including special education and general education resources, and may make research and related products available through libraries, electronic networks, parent training projects, and other information sources.

(e) Applications

An eligible entity that wishes to receive a grant, or enter into a contract or cooperative agreement, under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(Pub. L. 91–230, title VI, § 685, as added Pub. L. 105–17, title I, § 101, June 4, 1997, 111 Stat. 152.)

CODIFICATION

Another section 685 of Pub. L. 91–230 is classified to section 1484a of this title set out in subchapter VIII of this chapter following this subchapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1461, 1482, 1486 of this title.

§ 1486. Authorization of appropriations

There are authorized to be appropriated to carry out sections 1481 through 1485 of this title such sums as may be necessary for each of the fiscal years 1998 through 2002.

(Pub. L. 91–230, title VI, § 686, as added Pub. L. 105–17, title I, § 101, June 4, 1997, 111 Stat. 154.)

CODIFICATION

Another section 686 of Pub. L. 91–230 is classified to section 1485 of this title set out in subchapter VIII of this chapter following this subchapter.

§ 1487. Technology development, demonstration, and utilization; and media services

(a) In general

The Secretary shall competitively make grants to, and enter into contracts and cooperative agreements with, eligible entities to support activities described in subsections (b) and (c) of this section.

(b) Technology development, demonstration, and utilization; authorized activities

(1) In general

In carrying out this section, the Secretary shall support activities to promote the development, demonstration, and utilization of technology.

(2) Authorized activities

Activities that may be carried out under this subsection include activities such as the following:

(A) Conducting research and development activities on the use of innovative and emerging technologies for children with disabilities.

(B) Promoting the demonstration and use of innovative and emerging technologies for children with disabilities by improving and expanding the transfer of technology from research and development to practice.

(C) Providing technical assistance to recipients of other assistance under this section, concerning the development of accessible, effective, and usable products.

(D) Communicating information on available technology and the uses of such technology to assist children with disabilities.

(E) Supporting the implementation of research programs on captioning or video description.

(F) Supporting research, development, and dissemination of technology with universal-design features, so that the technology is accessible to individuals with disabilities without further modification or adaptation.

(G) Demonstrating the use of publicly-funded telecommunications systems to provide parents and teachers with information and training concerning early diagnosis of, intervention for, and effective teaching strategies for, young children with reading disabilities.

(c) Educational media services; authorized activities

In carrying out this section, the Secretary shall support—

(1) educational media activities that are designed to be of educational value to children with disabilities;

(2) providing video description, open captioning, or closed captioning of television programs, videos, or educational materials through September 30, 2001; and after fiscal year 2001, providing video description, open captioning, or closed captioning of educational, news, and informational television, videos, or materials;

(3) distributing captioned and described videos or educational materials through such mechanisms as a loan service;

(4) providing free educational materials, including textbooks, in accessible media for visually impaired and print-disabled students in elementary, secondary, postsecondary, and graduate schools;

(5) providing cultural experiences through appropriate nonprofit organizations, such as the National Theater of the Deaf, that—

(A) enrich the lives of deaf and hard-of-hearing children and adults;

(B) increase public awareness and understanding of deafness and of the artistic and intellectual achievements of deaf and hard-of-hearing persons; or

(C) promote the integration of hearing, deaf, and hard-of-hearing persons through shared cultural, educational, and social experiences; and

(6) compiling and analyzing appropriate data relating to the activities described in paragraphs (1) through (5).

(d) Applications

Any eligible entity that wishes to receive a grant, or enter into a contract or cooperative agreement, under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(e) Authorization of appropriations

There are authorized to be appropriated to carry out this section such sums as may be necessary for each of the fiscal years 1998 through 2002.

(Pub. L. 91–230, title VI, § 687, as added Pub. L. 105–17, title I, § 101, June 4, 1997, 111 Stat. 154.)

SUBCHAPTER VIII—INFANTS AND TODDLERS WITH DISABILITIES

REPEAL OF SUBCHAPTER

Pub. L. 105–17, title II, § 203(b), June 4, 1997, 111 Stat. 157, provided that, effective July 1, 1998, this subchapter is repealed.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 927, 1413, 1418, 1419, 1422, 1423, 1491n, 8102 of this title; title 10 section 2164; title 29 sections 2211, 2231; title 42 sections 280c–6, 280d, 290ff–1, 1396b, 5011, 6024.

§ 1471.[1] Congressional findings and policy

(a) Findings

The Congress finds that there is an urgent and substantial need—

(1) to enhance the development of infants and toddlers with disabilities and to minimize their potential for developmental delay,

(2) to reduce the educational costs to our society, including our Nation's schools, by minimizing the need for special education and related services after infants and toddlers with disabilities reach school age,

(3) to minimize the likelihood of institutionalization of individuals with disabilities and maximize the potential for their independent living in society,

(4) to enhance the capacity of families to meet the special needs of their infants and toddlers with disabilities, and

(5) to enhance the capacity of State and local agencies and service providers to identify, evaluate, and meet the needs of historically underrepresented populations, particularly minority, low-income, inner-city, and rural populations.

(b) Policy

It is therefore the policy of the United States to provide financial assistance to States—

(1) to develop and implement a statewide, comprehensive, coordinated, multidisciplinary, interagency program of early intervention services for infants and toddlers with disabilities and their families,

(2) to facilitate the coordination of payment for early intervention services from Federal, State, local, and private sources (including public and private insurance coverage), and

(3) to enhance their capacity to provide quality early intervention services and expand and improve existing early intervention services being provided to infants and toddlers with disabilities and their families.

(Pub. L. 91–230, title VI, § 671, as added Pub. L. 99–457, title I, § 101(a), Oct. 8, 1986, 100 Stat. 1145; amended Pub. L. 100–630, title I, § 108(a), Nov. 7, 1988, 102 Stat. 3301; Pub. L. 101–476, title IX, § 901(b)(158)–(161), Oct. 30, 1990, 104 Stat. 1149; Pub. L. 102–119, §§ 11, 25(a)(16), (b), Oct. 7, 1991, 105 Stat. 595, 606, 607.)

REPEAL OF SECTION

Pub. L. 105–17, title II, § 203(b), June 4, 1997, 111 Stat. 157, provided that, effective July 1, 1998, this section is repealed.

[1] Another section 1471 of this title is set out in subchapter IV of this chapter preceding this subchapter.

AMENDMENTS

1991—Pub. L. 102–119, § 25(b), amended directory language of Pub. L. 101–476, § 901(b). See 1990 Amendment note below.

Subsec. (a)(5). Pub. L. 102–119, § 11, added par. (5).

Subsec. (b)(3). Pub. L. 102–119, § 25(a)(16), substituted ''infants and toddlers with disabilities and their families'' for ''handicapped infants, toddlers, and their families''.

1990—Pub. L. 101–476, § 901(b), was amended in its directory language by Pub. L. 102–119, § 25(b), requiring no change in text.

Subsec. (a). Pub. L. 101–476, § 901(b)(158), (159), in pars. (1), (2), and (4) substituted ''infants and toddlers with disabilities'' for ''handicapped infants and toddlers'' and in par. (3) substituted ''individuals with disabilities'' for ''handicapped individuals''.

Subsec. (b)(1). Pub. L. 101–476, § 901(b)(160), substituted ''infants and toddlers with disabilities'' for ''handicapped infants and toddlers''.

Subsec. (b)(3). Pub. L. 101–476, § 901(b)(161), which directed the substitution of ''infants and toddlers with disabilities'' for ''handicapped infants and toddlers'', could not be executed because the phrase ''handicapped infants and toddlers'' did not appear in text.

1988—Subsec. (a)(4). Pub. L. 100–630, § 108(a)(1), substituted ''handicapped infants and toddlers'' for ''infants and toddlers with handicaps''.

Subsec. (b)(3). Pub. L. 100–630, § 108(a)(2), substituted ''their'' for ''its'' after ''enhance''.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101–476, set out as a note under section 1087ee of this title.

§ 1472.[1] Definitions

As used in this subchapter—

(1) The term ''infants and toddlers with disabilities'' means individuals from birth to age 2, inclusive, who need early intervention services because they—

(A) are experiencing developmental delays, as measured by appropriate diagnostic instruments and procedures in one or more of the following areas: cognitive development, physical development, language and speech development (hereafter in this subchapter referred to as ''communication development''), psychosocial development (hereafter in this subchapter referred to as ''social or emotional development''), or self-help skills (hereafter in this subchapter referred to as ''adaptive development''), or

(B) have a diagnosed physical or mental condition which has a high probability of resulting in developmental delay.

Such term may also include, at a State's discretion, individuals from birth to age 2, inclusive, who are at risk of having substantial developmental delays if early intervention services are not provided.

(2) The term ''early intervention services'' are developmental services which—

(A) are provided under public supervision,

(B) are provided at no cost except where Federal or State law provides for a system of payments by families, including a schedule of sliding fees,

(C) are designed to meet the developmental needs of an infant or toddler with a disability in any one or more of the following areas:

(i) physical development,

(ii) cognitive development,

(iii) communication development,

(iv) social or emotional development, or

(v) adaptive development,

(D) meet the standards of the State, including the requirements of this subchapter,

(E) include—

(i) family training, counseling, and home visits,

(ii) special instruction,

(iii) speech pathology and audiology,

(iv) occupational therapy,

(v) physical therapy,

(vi) psychological services,

(vii) case management services (hereafter in this subchapter referred to as ''service coordination services''),

(viii) medical services only for diagnostic or evaluation purposes,

(ix) early identification, screening, and assessment services,

(x) health services necessary to enable the infant or toddler to benefit from the other early intervention services,

(xi) social work services,

(xii) vision services,

(xiii) assistive technology devices and assistive technology services, and

(xiv) transportation and related costs that are necessary to enable an infant or toddler and the infant's or toddler's family to receive early intervention services,

(F) are provided by qualified personnel, including—

(i) special educators,

(ii) speech and language pathologists and audiologists,

(iii) occupational therapists,

(iv) physical therapists,

(v) psychologists,

(vi) social workers,

(vii) nurses,

(viii) nutritionists,

(ix) family therapists,

(x) orientation and mobility specialists, and

(xi) pediatricians and other physicians,

(G) to the maximum extent appropriate, are provided in natural environments, including the home, and community settings in which children without disabilities participate, and

(H) are provided in conformity with an individualized family service plan adopted in accordance with section 1477 of this title.

(3) The term ''developmental delay'' has the meaning given such term by a State under section 1476(b)(1) of this title.

(4) The term ''Council'' means the State Interagency Coordinating Council established under section 1482 of this title.

(Pub. L. 91–230, title VI, § 672, as added Pub. L. 99–457, title I, § 101(a), Oct. 8, 1986, 100 Stat. 1146; amended Pub. L. 100–630, title I, § 108(b), Nov. 7, 1988, 102 Stat. 3301; Pub. L. 101–476, title VIII, § 801, title IX, § 901(b)(162), (163), Oct. 30, 1990, 104

[1] Another section 1472 of this title is set out in subchapter IV of this chapter preceding this subchapter.

Stat. 1141, 1149; Pub. L. 102–119, §§12, 25(b), Oct. 7, 1991, 105 Stat. 595, 607.)

REPEAL OF SECTION

Pub. L. 105–17, title II, § 203(b), June 4, 1997, 111 Stat. 157, provided that, effective July 1, 1998, this section is repealed.

AMENDMENTS

1991—Pub. L. 102–119, §25(b), amended directory language of Pub. L. 101–476, §901(b). See 1990 Amendment note below.

Par. (1)(A). Pub. L. 102–119, §12(a), substituted ''language and speech development (hereafter in this subchapter referred to as 'communication development'), psychosocial development (hereafter in this subchapter referred to as 'social or emotional development'), or self-help skills (hereafter in this subchapter referred to as 'adaptive development'),'' for ''language and speech development, psychosocial development, or self-help skills,''.

Par. (2)(C)(iii) to (v). Pub. L. 102–119, §12(b)(1), substituted ''communication'' for ''language and speech'' in cl. (iii), ''social or emotional'' for ''psychosocial'' in cl. (iv), and ''adaptive development'' for ''self-help skills'' in cl. (v).

Par. (2)(E)(vii). Pub. L. 102–119, §12(b)(2)(A), substituted ''case management services (hereafter in this part referred to as 'service coordination services'),'' for ''case management services,''.

Par. (2)(E)(xii) to (xiv). Pub. L. 102–119, §12(b)(2)(B), added cls. (xii) to (xiv).

Par. (2)(F)(vii) to (xi). Pub. L. 102–119, §12(b)(3), struck out ''and'' at end of cls. (vii) and (viii) and added cls. (ix) to (xi).

Par. (2)(G), (H). Pub. L. 102–119, §12(b)(4), added subpar. (G) and redesignated former subpar. (G) as (H).

1990—Pub. L. 101–476, §901(b), was amended in its directory language by Pub. L. 102–119, §25(b), requiring no change in text.

Par. (1). Pub. L. 101–476, §901(b)(162), substituted ''infants and toddlers with disabilities'' for ''handicapped infants and toddlers''.

Par. (2)(C). Pub. L. 101–476, §901(b)(163), substituted ''the developmental needs of an infant or toddler with a disability'' for ''a handicapped infant's or toddler's developmental needs''.

Par. (2)(E)(xi). Pub. L. 101–476, §801, added cl. (xi).

1988—Par. (1)(A). Pub. L. 100–630, §108(b)(1), substituted ''cognitive'' for ''Cognitive''.

Par. (2). Pub. L. 100–630, §108(b)(2), (3), substituted ''The term 'early intervention services'' for '' 'Early intervention services' '', and in subpar. (C)(iv) substituted ''psychosocial'' for ''psycho-social''.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by section 12 of Pub. L. 102–119 effective July 1, 1992, except that each State has option to have amendment apply earlier than such date, see section 27(b) of Pub. L. 102–119, set out as a note under section 927 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101–476, set out as a note under section 1087ee of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1087ii of this title; title 10 section 2164.

§ 1473.[1] General authority

The Secretary shall, in accordance with this subchapter, make grants to States (from their allocations under section 1484 of this title) to assist each State to develop a statewide, comprehensive, coordinated, multidisciplinary, interagency system to provide early intervention services for infants and toddlers with disabilities and their families.

(Pub. L. 91–230, title VI, §673, as added Pub. L. 99–457, title I, §101(a), Oct. 8, 1986, 100 Stat. 1147; amended Pub. L. 101–476, title IX, §901(b)(164), Oct. 30, 1990, 104 Stat. 1150; Pub. L. 102–119, §25(b), Oct. 7, 1991, 105 Stat. 607.)

REPEAL OF SECTION

Pub. L. 105–17, title II, § 203(b), June 4, 1997, 111 Stat. 157, provided that, effective July 1, 1998, this section is repealed.

AMENDMENTS

1991—Pub. L. 102–119 amended directory language of Pub. L. 101–476. See 1990 Amendment note below.

1990—Pub. L. 101–476, as amended by Pub. L. 102–119, substituted ''infants and toddlers with disabilities'' for ''handicapped infants and toddlers''.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101–476, set out as a note under section 1087ee of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1474, 1475, 1476, 1478, 1479, 1481, 1482 of this title.

§ 1474.[1] General eligibility

In order to be eligible for a grant under section 1473 of this title for any fiscal year, a State shall demonstrate to the Secretary (in its application under section 1478 of this title) that the State has established a State Interagency Coordinating Council which meets the requirements of section 1482 of this title.

(Pub. L. 91–230, title VI, §674, as added Pub. L. 99–457, title I, §101(a), Oct. 8, 1986, 100 Stat. 1147.)

REPEAL OF SECTION

Pub. L. 105–17, title II, § 203(b), June 4, 1997, 111 Stat. 157, provided that, effective July 1, 1998, this section is repealed.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1478 of this title.

§ 1475. Continuing eligibility

(a) First two years

In order to be eligible for a grant under section 1473 of this title for the first or second year of a State's participation under this subchapter, a State shall include in its application under section 1478 of this title for that year an assurance that funds received under section 1473 of this title shall be used to assist the State to plan, develop, and implement the statewide system required by section 1476 of this title.

(b) Third and fourth year

(1) In order to be eligible for a grant under section 1473 of this title for the third or fourth year of a State's participation under this subchapter,

[1] Another section 1473 of this title is set out in subchapter IV of this chapter preceding this subchapter.

[1] Another section 1474 of this title is set out in subchapter IV of this chapter preceding this subchapter.

a State shall include in its application under section 1478 of this title for that year information and assurances demonstrating to the satisfaction of the Secretary that—

(A) the State has adopted a policy which incorporates all of the components of a statewide system in accordance with section 1476 of this title or obtained a waiver from the Secretary under paragraph (2),

(B) funds shall be used to plan, develop, and implement the statewide system required by section 1476 of this title, and

(C) such statewide system will be in effect no later than the beginning of the fourth year of the State's participation under section 1473 of this title, except that in order to comply with section 1476(b)(4) of this title, a State need only conduct multidisciplinary assessments, develop individualized family service plans, and make available case management services.

(2) Notwithstanding paragraph (1), the Secretary may permit a State to continue to receive assistance under section 1473 of this title during such third year even if the State has not adopted the policy required by paragraph (1)(A) before receiving assistance if the State demonstrates in its application—

(A) that the State has made a good faith effort to adopt such a policy,

(B) the reasons why it was unable to meet the timeline and the steps remaining before such a policy will be adopted, and

(C) an assurance that the policy will be adopted and go into effect before the fourth year of such assistance.

(c) Fifth and succeeding years

In order to be eligible for a grant under section 1473 of this title for a fifth and any succeeding year of a State's participation under this subchapter, a State shall include in its application under section 1478 of this title for that year information and assurances demonstrating to the satisfaction of the Secretary that the State has in effect the statewide system required by section 1476 of this title and a description of services to be provided under section 1476(b)(2) of this title.

(d) Exception

Notwithstanding subsections (a) and (b) of this section, a State which has in effect a State law, enacted before September 1, 1986, that requires the provision of free appropriate public education to children with disabilities from birth through age 2, inclusive, shall be eligible for a grant under section 1473 of this title for the first through fourth years of a State's participation under this subchapter.

(e) Differential funding for fourth or fifth year

(1) In general

Notwithstanding any other provision of this subchapter, a State shall be eligible for a grant under section 1473 of this title for fiscal years 1990, 1991, or 1992 if—

(A) the State satisfies the eligibility criteria described in subsection (b)(1) of this section pertaining to the State's third or fourth year of participation under this subchapter; and

(B) the Governor, on behalf of the State, submits, by a date that the Secretary may establish for each such year, a request for extended participation, including—

(i) information demonstrating to the Secretary's satisfaction that the State is experiencing significant hardships in meeting the requirements of this section for the fourth or fifth year of participation; and

(ii) a plan, including timelines, for meeting the eligibility criteria described in subsections (b)(1) and (c) of this section for the fourth, fifth, or succeeding years of participation.

(2) Approval of request

(A) First year

The Secretary shall approve a State's request for a first year of extended participation under this subsection if the State meets the requirements of paragraph (1).

(B) Second year

The Secretary shall approve a State's request for a second year of extended participation under this subsection if the State—

(i) meets the requirements of paragraph (1); and

(ii) demonstrates to the Secretary's satisfaction that the State has made reasonable progress in implementing the plan described in paragraph (1)(B)(ii).

(3) Duration

The Secretary may not approve more than two requests from the same State for extended participation under this subsection.

(4) Payment

(A) Fiscal year 1990

Notwithstanding any other provision of law, each State qualifying for extended participation under this subsection for fiscal year 1990 shall receive a payment under this subchapter in an amount equal to such State's payment under this subchapter for fiscal year 1989.

(B) Fiscal year 1991 or 1992

Except as provided in subparagraph (C) and notwithstanding any other provision of law, each State qualifying for extended participation under this subsection for fiscal year 1991 or fiscal year 1992 shall receive a payment under this subchapter for such fiscal years in an amount equal to the payment such State would have received under this subchapter for fiscal year 1990 if such State had met the criteria for the fourth year of participation described in subsection (b)(1) of this section.

(C) Minimum payment for fiscal year 1991 or 1992 for certain States

Notwithstanding any other provision of law, each State qualifying for extended participation under this subsection for fiscal year 1991 or fiscal year 1992 shall receive a payment under this subchapter of not less than $500,000. For purposes of the preceding sentence, the term ''State'' means each of

the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

(5) Reallotment

(A) Fiscal year 1990

The amount by which the allotment computed under section 1484 of this title for any State for fiscal year 1990 exceeds the amount that such State may be allotted under paragraph (4)(A) of this subsection (and, notwithstanding section 1484(d) of this title, any fiscal year 1990 funds allotted to any State that such State elects not to receive) shall be reallotted, notwithstanding the percentage limitations set forth in sections[1] 1484(a) and (b) of this title, among those States satisfying the eligibility criteria of subsection (b)(1) of this section for the fourth year of participation that have submitted an application by a date that the Secretary may establish in an amount which bears the same ratio to such amount as the amount of such State's allotment under section 1484 of this title as modified by this subsection in such fiscal year bears to the amount of all such States' allotment under section 1484 of this title as modified by this subsection in such fiscal year.

(B) Fiscal year 1991 or 1992

The amount by which a State's allotment computed under section 1484 of this title for any State for fiscal years 1991 or 1992 exceeds the amount that such State may be allotted for such fiscal year under paragraph (4)(B) of this subsection shall be reallotted, notwithstanding the percentage limitations set forth in section 1484(a) and (b) of this title—

(i) first, among those States satisfying the eligibility criteria of subsection (c) of this section for the fifth year of participation that have submitted applications by a date that the Secretary may establish for each such year in an amount which bears the same ratio to such amount as the amount of such State's allotment under section 1484 of this title as modified by this subsection in such fiscal year bears to the amount of all such States' allotment under section 1484 of this title as modified by this subsection in such fiscal year, except that no such State, by operation of this clause, shall receive an increase of more than 100 percent over the amount such State would have otherwise received under section 1484 of this title for the previous fiscal year;

(ii) second, if funds remain, among those States that have—

(I) satisfied the eligibility criteria of subsection (b)(1) of this section for the fourth year of participation;

(II) qualified for extended participation under this subsection; and

(III) not received a reallotment payment under clause (i),

in an amount which bears the same ratio to such amount as the amount of such State's allotment under section 1484 of this title as modified by this subsection in such fiscal year bears to the amount of all such States' allotment under section 1484 of this title as modified by this subsection in such fiscal year, except that no State, by operation of this clause, shall receive a reallotment payment that is larger than the payment such State would otherwise have received under section 1484 of this title for such year; and

(iii) third, if funds remain, among those States satisfying the eligibility criteria of subsection (c) of this section for the fifth year of participation that did not receive a reallotment payment under clause (ii) in an amount which bears the same ratio to such amount as the amount of such State's allotment under section 1484 of this title as modified by this subsection in such fiscal year bears to the amount of all such States' allotment under section 1484 of this title as modified by this subsection in such fiscal year.

(6) Definitions

For the purpose of this subsection, the term ''State'', except as provided in paragraph (4)(C), means—

(A) each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico;

(B) each of the jurisdictions listed in section 1484(a) of this title; and

(C) the Department of the Interior.

(Pub. L. 91–230, title VI, §675, as added Pub. L. 99–457, title I, §101(a), Oct. 8, 1986, 100 Stat. 1147; amended Pub. L. 100–630, title I, §108(c), Nov. 7, 1988, 102 Stat. 3301; Pub. L. 101–476, title IX, §901(b)(165), Oct. 30, 1990, 104 Stat. 1150; Pub. L. 102–52, §10, June 6, 1991, 105 Stat. 263; Pub. L. 102–119, §§19(c), 25(b), Oct. 7, 1991, 105 Stat. 601, 607.)

REPEAL OF SECTION

Pub. L. 105–17, title II, §203(b), June 4, 1997, 111 Stat. 157, provided that, effective July 1, 1998, this section is repealed.

AMENDMENTS

1991—Pub. L. 102–119, §25(b), amended directory language of Pub. L. 101–476. See 1990 Amendment note below.

Subsec. (e). Pub. L. 102–52 added subsec. (e).

Subsec. (e)(4)(B). Pub. L. 102–119, §19(c)(1)(A), inserted ''under this subchapter'' after ''receive a payment''.

Subsec. (e)(4)(C). Pub. L. 102–119, §19(c)(1)(B), amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: ''(C) MINIMUM.—Beginning in fiscal year 1991, the payment under this subchapter to each of the 50 States, the District of Columbia, and Puerto Rico shall not be less than $500,000.''

Subsec. (e)(6). Pub. L. 102–119, §19(c)(2)(A), inserted '', except as provided in paragraph (4)(C),'' before ''means''.

Subsec. (e)(6)(A). Pub. L. 102–119, §19(c)(2)(B), inserted ''the Commonwealth of'' before ''Puerto Rico''.

1990—Subsec. (d). Pub. L. 101–476, as amended by Pub. L. 102–119, §25(b), substituted ''children with disabilities'' for ''handicapped children''.

1988—Subsec. (a). Pub. L. 100–630, §108(c)(1), substituted ''an assurance'' for ''assurances''.

Subsec. (b)(1)(C). Pub. L. 100–630, §108(c)(2), substituted ''in order to comply with'' for ''with respect to''.

[1] So in original. Probably should be ''section''.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101–476, set out as a note under section 1087ee of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1478 of this title.

§ 1476. Requirements for statewide system

(a) In general

A statewide system of coordinated, comprehensive, multidisciplinary, interagency programs providing appropriate early intervention services to all infants and toddlers with disabilities and their families, including Indian infants and toddlers with disabilities on reservations, shall include the minimum components under subsection (b) of this section.

(b) Minimum components

The statewide system required by subsection (a) of this section shall include, at a minimum—

(1) a definition of the term ''developmentally delayed'' that will be used by the State in carrying out programs under this subchapter,

(2) timetables for ensuring that appropriate early intervention services will be available to all infants and toddlers with disabilities in the State, including Indian infants and toddlers with disabilities on reservations, before the beginning of the fifth year of a State's participation under this subchapter,

(3) a timely, comprehensive, multidisciplinary evaluation of the functioning of each infant and toddler with a disability in the State and the needs of the families to appropriately assist in the development of the infant or toddler with a disability,

(4) for each infant and toddler with a disability in the State, an individualized family service plan in accordance with section 1477 of this title, including service coordination services in accordance with such service plan,

(5) a comprehensive child find system, consistent with subchapter II of this chapter, including a system for making referrals to service providers that includes timelines and provides for participation by primary referral sources,

(6) a public awareness program focusing on early identification of infants and toddlers with disabilities, including the preparation and dissemination by the lead agency to all primary referral sources of information materials for parents on the availability of early intervention services, and procedures for determining the extent to which primary referral sources, especially hospitals and physicians, disseminate information on the availability of early intervention services to parents of infants with disabilities,

(7) a central directory which includes early intervention services, resources, and experts available in the State and research and demonstration projects being conducted in the State,

(8) a comprehensive system of personnel development, including the training of paraprofessionals and the training of primary referral sources respecting the basic components of early intervention services available in the State, that is consistent with the comprehensive system of personnel development described in section 1413(a)(3) of this title and that may include—

(A) implementing innovative strategies and activities for the recruitment and retention of early intervention service providers,

(B) promoting the preparation of early intervention providers who are fully and appropriately qualified to provide early intervention services under this subchapter,

(C) training personnel to work in rural areas, and

(D) training personnel to coordinate transition services for infants and toddlers with disabilities from an early intervention program under this subchapter to a preschool program under section 1419 of this title.

(9) a single line of responsibility in a lead agency designated or established by the Governor for carrying out—

(A) the general administration and supervision of programs and activities receiving assistance under section 1473 of this title, and the monitoring of programs and activities used by the State to carry out this subchapter, whether or not such programs or activities are receiving assistance made available under section 1473 of this title, to ensure that the State complies with this subchapter,

(B) the identification and coordination of all available resources within the State from Federal, State, local and private sources,

(C) the assignment of financial responsibility in accordance with section 1478(a)(2) of this title to the appropriate agencies,

(D) the development of procedures to ensure that services are provided to infants and toddlers with disabilities and their families in a timely manner pending the resolution of any disputes among public agencies or service providers,

(E) the resolution of intra- and interagency disputes, and

(F) the entry into formal interagency agreements that define the financial responsibility of each agency for paying for early intervention services (consistent with State law) and procedures for resolving disputes and that include all additional components necessary to ensure meaningful cooperation and coordination,

(10) a policy pertaining to the contracting or making of other arrangements with service providers to provide early intervention services in the State, consistent with the provisions of this subchapter, including the contents of the application used and the conditions of the contract or other arrangements,

(11) a procedure for securing timely reimbursement of funds used under this subchapter in accordance with section 1481(a) of this title,

(12) procedural safeguards with respect to programs under this subchapter as required by section 1480 of this title,

(13) policies and procedures relating to the establishment and maintenance of standards to ensure that personnel necessary to carry out this subchapter are appropriately and adequately prepared and trained, including—

(A) the establishment and maintenance of standards which are consistent with any State approved or recognized certification, licensing, registration, or other comparable requirements which apply to the area in which such personnel are providing early intervention services, and

(B) to the extent such standards are not based on the highest requirements in the State applicable to a specific profession or discipline, the steps the State is taking to require the retraining or hiring of personnel that meet appropriate professional requirements in the State, and

(14) a system for compiling data on the numbers of infants and toddlers with disabilities and their families in the State in need of appropriate early intervention services (which may be based on a sampling of data), the numbers of such infants and toddlers and their families served, the types of services provided (which may be based on a sampling of data), and other information required by the Secretary.

(Pub. L. 91–230, title VI, § 676, as added Pub. L. 99–457, title I, § 101(a), Oct. 8, 1986, 100 Stat. 1148; amended Pub. L. 100–630, title I, § 108(d), Nov. 7, 1988, 102 Stat. 3301; Pub. L. 101–476, title VIII, § 802, title IX, § 901(b)(166)–(173), Oct. 30, 1990, 104 Stat. 1141, 1150; Pub. L. 102–119, §§ 13, 19(a)(2), 25(a)(17), (b), Oct. 7, 1991, 105 Stat. 596, 601, 606, 607.)

REPEAL OF SECTION

Pub. L. 105–17, title II, § 203(b), June 4, 1997, 111 Stat. 157, provided that, effective July 1, 1998, this section is repealed.

AMENDMENTS

1991—Pub. L. 102–119, § 25(b), amended directory language of Pub. L. 101–476, § 901(b). See 1990 Amendment note below.

Subsec. (a). Pub. L. 102–119, § 19(a)(2)(A), inserted '', including Indian infants and toddlers with disabilities on reservations,'' after ''families''.

Subsec. (b)(2). Pub. L. 102–119, § 19(a)(2)(B), inserted '', including Indian infants and toddlers with disabilities on reservations,'' after ''State''.

Subsec. (b)(4). Pub. L. 102–119, § 25(a)(17)(A), substituted ''infant and toddler with a disability'' for ''handicapped infant and toddler''.

Pub. L. 102–119, § 13(1), substituted ''service coordination'' for ''case management''.

Subsec. (b)(6). Pub. L. 102–119, § 25(a)(17)(B), struck out ''as required under this paragraph'' before ''to parents of infants''.

Subsec. (b)(8). Pub. L. 102–119, § 13(2), amended par. (8) generally. Prior to amendment, par. (8) read as follows: ''a comprehensive system of personnel development, including training of primary referral sources respecting the basic components of early intervention services available in the State,''.

Subsec. (b)(9)(A). Pub. L. 102–119, § 13(3)(A), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: ''the general administration, supervision, and monitoring of programs and activities receiving assistance under section 1473 of this title to ensure compliance with this subchapter,''.

Subsec. (b)(9)(C). Pub. L. 102–119, § 13(3)(B), inserted ''in accordance with section 1478(a)(2) of this title'' after ''responsibility'' and substituted ''agencies,'' for ''agency,''.

1990—Pub. L. 101–476, § 901(b), was amended in its directory language by Pub. L. 102–119, § 25(b), requiring no change in text.

Subsecs. (a), (b)(2). Pub. L. 101–476, § 901(b)(166), (167), substituted ''infants and toddlers with disabilities'' for ''handicapped infants and toddlers''.

Subsec. (b)(3). Pub. L. 101–476, § 901(b)(168), (169), substituted ''infant and toddler with a disability'' and ''infant or toddler with a disability'' for ''handicapped infant and toddler'' and ''handicapped infant or toddler'', respectively.

Subsec. (b)(4). Pub. L. 101–476, § 901(b)(170), which directed the substitution of ''infants and toddlers with disabilities'' for ''handicapped infants and toddlers'', could not be executed because the phrase ''handicapped infants and toddlers'' did not appear in text.

Subsec. (b)(6). Pub. L. 101–476, § 901(b)(171), substituted ''infants and toddlers with disabilities'' for ''handicapped infants and toddlers''.

Pub. L. 101–476, § 802(1), inserted before comma at end '', including the preparation and dissemination by the lead agency to all primary referral sources of information materials for parents on the availability of early intervention services, and procedures for determining the extent to which primary referral sources, especially hospitals and physicians, disseminate information on the availability of early intervention services as required under this paragraph to parents of infants with disabilities''.

Subsec. (b)(8). Pub. L. 101–476, § 802(2), inserted before comma at end '', including training of primary referral sources respecting the basic components of early intervention services available in the State''.

Subsec. (b)(9)(D), (14). Pub. L. 101–476, § 901(b)(172), (173), substituted ''infants and toddlers with disabilities'' for ''handicapped infants and toddlers''.

1988—Subsec. (b)(5). Pub. L. 100–630, § 108(d)(1), made technical amendment to reference to subchapter II of this chapter resulting in no change in text and substituted ''for participation by'' for ''for the participation by''.

Subsec. (b)(12). Pub. L. 100–630, § 108(d)(2), struck out ''and'' at end.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by section 13 of Pub. L. 102–119 effective July 1, 1992, except that each State has option to have amendment apply earlier than such date, see section 27(b) of Pub. L. 102–119, set out as a note under section 927 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101–476, set out as a note under section 1087ee of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1087ee, 1413, 1432, 1472, 1475, 1479, 1480, 1482, 1483 of this title.

§ 1477. Individualized family service plan

(a) Assessment and program development

Each infant or toddler with a disability and the infant's or toddler's family shall receive—

(1) a multidisciplinary assessment of the unique strengths and needs of the infant or toddler and the identification of services appropriate to meet such needs,

(2) a family-directed assessment of the resources, priorities, and concerns of the family and the identification of the supports and services necessary to enhance the family's capacity to meet the developmental needs of their infant or toddler with a disability, and

(3) a written individualized family service plan developed by a multidisciplinary team, including the parent or guardian, as required by subsection (d) of this section.

(b) Periodic review

The individualized family service plan shall be evaluated once a year and the family shall be

provided a review of the plan at 6-month intervals (or more often where appropriate based on infant or toddler and family needs).

(c) Promptness after assessment

The individualized family service plan shall be developed within a reasonable time after the assessment required by subsection (a)(1) of this section is completed. With the parent's consent, early intervention services may commence prior to the completion of such assessment.

(d) Content of plan

The individualized family service plan shall be in writing and contain—

(1) a statement of the infant's or toddler's present levels of physical development, cognitive development, communication development, social or emotional development, and adaptive development, based on acceptable objective criteria,

(2) a statement of the family's resources, priorities, and concerns relating to enhancing the development of the family's infant or toddler with a disability,

(3) a statement of the major outcomes expected to be achieved for the infant or toddler and the family, and the criteria, procedures, and timelines used to determine the degree to which progress toward achieving the outcomes is being made and whether modifications or revisions of the outcomes or services are necessary,

(4) a statement of specific early intervention services necessary to meet the unique needs of the infant or toddler and the family, including the frequency, intensity, and the method of delivering services,

(5) a statement of the natural environments in which early intervention services shall appropriately be provided,

(6) the projected dates for initiation of services and the anticipated duration of such services,

(7) the name of the case manager (hereafter in this subchapter referred to as the ''service coordinator'') from the profession most immediately relevant to the infant's or toddler's or family's needs (or who is otherwise qualified to carry out all applicable responsibilities under this subchapter) who will be responsible for the implementation of the plan and coordination with other agencies and persons, and

(8) the steps to be taken supporting the transition of the toddler with a disability to services provided under subchapter II of this chapter to the extent such services are considered appropriate.

(e) Parental consent

The contents of the individualized family service plan shall be fully explained to the parents or guardian and informed written consent from such parents or guardian shall be obtained prior to the provision of early intervention services described in such plan. If such parents or guardian do not provide such consent with respect to a particular early intervention service, then the early intervention services to which such consent is obtained shall be provided.

(Pub. L. 91–230, title VI, § 677, as added Pub. L. 99–457, title I, § 101(a), Oct. 8, 1986, 100 Stat. 1149; amended Pub. L. 100–630, title I, § 108(f), Nov. 7, 1988, 102 Stat. 3301; Pub. L. 101–476, title IX, § 901(b)(174)–(176), Oct. 30, 1990, 104 Stat. 1150; Pub. L. 102–119, §§ 14, 25(b), Oct. 7, 1991, 105 Stat. 597, 607.)

REPEAL OF SECTION

Pub. L. 105–17, title II, § 203(b), June 4, 1997, 111 Stat. 157, provided that, effective July 1, 1998, this section is repealed.

AMENDMENTS

1991—Pub. L. 102–119, § 25(b), amended directory language of Pub. L. 101–476. See 1990 Amendment note below.

Subsec. (a)(1). Pub. L. 102–119, § 14(1)(B), (C), added par. (1) and struck out former par. (1) which read as follows: ''a multidisciplinary assessment of unique needs and the identification of services appropriate to meet such needs, and''.

Subsec. (a)(2), (3). Pub. L. 102–119, § 14(1)(A), (C), added par. (2) and redesignated former par. (2) as (3).

Subsec. (d)(1). Pub. L. 102–119, § 14(2)(A), substituted ''communication development, social or emotional development, and adaptive development,'' for ''language and speech development, psychosocial development, and self-help skills,''.

Subsec. (d)(2). Pub. L. 102–119, § 14(2)(B), substituted ''resources, priorities, and concerns'' for ''strengths and needs''.

Subsec. (d)(5), (6). Pub. L. 102–119, § 14(2)(C), added par. (5) and redesignated former par. (5) as (6). Former par. (6) redesignated (7).

Subsec. (d)(7). Pub. L. 102–119, § 14(2)(C)(i), (D), redesignated par. (6) as (7) and inserted ''(hereafter in this subchapter referred to as the 'service coordinator')'' and ''(or who is otherwise qualified to carry out all applicable responsibilities under this subchapter)''. Former par. (7) redesignated (8).

Subsec. (d)(8). Pub. L. 102–119, § 14(2)(C)(i), redesignated par. (7) as (8).

Subsec. (e). Pub. L. 102–119, § 14(3), added subsec. (e).

1990—Pub. L. 101–476, as amended by Pub. L. 102–119, § 25(b), substituted ''infant or toddler with a disability'' for ''handicapped infant or toddler'' in subsecs. (a) and (d)(2) and ''toddler with a disability'' for ''handicapped toddler'' in subsec. (d)(7).

1988—Subsec. (a). Pub. L. 100–630, § 108(f)(1), substituted ''infant's'' for second reference to ''infant''.

Subsec. (b). Pub. L. 100–630, § 108(f)(2), substituted ''6-month intervals'' for ''6 month-intervals'' and ''or toddler'' for ''and toddler''.

Subsec. (d)(1). Pub. L. 100–630, § 108(f)(3), substituted ''psychosocial'' for ''psycho-social''.

Subsec. (d)(3). Pub. L. 100–630, § 108(f)(4), substituted ''or toddler'' for ''and toddler'' and ''is being'' for ''are being''.

Subsec. (d)(6). Pub. L. 100–630, § 108(f)(5), substituted ''or toddler's'' for ''and toddler's''.

Subsec. (d)(7). Pub. L. 100–630, § 108(f)(6), made technical amendment to reference to subchapter II resulting in no change in text.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by section 14 of Pub. L. 102–119 effective July 1, 1992, except that each State has option to have amendment apply earlier than such date, see section 27(b) of Pub. L. 102–119, set out as a note under section 927 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101–476, set out as a note under section 1087ee of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 927, 1413, 1414, 1472, 1476 of this title; title 29 section 2211.

§ 1478. State application and assurances

(a) Application

Any State desiring to receive a grant under section 1473 of this title for any year shall submit an application to the Secretary at such time and in such manner as the Secretary may reasonably require by regulation. Such an application shall contain—

(1) a designation of the lead agency in the State that will be responsible for the administration of funds provided under section 1473 of this title,

(2) a designation by the State of an individual or entity responsible for assigning financial responsibility among appropriate agencies,

(3) information demonstrating eligibility of the State under section 1474 of this title,

(4) the information or assurances required to demonstrate eligibility of the State for the particular year of participation under section 1475 of this title,

(5)(A) information demonstrating that the State has provided (i) public hearings, (ii) adequate notice of such hearings, and (iii) an opportunity for comment to the general public before the submission of such application and before the adoption by the State of the policies described in such application, and (B) a summary of the public comments and the State's responses,

(6) a description of the uses for which funds will be expended in accordance with this subchapter and, for the fifth and succeeding fiscal years, a description of the services to be provided,

(7) a description of the procedure used to ensure an equitable distribution of resources made available under this subchapter among all geographic areas within the State,

(8) a description of the policies and procedures used to ensure a smooth transition for individuals participating in the early intervention program under this subchapter who are eligible for participation in preschool programs under subchapter II of this chapter, including a description of how the families will be included in the transitional plans and how the lead agency under this subchapter will notify the appropriate local educational agency or intermediate educational unit in which the child resides and convene, with the approval of the family, a conference between the lead agency, the family, and such agency or unit at least 90 days before such child is eligible for the preschool program under subchapter II of this chapter in accordance with State law, and to review the child's program options, for the period commencing on the day a child turns 3 running through the remainder of the school year, and to establish a transition plan, and

(9) such other information and assurances as the Secretary may reasonably require by regulation.

(b) Statement of assurances

Any State desiring to receive a grant under section 1473 of this title shall file with the Secretary a statement at such time and in such manner as the Secretary may reasonably require by regulation. Such statement shall—

(1) assure that funds paid to the State under section 1473 of this title will be expended in accordance with this subchapter,

(2) contain assurances that the State will comply with the requirements of section 1481 of this title,

(3) provide satisfactory assurance that the control of funds provided under section 1473 of this title, and title to property derived therefrom, shall be in a public agency for the uses and purposes provided in this subchapter and that a public agency will administer such funds and property,

(4) provide for (A) making such reports in such form and containing such information as the Secretary may require to carry out the Secretary's functions under this subchapter, and (B) keeping such records and affording such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports and proper disbursement of Federal funds under this subchapter,

(5) provide satisfactory assurance that Federal funds made available under section 1473 of this title (A) will not be commingled with State funds, and (B) will be so used as to supplement and increase the level of State and local funds expended for infants and toddlers with disabilities and their families and in no case to supplant such State and local funds,

(6) provide satisfactory assurance that such fiscal control and fund accounting procedures will be adopted as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid under section 1473 of this title to the State,

(7) beginning in fiscal year 1992, provide satisfactory assurance that policies and practices have been adopted to ensure meaningful involvement of traditionally underserved groups, including minority, low-income, and rural families, in the planning and implementation of all the requirements of this subchapter and to ensure that such families have access to culturally competent services within their local areas, and

(8) such other information and assurances as the Secretary may reasonably require by regulation.

(c) Approval of application and assurances required

No State may receive a grant under section 1473 of this title unless the Secretary has approved the application and statement of assurances of that State. The Secretary shall not disapprove such an application or statement of assurances unless the Secretary determines, after notice and opportunity for a hearing, that the application or statement of assurances fails to comply with the requirements of this section.

(Pub. L. 91–230, title VI, § 678, as added Pub. L. 99–457, title I, § 101(a), Oct. 8, 1986, 100 Stat. 1150; amended Pub. L. 100–630, title I, § 108(g), Nov. 7, 1988, 102 Stat. 3302; Pub. L. 101–476, title IX, § 901(b)(177), Oct. 30, 1990, 104 Stat. 1150; Pub. L. 102–119, §§ 15, 25(b), Oct. 7, 1991, 105 Stat. 597, 607.)

REPEAL OF SECTION

Pub. L. 105–17, title II, § 203(b), June 4, 1997, 111 Stat. 157, provided that, effective July 1, 1998, this section is repealed.

AMENDMENTS

1991—Pub. L. 102–119, § 25(b), amended directory language of Pub. L. 101–476. See 1990 Amendment note below.

Subsec. (a)(2) to (6). Pub. L. 102–119, § 15(1)(A)(ii), (iii), added par. (2) and redesignated former pars. (2) to (5) as (3) to (6), respectively. Former par. (6) redesignated (7).

Subsec. (a)(7). Pub. L. 102–119, § 15(1)(A)(ii), (B)(i), redesignated par. (6) as (7) and struck out ''and'' after ''within the State,''. Former par. (7) redesignated (9).

Subsec. (a)(8). Pub. L. 102–119, § 15(1)(B)(ii), added par. (8).

Subsec. (a)(9). Pub. L. 102–119, § 15(1)(A)(i), redesignated par. (7) as (9).

Subsec. (b)(7), (8). Pub. L. 102–119, § 15(2), added par. (7) and redesignated former par. (7) as (8).

1990—Subsec. (b)(5). Pub. L. 101–476, as amended by Pub. L. 102–119, § 25(b), substituted ''infants and toddlers with disabilities'' for ''handicapped infants and toddlers''.

1988—Subsec. (a)(3). Pub. L. 100–630, § 108(g)(1), struck out ''and'' at end.

Subsec. (a)(5). Pub. L. 100–630, § 108(g)(2), substituted ''and, for the fifth and succeeding fiscal years, a'' for ''and for the fifth and succeeding fiscal years a''.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by section 15 of Pub. L. 102–119 effective July 1, 1992, except that each State has option to have amendment apply earlier than such date, see section 27(b) of Pub. L. 102–119, set out as a note under section 927 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101–476, set out as a note under section 1087ee of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1474, 1475, 1476, 1482 of this title.

§ 1479. Uses of funds

In addition to using funds provided under section 1473 of this title to plan, develop, and implement the statewide system required by section 1476 of this title, a State may use such funds—

(1) for direct services for infants and toddlers with disabilities and their families that are not otherwise provided from other public or private sources,

(2) to expand and improve on services for infants and toddlers with disabilities and their families that are otherwise available, and

(3) to provide a free appropriate public education, in accordance with subchapter II of this chapter, to children with disabilities from their third birthday to the beginning of the following school year.

(Pub. L. 91–230, title VI, § 679, as added Pub. L. 99–457, title I, § 101(a), Oct. 8, 1986, 100 Stat. 1151; amended Pub. L. 100–630, title I, § 108(h), Nov. 7, 1988, 102 Stat. 3302; Pub. L. 101–476, title IX, § 901(b)(178), Oct. 30, 1990, 104 Stat. 1150; Pub. L. 102–119, §§ 16, 25(b), Oct. 7, 1991, 105 Stat. 598, 607.)

REPEAL OF SECTION

Pub. L. 105–17, title II, § 203(b), June 4, 1997, 111 Stat. 157, provided that, effective July 1, 1998, this section is repealed.

AMENDMENTS

1991—Pub. L. 102–119, § 25(b), amended directory language of Pub. L. 101–476. See 1990 Amendment note below.

Par. (3). Pub. L. 102–119, § 16, added par. (3).

1990—Pub. L. 101–476, as amended by Pub. L. 102–119, § 25(b), substituted ''infants and toddlers with disabilities'' for ''handicapped infants and toddlers'' in pars. (1) and (2).

1988—Pub. L. 100–630 inserted ''and their families'' after ''toddlers'' in pars. (1) and (2).

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101–476, set out as a note under section 1087ee of this title.

§ 1480. Procedural safeguards

The procedural safeguards required to be included in a statewide system under section 1476(b)(12) of this title shall provide, at a minimum, the following:

(1) The timely administrative resolution of complaints by parents. Any party aggrieved by the findings and decision regarding an administrative complaint shall have the right to bring a civil action with respect to the complaint, which action may be brought in any State court of competent jurisdiction or in a district court of the United States without regard to the amount in controversy. In any action brought under this paragraph, the court shall receive the records of the administrative proceedings, shall hear additional evidence at the request of a party, and, basing its decision on the preponderance of the evidence, shall grant such relief as the court determines is appropriate.

(2) The right to confidentiality of personally identifiable information, including the right of parents or guardians to written notice of and written consent to the exchange of such information among agencies consistent with Federal and State law.

(3) The right of the parents or guardian to determine whether they, their infant or toddler, or other family members will accept or decline any early intervention service under this subchapter in accordance with State law without jeopardizing other early intervention services under this subchapter.

(4) The opportunity for parents or a guardian to examine records relating to assessment, screening, eligibility determinations, and the development and implementation of the individualized family service plan.

(5) Procedures to protect the rights of the infant or toddler with a disability whenever the parents or guardian of the child are not known or unavailable or the child is a ward of the State, including the assignment of an individual (who shall not be an employee of the State agency providing services) to act as a surrogate for the parents or guardian.

(6) Written prior notice to the parents or guardian of the infant or toddler with a disability whenever the State agency or service provider proposes to initiate or change or refuses to initiate or change the identification, evaluation, placement, or the provision of appropriate early intervention services to the infant or toddler with a disability.

(7) Procedures designed to assure that the notice required by paragraph (6) fully informs the parents or guardian, in the parents' or guardian's native language, unless it clearly is

not feasible to do so, of all procedures available pursuant to this section.

(8) During the pendency of any proceeding or action involving a complaint, unless the State agency and the parents or guardian otherwise agree, the child shall continue to receive the appropriate early intervention services currently being provided or, if applying for initial services, shall receive the services not in dispute.

(Pub. L. 91–230, title VI, § 680, as added Pub. L. 99–457, title I, § 101(a), Oct. 8, 1986, 100 Stat. 1152; amended Pub. L. 100–630, title I, § 108(i), Nov. 7, 1988, 102 Stat. 3302; Pub. L. 101–476, title IX, § 901(b)(179), (180), Oct. 30, 1990, 104 Stat. 1150; Pub. L. 102–119, §§ 17, 25(b), Oct. 7, 1991, 105 Stat. 598, 607.)

REPEAL OF SECTION

Pub. L. 105–17, title II, § 203(b), June 4, 1997, 111 Stat. 157, provided that, effective July 1, 1998, this section is repealed.

AMENDMENTS

1991—Pub. L. 102–119, § 25(b), amended directory language of Pub. L. 101–476. See 1990 Amendment note below.

Par. (2). Pub. L. 102–119, § 17(1), inserted before period at end ‘‘, including the right of parents or guardians to written notice of and written consent to the exchange of such information among agencies consistent with Federal and State law’’.

Pars. (3) to (6). Pub. L. 102–119, § 17(2), (3), added par. (3) and redesignated former pars. (3) to (5) as (4) to (6), respectively. Former par. (6) redesignated (7).

Par. (7). Pub. L. 102–119, § 17(2), (4), redesignated par. (6) as (7) and substituted ‘‘paragraph (6)’’ for ‘‘paragraph (5)’’. Former par. (7) redesignated (8).

Par. (8). Pub. L. 102–119, § 17(2), redesignated par. (7) as (8).

1990—Pars. (4), (5). Pub. L. 101–476, as amended by Pub. L. 102–119, § 25(b), substituted ‘‘infant or toddler with a disability’’ for ‘‘handicapped infant or toddler’’ in par. (4) and in two places in par. (5).

1988—Par. (3). Pub. L. 100–630, § 108(i)(1), substituted ‘‘or a guardian’’ for ‘‘and a guardian’’.

Par. (4). Pub. L. 100–630, § 108(i)(2), substituted ‘‘or toddler’’ for ‘‘and toddlers’’.

Par. (7). Pub. L. 100–630, § 108(i)(3), substituted ‘‘or, if applying for initial services,’’ for ‘‘or if applying for initial services’’.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by section 17 of Pub. L. 102–119 effective July 1, 1992, except that each State has option to have amendment apply earlier than such date, see section 27(b) of Pub. L. 102–119, set out as a note under section 927 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101–476, set out as a note under section 1087ee of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1476 of this title.

§ 1481.[1] Payor of last resort

(a) Nonsubstitution

Funds provided under section 1473 of this title may not be used to satisfy a financial commitment for services which would have been paid for from another public or private source but for the enactment of this subchapter, except that whenever considered necessary to prevent a delay in the receipt of appropriate early intervention services by the infant or toddler or family in a timely fashion, funds provided under section 1473 of this title may be used to pay the provider of services pending reimbursement from the agency which has ultimate responsibility for the payment.

(b) Reduction of other benefits

Nothing in this subchapter shall be construed to permit the State to reduce medical or other assistance available or to alter eligibility under title V of the Social Security Act [42 U.S.C. 701 et seq.] (relating to maternal and child health) or title XIX of the Social Security Act [42 U.S.C. 1396 et seq.] (relating to medicaid for infants or toddlers with disabilities) within the State.

(Pub. L. 91–230, title VI, § 681, as added Pub. L. 99–457, title I, § 101(a), Oct. 8, 1986, 100 Stat. 1152; amended Pub. L. 100–630, title I, § 108(j), Nov. 7, 1988, 102 Stat. 3302; Pub. L. 101–476, title IX, § 901(b)(181), Oct. 30, 1990, 104 Stat. 1150; Pub. L. 102–119, § 25(b), Oct. 7, 1991, 105 Stat. 607.)

REPEAL OF SECTION

Pub. L. 105–17, title II, § 203(b), June 4, 1997, 111 Stat. 157, provided that, effective July 1, 1998, this section is repealed.

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (b), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Titles V and XIX of the Social Security Act are classified generally to subchapters V (§ 701 et seq.) and XIX (§ 1396 et seq.), respectively, of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

AMENDMENTS

1991—Pub. L. 102–119 amended directory language of Pub. L. 101–476. See 1990 Amendment note below.

1990—Subsec. (b). Pub. L. 101–476, as amended by Pub. L. 102–119, substituted ‘‘infants or toddlers with disabilities’’ for ‘‘handicapped infants and toddlers’’.

1988—Subsec. (a). Pub. L. 100–630 substituted ‘‘a delay’’ for ‘‘the delay’’.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101–476, set out as a note under section 1087ee of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1476, 1478 of this title.

§ 1482.[1] State Interagency Coordinating Council

(a) Establishment

(1) Any State which desires to receive financial assistance under section 1473 of this title shall establish a State Interagency Coordinating Council composed of at least 15 members but not more than 25 members, unless the State provides sufficient justification for a greater number of members in the application submitted pursuant to section 1478 of this title.

[1] Another section 1481 of this title is set out in subchapter IV of this chapter preceding this subchapter.

[1] Another section 1482 of this title is set out in subchapter IV of this chapter preceding this subchapter.

(2) The Council shall be appointed by the Governor. In making appointments to the Council, the Governor shall ensure that the membership of the Council reasonably represents the population of the State.

(3) The Governor shall designate a member of the Council to serve as the chairperson of the Council, or shall require the Council to so designate such a member. Any member of the Council who is a representative of the lead agency designated under section 1476(b)(9) of this title may not serve as the chairperson of the Council.

(b) Composition

(1) The Council shall be composed as follows:

(A) At least 20 percent of the members shall be parents, including minority parents, of infants or toddlers with disabilities or children with disabilities aged 12 or younger, with knowledge of, or experience with, programs for infants and toddlers with disabilities. At least one such member shall be a parent of an infant or toddler with a disability or a child with a disability aged 6 or younger.

(B) At least 20 percent of the members shall be public or private providers of early intervention services.

(C) At least one member shall be from the State legislature.

(D) At least one member shall be involved in personnel preparation.

(E) At least one member shall be from each of the State agencies involved in the provision of, or payment for, early intervention services to infants and toddlers with disabilities and their families and shall have sufficient authority to engage in policy planning and implementation on behalf of such agencies.

(F) At least one member shall be from the State educational agency responsible for preschool services to children with disabilities and shall have sufficient authority to engage in policy planning and implementation on behalf of such agency.

(G) At least one member shall be from the agency responsible for the State governance of insurance, especially in the area of health insurance.

(2) The Council may include other members selected by the Governor, including a representative from the Bureau of Indian Affairs, or where there is no BIA operated or funded school, from the Indian Health Service or the tribe/tribal council.

(c) Meetings

The Council shall meet at least quarterly and in such places as it deems necessary. The meetings shall be publicly announced, and, to the extent appropriate, open and accessible to the general public.

(d) Management authority

Subject to the approval of the Governor, the Council may prepare and approve a budget using funds under this subchapter to conduct hearings and forums, to reimburse members of the Council for reasonable and necessary expenses for attending Council meetings and performing Council duties (including child care for parent representatives), to pay compensation to a member of the Council if such member is not employed or must forfeit wages from other employment when performing official Council business, to hire staff, and to obtain the services of such professional, technical, and clerical personnel as may be necessary to carry out its functions under this subchapter.

(e) Functions of Council

(1) The Council shall—

(A) advise and assist the lead agency designated or established under section 1476(b)(9) of this title in the performance of the responsibilities set out in such section, particularly the identification of the sources of fiscal and other support for services for early intervention programs, assignment of financial responsibility to the appropriate agency, and the promotion of the interagency agreements,

(B) advise and assist the lead agency in the preparation of applications and amendments thereto,

(C) advise and assist the State educational agency regarding the transition of toddlers with disabilities to services provided under subchapter II of this chapter, to the extent such services are appropriate, and

(D) prepare and submit an annual report to the Governor and to the Secretary on the status of early intervention programs for infants and toddlers with disabilities and their families operated within the State.

(2) The Council may advise and assist the lead agency and the State educational agency regarding the provision of appropriate services for children aged birth to 5, inclusive.

(f) Conflict of interest

No member of the Council shall cast a vote on any matter which would provide direct financial benefit to that member or otherwise give the appearance of a conflict of interest under State law.

(g) Use of existing Councils

To the extent that a State has established a Council before September 1, 1986, that is comparable to the Council described in this section, such Council shall be considered to be in compliance with this section. Within 4 years after the date the State accepts funds under section 1473 of this title, such State shall establish a council that complies in full with this section.

(Pub. L. 91–230, title VI, § 682, as added Pub. L. 99–457, title I, § 101(a), Oct. 8, 1986, 100 Stat. 1153; amended Pub. L. 100–630, title I, § 108(k), Nov. 7, 1988, 102 Stat. 3302; Pub. L. 101–476, title IX, § 901(b)(182), Oct. 30, 1990, 104 Stat. 1150; Pub. L. 102–119, §§ 18, 25(a)(18), (b), Oct. 7, 1991, 105 Stat. 599, 606, 607.)

REPEAL OF SECTION

Pub. L. 105–17, title II, § 203(b), June 4, 1997, 111 Stat. 157, provided that, effective July 1, 1998, this section is repealed.

AMENDMENTS

1991—Pub. L. 102–119, § 25(b), amended directory language of Pub. L. 101–476. See 1990 Amendment note below.

Subsec. (a)(1). Pub. L. 102–119, § 18(1)(A), substituted ''at least 15 members but not more than 25 members, unless the State provides sufficient justification for a

greater number of members in the application submitted pursuant to section 1478 of this title'' for ''15 members''.

Subsec. (a)(2). Pub. L. 102–119, §18(1)(B), struck out ''and the chairperson of the Council'' before ''shall be appointed''.

Subsec. (a)(3). Pub. L. 102–119, §18(1)(C), added par. (3).

Subsec. (b). Pub. L. 102–119, §18(2), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: ''The Council shall be composed of—

''(1) at least 3 parents of handicapped infants or toddlers or handicapped children aged 3 through 6, inclusive,

''(2) at least 3 public or private providers of early intervention services,

''(3) at least one representative from the State legislature,

''(4) at least one person involved in personnel preparation,

''(5) other members representing each of the appropriate agencies involved in the provision of or payment for early intervention services to handicapped infants and toddlers and their families, and

''(6) others selected by the Governor.''

Subsec. (d). Pub. L. 102–119, §18(3), substituted ''to conduct hearings and forums, to reimburse members of the Council for reasonable and necessary expenses for attending Council meetings and performing Council duties (including child care for parent representatives), to pay compensation to a member of the Council if such member is not employed or must forfeit wages from other employment when performing official Council business, to hire staff, and to obtain'' for ''to hire staff, and obtain''.

Subsec. (e). Pub. L. 102–119, §18(4), designated existing provisions as par. (1), redesignated former pars. (1) to (3) as subpars. (A), (B), and (D), respectively, of par. (1), and added subpar. (C) of par. (1) and par. (2).

Subsec. (e)(1)(D). Pub. L. 102–119, §25(a)(18), substituted ''infants and toddlers'' for ''infants or toddlers''.

1990—Subsec. (e)(3). Pub. L. 101–476, as amended by Pub. L. 102–119, §25(b), substituted ''infants or toddlers with disabilities'' for ''handicapped infants and toddlers''.

1988—Subsec. (b)(4). Pub. L. 100–630, §108(k)(1), struck out ''and'' at end.

Subsec. (b)(5). Pub. L. 100–630, §108(k)(2), substituted ''families, and'' for ''families and others selected by the Governor.''

Subsec. (b)(6). Pub. L. 100–630, §108(k)(3), added par. (6).

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by section 18 of Pub. L. 102–119 effective July 1, 1992, except that each State has option to have amendment apply earlier than such date, see section 27(b) of Pub. L. 102–119, set out as a note under section 927 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101–476, set out as a note under section 1087ee of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1472, 1474 of this title; title 29 section 2212.

§ 1483.[1] Federal administration

Sections 1416, 1417, and 1420 of this title shall, to the extent not inconsistent with this subchapter, apply to the program authorized by this subchapter, except that—

(1) any reference to a State educational agency shall be deemed to be a reference to the State agency established or designated under section 1476(b)(9) of this title,

(2) any reference to the education of children with disabilities and the education of all children with disabilities and the provision of free public education to all children with disabilities shall be deemed to be a reference to the provision of services to infants and toddlers with disabilities in accordance with this subchapter, and

(3) any reference to local educational agencies and intermediate educational agencies shall be deemed to be a reference to local service providers under this subchapter.

(Pub. L. 91–230, title VI, §683, as added Pub. L. 99–457, title I, §101(a), Oct. 8, 1986, 100 Stat. 1154; amended Pub. L. 101–476, title IX, §901(b)(183), (184), Oct. 30, 1990, 104 Stat. 1151; Pub. L. 102–119, §25(b), Oct. 7, 1991, 105 Stat. 607.)

REPEAL OF SECTION

Pub. L. 105–17, title II, §203(b), June 4, 1997, 111 Stat. 157, provided that, effective July 1, 1998, this section is repealed.

AMENDMENTS

1991—Pub. L. 102–119 amended directory language of Pub. L. 101–476. See 1990 Amendment note below.

1990—Par. (2). Pub. L. 101–476, as amended by Pub. L. 102–119, substituted ''children with disabilities'' for ''handicapped children'' in three places and ''infants and toddlers with disabilities'' for ''handicapped infants and toddlers''.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101–476, set out as a note under section 1087ee of this title.

§ 1484.[1] Allocation of funds

(a) Territories and insular possessions

From the sums appropriated to carry out this subchapter for any fiscal year, the Secretary may reserve 1 percent for payments to Guam, American Samoa, the Virgin Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, the Republic of Palau, and the Commonwealth of the Northern Mariana Islands in accordance with their respective needs.

(b) Payments to Secretary of the Interior for assistance to Indians

(1) The Secretary shall, subject to this subsection, make payments to the Secretary of the Interior to be distributed to tribes or tribal organizations (as defined under section 450b of title 25) or consortium of the above entities for the coordination of assistance in the provision of early intervention services by the States to infants and toddlers with disabilities and their families on reservations served by elementary and secondary schools for Indian children operated or funded by the Department of the Interior. The amount of such payment for any fiscal year shall be 1.25 percent of the aggregate of the amount available to all States under this part for that fiscal year.

(2) The Secretary of the Interior shall distribute the total amount of the 1.25 percent under paragraph (1) in the following manner:

[1] Another section 1483 of this title is set out in subchapter IV of this chapter preceding this subchapter.

[1] Another section 1484 of this title is set out in subchapter IV of this chapter preceding this subchapter.

(A) For the first fiscal year, each tribe or tribal organization shall receive an amount proportionate to the amount of weighted student units for special education programs for BIA operated or funded schools serving such reservation generated under the formula established under section 2008[2] of title 25, divided by the total number of such students in all BIA operated or funded schools.

(B) For each fiscal year thereafter, each tribe or tribal organization shall receive an amount based on the number of infants and toddlers residing on the reservation as determined annually divided by the total of such children served by all tribes or tribal organizations.

(3) To receive a payment under this paragraph, the tribe or tribal organization shall submit such figures to the Secretary of the Interior as are needed to determine the amounts to be allocated under paragraph (2).

(4) The funds received by a tribe or tribal organization shall be used to assist States in child find, screening, and other procedures for the early identification of Indian children aged 0–2, inclusive, and for parent training. Such funds may also be used to provide early intervention services in accordance with this subchapter. These activities may be carried out directly or through contracts or cooperative agreements with the BIA, local educational agencies, and other public or private nonprofit organizations. The tribe and tribal organization is encouraged to involve Indian parents in the development and implementation of these activities. The above entities shall, as appropriate, make referrals to local, State, or Federal entities for the provision of services or further diagnosis.

(5) To be eligible to receive a grant pursuant to paragraph (2), the tribe or tribal organization shall make a biennial report to the Secretary of the Interior of activities undertaken under this subsection, including the number of contracts and cooperative agreements entered into, the number of children contacted and receiving services for each year, and the estimated number of children needing services during the 2 years following the one in which the report is made. The Secretary of the Interior shall include a summary of this information on a biennial basis to the Secretary of Education along with such other information as required under section 1411(f)(3)(D) of this title. The Secretary of Education may require any additional information from the Secretary of the Interior.

(6) None of the funds under this subsection can be used by the Secretary of the Interior for administrative purposes, including child count, and the provision of technical assistance.

(c) States

(1) Except as provided in paragraphs (3), (4), and (5) from the funds remaining for each fiscal year after the reservation and payments under subsections (a) and (b) of this section, the Secretary shall first allot to each State an amount that bears the same ratio to the amount of such remainder as the number of infants and toddlers in the State bears to the number of infants and toddlers in all States.

(2) For fiscal year 1995 only, the Secretary shall allot $34,000,000 of the remaining funds described in paragraph (1) among the States in proportion to their relative numbers of infants and toddlers with disabilities who—

(A) are counted on December 1, 1994; and

(B) would have been eligible to be counted under section 1221(c)(1) of the Elementary and Secondary Education Act of 1965 (as such section was in effect on the day preceding October 20, 1994).

(3) Except as provided in paragraphs (4) and (5), no State shall receive an amount under this section for any fiscal year that is less than the greater of—

(A) one-half of one percent of the remaining amount described in paragraph (1), excluding any amounts allotted under paragraph (2); or

(B) $500,000.

(4)(A) Except as provided in paragraph (5), no State shall receive an amount under this section for any of the fiscal years 1995 through 1999 that is less than the sum of the amount such State received for fiscal year 1994 under—

(i) this subchapter; and

(ii) subpart 2 of part D of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (as such subpart was in existence on the day preceding October 20, 1994) for children with disabilities from birth through age 2.

(B) If, for fiscal year 1998 or 1999, the number of infants and toddlers in any State, as determined under paragraph (1), is less than the number of infants and toddlers so determined for fiscal year 1994, the amount determined under subparagraph (A) for that State shall be reduced by the same percentage by which the number of those infants and toddlers so declined.

(5)(A) If the sums made available under this subchapter for any fiscal year are insufficient to pay the full amounts that all States are eligible to receive under this subsection for such year, the Secretary shall ratably reduce the allocations to such States for such year.

(B) If additional funds become available for making payments under this subsection for such fiscal year, allocations that were reduced under subparagraph (A) shall be increased on the same basis as such allocations were reduced.

(6) For the purpose of paragraph (1)—

(A) the terms ''infants'' and ''toddlers'' mean children from birth to age 2, inclusive, and

(B) the term ''State'' does not include the jurisdictions described in subsection (a) of this section.

(d) Election by State not to receive allotment

If any State elects not to receive its allotment under subsection (c)(1) of this section, the Secretary shall reallot, among the remaining States, amounts from such State in accordance with such subsection.

(Pub. L. 91–230, title VI, § 684, as added Pub. L. 99–457, title I, § 101(a), Oct. 8, 1986, 100 Stat. 1154; amended Pub. L. 101–476, title IX, § 901(b)(185), Oct. 30, 1990, 104 Stat. 1151; Pub. L. 102–119, §§ 19(a)(1), (b), 25(b), Oct. 7, 1991, 105 Stat. 600, 601, 607; Pub. L. 103–382, title III, § 313(a), Oct. 20, 1994, 108 Stat. 3935.)

[2] See References in Text note below.

REPEAL OF SECTION

Pub. L. 105–17, title II, § 203(b), June 4, 1997, 111 Stat. 157, provided that, effective July 1, 1998, this section is repealed.

REFERENCES IN TEXT

Section 2008 of title 25, referred to in subsec. (b)(2)(A), was in the original a reference to section 1128 of the Education Amendments of 1978, Pub. L. 95–561. Section 1128 of Pub. L. 95–561 was omitted in the general amendment of chapter 22 (§ 2001 et seq.) of Title 25, Indians, by Pub. L. 103–382, title III, § 381, Oct. 20, 1994, 108 Stat. 3979. Pub. L. 103–382 enacted a new section 1127 of Pub. L. 95–561, relating to allotment formulas, and a new section 1128, relating to administrative cost grants, which are classified to sections 2007 and 2008, respectively, of Title 25.

Section 1221 and subpart 2 of part D of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (as such section and subpart were in existence on the day preceding October 20, 1994), referred to in subsec. (c)(2)(B), (4)(A)(ii), mean section 1221 and subpart 2 of part D of chapter 1 of title I of Pub. L. 89–10, as added by Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 179, as amended, which were classified generally to section 2791 and subpart 2 (§ 2791 et seq.) of part D of div. I of subchapter I of chapter 47 of this title prior to being omitted in the general amendment of Pub. L. 89–10 by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519.

AMENDMENTS

1994—Subsec. (c)(1). Pub. L. 103–382, § 313(a)(2), amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''For each of the fiscal years 1987 through 1994 from the funds remaining after the reservation and payments under subsections (a) and (b) of this section, the Secretary shall allot to each State an amount which bears the same ratio to the amount of such remainder as the number of infants and toddlers in the State bears to the number of infants and toddlers in all States, except that no State shall receive less than 0.5 percent of such remainder, or $500,000, whichever is greater.''

Subsec. (c)(2) to (6). Pub. L. 103–382, § 313(a)(1), (3), added pars. (2) to (5) and redesignated former par. (2) as (6).

1991—Pub. L. 102–119, § 25(b), amended directory language of Pub. L. 101–476. See 1990 Amendment note below.

Subsec. (b). Pub. L. 102–119, § 19(a)(1), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows:

''(1) The Secretary shall make payments to the Secretary of the Interior according to the need for such assistance for the provision of early intervention services to infants and toddlers with disabilities and their families on reservations serviced by the elementary and secondary schools operated for Indians by the Department of the Interior. The amount of such payment for any fiscal year shall be 1.25 percent of the aggregate of the amount available to all States under this subchapter for that fiscal year.

''(2) The Secretary of the Interior may receive an allotment under paragraph (1) only after submitting to the Secretary an application which meets the requirements of section 1478 of this title and which is approved by the Secretary. Section 1416 of this title shall apply to any such application.''

Subsec. (c)(1). Pub. L. 102–119, § 19(b), substituted ''1994'' for ''1991'' and inserted before period at end '', or $500,000, whichever is greater''.

1990—Subsec. (b)(1). Pub. L. 101–476, as amended by Pub. L. 102–119, § 25(b), substituted ''infants and toddlers with disabilities'' for ''handicapped infants and toddlers''.

EFFECTIVE DATE OF 1994 AMENDMENT

Section 313(b) of Pub. L. 103–382 provided that: ''Subsection (a) [amending this section] and the amendments made by subsection (a) shall take effect on October 1, 1994.''

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101–476, set out as a note under section 1087ee of this title.

STUDY OF ALTERNATIVE FORMULAE FOR ALLOCATION OF FUNDS

Section 22 of Pub. L. 102–119 directed Secretary of Education to undertake a study to identify alternative formulae for allocating funds under part H of the Individuals with Disabilities Education Act [20 U.S.C. 1471 et seq.] and transmit the study and a report on such study to Senate Committee on Labor and Human Resources and House Committee on Education and Labor by Mar. 1, 1993.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1473, 1475 of this title.

§ 1484a. Federal Interagency Coordinating Council

(a) Establishment and purpose

(1) In general

The Secretary shall establish a Federal Interagency Coordinating Council in order to—

(A) minimize duplication of programs and activities relating to early intervention services for infants and toddlers with disabilities and their families, and preschool services for children with disabilities, across Federal, State, and local agencies;

(B) ensure the effective coordination of Federal early intervention and preschool programs and policies across Federal agencies;

(C) coordinate the provision of Federal technical assistance and support activities to States;

(D) identify gaps in Federal agency programs and services; and

(E) identify barriers to Federal interagency cooperation.

(2) Appointments

The council established under paragraph (1) (hereafter in this section referred to as the ''Council'') and the chairperson of the Council shall be appointed by the Secretary in consultation with other appropriate Federal agencies. In making the appointments, the Secretary shall ensure that each member has sufficient authority to engage in policy planning and implementation on behalf of the department, agency, or program that such member represents.

(b) Composition

The Council shall be composed of—

(1) a representative of the Office of Special Education Programs;

(2) a representative of the National Institute on Disability and Rehabilitation Research;

(3) a representative of the Maternal and Child Health Services Block Grant Program;

(4) a representative of programs assisted under the Developmental Disabilities Assistance and Bill of Rights Act [42 U.S.C. 6000 et seq.];

(5) a representative of the Health Care Financing Administration;

(6) a representative of the Division of Birth Defects and Developmental Disabilities of the Centers for Disease Control;

(7) a representative of the Social Security Administration;

(8) a representative of the special supplemental nutrition program for women, infants, and children of the Department of Agriculture;

(9) a representative of the National Institute of Mental Health;

(10) a representative of the National Institute of Child Health and Human Development;

(11) a representative of the Bureau of Indian Affairs of the Department of the Interior;

(12) a representative of the Indian Health Service;

(13) a representative of the Surgeon General;

(14) a representative of the Department of Defense;

(15) a representative of the Administration for Children and Families;

(16) a representative of the Substance Abuse and Mental Health Services Administration;

(17) a representative of the Pediatric Aids Health Care Demonstration Program in the Public Health Service;

(18) at least 3 parents of children with disabilities age 12 or under, of whom at least one must have a child with a disability under the age of 6;

(19) at least 2 representatives of State lead agencies for early intervention services to infants and toddlers, one of which must be a representative of a State educational agency and the other a representative of a noneducational agency;

(20) other members representing appropriate agencies involved in the provision of, or payment for, early intervention services and special education and related services to infants and toddlers with disabilities and their families and preschool children with disabilities; and

(21) other persons appointed by the Secretary.

(c) Meetings

The Council shall meet at least quarterly and in such places as the Council deems necessary. The meetings shall be publicly announced, and, to the extent appropriate, open and accessible to the general public.

(d) Functions of Council

The Council shall—

(1) advise and assist the Secretary in the performance of the Secretary's responsibilities described in this subchapter;

(2) conduct policy analyses of Federal programs related to the provision of early intervention services and special educational and related services to infants and toddlers with disabilities and their families, and preschool children with disabilities, in order to determine areas of conflict, overlap, duplication, or inappropriate omission;

(3) identify strategies to address issues described in paragraph (2);

(4) develop and recommend joint policy memoranda concerning effective interagency collaboration, including modifications to regulations, and the elimination of barriers to interagency programs and activities;

(5) coordinate technical assistance and disseminate information on best practices, effective program coordination strategies, and recommendations for improved early intervention programming for infants and toddlers with disabilities and their families and preschool children with disabilities; and

(6) facilitate activities in support of States' interagency coordination efforts.

(e) Conflict of interest

No member of the Council shall cast a vote on any matter that would provide direct financial benefit to that member or otherwise give the appearance of a conflict of interest under Federal law.

(Pub. L. 91–230, title VI, § 685, as added Pub. L. 102–119, § 21(2), Oct. 7, 1991, 105 Stat. 602; amended Pub. L. 102–321, title I, § 161, July 10, 1992, 106 Stat. 375; Pub. L. 103–448, title II, § 204(w)(2)(B), Nov. 2, 1994, 108 Stat. 4746.)

REPEAL OF SECTION

Pub. L. 105–17, title II, § 203(b), June 4, 1997, 111 Stat. 157, provided that, effective July 1, 1998, this section is repealed.

REFERENCES IN TEXT

The Developmental Disabilities Assistance and Bill of Rights Act, referred to in subsec. (b)(4), is title I of Pub. L. 88–164, as added by Pub. L. 98–527, § 2, Oct. 19, 1984, 98 Stat. 2662, and amended, which is classified generally to chapter 75 (§ 6000 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 6000 of Title 42 and Tables.

PRIOR PROVISIONS

A prior section 685 of Pub. L. 91–230, was renumbered section 686 of Pub. L. 91–230 and is classified to section 1485 of this title.

AMENDMENTS

1994—Subsec. (b)(8). Pub. L. 103–448 substituted ''special supplemental nutrition program for women, infants, and children'' for ''Special Supplemental Food Program for Women, Infants and Children''.

1992—Subsec. (b)(16). Pub. L. 102–321 substituted ''Substance Abuse and Mental Health Services Administration'' for ''Alcohol, Drug Abuse and Mental Health Administration''.

CHANGE OF NAME

Centers for Disease Control changed to Centers for Disease Control and Prevention by Pub. L. 102–531, title III, § 312, Oct. 27, 1992, 106 Stat. 3504.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–448 effective Oct. 1, 1994, see section 401 of Pub. L. 103–448, set out as a note under section 1755 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–321 effective Oct. 1, 1992, see section 801(c) of Pub. L. 102–321, set out as a note under section 236 of Title 42, The Public Health and Welfare.

§ 1485.[1] Authorization of appropriations

There are authorized to be appropriated to carry out this subchapter $220,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 and 1994.

(Pub. L. 91–230, title VI, § 686, formerly § 685, as added Pub. L. 99–457, title I, § 101(a), Oct. 8, 1986, 100 Stat. 1155; renumbered § 686 and amended Pub. L. 102–119, §§ 20, 21(1), Oct. 7, 1991, 105 Stat. 602.)

REPEAL OF SECTION

Pub. L. 105–17, title II, § 203(b), June 4, 1997, 111 Stat. 157, provided that, effective July 1, 1998, this section is repealed.

AMENDMENTS

1991—Pub. L. 102–119, § 20, amended section generally. Prior to amendment, section read as follows: ''There are authorized to be appropriated to carry out this subchapter $50,000,000 for fiscal year 1987, $75,000,000 for fiscal year 1988, and such sums as may be necessary for each of the 3 succeeding fiscal years.''

STUDY OF SERVICES; COORDINATION OF ACTIONS

Section 101(b) of Pub. L. 99–457 directed Secretary of Education and Secretary of Health and Human Services to conduct a joint study of Federal funding sources and services available for early intervention programs and to act jointly to facilitate interagency coordination of Federal resources for such programs and to ensure that funding available to handicapped infants, toddlers, children, and youth from Federal programs, other than programs under this chapter was not being withdrawn or reduced and further directed Secretary of Education and Secretary of Health and Human Services to submit, not later than 18 months after Oct. 8, 1986, a joint report to Congress describing findings of study and describing joint action taken.

SUBCHAPTER IX—FAMILY SUPPORT

REPEAL OF SUBCHAPTER

Pub. L. 105–17, title II, § 203(a), June 4, 1997, 111 Stat. 157, provided that, effective Oct. 1, 1998, this subchapter is repealed.

CODIFICATION

This subchapter is comprised of sections 701 to 716 of title VI of Pub. L. 91–230. Title VII of Pub. L. 91–230 also contains sections 701 to 709 (see Tables for classification to the Code).

§ 1491. Short title

This subchapter may be cited as the ''Families of Children With Disabilities Support Act of 1994''.

(Pub. L. 91–230, title VI, § 701, as added Pub. L. 103–382, title III, § 315, Oct. 20, 1994, 108 Stat. 3937.)

REPEAL OF SECTION

Pub. L. 105–17, title II, § 203(a), June 4, 1997, 111 Stat. 157, provided that, effective Oct. 1, 1998, this section is repealed.

EFFECTIVE DATE

Subchapter effective July 1, 1995, see section 3(a)(3)(A) of Pub. L. 103–382, set out as an Effective Date of 1994 Amendment note under section 1411 of this title.

[1] Another section 1485 of this title is set out in subchapter IV of this chapter preceding this subchapter.

§ 1491a. Findings, purposes, and policy

(a) Findings

The Congress makes the following findings:

(1) It is in the best interest of our Nation to preserve, strengthen, and maintain the family.

(2) Families are the greatest natural resource available to their children and are the major providers of support, care, and training of their children.

(3) Families of children with disabilities enrich the lives of all citizens through the contributions of such families to the economic, health, and social fabric of their community, State, and Nation.

(4) A growing number of families are searching for ways to empower themselves to raise their children with disabilities at home and in their communities. Supporting such families to enable them to care for their children with disabilities at home is efficient and can be cost-effective.

(5) Children, including children with disabilities, benefit from enduring family relationships in a nurturing home environment.

(6) Many families experience exceptionally high financial outlays and significant physical and emotional challenges in meeting the special needs of their children with disabilities.

(7) There are financial disincentives for families to care for their children with disabilities at home.

(8) Most families of children with disabilities do not have access to family-centered and family-directed services to support such families in their efforts to care for their children with disabilities at home.

(9) There is a need in each State for a comprehensive, coordinated, interagency system of family support for families of children with disabilities that is family-centered and family-directed, is easily accessible, avoids duplication, uses existing resources more efficiently, and prevents gaps in services to families in all areas of the State.

(10) The goals of the Nation properly include the goal of providing families of children with disabilities the family support necessary to accomplish the following:

(A) To support the family.

(B) To enable families of children with disabilities to nurture and enjoy their children at home.

(C) To enable families of children with disabilities to make informed choices and decisions regarding the nature of services, supports, and resources made available to such families.

(b) Purposes

The purposes of this subchapter are as follows:

(1) To provide financial assistance to the States to support systems change activities designed to assist each State to develop and implement, or expand and enhance, a family-centered and family-directed, culturally competent, community-centered, comprehensive, statewide system of family support for families of children with disabilities that is designed to—

(A) ensure the full participation, choice and control of families of children with dis-

abilities in decisions related to the provision of such family support for their family;

(B) ensure the active involvement of families of children with disabilities in the planning, development, implementation, and evaluation of such a statewide system;

(C) increase the availability of, funding for, access to, and provision of family support for families of children with disabilities;

(D) promote training activities that are family-centered and family-directed and that enhance the ability of family members of children with disabilities to increase participation, choice, and control in the provision of family support for families of children with disabilities;

(E) increase and promote interagency coordination among State agencies, and between State agencies and private entities that are involved in carrying out activities under section 1491g of this title; and

(F) increase the awareness of laws, regulations, policies, practices, procedures, and organizational structures, which facilitate or impede the availability or provision of family support for families of children with disabilities.

(2) To enhance the ability of the Federal Government to—

(A) identify Federal policies that facilitate or impede family support for families of children with disabilities, and that are consistent with the principles in subsection (c) of this section;

(B) provide States with technical assistance and information relating to the provision of family support for families of children with disabilities;

(C) conduct an evaluation of the program of grants to States; and

(D) provide funding for model demonstration and innovation projects.

(c) Policy

It is the policy of the United States that all programs, projects, and activities receiving assistance under this subchapter shall be family-centered and family-directed and shall be carried out in a manner consistent with the following principles:

(1) Family support for families of children with disabilities must focus on the needs of the entire family.

(2) Families of children with disabilities should be supported in determining their needs and in making decisions concerning necessary, desirable, and appropriate services.

(3) Families should play decisionmaking roles in policies and programs that affect the lives of such families.

(4) Family needs change over time and family support for families of children with disabilities must offer options that are flexible and responsive to the unique needs and strengths and cultural values of individual families.

(5) Family support for families of children with disabilities is proactive and not solely in response to a crisis.

(6) Families must be supported in their efforts to promote the integration and inclusion of their children with disabilities into all aspects of community life.

(7) Family support for families of children with disabilities should promote the use of existing social networks, strengthen natural sources of support, and help build connections to existing community resources and services.

(8) Youth with disabilities should be involved in decisionmaking about their own lives, consistent with the unique strengths, resources, priorities, concerns, abilities, and capabilities of each such youth.

(9) Services and supports must be provided in a manner that demonstrates respect for individual dignity, personal responsibility, self-determination, personal preferences, and cultural differences of families.

(d) Rule of construction

Nothing in this subchapter shall be construed to prevent families from choosing an out-of-home placement for their children with disabilities, including institutional placement for such children.

(Pub. L. 91–230, title VI, § 702, as added Pub. L. 103–382, title III, § 315, Oct. 20, 1994, 108 Stat. 3937.)

REPEAL OF SECTION

Pub. L. 105–17, title II, § 203(a), June 4, 1997, 111 Stat. 157, provided that, effective Oct. 1, 1998, this section is repealed.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1491c, 1491d, 1491g, 1491k, 1491m of this title.

§ 1491b. Definitions

For the purposes of this subchapter, only the following definitions shall apply:

(1) Child with a disability

The term ''child with a disability'' means an individual who from birth through 21 years of age meets the definition of disability under paragraph (4).

(2) Council

The term ''Council'' means an existing Council, or a new Council, which is considered as a State Policy Council for Families of Children with Disabilities under section 1491f of this title.

(3) Culturally competent

The term ''culturally competent'' means services, supports, or other assistance that is conducted or provided in a manner that—

(A) is responsive to the beliefs, interpersonal styles, attitudes, language, and behaviors of those individuals receiving services; and

(B) has the greatest likelihood of ensuring maximum participation of such individuals.

(4) Disability

The term ''disability'' means—

(A) in the case of an individual 6 years of age or older, a significant physical or mental impairment as defined pursuant to State policy to the extent that such policy is established without regard to type of disability; and

(B) in the case of infants and young children, birth to age 5, inclusive, a substantial developmental delay or specific congenital or acquired conditions with a high probability of resulting in a disability if services are not provided.

(5) Existing Council

The term ''existing Council'' means an entity or a committee of an entity that—

(A) is established by a State prior to the date on which the State submits an application for funding under this subchapter;

(B) has authority to advise the State with respect to family support for families of children with disabilities; and

(C) may have the authority to carry out other responsibilities and duties.

(6) Family

The term ''family'' means a group of interdependent persons residing in the same household that consists of a child with a disability and one or more of the following:

(A) A mother, father, brother, sister or any combination.

(B) Extended blood relatives, such as a grandparent, aunt, or uncle.

(C) An adoptive parent.

(D) One or more persons to whom legal custody of a child with a disability has been given by a court.

(E) A person providing short-term foster care that includes a family reunification plan with the biological family.

(F) A person providing long-term foster care for a child with a disability.

The term does not include employees who, acting in their paid employment capacity, provide services to children with disabilities in out-of-home settings such as hospitals, nursing homes, personal care homes, board and care homes, group homes, or other facilities.

(7) Family-centered and family-directed

The term ''family-centered and family-directed'' means, with respect to a service or program, that the service or program—

(A) facilitates the full participation, choice, and control by families of children with disabilities in—

(i) decisions relating to the supports that will meet the priorities of the family; and

(ii) the planning, development, implementation, and evaluation of the statewide system of family support for families of children with disabilities;

(B) responds to the needs of the entire family of a child with a disability in a timely and appropriate manner; and

(C) is easily accessible to and usable by families of children with disabilities.

(8) Family satisfaction

The term ''family satisfaction'' means the extent to which a service or support meets a need, solves a problem, or adds value for a family, as determined by the individual family.

(9) Family support for families of children with disabilities

The term ''family support for families of children with disabilities''—

(A) means supports, resources, services, and other assistance provided to families of children with disabilities that are designed to—

(i) support families in the efforts of such families to raise their children with disabilities in the family home;

(ii) strengthen the role of the family as primary caregiver;

(iii) prevent inappropriate and unwanted out-of-the-home placement and maintain family unity; and

(iv) reunite families with children with disabilities who have been placed out of the home, whenever possible; and

(B) includes—

(i) service coordination that includes individualized planning and brokering for services with families in control of decisionmaking;

(ii) goods and services, which may include specialized diagnosis and evaluation, adaptive equipment, respite care (in and out of the home), personal assistance services, homemaker or chore services, behavioral supports, assistive technology services and devices, permanency or future planning, home and vehicle modifications and repairs, equipment and consumable supplies, transportation, specialized nutrition and clothing, counseling services and mental health services for family members, family education or training services, communication services, crisis intervention, day care and child care for a child with a disability, supports and services for integrated and inclusive community activities, parent or family member support groups, peer support, sitter service or companion service, and education aids; and

(iii) financial assistance, which may include discretionary cash subsidies, allowances, voucher or reimbursement systems, low-interest loans, or lines of credit.

(10) Integration and inclusion

The term ''integration and inclusion'' with respect to children with disabilities and their families means—

(A) the use of the same community resources that are used by and available to other individuals and families;

(B) the full and active participation in the same community activities and utilization of the same community resources as individuals without disabilities, living, learning, working, and enjoying life in regular contact with individuals without disabilities; and

(C) having friendships and relationships with individuals and families of their own choosing.

(11) Lead entity

The term ''lead entity'' means an office or entity described in section 1491e of this title.

(12) New Council

The term ''new Council'' means a council that is established by a State, and considered as the State Policy Council for Families of Children with Disabilities, under section 1491f(a) of this title.

(13) Secretary

The term ''Secretary'' means the Secretary of Health and Human Services.

(14) Service coordination

The term ''service coordination''—

(A) means those family-centered and family-directed activities that assist and enable families to receive rights and procedural safeguards and to gain access to social, medical, legal, educational, and other supports and services; and

(B) includes—

(i) follow-along services that assure, through a continuing relationship between a family of a child with a disability and an individual or entity, that the changing needs of the child and family are recognized and appropriately met;

(ii) the coordination and monitoring of services provided to children with disabilities and their families;

(iii) the provision of information to children with disabilities and their families about the availability of services and assistance to such children and their families in obtaining appropriate services; and

(iv) the facilitation and organization of existing social networks, and natural sources of support, and community resources and services.

(15) Statewide system of family support

The term ''statewide system of family support for families of children with disabilities'' means a family-centered and family-directed, culturally competent, community-centered, comprehensive, statewide system of family support for families of children with disabilities developed and implemented by a State under this subchapter that—

(A) addresses the needs of all families of children with disabilities, including unserved and underserved populations; and

(B) addresses such needs without regard to the age, type of disability, race, ethnicity, or gender of such children or the particular major life activity for which such children need the assistance.

(16) Systems change activities

The term ''systems change activities'' means efforts that result in laws, regulations, policies, practices, or organizational structures—

(A) that are family-centered and family-directed;

(B) that facilitate and increase access to, provision of, and funding for, family support services for families of children with disabilities; and

(C) that otherwise accomplish the purposes of this subchapter.

(17) Unserved and underserved populations

The term ''unserved and underserved populations'' includes populations such as individuals from racial and ethnic minority backgrounds, economically disadvantaged individuals, individuals with limited-English proficiency, individuals from underserved geographic areas (rural or urban), and specific groups of individuals within the population of individuals with disabilities, including individuals with disabilities attributable to physical impairment, mental impairment, or a combination of physical and mental impairments.

(Pub. L. 91–230, title VI, § 703, as added Pub. L. 103–382, title III, § 315, Oct. 20, 1994, 108 Stat. 3939.)

REPEAL OF SECTION

Pub. L. 105–17, title II, § 203(a), June 4, 1997, 111 Stat. 157, provided that, effective Oct. 1, 1998, this section is repealed.

§ 1491c. Grants to States

(a) In general

The Secretary shall make grants to States on a competitive basis, in accordance with the provisions of this subchapter, to support systems change activities designed to assist States to develop and implement, or expand and enhance, a statewide system of family support for families of children with disabilities that accomplishes the purposes described in section 1491a of this title.

(b) Award period and grant limitation

No grant shall be awarded for a period greater than 3 years. A State shall be eligible for not more than one grant.

(c) Amount of grants

(1) Grants to States

(A) Federal matching share

From amounts appropriated under section 1491*o*(a) of this title, the Secretary shall pay to each State that has an application approved under section 1491d of this title, for each year of the grant period, an amount that is—

(i) equal to 75 percent of the cost of the systems change activities to be carried out by the State; and

(ii) not less than $200,000 and not more than $500,000.

(B) Non-Federal share

The non-Federal share of payments under this paragraph may be in cash or in kind fairly evaluated, including planned equipment or services.

(2) Grants to territories

From amounts appropriated under section 1491*o*(a) of this title for any fiscal year, the Secretary shall pay to each territory that has an application approved under section 1491d of this title not more than $100,000.

(3) Calculation of amounts

The Secretary shall calculate a grant amount described in paragraph (1) or (2) on the basis of the following:

(A) The amounts available for making grants under this section.

(B) The child population of the State or territory concerned.

(4) Definitions

As used in this subsection:

(A) State

The term ''State'' means each of the 50 States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

(B) Territory

The term ''territory'' means the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, or the Republic of Palau (upon the entry into force and effect of the Compact of Free Association between the United States and the Republic of Palau).

(d) Priority for previously participating States

Amounts appropriated for purposes of carrying out the provisions of this section in each of the 2 fiscal years succeeding the fiscal year in which amounts are first appropriated for such purposes shall first be made available to a State that—

(1) received a grant under this section during the fiscal year preceding the fiscal year concerned; and

(2) is making significant progress in accordance with section 1491i of this title.

(e) Priorities for distribution

To the extent practicable, the Secretary shall award grants to States under this section in a manner that—

(1) is geographically equitable; and

(2) distributes the grants among States that have differing levels of development of statewide systems of family support for families of children with disabilities.

(Pub. L. 91–230, title VI, § 704, as added Pub. L. 103–382, title III, § 315, Oct. 20, 1994, 108 Stat. 3943.)

REPEAL OF SECTION

Pub. L. 105–17, title II, § 203(a), June 4, 1997, 111 Stat. 157, provided that, effective Oct. 1, 1998, this section is repealed.

REFERENCES IN TEXT

For Oct. 1, 1994, as the date the Compact of Free Association between the United States and the Republic of Palau enters into force and effect, referred to in subsec. (c)(4)(B), see Proc. No. 6726, Sept. 27, 1994, 59 F.R. 49777, set out as a note under section 1931 of Title 48, Territories and Insular Possessions.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1491e, 1491g, 1491i of this title.

§ 1491d. Application

A State that desires to receive a grant under this subchapter shall submit an application to the Secretary that contains the following information and assurances:

(1) Family-centered and family-directed approach

An assurance that the State will use funds made available under this subchapter to accomplish the purposes described in section 1491a of this title and the goals, objectives, and family-centered outcomes described in section 1491h(b) of this title by carrying out systems change activities in partnership with families and in a manner that is family-centered and family-directed.

(2) Designation of the lead entity

Information identifying the lead entity, and evidence documenting the abilities of such entity.

(3) State policy Council for families of children with disabilities

An assurance of the following:

(A) The State has designated or established Council[1] that meets the criteria set forth in section 1491f of this title.

(B) The lead entity will seek and consider on a regular and ongoing basis advice from the Council regarding the development and implementation of the strategic plan under section 1491h of this title, and other policies and procedures of general applicability pertaining to the provision of family support for families of children with disabilities in the State.

(C) The lead entity will include, in its annual progress reports, a summary of advice provided by the Council, including recommendations from the annual report of the Council and the response of the lead entity to such advice and recommendations.

(D) The lead entity will transmit to the Council any other plans, reports, and other information required under this subchapter.

(4) Family involvement

A description of the following:

(A) The nature and extent of the involvement of families of children with disabilities and individuals with disabilities in the development of the application.

(B) Strategies for actively involving families of children with disabilities and individuals with disabilities in the development, implementation, and evaluation of the statewide system of family support for families of children with disabilities.

(C) Strategies and special outreach activities that will be undertaken to ensure the active involvement of families of children with disabilities who are members of unserved and underserved populations.

(D) Strategies for actively involving families of children with disabilities who use family support services in decisions relating to such services.

(5) Agency involvement

A description of the nature and extent of involvement of various State agencies or units within State agencies in the preparation of the application and the continuing role of each agency in the statewide system of family support for families of children with disabilities.

(6) State resources

A description of the State resources and other resources that are available to commit to the statewide system of family support for families of children with disabilities.

[1] So in original. Probably should be preceded by ''a''.

(7) Unmet needs

A description of unmet needs for family support for families of children with disabilities within the State.

(8) Preliminary plan

A preliminary plan that contains information on the program to be carried out under the grant with respect to the goals and objectives of the State for the program and the activities that the State plans to carry out under the program (including the process for appointing individuals to the Council) and that is consistent with the purposes of this subchapter.

(9) Activities

An assurance that, except for the first year of the grant, the State shall expend not less than 65 percent of the funds made available to a State under this subchapter for grants and contracts to conduct the activities described in section 1491g of this title.

(10) Limit on administrative costs

An assurance that the lead entity that receives funding under this subchapter in any fiscal year shall use not more than 5 percent of such funds in such year for administrative expenses. Such administrative expenses shall not include expenses related to the activities of the Council.

(11) Strategic plan

A description of the measures that will be taken by the State to develop a strategic plan in accordance with section 1491h of this title.

(12) Evaluation

An assurance that the State will conduct an annual evaluation of the statewide system of family support for families of children with disabilities in accordance with section 1491i of this title.

(13) Coordination with State and local councils

An assurance that the lead entity will coordinate the activities funded through a grant made under this subchapter with the activities carried out by other relevant councils within the State.

(14) Supplement other funds

An assurance, with respect to amounts received under a grant, of the following:

(A) Such grant will be used to supplement and not supplant amounts available from other sources that are expended for programs of family support for families of children with disabilities, including the provision of family support.

(B) Such grant will not be used to pay a financial obligation for family support for families of children with disabilities that would have been paid with amounts available from other sources if amounts under such grant had not been available.

(15) Other information and assurances

Such other information and assurances as the Secretary may reasonably require.

(Pub. L. 91–230, title VI, § 705, as added Pub. L. 103–382, title III, § 315, Oct. 20, 1994, 108 Stat. 3944.)

REPEAL OF SECTION

Pub. L. 105–17, title II, § 203(a), June 4, 1997, 111 Stat. 157, provided that, effective Oct. 1, 1998, this section is repealed.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1491c, 1491e, 1491f, 1491j of this title.

§ 1491e. Designation of lead entity

(a) Designation

The Chief Executive Officer of a State that desires to receive a grant under section 1491c of this title, shall designate the office or entity (referred to in this subchapter as the ''lead entity'') responsible for—

(1) submitting the application under section 1491d of this title on behalf of the State;

(2) administering and supervising the use of the amounts made available under the grant;

(3) coordinating efforts related to and supervising the preparation of the application;

(4) coordinating the planning, development, implementation (or expansion and enhancement), and evaluation of a statewide system of family support services for families of children with disabilities among public agencies and between public agencies and private agencies, including coordinating efforts related to entering into interagency agreements; and

(5) coordinating efforts related to the meaningful participation by families in activities carried out under a grant awarded under this subchapter.

(b) Qualifications

In designating the lead entity, the Chief Executive Officer may designate—

(1) an office of the Chief Executive Officer;

(2) a commission appointed by the Chief Executive Officer;

(3) a public agency;

(4) a council established under Federal or State law; or

(5) another appropriate office, agency, or entity.

(c) Capabilities of lead entity

The State shall provide, in accordance with the requirements of section 1491d of this title, evidence that the lead entity has the capacity—

(1) to promote a statewide system of family support for families of children with disabilities throughout the State;

(2) to promote and implement systems change activities;

(3) to maximize access to public and private funds for family support services for families of children with disabilities;

(4) to implement effective strategies for capacity building, family and professional training, and access to and funding for family support services for families of children with disabilities across agencies;

(5) to promote and facilitate the implementation of family support services for families of children with disabilities that are family-centered and family-directed, and flexible, and that provide families with the greatest possible decisionmaking authority and control regarding the nature and use of services and supports;

(6) to promote leadership by families in planning, policy development, implementation, and evaluation of family support services for families of children with disabilities, and parent-professional partnerships; and

(7) to promote and develop interagency coordination and collaboration.

(Pub. L. 91–230, title VI, § 706, as added Pub. L. 103–382, title III, § 315, Oct. 20, 1994, 108 Stat. 3946.)

REPEAL OF SECTION

Pub. L. 105–17, title II, § 203(a), June 4, 1997, 111 Stat. 157, provided that, effective Oct. 1, 1998, this section is repealed.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1491b, 1491f of this title.

§ 1491f. State Policy Council for family support for families of children with disabilities

(a) Designation or establishment

A State that desires to receive financial assistance under this subchapter shall, prior to the receipt of funds under this subchapter, designate an existing Council, or establish a new Council, to be considered as a State Policy Council for Families of Children with Disabilities.

(b) Use of existing Council

(1) In general

To the extent that a State has an existing Council, the existing Council shall be considered in compliance with this section if the existing Council meets the requirements under paragraph (2).

(2) Requirements

An existing Council shall—

(A) include a majority of members who are family members of children with disabilities and who are children with disabilities (from age 18 to 21);

(B) in the case in which the existing Council does not represent the full range of families and individuals described in subsection (d)(1) of this section, adopt strategies that will ensure the full participation of such families and individuals in all activities carried out by the Council; and

(C) carry out functions and authorities that are comparable to the functions and authorities described in subsections (e) through (h) of this section.

(3) Documentation of compliance

Any State that has an existing Council shall include in a grant application submitted under section 1491d of this title and in subsequent annual progress reports submitted to the Secretary under section 1491i of this title, a description of the measures that are being taken or that are planned, to ensure that the existing Council of the State complies with this section.

(c) Appointments to new Council

(1) Members

To the extent that a State establishes a new Council, members of the new Council shall be appointed by the Chief Executive Officer of the State or the appropriate official within the State responsible for making appointments in accordance with subsection (d) of this section. The appointing authority shall select members after soliciting recommendations from the State Developmental Disabilities Council, parent or family organizations, and other organizations representing the full range of disabilities covered under this subchapter. The appointing authority shall ensure that the membership of the new Council reasonably represents the population of the State and shall establish guidelines for the terms of the members of the new Council.

(2) Chairperson

The new Council shall elect a member of the new Council to serve as the Chairperson of the new Council. The Chairperson shall be a family member, as described in subsection (d)(1) of this section.

(d) Composition

The new Council shall be composed of—

(1) a majority of members who are—

(A) individuals who are family members of children with disabilities, are eligible for family support, and represent the diversity of families within the State, including those families from unserved and underserved populations; and

(B) children with disabilities, from age 18 to 21, and are representative of the demographics of the State;

(2) members—

(A) who are from State agencies with significant responsibility for the provision of, or payment for, family support services to families of children with disabilities, and who have sufficient authority to engage in policy planning and implementation on behalf of such agencies; and

(B) who are from the office of the Chief Executive Officer of the State with responsibility with respect to budget and finance; and

(3) such additional members as the appointing authority considers appropriate.

(e) Functions

The new Council shall—

(1) establish formal policies regarding the operation of the new Council;

(2) advise and assist the lead entity in the performance of responsibilities described in section 1491e(a) of this title, particularly the promotion of interagency agreements and the promotion of meaningful participation by families in all aspects of the statewide system of family support for families of children with disabilities;

(3) advise and assist State agencies in the development of policies and procedures relating to the provision of family support for families of children with disabilities in the State;

(4) advise and assist the lead entity in the development of all aspects of a strategic plan under section 1491h of this title, including—

(A) the mission, purpose, and principles of the statewide system of family support for families of children with disabilities;

(B) the statement of family-centered outcomes;

(C) the goals, objectives, and activities;

(D) the quality improvement or quality enhancement system;

(E) the appeals process;

(F) the eligibility criteria to be used for all programs, projects, and activities carried out under this subchapter;

(G) the analysis of the extent to which family support for families of children with disabilities is defined as a benefit and not as income; and

(H) the approach to the evaluation of the statewide system of family support for families of children with disabilities;

(5) advise and assist the lead entity in the implementation of systems change activities;

(6) advise and assist the lead entity in assessing family satisfaction with the statewide system of family support for families of children with disabilities;

(7) review, analyze, and comment on the strategic plan and updates to the plan, progress reports, and annual budgets;

(8) advise and assist the lead entity in the identification of Federal and State barriers that impede the development of a statewide system of family support for families of children with disabilities; and

(9) prepare and submit to the Chief Executive Officer of the State, the State legislature, and to the Secretary an annual report on the status of family support services for families of children with disabilities, and make such report available to the public.

(f) Hearings and forums

The new Council is authorized to hold such hearings and forums as the new Council may determine to be necessary to carry out the duties of the new Council.

(g) Conflict of interest

No member of the new Council shall cast a vote on any matter that would provide direct financial benefit to such member or otherwise give the appearance of a conflict of interest under applicable State law.

(h) Compensation and expenses

The new Council may, consistent with State law, use such resources to reimburse members of the new Council for reasonable and necessary expenses of attending the new Council meetings and performing Council duties (including child care and personal assistance services), and to pay compensation to a member of the new Council, if such member is not employed or must forfeit wages from other employment, for each day the member is engaged in performing Council duties.

(Pub. L. 91–230, title VI, § 707, as added Pub. L. 103–382, title III, § 315, Oct. 20, 1994, 108 Stat. 3946.)

REPEAL OF SECTION

Pub. L. 105–17, title II, § 203(a), June 4, 1997, 111 Stat. 157, provided that, effective Oct. 1, 1998, this section is repealed.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1491b, 1491d of this title.

§ 1491g. Authorized activities

(a) In general

A State that receives a grant under section 1491c of this title may use the funds made available through the grant to carry out systems change activities, which accomplish the purposes described in section 1491a of this title, such as the following activities:

(1) Training and technical assistance

The State may support training and technical assistance activities for family members, service providers, community members, professionals, members of the Council, students and others that will do the following:

(A) Increase family participation, choice, and control in the provision of family support for families of children with disabilities.

(B) Promote partnerships with families of children with disabilities at all levels of the service system.

(C) Develop or strengthen family-centered and family-directed approaches to services, including service coordination services, service planning services, and respite care services.

(D) Assist families of children with disabilities in accessing natural[1] and community supports and in obtaining benefits and services.

(2) Interagency coordination

The State may support activities that conduct the following:

(A) Identification and coordination of Federal and State policies, resources, and services, relating to the provision of family support services for families of children with disabilities, including entering into interagency agreements.

(B) Interagency work groups to enhance public funding options and coordinate access to funding for family support services for families of children with disabilities, with special attention to the issues of family involvement in the identification, planning, use, delivery, and evaluation of such services.

(C) Documentation and dissemination of information about interagency activities that promote coordination with respect to family support services for families of children with disabilities, including evidence of increased participation of State and local health, maternal and child health, social service, mental health, mental retardation and developmental disabilities, child protection, education, early intervention, developmental disabilities councils, agencies, and departments.

(3) Local or regional councils

The State may support the development or enhancement of local or regional councils to review the status of family support for families of children with disabilities in the local or regional area, to advise and assist with the planning, development, implementation, and

[1] So in original. Probably should be ''national''.

evaluation of family support for families of children with disabilities in such local or regional area, and to provide recommendations to the State regarding improvements and plans.

(4) Outreach

The State may conduct outreach activities to locate families who are eligible for family support for families of children with disabilities and to identify groups who are unserved or underserved. Such activities may involve the creation or maintenance of, support of, or provision of, assistance to statewide and community parent organizations, and organizations that provide family support to families of children with disabilities.

(5) Policy studies

The State may support policy studies that relate to the development and implementation, or expansion and enhancement, of a statewide system of family support for families of children with disabilities. Such studies may address issues regarding eligibility and access to services.

(6) Hearings and forums

The State may conduct hearings and forums to solicit input from families of children with disabilities regarding family support programs, policies, and plans for such families. Such hearings and forums may be conducted in collaboration with other statewide councils.

(7) Public awareness and education

The State may develop and disseminate information relating to family support for families of children with disabilities designed to provide information to such families, parent groups and organizations, public and private agencies that are in contact with children with disabilities and families of such children, students, policymakers, and the public. Such information may relate to the nature, cost, and availability of, and accessibility to, family support for families of children with disabilities, the impact of family support for families of children with disabilities on other benefits, and the efficacy of family support for families of children with disabilities with respect to enhancing the quality of family life.

(8) Needs assessment

The State may conduct a needs assessment, which may, in part, be based on existing State data.

(9) Program data

The State may support the compilation and evaluation of appropriate data related to the statewide system of family support for families of children with disabilities.

(10) Pilot demonstration projects

The State may support pilot demonstration projects to demonstrate new approaches to the provision of family support for families of children with disabilities. Such projects may include the demonstration of family-centered and family-directed service coordination, approaches to improve access to services, including independent service coordination, peer support networks, and voucher programs.

(11) Other activities

The State may support other systems change activities that accomplish the purposes described in section 1491a of this title.

(b) Special rule

In carrying out activities authorized under this subchapter, a State shall ensure that such programs and activities address the needs of families who are economically disadvantaged.

(Pub. L. 91–230, title VI, § 708, as added Pub. L. 103–382, title III, § 315, Oct. 20, 1994, 108 Stat. 3949.)

REPEAL OF SECTION

Pub. L. 105–17, title II, § 203(a), June 4, 1997, 111 Stat. 157, provided that, effective Oct. 1, 1998, this section is repealed.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1491a, 1491d of this title.

§ 1491h. Strategic plan

(a) In general

Not later than 6 months after the date on which assistance is received by a State under this subchapter, the lead entity of the State, in conjunction with the Council, shall prepare and submit to the Secretary a strategic plan designed to achieve the purposes and policy of this subchapter.

(b) Contents

The strategic plan shall include—

(1) a statement of the mission, purpose, and principles of the statewide system of family support for families of children with disabilities in the State;

(2) a statement of family-centered outcomes to be achieved by the statewide system of family support for families of children with disabilities;

(3) specific goals and objectives for developing and implementing, or expanding and improving, the system for providing family support services for families of children with disabilities, and for achieving the family-centered outcomes;

(4) systemic approaches for accomplishing the objectives and achieving the family-centered outcomes, including interagency coordination and cooperation, that builds upon state-of-the-art practices and research findings;

(5) a description of the specific programs, projects, and activities funded under this subchapter and the manner in which the programs, projects, and activities accomplish the objectives and achieve the family-centered outcomes;

(6) a description of an ongoing quality improvement or quality enhancement system, which utilizes information from ongoing measurements of the extent to which family-centered outcomes are achieved, to improve the system;

(7) a description of an appeals process that will be used in resolving any disputes families of children with disabilities may have regarding the determination of eligibility or the pro-

vision of family support services to the family or to the child with a disability;

(8) a description of the eligibility criteria to be used to carry out programs, projects, and activities under this subchapter that includes all eligible families;

(9) an analysis of the extent to which family support for a family of a child with a disability is defined as a benefit and not as income; and

(10) a description of the plan to conduct an annual evaluation of the statewide system of family support for families of children with disabilities, in conjunction with the Council, to improve such statewide system and to document progress as required by section 1491i of this title.

(c) Period and updates

The strategic plan shall cover the period of the grant and shall be reviewed and updated on an annual basis to reflect actual experience and family satisfaction information over the preceding year and input from the Council, families of children with disabilities, and other interested parties.

(d) Recommendations

Prior to developing the strategic plan, the State shall solicit input and recommendations from interested members of the public, either by holding public hearings or through an alternative method or methods determined by the lead entity in consultation with the Council. The lead entity shall also obtain the comments and recommendations of the Council. The lead entity, in conjunction with the Council, shall consider the recommendations and attempt to reach a consensus with respect to such recommendations. If the lead entity and the Council are unable to reach a consensus, the lead entity shall include a written explanation of the reason a consensus was not reached in the strategic plan.

(e) Comment

The State shall develop a procedure for ensuring ongoing comment from the Council.

(f) Dissemination

The State shall widely disseminate the strategic plan to families of children with disabilities, parent organizations, and other interested persons.

(g) Construction

Nothing in this section shall be construed to prevent a State from using an existing statewide strategic plan or parts thereof to meet the requirements of this section as long as such plan or the applicable parts thereof are comparable to the specifications of this section.

(Pub. L. 91–230, title VI, § 709, as added Pub. L. 103–382, title III, § 315, Oct. 20, 1994, 108 Stat. 3951.)

REPEAL OF SECTION

Pub. L. 105–17, title II, § 203(a), June 4, 1997, 111 Stat. 157, provided that, effective Oct. 1, 1998, this section is repealed.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1491d, 1491f, 1491k of this title.

§ 1491i. Progress criteria and reports

(a) Guidelines

The Secretary shall develop guidelines to be used in assessing the extent to which a State that received a grant under section 1491c of this title is making significant progress in developing and implementing, or expanding and enhancing, a statewide system of family support for families of children with disabilities consistent with the purposes of this subchapter.

(b) Progress reports

A State that receives a grant under section 1491c of this title shall submit annually to the Secretary a report that documents progress in developing and implementing, or expanding and enhancing, a statewide system of family support for families of children with disabilities consistent with this subchapter. Such report shall include—

(1) the results of the annual evaluation of the statewide system of family support for families of children with disabilities;

(2) a description of the unanticipated problems with the achievement of the goals, objectives, and family-centered outcomes described in the application or strategic plan and the measures the State has taken to rectify such problems;

(3) for the annual progress report concerning the first year of the grant period, the strategic plan developed by the State during the first year; and

(4) for the annual progress report concerning subsequent years of the grant period, the updated strategic plan.

(Pub. L. 91–230, title VI, § 710, as added Pub. L. 103–382, title III, § 315, Oct. 20, 1994, 108 Stat. 3952.)

REPEAL OF SECTION

Pub. L. 105–17, title II, § 203(a), June 4, 1997, 111 Stat. 157, provided that, effective Oct. 1, 1998, this section is repealed.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1491c, 1491d, 1491f, 1491h, 1491j of this title.

§ 1491j. Administrative provisions

(a) Evaluation of grant applications

(1) Panels

The Secretary shall convene panels of experts who are competent, by virtue of their training or experience, to evaluate grant applications under this subchapter.

(2) Composition of panels

Panels shall be composed of a majority of family members of children with disabilities and individuals with disabilities, and may include service providers, State administrative personnel, and professionals. Panels shall include a majority of individuals who are not Federal employees.

(3) Expenses and fees of the Panel

A member of the Panel who is not a Federal employee shall receive travel, per diem and consultant fees not to exceed the rate provided

to other consultants used by the Secretary. The Secretary may use funds available under section 1491*o* of this title to pay expenses and fees of a member of a Panel who is not a Federal employee.

(b) Provision of information

To assist the Secretary in carrying out the responsibilities of the Secretary under this section, the Secretary may require States to provide relevant information, including recommendations and relevant reports of the Council.

(c) Appeals

The Secretary shall establish appeals procedures for States that are found in noncompliance with the provisions of this subchapter as the result of failure to supply information required under section 1491d or 1491i of this title. The Secretary shall take into consideration the comments of the Council.

(d) Effect on other assistance

This subchapter may not be construed as authorizing a Federal or State agency to reduce medical or other assistance available, or to alter eligibility, under any Federal law.

(e) Unobligated funds

Any amount paid to a State for a fiscal year and remaining unobligated at the end of such year shall remain available to such State for the next fiscal year for the purposes for which such amount was paid.

(Pub. L. 91–230, title VI, § 711, as added Pub. L. 103–382, title III, § 315, Oct. 20, 1994, 108 Stat. 3952.)

REPEAL OF SECTION

Pub. L. 105–17, title II, § 203(a), June 4, 1997, 111 Stat. 157, provided that, effective Oct. 1, 1998, this section is repealed.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1491*o* of this title.

§ 1491k. Technical assistance

(a) In general

The Secretary shall make grants, or enter into contracts or cooperative agreements, with appropriate public or private agencies and organizations, including institutions of higher education, with documented experience, expertise, and capacity, for the purpose of providing technical assistance and information with respect to the development and implementation, or expansion and enhancement, of a statewide system of family support for families of children with disabilities.

(b) Purpose

With respect to States receiving assistance under this subchapter, the technical assistance and information described under subsection (a) of this section shall be provided to the State agency designated as the lead entity, the Council, family members of children with disabilities, organizations, service providers, and policymakers involved with children with disabilities and their families. Such technical assistance shall also be available to States that do not receive assistance under this subchapter. Such technical assistance and information shall—

(1) facilitate effective systems change activities;

(2) promote effective approaches to the development and implementation, or expansion and enhancement of, the statewide systems of family support for families of children with disabilities that increase access to, funding for, and awareness of family support for families of children with disabilities;

(3) promote partnerships with families at all levels of the service system;

(4) foster awareness and understanding of Federal, State, and local laws, regulations, policies, practices, procedures, and organizational structures, that facilitate, and overcome barriers to, funding for, and access to family support for families of children with disabilities;

(5) foster the development and replication of effective approaches to strategic plan development, interagency coordination, training, outreach to underserved groups, and public awareness activities;

(6) facilitate service delivery capacity, training, and the improvement of data collection and evaluation systems;

(7) promote effective approaches to the development of family-centered and family-directed services, including approaches to the development and measurement of family-centered outcomes described in section 1491h(b)(2) of this title, and the assessment of family satisfaction; and

(8) coordinate and facilitate an annual meeting of the chairpersons of the Councils.

(c) Request for technical assistance

A request for technical assistance by a lead entity in a State receiving assistance under this subchapter shall be made in conjunction with the Council.

(d) Reports to Secretary

An entity providing the technical assistance under this section shall submit periodic reports to the Secretary regarding Federal policies and procedures identified within the States that facilitate or impede the delivery of family support to families of children with disabilities. The report shall include recommendations to the Secretary regarding the delivery of services, coordination with other programs, and integration of the policies and principles described in section 1491a of this title in other Federal legislation.

(Pub. L. 91–230, title VI, § 712, as added Pub. L. 103–382, title III, § 315, Oct. 20, 1994, 108 Stat. 3953.)

REPEAL OF SECTION

Pub. L. 105–17, title II, § 203(a), June 4, 1997, 111 Stat. 157, provided that, effective Oct. 1, 1998, this section is repealed.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1491*l*, 1491*o* of this title.

§ 1491*l*. Evaluation

(a) In general

The Secretary shall make grants, or enter into contracts or cooperative agreements, with appropriate public or private agencies and organizations, including institutions of higher education, with documented experience, expertise, and capacity for the purpose of conducting a national evaluation of the program of grants to States authorized by this subchapter.

(b) Purpose

The purpose of an evaluation under subsection (a) of this section shall be to assess the status and effects of State efforts to develop and implement, or expand and enhance, statewide systems of family support for families of children with disabilities in a manner consistent with the provisions of this subchapter, particularly in terms of the impact of such efforts on families of children with disabilities, and to recommend amendments to this subchapter that are necessary to assist States to fully accomplish the purposes of this subchapter. The Secretary or recipient of assistance under this section shall work with the States to consider and develop an information system designed to report and compile, from information provided by the States, including the Council, a qualitative and quantitative description of the impact of the program of grants to States authorized by this subchapter on—

(1) families of children with disabilities, including families from ethnic and racial minority backgrounds;

(2) access to and funding for family support for families of children with disabilities; and

(3) the involvement of families at all levels of the service system.

(c) Report to Congress

Not later than 2½ years after October 20, 1994, the Secretary shall prepare and submit to the appropriate committees of Congress a report concerning the results of the evaluation conducted under this section.

(d) Conflict of interest

The Secretary shall assure that a recipient of a grant, contract, or cooperative agreement under this section is independent from, and free from, any financial or personal relationships with the recipient of a grant, contract, or cooperative agreement selected to provide technical assistance under section 1491k of this title.

(Pub. L. 91–230, title VI, § 713, as added Pub. L. 103–382, title III, § 315, Oct. 20, 1994, 108 Stat. 3954.)

REPEAL OF SECTION

Pub. L. 105–17, title II, § 203(a), June 4, 1997, 111 Stat. 157, provided that, effective Oct. 1, 1998, this section is repealed.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1491*o* of this title.

§ 1491m. Projects of national significance

(a) Study by Secretary

The Secretary shall review Federal programs to determine the extent to which such programs facilitate or impede access to, provision of, and funding for family support for families of children with disabilities, consistent with the policies described in section 1491a of this title.

(b) Demonstration and innovation projects

The Secretary shall make grants or enter into contracts for projects of national significance to support the development of national and State policies and practices related to the development and implementation, or expansion and enhancement, of family-centered and family-directed systems of family support for families of children with disabilities.

(Pub. L. 91–230, title VI, § 714, as added Pub. L. 103–382, title III, § 315, Oct. 20, 1994, 108 Stat. 3955.)

REPEAL OF SECTION

Pub. L. 105–17, title II, § 203(a), June 4, 1997, 111 Stat. 157, provided that, effective Oct. 1, 1998, this section is repealed.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1491*o* of this title.

§ 1491n. Construction

Notwithstanding any other provision of this chapter, nothing in subchapters I through VIII of this chapter shall be construed to apply to this subchapter.

(Pub. L. 91–230, title VI, § 715, as added Pub. L. 103–382, title III, § 315, Oct. 20, 1994, 108 Stat. 3955.)

REPEAL OF SECTION

Pub. L. 105–17, title II, § 203(a), June 4, 1997, 111 Stat. 157, provided that, effective Oct. 1, 1998, this section is repealed.

§ 1491*o*. Authorization of appropriations

(a) In general

There are authorized to be appropriated to carry out this subchapter, $10,000,000 for fiscal year 1995, and such sums as may be necessary for each of the fiscal years 1996 and 1997.

(b) Reservation

(1) In general

Except as provided in paragraph (2), the Secretary shall reserve for each fiscal year 10 percent, or $600,000 (whichever is greater), of the amount appropriated pursuant to the authority of subsection (a) of this section to carry out—

(A) section 1491k of this title, with respect to the provision of technical assistance and information to States;

(B) section 1491*l* of this title, with respect to the conduct of the evaluations;

(C) section 1491j(a) of this title, with respect to the evaluation of grant applications; and

(D) section 1491m of this title, with respect to the conduct of projects of national significance.

(2) Special rule

The Secretary shall only use funds reserved under paragraph (1) for a fiscal year to carry

out section 1491m of this title for such year if the amount of funds reserved under such paragraph for such fiscal year is $700,000 or greater.

(Pub. L. 91–230, title VI, § 716, as added Pub. L. 103–382, title III, § 315, Oct. 20, 1994, 108 Stat. 3955.)

REPEAL OF SECTION

Pub. L. 105–17, title II, § 203(a), June 4, 1997, 111 Stat. 157, provided that, effective Oct. 1, 1998, this section is repealed.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1491c, 1491j of this title.

CHAPTER 34—NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

Sec.

1501. Congressional statement of policy.
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(a) Independent agency within executive branch.
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1505. Membership.
(a) Appointment; terms of office; Chairman; vacancies.
(b) Compensation; travel expenses.
(c) Professional and technical personnel.
1506. Authorization of appropriations.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 3441 of this title.

§ 1501. Congressional statement of policy

The Congress hereby affirms that library and information services adequate to meet the needs of the people of the United States are essential to achieve national goals and to utilize most effectively the Nation's educational resources and that the Federal Government will cooperate with State and local governments and public and private agencies in assuring optimum provision of such services.

(Pub. L. 91–345, § 2, July 20, 1970, 84 Stat. 440.)

SHORT TITLE OF 1991 AMENDMENT

Pub. L. 102–95, § 1, Aug. 14, 1991, 105 Stat. 479, provided that: ''This Act [amending sections 1502 to 1506 of this title] may be cited as the 'National Commission on Libraries and Information Science Act Amendments of 1991'.''

SHORT TITLE

Section 1 of Pub. L. 91–345 provided: ''That this Act [enacting this chapter] may be cited as the 'National Commission on Libraries and Information Science Act'.''

WHITE HOUSE CONFERENCE ON LIBRARY AND INFORMATION SERVICES

Pub. L. 100–382, Aug. 8, 1988, 102 Stat. 898, authorized President to call and conduct a White House Conference on Library and Information Services to be held not earlier than Sept. 1, 1989, and not later than Sept. 30, 1991, to develop recommendations for the further improvement of the library and information services of the Nation and their use by the public, with a final report of the Conference to be submitted to the President not later than 120 days following the close of the Conference and to be made public and transmitted to the Congress together with a statement of the President containing the recommendations of the President with respect to such report.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1504 of this title.

§ 1502. Establishment

(a) Independent agency within executive branch

There is hereby established as an independent agency within the executive branch, a National Commission on Libraries and Information Science (hereinafter referred to as the ''Commission'').

(b) Repealed. Pub. L. 102–95, § 2, Aug. 14, 1991, 105 Stat. 479

(Pub. L. 91–345, § 3, July 20, 1970, 84 Stat. 440; Pub. L. 102–95, § 2, Aug. 14, 1991, 105 Stat. 479.)

AMENDMENTS

1991—Subsec. (b). Pub. L. 102–95 struck out subsec. (b) which related to provision of administrative services for Commission.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 9101 of this title.

§ 1503. Contributions

The Commission is authorized to accept, hold, administer, and utilize gifts, bequests, and devises of property, both real and personal, for the purpose of aiding or facilitating the work of the Commission. Gifts, bequests, and devises of money and proceeds from sales of other property received as gifts, bequests, or devises shall be deposited in the Treasury and shall be available for disbursement upon the order of the Commission.

(Pub. L. 91–345, § 4, July 20, 1970, 84 Stat. 441; Pub. L. 102–95, § 3, Aug. 14, 1991, 105 Stat. 479.)

AMENDMENTS

1991—Pub. L. 102–95 amended section generally. Prior to amendment, section read as follows: ''The Commission shall have authority to accept in the name of the United States grants, gifts, or bequests of money for immediate disbursement in furtherance of the functions of the Commission. Such grants, gifts, or bequests, after acceptance by the Commission, shall be paid by the donor or his representative to the Treasurer of the United States whose receipts shall be their acquittance. The Treasurer of the United States shall enter them in a special account to the credit of the Commission for the purposes in each case specified.''

§ 1504. Functions and powers

(a) Advice to President and Congress; studies and surveys, plans; annual report

The Commission shall have the primary responsibility for developing or recommending overall plans for, and advising the appropriate governments and agencies on, the policy set forth in section 1501 of this title. In carrying out that responsibility, the Commission shall—

(1) advise the President and the Congress on the implementation of national policy by such statements, presentations, and reports as it deems appropriate;

(2) conduct studies, surveys, and analyses of the library and informational needs of the Nation, including the special library and informational needs of rural areas, of economically, socially, or culturally deprived persons, and of elderly persons, and the means by which these needs may be met through information centers, through the libraries of elementary and secondary schools and institutions of higher education, and through public, research, special, and other types of libraries;

(3) appraise the adequacies and deficiencies of current library and information resources and services and evaluate the effectiveness of current library and information science programs;

(4) develop overall plans for meeting national library and informational needs and for the coordination of activities at the Federal, State, and local levels, taking into consideration all of the library and informational resources of the Nation to meet those needs;

(5) be authorized to advise Federal, State, local, and private agencies regarding library and information sciences;

(6) promote research and development activities which will extend and improve the Nation's library and information-handling capability as essential links in national and international communications and cooperative networks;

(7) submit to the President and the Congress (not later than January 31 of each year) a report on its activities during the preceding fiscal year; and

(8) make and publish such additional reports as it deems to be necessary, including, but not limited to, reports of consultants, transcripts of testimony, summary reports, and reports of other Commission findings, studies, and recommendations.

(b) Advice to Director of Institute of Museum and Library Services

The Commission shall have the responsibility to advise the Director of the Institute of Museum and Library Services on general policies with respect to the duties, powers, and authority of the Institute of Museum and Library Services relating to library services, including—

(1) general policies with respect to—

(A) financial assistance awarded under the Museum and Library Services Act [20 U.S.C. 9101 et seq.] for library services; and

(B) projects described in section 262(a)(4) of such Act [20 U.S.C. 9162(a)(4)]; and

(2) measures to ensure that the policies and activities of the Institute of Museum and Library Services are coordinated with other activities of the Federal Government.

(c) Joint meeting with National Museum Services Board

(1) The Commission shall meet not less than 1 time each year in a joint meeting with the National Museum Services Board, convened for purposes of providing advice on general policy with respect to financial assistance for projects described in section 262(a)(4) of such Act [20 U.S.C. 9162(a)(4)].

(2) All decisions by the Commission and the National Museum Services Board with respect to the advice on general policy described in paragraph (1) shall be made by a ⅔ majority vote of the total number of the members of the Commission and the National Museum Services Board who are present.

(3) A majority of the members of the Commission and a majority of the members of the National Museum Services Board shall constitute a quorum for the conduct of business at official joint meetings of the Commission and the National Museum Services Board.

(d) Contract authority

The Commission is authorized to contract with Federal agencies and other public and private agencies to carry out any of its functions under subsection (a) of this section and to publish and disseminate such reports, findings, studies, and records as it deems appropriate.

(e) Hearings

The Commission is further authorized to conduct such hearings at such times and places as it deems appropriate for carrying out the purposes of this chapter.

(f) Cooperation with other agencies

The heads of all Federal agencies are, to the extent not prohibited by law, directed to cooperate with the Commission in carrying out the purposes of this chapter.

(Pub. L. 91–345, § 5, July 20, 1970, 84 Stat. 441; Pub. L. 93–29, title VIII, § 802(a), May 3, 1973, 87 Stat. 59; Pub. L. 102–95, § 4, Aug. 14, 1991, 105 Stat. 479; Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 703(a)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–306.)

REFERENCES IN TEXT

The Museum and Library Services Act, referred to in subsec. (b)(1)(A), is title II of Pub. L. 94–462, as added by Pub. L. 104–208, title I, § 101(e) [title VII, § 702], Sept. 30, 1996, 110 Stat. 3009–233, 3009–294, which is classified generally to chapter 72 (§ 9101 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 9101 of this title and Tables.

AMENDMENTS

1996—Subsecs. (b) to (f). Pub. L. 104–208 added subsecs. (b) and (c) and redesignated former subsecs. (b) to (d) as (d) to (f), respectively.

1991—Subsec. (a)(6). Pub. L. 102–95 substituted ''national and international communications and cooperative networks'' for ''the national communications networks''.

1973—Subsec. (a)(2). Pub. L. 93–29 required the Commission to conduct studies, surveys, and analyses of the special library and informational needs of elderly persons.

§ 1505. Membership

(a) Appointment; terms of office; Chairman; vacancies

The Commission shall be composed of the Librarian of Congress, the Director of the Institute of Museum and Library Services (who shall serve as an ex officio, nonvoting member), and

fourteen members appointed by the President, by and with the advice and consent of the Senate. Five members of the Commission shall be professional librarians or information specialists, and the remainder shall be persons having special competence in or knowledge of the needs of our society for library and information services, at least one of whom shall be knowledgeable with respect to the technological aspects of library and information services and sciences, and at least one other of whom shall be knowledgeable with respect to the library and information service and science needs of the elderly and at least one other of whom shall be knowledgeable with respect to the library and information service and science needs of the elderly.[1] One of the appointive members of the Commission shall be designated by the President as Chairman of the Commission. A majority of members of the Commission shall constitute a quorum for conduct of business at official meetings of the Commission. The terms of office of the appointive members of the Commission shall be five years, except that (1) the term of office of any member of the Commission shall continue until the earlier of (A) the date on which the member's successor has been appointed by the President; or (B) July 19 of the year succeeding the year in which the member's appointed term of office shall expire, and (2) a member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term.

(b) Compensation; travel expenses

Members of the Commission who are not in the regular full-time employ of the United States shall, while attending meetings or conferences of the Commission or otherwise engaged in the business of the Commission, be entitled to receive compensation at a rate fixed by the Chairman, but not exceeding the daily equivalent of the maximum rate authorized for a position above grade GS–15 of the General Schedule under section 5108 of title 5, for each day (including traveltime) during which the members are engaged in the business of the Commission. While so serving on the business of the Commission away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5 for persons employed intermittently in the Government service.

(c) Professional and technical personnel

(1) The Commission is authorized to appoint, without regard to the provisions of title 5 covering appointments in the competitive service, such professional and technical personnel as may be necessary to enable it to carry out its function under this chapter.

(2) The Commission may procure, without regard to the civil service or classification laws, temporary and intermittent services of such personnel as is necessary to the extent authorized by section 3109 of title 5, but at rates not to exceed the rate specified at the time of such service for grade GS–18 in section 5332 of title 5, including traveltime, and while so serving on the business of the Commission away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5 for persons employed intermittently in the Government service.

(Pub. L. 91–345, §6, July 20, 1970, 84 Stat. 442; Pub. L. 93–29, title VIII, §802(b), May 3, 1973, 87 Stat. 59; Pub. L. 102–95, §5, Aug. 14, 1991, 105 Stat. 479; Pub. L. 104–208, div. A, title I, §101(e) [title VII, §703(b)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–307.)

REFERENCES IN TEXT

The provisions of title 5 covering appointments in the competitive service, referred to in subsec. (c)(1), are classified to sections 3301 et seq. of Title 5, Government Organization and Employees.

The civil service laws, referred to in subsec. (c)(2), are set forth in Title 5. See, particularly, section 3301 et seq. of Title 5.

The classification laws, referred to in subsec. (c)(2), are set forth in chapter 51 (§5101 et seq.) and subchapter III (§5331 et seq.) of chapter 53 of Title 5.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–208, §101(e) [title VII, §703(b)(1)(A), (B)(ii), (C)], in first sentence, substituted ''Librarian of Congress, the Director of the Institute of Museum and Library Services (who shall serve as an ex officio, nonvoting member),'' for ''Librarian of Congress'', in second sentence, inserted ''and at least one other of whom shall be knowledgeable with respect to the library and information service and science needs of the elderly'' before period at end, and in third sentence, inserted ''appointive'' before ''members of the Commission''.

Pub. L. 104–208, §101(e) [title VII, §703(b)(1)(B)(i)], substituted ''special competence in or knowledge of'' for ''special competence or interest in''. The substitution was made to reflect the probable intent of Congress, in the absence of closing quotations designating the provisions to be inserted.

Pub. L. 104–208, §101(e) [title VII, §703(b)(1)(D)], which directed that ''term.'' be substituted for ''term and at least'' and all that follows in last sentence of subsec. (a), could not be executed because the phrase ''term and at least'' did not appear in subsec. (a).

Subsec. (b). Pub. L. 104–208, §101(e) [title VII, §703(b)(2)], substituted ''the daily equivalent of the maximum rate authorized for a position above grade GS–15 of the General Schedule under section 5108 of title 5, for each day (including traveltime) during which the members are engaged in the business of the Commission. While'' for ''the rate specified at the time of such service for grade GS–18 in section 5332 of title 5, including traveltime, and while''.

1991—Subsec. (a). Pub. L. 102–95 inserted after third sentence ''A majority of members of the Commission shall constitute a quorum for conduct of business at official meetings of the Commission.'' and substituted ''(1) the term of office of any member of the Commission shall continue until the earlier of (A) the date on which the member's successor has been appointed by the President; or (B) July 19 of the year succeeding the year in which the member's appointed term of office shall expire,'' for ''(1) the terms of office of the members first appointed shall commence on July 20, 1970, and shall expire two at the end of one year, three at the end of two years, three at the end of three years, three at the end of four years, and three at the end of five years, as designated by the President at the time of appointment'' in fourth sentence.

1973—Subsec. (a). Pub. L. 93–29 required that one of the appointees be knowledgeable with respect to the library and information service and science needs of the elderly.

[1] So in original.

§ 1506. Authorization of appropriations

There are authorized to be appropriated $911,000 for fiscal year 1992 and such sums as may be necessary for each succeeding fiscal year thereafter to carry out the provisions of this chapter.

(Pub. L. 91–345, § 7, July 20, 1970, 84 Stat. 442; Pub. L. 102–95, § 6, Aug. 14, 1991, 105 Stat. 479.)

AMENDMENTS

1991—Pub. L. 102–95 amended section generally. Prior to amendment, section read as follows: ''There are hereby authorized to be appropriated $500,000 for the fiscal year ending June 30, 1970, and $750,000 for the fiscal year ending June 30, 1971, and for each succeeding year, for the purpose of carrying out the provisions of this chapter.''

CHAPTER 35—ENVIRONMENTAL EDUCATION

CODIFICATION

The Environmental Education Act, which comprised this chapter, contained appropriation authorizations for fiscal years 1971 to 1977. The Act was superseded by part H of title III of Pub. L. 89–10, as added by Pub. L. 95–561, title III, § 301(a), Nov. 1, 1978, 92 Stat. 2217, known as the Environmental Education Act of 1978, which was classified to section 3011 et seq. of this title, prior to repeal by Pub. L. 97–35, § 587(a)(1).

§§ 1531 to 1536. Omitted

CODIFICATION

Section 1531, Pub. L. 91–516, § 2, Oct. 30, 1970, 84 Stat. 1312; Pub. L. 93–278, § 4, May 10, 1974, 88 Stat. 121, set forth Congressional declaration of findings and purpose of Environmental Education Act.

Section 1532, Pub. L. 91–516, § 3, Oct. 30, 1970, 84 Stat. 1312; Pub. L. 93–278, §§ 2, 5, 6, May 10, 1974, 88 Stat. 121; Pub. L. 94–273, § 3(15), Apr. 21, 1976, 90 Stat. 376, established an office of environmental education, authorized grants and contracts, and established an Advisory Council on Environmental Education.

Section 1533, Pub. L. 91–516, § 4, Oct. 30, 1970, 84 Stat. 1315, related to technical assistance to eligible agencies and organizations.

Section 1534, Pub. L. 91–516, § 5, Oct. 30, 1970, 84 Stat. 1315, authorized grants to nonprofit organizations.

Section 1535, Pub. L. 91–516, § 6, Oct. 30, 1970, 84 Stat. 1315, related to administration of the Act.

Section 1536, Pub. L. 91–516, § 7, Oct. 30, 1970, 84 Stat. 1315; Pub. L. 93–278, § 3, May 10, 1974, 88 Stat. 121, authorized appropriations to carry out the purposes of the Act.

CHAPTER 36—EMERGENCY SCHOOL AID

§§ 1601 to 1619. Repealed. Pub. L. 95–561, title VI, § 601(b)(2), Nov. 1, 1978, 92 Stat. 2268

Section 1601, Pub. L. 92–318, title VII, § 702, June 23, 1972, 86 Stat. 354, related to Congressional findings and purpose with respect to this chapter.

Section 1602, Pub. L. 92–318, title VII, § 703, June 23, 1972, 86 Stat. 354, related to policy of the United States with respect to application of certain provisions of Federal laws.

Section 1603, Pub. L. 92–318, title VII, § 704, June 23, 1972, 86 Stat. 355; Pub. L. 93–380, title VI, §§ 641(a), 642(a), Aug. 21, 1974, 88 Stat. 587; Pub. L. 94–482, title III, § 321(a)–(c)(1), Oct. 12, 1976, 90 Stat. 2216; Pub. L. 95–561, title VI, § 601(b)(1), Nov. 1, 1978, 92 Stat. 2268, authorized appropriations for purpose of carrying out this chapter.

Section 1604, Pub. L. 92–318, title VII, § 705, June 23, 1972, 86 Stat. 355, related to apportionment to States of sums appropriated pursuant to section 1603(a) of this title for grants and contracts.

Section 1605, Pub. L. 92–318, title VII, § 706, June 23, 1972, 86 Stat. 356; Pub. L. 93–380, title VI, § 643(a), (b), Aug. 21, 1974, 88 Stat. 587; S. Res. 4, Feb. 4, 1977, related to eligibility for assistance.

Section 1606, Pub. L. 92–318, title VII, § 707, June 23, 1972, 86 Stat. 359; Pub. L. 94–482, title III, § 321(c)(2), Oct. 12, 1976, 90 Stat. 2217, related to authorized activities with respect to financial assistance.

Section 1607, Pub. L. 92–318, title VII, § 708, June 23, 1972, 86 Stat. 360; Pub. L. 93–380, title VI, §§ 644, 645, Aug. 21, 1974, 88 Stat. 588; Pub. L. 94–482, title V, § 501(a)(12), Oct. 12, 1976, 90 Stat. 2235, related to special programs and projects with respect to financial assistance.

Section 1608, Pub. L. 92–318, title VII, § 709, June 23, 1972, 86 Stat. 361; Pub. L. 93–380, title II, § 222, title VI, § 642(b), Aug. 21, 1974, 88 Stat. 519, 587; Pub. L. 94–482, title V, § 501(i), Oct. 12, 1976, 90 Stat. 2237, related to availability of sums for metropolitan area projects.

Section 1609, Pub. L. 92–318, title VII, § 710, June 23, 1972, 86 Stat. 362; Pub. L. 93–380, title VI, § 643(c), Aug. 21, 1974, 88 Stat. 587; Pub. L. 94–482, title III, § 323(a)(5), Oct. 12, 1976, 90 Stat. 2218, related to applications for assistance.

Section 1610, Pub. L. 92–318, title VII, § 711, June 23, 1972, 86 Stat. 366, related to availability of funds for educational television.

Section 1611, Pub. L. 92–318, title VII, § 712, June 23, 1972, 86 Stat. 366, related to payment of assistance to applicant.

Section 1612, Pub. L. 92–318, title VII, § 713, June 23, 1972, 86 Stat. 367, related to evaluation of programs and projects assisted under this chapter.

Section 1613, Pub. L. 92–318, title VII, § 714, June 23, 1972, 86 Stat. 368; S. Res. 4, Feb. 4, 1977, related to reports to President and Congressional committees.

Section 1614, Pub. L. 92–318, title VII, § 715, June 23, 1972, 86 Stat. 368, related to administration of joint funding with respect to programs and projects under this chapter.

Section 1615, Pub. L. 92–318, title VII, § 716, June 23, 1972, 86 Stat. 368; Pub. L. 93–380, title VIII, § 845(e), Aug. 21, 1974, 88 Stat. 612; Pub. L. 94–43, § 3, June 28, 1975, 89 Stat. 233; Pub. L. 94–482, title III, § 321(d), Oct. 12, 1976, 90 Stat. 2217, related to establishment of National Advisory Council on Equality of Educational Opportunity.

Section 1616, Pub. L. 92–318, title VII, § 717(a), June 23, 1972, 86 Stat. 369, related to applicability of General Education Provisions Act to this chapter.

Section 1617, Pub. L. 92–318, title VII, § 718, June 23, 1972, 86 Stat. 369, related to allowance of reasonable attorney's fees respecting a final order by a court against an educational agency, a State, etc., for failure to comply with provisions of this chapter, discrimination on basis of race, etc.

Section 1618, Pub. L. 92–318, title VII, § 719, June 23, 1972, 86 Stat. 369, related to effect of this chapter on method of student assignment.

Section 1619, Pub. L. 92–318, title VII, § 720, June 23, 1972, 86 Stat. 369; Pub. L. 93–380, title VI, § 643(d), Aug. 21, 1974, 88 Stat. 587; Pub. L. 94–482, title III, § 321(c)(3), Oct. 12, 1976, 90 Stat. 2217, defined terms used in this chapter.

EFFECTIVE DATE OF REPEAL

Section 601(b)(2) of Pub. L. 95–561 provided that the repeal is effective Sept. 30, 1979.

CHAPTER 37—ASSIGNMENT OR TRANSPORTATION OF STUDENTS

Sec.

1651. Prohibition against assignment or transportation of students to overcome racial imbalance.
1652. Prohibition against busing.
(a) Use of appropriated funds for busing.
(b) Rules, regulations, orders, etc., for busing.
(c) ''Applicable program'' defined.
1653. Omitted.

Sec.
1654. Intervention authorization in implementation of court orders.
1655. Uniform rules of evidence of racial discrimination.
1656. Prohibition against official or court orders to achieve racial balance or insure compliance with constitutional standards applicable to entire United States.

§ 1651. Prohibition against assignment or transportation of students to overcome racial imbalance

No provision of this Act shall be construed to require the assignment or transportation of students or teachers in order to overcome racial imbalance.

(Pub. L. 92–318, title VIII, § 801, June 23, 1972, 86 Stat. 371.)

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 92–318, June 23, 1972, 86 Stat. 235, as amended, known as the Education Amendments of 1972. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

§ 1652. Prohibition against busing

(a) Use of appropriated funds for busing

No funds appropriated for the purpose of carrying out any applicable program may be used for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to overcome racial imbalance in any school or school system, or for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to carry out a plan of racial desegregation of any school or school system, except on the express written voluntary request of appropriate local school officials. No such funds shall be made available for transportation when the time or distance of travel is so great as to risk the health of the children or significantly impinge on the educational process of such children, or where the educational opportunities available at the school to which it is proposed that any such student be transported will be substantially inferior to those opportunities offered at the school to which such student would otherwise be assigned under a nondiscriminatory system of school assignments based on geographic zones established without discrimination on account of race, religion, color, or national origin.

(b) Rules, regulations, orders, etc., for busing

No officer, agent, or employee of the Department of Education, the Department of Justice, or any other Federal agency shall, by rule, regulation, order, guideline, or otherwise (1) urge, persuade, induce, or require any local education agency, or any private nonprofit agency, institution, or organization to use any funds derived from any State or local sources for any purpose, unless constitutionally required, for which Federal funds appropriated to carry out any applicable program may not be used, as provided in this section, or (2) condition the receipt of Federal funds under any Federal program upon any action by any State or local public officer or employee which would be prohibited by clause (1) on the part of a Federal officer or employee. No officer, agent, or employee of the Department of Education or any other Federal agency shall urge, persuade, induce, or require any local education agency to undertake transportation of any student where the time or distance of travel is so great as to risk the health of the child or significantly impinge on his or her educational process; or where the educational opportunities available at the school to which it is proposed that such student be transported will be substantially inferior to those offered at the school to which such student would otherwise be assigned under a nondiscriminatory system of school assignments based on geographic zones established without discrimination on account of race, religion, color, or national origin.

(c) "Applicable program" defined

An applicable program means a program to which the General Education Provisions Act [20 U.S.C. 1221 et seq.] applies.

(Pub. L. 92–318, title VIII, § 802, June 23, 1972, 86 Stat. 371; Pub. L. 96–88, title III, § 301, title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692.)

REFERENCES IN TEXT

The General Education Provisions Act, referred to in subsec. (c), is title IV of Pub. L. 90–247, Jan. 2, 1968, 81 Stat. 814, as amended, which is classified generally to chapter 31 (§ 1221 et seq.) of this title. For complete classification of this Act to the Code, see section 1221 of this title and Tables.

TRANSFER OF FUNCTIONS

"Department of Education" substituted for "Department of Health, Education, and Welfare (including the Office of Education)" in subsec. (b) pursuant to sections 301 and 507 of Pub. L. 96–88, which are classified to sections 3441 and 3507 of this title and which transferred functions and offices (relating to education) of Department of Health, Education, and Welfare, including Office of Education, to Department of Education.

§ 1653. Omitted

CODIFICATION

Section, Pub. L. 92–318, title VIII, § 803, June 23, 1972, 86 Stat. 372, provided that the effectiveness of orders of district courts requiring transfer or transportation of students for purposes of achieving a balance among students with respect to race, sex, religion, or socioeconomic status, be postponed until all appeals in connection with such orders have been exhausted or until expiration of the time for such appeals, expired at midnight on Jan. 1, 1974.

§ 1654. Intervention authorization in implementation of court orders

A parent or guardian of a child, or parents or guardians of children similarly situated, transported to a public school in accordance with a court order, may seek to reopen or intervene in the further implementation of such court order, currently in effect, if the time or distance of travel is so great as to risk the health of the student or significantly impinge on his or her educational process.

(Pub. L. 92–318, title VIII, § 804, June 23, 1972, 86 Stat. 372.)

§ 1655. Uniform rules of evidence of racial discrimination

The rules of evidence required to prove that State or local authorities are practicing racial

discrimination in assigning students to public schools shall be uniform throughout the United States.

(Pub. L. 92–318, title VIII, § 805, June 23, 1972, 86 Stat. 372.)

§ 1656. Prohibition against official or court orders to achieve racial balance or insure compliance with constitutional standards applicable to entire United States

The proviso of section 407(a) of the Civil Rights Act of 1964 [42 U.S.C. 2000c–6(a)] providing in substance that no court or official of the United States shall be empowered to issue any order seeking to achieve a racial balance in any school by requiring the transportation of pupils or students from one school to another or one school district to another in order to achieve such racial balance, or otherwise enlarge the existing power of the court to insure compliance with constitutional standards shall apply to all public school pupils and to every public school system, public school and public school board, as defined by title IV [42 U.S.C. 2000c et seq.], under all circumstances and conditions and at all times in every State, district, territory, Commonwealth, or possession of the United States regardless of whether the residence of such public school pupils or the principal offices of such public school system, public school or public school board is situated in the northern, eastern, western, or southern part of the United States.

(Pub. L. 92–318, title VIII, § 806, June 23, 1972, 86 Stat. 373.)

REFERENCES IN TEXT

The Civil Rights Act of 1964, referred to in text, is Pub. L. 88–352, July 2, 1964, 78 Stat. 241, as amended. Title IV of the Civil Rights Act of 1964 is classified generally to subchapter IV (§ 2000c et seq.) of chapter 21 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of Title 42 and Tables.

CHAPTER 38—DISCRIMINATION BASED ON SEX OR BLINDNESS

Sec.

1681. Sex.
(a) Prohibition against discrimination; exceptions.
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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 1132c–3, 1221, 1231e, 7231, 7232, 7233, 7235, 8066 of this title; title 29 sections 206, 1577; title 42 sections 290cc–33, 300w–7, 300x–57, 708, 1760, 1988, 2000d–7, 5057, 10406, 12635.

§ 1681. Sex

(a) Prohibition against discrimination; exceptions

No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance, except that:

(1) Classes of educational institutions subject to prohibition

in regard to admissions to educational institutions, this section shall apply only to institutions of vocational education, professional education, and graduate higher education, and to public institutions of undergraduate higher education;

(2) Educational institutions commencing planned change in admissions

in regard to admissions to educational institutions, this section shall not apply (A) for one year from June 23, 1972, nor for six years after June 23, 1972, in the case of an educational institution which has begun the process of changing from being an institution which admits only students of one sex to being an institution which admits students of both sexes, but only if it is carrying out a plan for such a change which is approved by the Secretary of Education or (B) for seven years from the date an educational institution begins the process of changing from being an institution which admits only students of only one sex to being an institution which admits students of both sexes, but only if it is carrying out a plan for such a change which is approved by the Secretary of Education, whichever is the later;

(3) Educational institutions of religious organizations with contrary religious tenets

this section shall not apply to an educational institution which is controlled by a religious organization if the application of this subsection would not be consistent with the religious tenets of such organization;

(4) Educational institutions training individuals for military services or merchant marine

this section shall not apply to an educational institution whose primary purpose is the training of individuals for the military services of the United States, or the merchant marine;

(5) Public educational institutions with traditional and continuing admissions policy

in regard to admissions this section shall not apply to any public institution of undergraduate higher education which is an institution that traditionally and continually from its establishment has had a policy of admitting only students of one sex;

(6) Social fraternities or sororities; voluntary youth service organizations

this section shall not apply to membership practices—

(A) of a social fraternity or social sorority which is exempt from taxation under section

501(a) of title 26, the active membership of which consists primarily of students in attendance at an institution of higher education, or

(B) of the Young Men's Christian Association, Young Women's Christian Association, Girl Scouts, Boy Scouts, Camp Fire Girls, and voluntary youth service organizations which are so exempt, the membership of which has traditionally been limited to persons of one sex and principally to persons of less than nineteen years of age;

(7) Boy or Girl conferences

this section shall not apply to—

(A) any program or activity of the American Legion undertaken in connection with the organization or operation of any Boys State conference, Boys Nation conference, Girls State conference, or Girls Nation conference; or

(B) any program or activity of any secondary school or educational institution specifically for—

(i) the promotion of any Boys State conference, Boys Nation conference, Girls State conference, or Girls Nation conference; or

(ii) the selection of students to attend any such conference;

(8) Father-son or mother-daughter activities at educational institutions

this section shall not preclude father-son or mother-daughter activities at an educational institution, but if such activities are provided for students of one sex, opportunities for reasonably comparable activities shall be provided for students of the other sex; and

(9) Institution of higher education scholarship awards in "beauty" pageants

this section shall not apply with respect to any scholarship or other financial assistance awarded by an institution of higher education to any individual because such individual has received such award in any pageant in which the attainment of such award is based upon a combination of factors related to the personal appearance, poise, and talent of such individual and in which participation is limited to individuals of one sex only, so long as such pageant is in compliance with other nondiscrimination provisions of Federal law.

(b) Preferential or disparate treatment because of imbalance in participation or receipt of Federal benefits; statistical evidence of imbalance

Nothing contained in subsection (a) of this section shall be interpreted to require any educational institution to grant preferential or disparate treatment to the members of one sex on account of an imbalance which may exist with respect to the total number or percentage of persons of that sex participating in or receiving the benefits of any federally supported program or activity, in comparison with the total number or percentage of persons of that sex in any community, State, section, or other area: *Provided*, That this subsection shall not be construed to prevent the consideration in any hearing or proceeding under this chapter of statistical evidence tending to show that such an imbalance exists with respect to the participation in, or receipt of the benefits of, any such program or activity by the members of one sex.

(c) "Educational institution" defined

For purposes of this chapter an educational institution means any public or private preschool, elementary, or secondary school, or any institution of vocational, professional, or higher education, except that in the case of an educational institution composed of more than one school, college, or department which are administratively separate units, such term means each such school, college, or department.

(Pub. L. 92–318, title IX, §901, June 23, 1972, 86 Stat. 373; Pub. L. 93–568, §3(a), Dec. 31, 1974, 88 Stat. 1862; Pub. L. 94–482, title IV, §412(a), Oct. 12, 1976, 90 Stat. 2234; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692; Pub. L. 99–514, §2, Oct. 22, 1986, 100 Stat. 2095.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (b) and (c), was in the original ''this title'', meaning title IX of Pub. L. 92–318 which enacted this chapter and amended sections 203 and 213 of Title 29, Labor, and sections 2000c, 2000c–6, 2000c–9, and 2000h–2 of Title 42, The Public Health and Welfare. For complete classification of title IX to the Code, see Tables.

AMENDMENTS

1986—Subsec. (a)(6)(A). Pub. L. 99–514 substituted ''Internal Revenue Code of 1986'' for ''Internal Revenue Code of 1954'', which for purposes of codification was translated as ''title 26'' thus requiring no change in text.

1976—Subsec. (a)(6) to (9). Pub. L. 94–482 substituted ''this'' for ''This'' in par. (6) and added pars. (7) to (9).

1974—Subsec. (a)(6). Pub. L. 93–568 added par. (6).

EFFECTIVE DATE OF 1976 AMENDMENT

Section 412(b) of Pub. L. 94–482 provided that: ''The amendment made by subsection (a) [amending this section] shall take effect upon the date of enactment of this Act [Oct. 12, 1976].''

EFFECTIVE DATE OF 1974 AMENDMENT

Section 3(b) of Pub. L. 93–568 provided that: ''The provisions of the amendment made by subsection (a) [amending this section] shall be effective on, and retroactive to, July 1, 1972.''

SHORT TITLE OF 1988 AMENDMENT

Pub. L. 100–259, §1, Mar. 22, 1988, 102 Stat. 28, provided that: ''This Act [enacting sections 1687 and 1688 of this title and section 2000d–4a of Title 42, The Public Health and Welfare, amending sections 706 and 794 of Title 29, Labor, and section 6107 of Title 42, and enacting provisions set out as notes under sections 1687 and 1688 of this title] may be cited as the 'Civil Rights Restoration Act of 1987'.''

TRANSFER OF FUNCTIONS

''Secretary'' substituted for ''Commissioner'' in subsec. (a)(2) pursuant to sections 301(a)(1) and 507 of Pub. L. 96–88, which are classified to sections 3441(a)(1) and 3507 of this title and which transferred functions of Commissioner of Education to Secretary of Education.

COORDINATION OF IMPLEMENTATION AND ENFORCEMENT OF PROVISIONS

For provisions relating to the coordination of implementation and enforcement of the provisions of this

chapter by the Attorney General, see section 1–201(b) of Ex. Ord. No. 12250, Nov. 2, 1980, 45 F.R. 72995, set out under section 2000d–1 of Title 42, The Public Health and Welfare.

REGULATIONS; NATURE OF PARTICULAR SPORTS: INTERCOLLEGIATE ATHLETIC ACTIVITIES

Pub. L. 93–380, title VIII, § 844, Aug. 21, 1974, 88 Stat. 612, directed Secretary to prepare and publish, not more than 30 days after Aug. 21, 1974, proposed regulations implementing the provisions of this chapter regarding prohibition of sex discrimination in federally assisted programs, including reasonable regulations for intercollegiate athletic activities considering the nature of the particular sports.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1682, 1687 of this title.

§ 1682. Federal administrative enforcement; report to Congressional committees

Each Federal department and agency which is empowered to extend Federal financial assistance to any education program or activity, by way of grant, loan, or contract other than a contract of insurance or guaranty, is authorized and directed to effectuate the provisions of section 1681 of this title with respect to such program or activity by issuing rules, regulations, or orders of general applicability which shall be consistent with achievement of the objectives of the statute authorizing the financial assistance in connection with which the action is taken. No such rule, regulation, or order shall become effective unless and until approved by the President. Compliance with any requirement adopted pursuant to this section may be effected (1) by the termination of or refusal to grant or to continue assistance under such program or activity to any recipient as to whom there has been an express finding on the record, after opportunity for hearing, of a failure to comply with such requirement, but such termination or refusal shall be limited to the particular political entity, or part thereof, or other recipient as to whom such a finding has been made, and shall be limited in its effect to the particular program, or part thereof, in which such noncompliance has been so found, or (2) by any other means authorized by law: *Provided, however*, That no such action shall be taken until the department or agency concerned has advised the appropriate person or persons of the failure to comply with the requirement and has determined that compliance cannot be secured by voluntary means. In the case of any action terminating, or refusing to grant or continue, assistance because of failure to comply with a requirement imposed pursuant to this section, the head of the Federal department or agency shall file with the committees of the House and Senate having legislative jurisdiction over the program or activity involved a full written report of the circumstances and the grounds for such action. No such action shall become effective until thirty days have elapsed after the filing of such report.

(Pub. L. 92–318, title IX, § 902, June 23, 1972, 86 Stat. 374.)

DELEGATION OF FUNCTIONS

Functions of President relating to approval of rules, regulations, and orders of general applicability under this section, delegated to Attorney General, see section 1–102 of Ex. Ord. No. 12250, Nov. 2, 1980, 45 F.R. 72995, set out under section 2000d–1 of Title 42, The Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1683 of this title.

§ 1683. Judicial review

Any department or agency action taken pursuant to section 1682 of this title shall be subject to such judicial review as may otherwise be provided by law for similar action taken by such department or agency on other grounds. In the case of action, not otherwise subject to judicial review, terminating or refusing to grant or to continue financial assistance upon a finding of failure to comply with any requirement imposed pursuant to section 1682 of this title, any person aggrieved (including any State or political subdivision thereof and any agency of either) may obtain judicial review of such action in accordance with chapter 7 of title 5, and such action shall not be deemed committed to unreviewable agency discretion within the meaning of section 701 of that title.

(Pub. L. 92–318, title IX, § 903, June 23, 1972, 86 Stat. 374.)

CODIFICATION

''Section 1682 of this title'', where first appearing, substituted in text for ''section 1002'' as conforming to intent of Congress as Pub. L. 92–318 was enacted without any section 1002 and subsequent text refers to ''section 902'', which is classified to section 1682 of this title.

§ 1684. Blindness or visual impairment; prohibition against discrimination

No person in the United States shall, on the ground of blindness or severely impaired vision, be denied admission in any course of study by a recipient of Federal financial assistance for any education program or activity, but nothing herein shall be construed to require any such institution to provide any special services to such person because of his blindness or visual impairment.

(Pub. L. 92–318, title IX, § 904, June 23, 1972, 86 Stat. 375.)

§ 1685. Authority under other laws unaffected

Nothing in this chapter shall add to or detract from any existing authority with respect to any program or activity under which Federal financial assistance is extended by way of a contract of insurance or guaranty.

(Pub. L. 92–318, title IX, § 905, June 23, 1972, 86 Stat. 375.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this title'', meaning title IX of Pub. L. 92–318 which enacted this chapter and amended sections 203 and 213 of Title 29, Labor, and sections 2000c, 2000c–6, 2000c–9, and 2000h–2 of Title 42, The Public Health and Welfare. For complete classification of title IX to the Code, see Tables.

§ 1686. Interpretation with respect to living facilities

Notwithstanding anything to the contrary contained in this chapter, nothing contained

herein shall be construed to prohibit any educational institution receiving funds under this Act, from maintaining separate living facilities for the different sexes.

(Pub. L. 92–318, title IX, § 907, June 23, 1972, 86 Stat. 375.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this title'', meaning title IX of Pub. L. 92–318 which enacted this chapter and amended sections 203 and 213 of Title 29, Labor, and sections 2000c, 2000c–6, 2000c–9, and 2000h–2 of Title 42, The Public Health and Welfare. For complete classification of title IX to the Code, see Tables.

This Act, referred to in text, is Pub. L. 92–318, June 23, 1972, 86 Stat. 235, as amended, known as the Education Amendments of 1972. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

§ 1687. Interpretation of "program or activity"

For the purposes of this chapter, the term ''program or activity'' and ''program'' mean all of the operations of—

(1)(A) a department, agency, special purpose district, or other instrumentality of a State or of a local government; or

(B) the entity of such State or local government that distributes such assistance and each such department or agency (and each other State or local government entity) to which the assistance is extended, in the case of assistance to a State or local government;

(2)(A) a college, university, or other postsecondary institution, or a public system of higher education; or

(B) a local educational agency (as defined in section 8801 of this title), system of vocational education, or other school system;

(3)(A) an entire corporation, partnership, or other private organization, or an entire sole proprietorship—

(i) if assistance is extended to such corporation, partnership, private organization, or sole proprietorship as a whole; or

(ii) which is principally engaged in the business of providing education, health care, housing, social services, or parks and recreation; or

(B) the entire plant or other comparable, geographically separate facility to which Federal financial assistance is extended, in the case of any other corporation, partnership, private organization, or sole proprietorship; or

(4) any other entity which is established by two or more of the entities described in paragraph (1), (2), or (3);

any part of which is extended Federal financial assistance, except that such term does not include any operation of an entity which is controlled by a religious organization if the application of section 1681 of this title to such operation would not be consistent with the religious tenets of such organization.

(Pub. L. 92–318, title IX, § 908, as added Pub. L. 100–259, § 3(a), Mar. 22, 1988, 102 Stat. 28; amended Pub. L. 103–382, title III, § 391(g), Oct. 20, 1994, 108 Stat. 4023.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this title'', meaning title IX of Pub. L. 92–318 which enacted this chapter and amended sections 203 and 213 of Title 29, Labor, and sections 2000c, 2000c–6, 2000c–9, and 2000h–2 of Title 42, The Public Health and Welfare. For complete classification of title IX to the Code, see Tables.

AMENDMENTS

1994—Par. (2)(B). Pub. L. 103–382 substituted ''section 8801'' for ''section 2854(a)(10)''.

FINDINGS OF CONGRESS

Section 2 of Pub. L. 100–259 provided that: ''The Congress finds that—

''(1) certain aspects of recent decisions and opinions of the Supreme Court have unduly narrowed or cast doubt upon the broad application of title IX of the Education Amendments of 1972 [20 U.S.C. 1681 et seq.], section 504 of the Rehabilitation Act of 1973 [29 U.S.C. 794], the Age Discrimination Act of 1975 [42 U.S.C. 6101 et seq.], and title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.]; and

''(2) legislative action is necessary to restore the prior consistent and long-standing executive branch interpretation and broad, institution-wide application of those laws as previously administered.''

CONSTRUCTION

Section 7 of Pub. L. 100–259 provided that: ''Nothing in the amendments made by this Act [see Short Title of 1988 Amendment note under section 1681 of this title] shall be construed to extend the application of the Acts so amended [Education Amendments of 1972, Pub. L. 92–318, see Short Title of 1972 Amendment, set out as a note under section 1001 of this title, Rehabilitation Act of 1973, 29 U.S.C. 701 et seq., Age Discrimination Act of 1975, 42 U.S.C. 6101 et seq., and Civil Rights Act of 1964, 42 U.S.C. 2000a et seq.] to ultimate beneficiaries of Federal financial assistance excluded from coverage before the enactment of this Act [Mar. 22, 1988].''

ABORTION NEUTRALITY

This section not to be construed to force or require any individual or hospital or any other institution, program, or activity receiving Federal funds to perform or pay for an abortion, see section 8 of Pub. L. 100–259, set out as a note under section 1688 of this title.

§ 1688. Neutrality with respect to abortion

Nothing in this chapter shall be construed to require or prohibit any person, or public or private entity, to provide or pay for any benefit or service, including the use of facilities, related to an abortion. Nothing in this section shall be construed to permit a penalty to be imposed on any person or individual because such person or individual is seeking or has received any benefit or service related to a legal abortion.

(Pub. L. 92–318, title IX, § 909, as added Pub. L. 100–259, § 3(b), Mar. 22, 1988, 102 Stat. 29.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this title'', meaning title IX of Pub. L. 92–318 which enacted this chapter and amended sections 203 and 213 of Title 29, Labor, and sections 2000c, 2000c–6, 2000c–9, and 2000h–2 of Title 42, The Public Health and Welfare. For complete classification of title IX to the Code, see Tables.

CONSTRUCTION

This section not to be construed to extend application of Education Amendments of 1972, Pub. L. 92–318, to ultimate beneficiaries of Federal financial assistance excluded from coverage before Mar. 22, 1988, see section 7 of Pub. L. 100–259, set out as a note under section 1687 of this title.

ABORTION NEUTRALITY

Section 8 of Pub. L. 100–259 provided that: ''No provision of this Act or any amendment made by this Act [see Short Title of 1988 Amendment note under section 1681 of this title] shall be construed to force or require any individual or hospital or any other institution, program, or activity receiving Federal Funds [sic] to perform or pay for an abortion.''

CHAPTER 39—EQUAL EDUCATIONAL OPPORTUNITIES AND TRANSPORTATION OF STUDENTS

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SUBCHAPTER I—EQUAL EDUCATIONAL OPPORTUNITIES

PART 1—POLICY AND PURPOSE

§ 1701. Congressional declaration of policy

(a) Entitlement to equal educational opportunity; neighborhood as appropriate basis

The Congress declares it to be the policy of the United States that—

(1) all children enrolled in public schools are entitled to equal educational opportunity without regard to race, color, sex, or national origin; and

(2) the neighborhood is the appropriate basis for determining public school assignments.

(b) Purpose

In order to carry out this policy, it is the purpose of this subchapter to specify appropriate remedies for the orderly removal of the vestiges of the dual school system.

(Pub. L. 93–380, title II, § 202, Aug. 21, 1974, 88 Stat. 514.)

EFFECTIVE DATE

Chapter effective on and after sixtieth day after Aug. 21, 1974, see section 2(c) of Pub. L. 93–380, set out as a note under section 1221–1 of this title.

SHORT TITLE

Section 201 of title II of Pub. L. 93–380 provided that: ''This title [enacting this chapter and section 1228 of this title and amending section 1608 of this title] may be cited as the 'Equal Educational Opportunities Act of 1974'.''

§ 1702. Congressional findings

(a) Dual school systems as denial of equal protection; depletion of financial resources of local educational agencies; transportation of students; inadequacy of guidelines

The Congress finds that—

(1) the maintenance of dual school systems in which students are assigned to schools solely on the basis of race, color, sex, or national origin denies to those students the equal protection of the laws guaranteed by the fourteenth amendment;

(2) for the purpose of abolishing dual school systems and eliminating the vestiges thereof, many local educational agencies have been required to reorganize their school systems, to reassign students, and to engage in the extensive transportation of students;

(3) the implementation of desegregation plans that require extensive student transportation has, in many cases, required local educational agencies to expend large amounts of funds, thereby depleting their financial resources available for the maintenance or improvement of the quality of educational facilities and instruction provided;

(4) transportation of students which creates serious risks to their health and safety, disrupts the educational process carried out with respect to such students, and impinges significantly on their educational opportunity, is excessive;

(5) the risks and harms created by excessive transportation are particularly great for children enrolled in the first six grades; and

(6) the guidelines provided by the courts for fashioning remedies to dismantle dual school systems have been, as the Supreme Court of the United States has said, ''incomplete and imperfect,'' and have not established, a clear, rational, and uniform standard for determining the extent to which a local educational agency is required to reassign and transport its students in order to eliminate the vestiges of a dual school system.

(b) Necessity of Congress to specify appropriate remedies for elimination of dual school systems

For the foregoing reasons, it is necessary and proper that the Congress, pursuant to the powers granted to it by the Constitution of the United States, specify appropriate remedies for the elimination of the vestiges of dual school systems, except that the provisions of this chapter are not intended to modify or diminish the authority of the courts of the United States to enforce fully the fifth and fourteenth amendments to the Constitution of the United States.

(Pub. L. 93–380, title II, § 203, Aug. 21, 1974, 88 Stat. 514.)

PART 2—UNLAWFUL PRACTICES

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 1710 of this title.

§ 1703. Denial of equal educational opportunity prohibited

No State shall deny equal educational opportunity to an individual on account of his or her race, color, sex, or national origin, by—

(a) the deliberate segregation by an educational agency of students on the basis of race, color, or national origin among or within schools;

(b) the failure of an educational agency which has formerly practiced such deliberate segregation to take affirmative steps, consistent with part 4 of this subchapter, to remove the vestiges of a dual school system;

(c) the assignment by an educational agency of a student to a school, other than the one closest to his or her place of residence within the school district in which he or she resides, if the assignment results in a greater degree of segregation of students on the basis of race, color, sex, or national origin among the schools of such agency than would result if such student were assigned to the school closest to his or her place of residence within the school district of such agency providing the appropriate grade level and type of education for such student;

(d) discrimination by an educational agency on the basis of race, color, or national origin in the employment, employment conditions, or assignment to schools of its faculty or staff, except to fulfill the purposes of subsection (f) below;

(e) the transfer by an educational agency, whether voluntary or otherwise, of a student from one school to another if the purpose and effect of such transfer is to increase segregation of students on the basis of race, color, or national origin among the schools of such agency; or

(f) the failure by an educational agency to take appropriate action to overcome language barriers that impede equal participation by its students in its instructional programs.

(Pub. L. 93–380, title II, § 204, Aug. 21, 1974, 88 Stat. 515.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7402 of this title.

§ 1704. Balance not required

The failure of an educational agency to attain a balance, on the basis of race, color, sex, or national origin, of students among its schools shall not constitute a denial of equal educational opportunity, or equal protection of the laws.

(Pub. L. 93–380, title II, § 205, Aug. 21, 1974, 88 Stat. 515.)

§ 1705. Assignment on neighborhood basis not a denial of equal educational opportunity

Subject to the other provisions of this subchapter, the assignment by an educational agency of a student to the school nearest his place of residence which provides the appropriate grade level and type of education for such student is not a denial of equal educational opportunity or of equal protection of the laws unless such assignment is for the purpose of segregating students on the basis of race, color, sex, or national origin, or the school to which such student is assigned was located on its site for the purpose of segregating students on such basis.

(Pub. L. 93–380, title II, § 206, Aug. 21, 1974, 88 Stat. 515.)

PART 3—ENFORCEMENT

§ 1706. Civil actions by individuals denied equal educational opportunities or by Attorney General

An individual denied an equal educational opportunity, as defined by this subchapter may institute a civil action in an appropriate district court of the United States against such parties, and for such relief, as may be appropriate. The Attorney General of the United States (hereinafter in this chapter referred to as the ''Attorney General''), for or in the name of the United States, may also institute such a civil action on behalf of such an individual.

(Pub. L. 93–380, title II, § 207, Aug. 21, 1974, 88 Stat. 516.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1708, 1709, 1710 of this title.

§ 1707. Population changes without effect, per se, on school population changes

When a court of competent jurisdiction determines that a school system is desegregated, or that it meets the constitutional requirements, or that it is a unitary system, or that it has no vestiges of a dual system, and thereafter residential shifts in population occur which result in school population changes in any school within such a desegregated school system, such school population changes so occurring shall not, per se, constitute a cause for civil action for a new plan of desegregation or for modification of the court approved plan.

(Pub. L. 93–380, title II, § 208, Aug. 21, 1974, 88 Stat. 516.)

§ 1708. Jurisdiction of district courts

The appropriate district court of the United States shall have and exercise jurisdiction of proceedings instituted under section 1706 of this title.

(Pub. L. 93–380, title II, § 209, Aug. 21, 1974, 88 Stat. 516.)

§ 1709. Intervention by Attorney General

Whenever a civil action is instituted under section 1706 of this title by an individual, the Attorney General may intervene in such action upon timely application.

(Pub. L. 93–380, title II, § 210, Aug. 21, 1974, 88 Stat. 516.)

§ 1710. Civil actions by Attorney General; notice of violations; certification respecting undertaking appropriate remedial action

The Attorney General shall not institute a civil action under section 1706 of this title before he—

(a) gives to the appropriate educational agency notice of the condition or conditions which, in his judgment, constitute a violation of part 2 of this subchapter; and

(b) certifies to the appropriate district court of the United States that he is satisfied that such educational agency has not, within a reasonable time after such notice, undertaken appropriate remedial action.

(Pub. L. 93–380, title II, § 211, Aug. 21, 1974, 88 Stat. 516.)

PART 4—REMEDIES

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 1703 of this title.

§ 1712. Formulating remedies; applicability

In formulating a remedy for a denial of equal educational opportunity or a denial of the equal protection of the laws, a court, department, or agency of the United States shall seek or impose only such remedies as are essential to correct particular denials of equal educational opportunity or equal protection of the laws.

(Pub. L. 93–380, title II, § 213, Aug. 21, 1974, 88 Stat. 516.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1715 of this title.

§ 1713. Priority of remedies

In formulating a remedy for a denial of equal educational opportunity or a denial of the equal protection of the laws, which may involve directly or indirectly the transportation of students, a court, department, or agency of the United States shall consider and make specific findings on the efficacy in correcting such denial of the following remedies and shall require implementation of the first of the remedies set out below, or of the first combination thereof which would remedy such denial:

(a) assigning students to the schools closest to their places of residence which provide the appropriate grade level and type of education for such students, taking into account school capacities and natural physical barriers;

(b) assigning students to the schools closest to their places of residence which provide the appropriate grade level and type of education for such students, taking into account only school capacities;

(c) permitting students to transfer from a school in which a majority of the students are of their race, color, or national origin to a school in which a minority of the students are of their race, color, or national origin;

(d) the creation or revision of attendance zones or grade structures without requiring transportation beyond that described in section 1714 of this title;

(e) the construction of new schools or the closing of inferior schools;

(f) the construction or establishment of magnet schools; or

(g) the development and implementation of any other plan which is educationally sound and administratively feasible, subject to the provisions of sections 1714 and 1715 of this title.

(Pub. L. 93–380, title II, § 214, Aug. 21, 1974, 88 Stat. 517.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1714, 1715 of this title.

§ 1714. Transportation of students

(a) Limitation to school closest or next closest to place of residence

No court, department, or agency of the United States shall, pursuant to section 1713 of this title, order the implementation of a plan that would require the transportation of any student to a school other than the school closest or next closest to his place of residence which provides the appropriate grade level and type of education for such student.

(b) Health risks; impingement on educational process

No court, department, or agency of the United States shall require directly or indirectly the transportation of any student if such transportation poses a risk to the health of such student or constitutes a significant impingement on the educational process with respect to such student.

(c) School population changes resulting from population changes

When a court of competent jurisdiction determines that a school system is desegregated, or that it meets the constitutional requirements, or that it is a unitary system, or that it has no vestiges of a dual system, and thereafter residential shifts in population occur which result in school population changes in any school within such a desegregated school system, no educational agency because of such shifts shall be required by any court, department, or agency of the United States to formulate, or implement any new desegregation plan, or modify or implement any modification of the court approved desegregation plan, which would require transportation of students to compensate wholly or in part for such shifts in school population so occurring.

(Pub. L. 93–380, title II, § 215, Aug. 21, 1974, 88 Stat. 517.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1713 of this title.

§ 1715. District lines

In the formulation of remedies under section 1712 or 1713 of this title the lines drawn by a State, subdividing its territory into separate school districts, shall not be ignored or altered except where it is established that the lines were drawn for the purpose, and had the effect, of segregating children among public schools on the basis of race, color, sex, or national origin.

(Pub. L. 93–380, title II, § 216, Aug. 21, 1974, 88 Stat. 518.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1713 of this title.

§ 1716. Voluntary adoption of remedies

Nothing in this subchapter prohibits an educational agency from proposing, adopting, requiring, or implementing any plan of desegregation, otherwise lawful, that is at variance with the standards set out in this subchapter nor shall any court, department, or agency of the United States be prohibited from approving implementation of a plan which goes beyond what can be required under this subchapter, if such plan is voluntarily proposed by the appropriate educational agency.

(Pub. L. 93–380, title II, § 217, Aug. 21, 1974, 88 Stat. 518.)

§ 1717. Reopening proceedings

A parent or guardian of a child, or parents or guardians of children similarly situated, transported to a public school in accordance with a court order, or an educational agency subject to a court order or a desegregation plan under title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.] in effect on August 21, 1974, and intended to end segregation of students on the basis of race, color, or national origin, may seek to reopen or intervene in the further implementation of such court order, currently in effect, if the time or distance of travel is so great as to risk the health of the student or significantly impinge on his or her educational process.

(Pub. L. 93–380, title II, § 218, Aug. 21, 1974, 88 Stat. 518.)

REFERENCES IN TEXT

The Civil Rights Act of 1964, referred to in text, is Pub. L. 88–352, July 2, 1964, 78 Stat. 241, as amended. Title VI of the Civil Rights Act of 1964 is classified generally to subchapter V (§ 2000d et seq.) of chapter 21 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of Title 42 and Tables.

§ 1718. Limitation on court orders; termination of orders conditioned upon compliance with fifth and fourteenth amendments; statement of basis for termination orders; stay of termination orders

Any court order requiring, directly or indirectly, the transportation of students for the purpose of remedying a denial of the equal protection of the laws may, to the extent of such transportation, be terminated if the court finds the defendant educational agency has satisfied the requirements of the fifth or fourteenth amendments to the Constitution, whichever is applicable, and will continue to be in compliance with the requirements thereof. The court of initial jurisdiction shall state in its order the basis for any decision to terminate an order pursuant to this section, and the termination of any order pursuant to this section shall be stayed pending a final appeal or, in the event no appeal is taken, until the time for any such appeal has expired. No additional order requiring such educational agency to transport students for such purpose shall be entered unless such agency is found not to have satisfied the requirements of the fifth or fourteenth amendments to the Constitution, whichever is applicable.

(Pub. L. 93–380, title II, § 219, Aug. 21, 1974, 88 Stat. 518.)

PART 5—DEFINITIONS

§ 1720. Definitions

For the purposes of this subchapter—

(a) The term ''educational agency'' means a local educational agency or a ''State educational agency'' as defined by section 801(k)[1] of the Elementary and Secondary Education Act of 1965.

(b) The term ''local educational agency'' means a local educational agency as defined by section 801(f)[1] of the Elementary and Secondary Education Act of 1965.

(c) The term ''segregation'' means the operation of a school system in which students are wholly or substantially separated among the schools of an educational agency on the basis of race, color, sex, or national origin or within a school on the basis of race, color, or national origin.

(d) The term ''desegregation'' means desegregation as defined by section 2000c(b) of title 42.

(e) An educational agency shall be deemed to transport a student if any part of the cost of such student's transportation is paid by such agency.

(Pub. L. 93–380, title II, § 221, Aug. 21, 1974, 88 Stat. 518.)

REFERENCES IN TEXT

Section 801 of the Elementary and Secondary Education Act of 1965, referred to in subsecs. (a) and (b), is section 801, title VIII, of Pub. L. 89–10, which was formerly classified to section 881 of this title. Section 801 of that Act was renumbered section 1001 of title X by Pub. L. 95–561, title VIII, § 801(1), (2), Nov. 1, 1978, 92 Stat. 2284, and was reclassified to section 3381 of this title. Section 1001 was subsequently renumbered section 8001 and amended generally by Pub. L. 100–297, title I, § 1002, Apr. 28, 1988, 102 Stat. 293, and, as so amended, did not contain subsections nor specific definitions. Section 8001 was subsequently omitted in the general amendment of Pub. L. 89–10 by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519. For definitions, see section 8801 of this title.

PART 6—MISCELLANEOUS PROVISIONS

§ 1721. Separability

If any provision of this subchapter or of any amendment made by this subchapter, or the application of any such provision to any person or circumstance, is held invalid, the remainder of the provisions of this subchapter and of the amendments made by this subchapter and the application of such provision to other persons or circumstances shall not be affected thereby.

(Pub. L. 93–380, title II, § 223, Aug. 21, 1974, 88 Stat. 519.)

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original ''this part'', meaning part A of title II of Pub. L. 93–380, Aug. 21, 1974, 88 Stat. 519, which is classified generally to this subchapter.

SUBCHAPTER II—ASSIGNMENT AND TRANSPORTATION OF STUDENTS

§ 1751. Prohibition against assignment or transportation of students to overcome racial imbalance

No provision of this Act shall be construed to require the assignment or transportation of students or teachers in order to overcome racial imbalance.

(Pub. L. 93–380, title II, § 251, Aug. 21, 1974, 88 Stat. 519.)

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 93–380, Aug. 21, 1974, 88 Stat. 484, as amended, known as the Education Amendments of 1974. For complete classification of this Act to the Code, see Short Title of 1974 Amendment note set out under section 6301 of this title and Tables.

§ 1752. Appeals from Federal district court transfer or transportation orders affecting school attendance areas and achieving balancing of students; postponement of Federal court orders pending exercise of appellate remedy; expiration of section

Notwithstanding any other law or provision of law, in the case of any order on the part of any United States district court which requires the transfer or transportation of any student or students from any school attendance area prescribed by competent State or local authority for the purposes of achieving a balance among students with respect to race, sex, religion, or socioeconomic status, the effectiveness of such order shall be postponed until all appeals in connection with such order have been exhausted or, in the event no appeals are taken, until the time for such appeals has expired. This section shall expire at midnight on June 30, 1978.

(Pub. L. 93–380, title II, § 253, Aug. 21, 1974, 88 Stat. 519.)

§ 1753. Uniform rules of evidence requirement

The rules of evidence required to prove that State or local authorities are practicing racial discrimination in assigning students to public schools shall be uniform throughout the United States.

(Pub. L. 93–380, title II, § 254, Aug. 21, 1974, 88 Stat. 520.)

§ 1754. Provisions respecting transportation of pupils to achieve racial balance and judicial power to insure compliance with constitutional standards applicable to the entire United States

The proviso of section 407(a) of the Civil Rights Act of 1964 [42 U.S.C. 2000c–6(a)] providing in substance that no court or official of the United States shall be empowered to issue any order seeking to achieve a racial balance in any school by requiring the transportation of pupils or students from one school to another or one school district to another in order to achieve such racial balance, or otherwise enlarge the existing power of the court to insure compliance with constitutional standards shall apply to all public school pupils and to every public school system, public school and public school board, as defined by title IV [42 U.S.C. 2000c et seq.], under all circumstances and conditions and at all times in every State, district, territory, Commonwealth, or possession of the United States, regardless of whether the residence of such public school pupils or the principal offices

[1] See References in Text note below.

of such public school system, public school or public school board is situated in the northern, eastern, western, or southern part of the United States.

(Pub. L. 93–380, title II, § 255, Aug. 21, 1974, 88 Stat. 520.)

§ 1755. Additional priority of remedies after finding of de jure segregation

Notwithstanding any other provision of law, after June 30, 1974 no court of the United States shall order the implementation of any plan to remedy a finding of de jure segregation which involves the transportation of students, unless the court first finds that all alternative remedies are inadequate.

(Pub. L. 93–380, title II, § 256, Aug. 21, 1974, 88 Stat. 520.)

§ 1756. Remedies with respect to school district lines

In the formulation of remedies under this chapter the lines drawn by a State subdividing its territory into separate school districts, shall not be ignored or altered except where it is established that the lines were drawn, or maintained or crossed for the purpose, and had the effect of segregating children among public schools on the basis of race, color, sex, or national origin, or where it is established that, as a result of discriminatory actions within the school districts, the lines have had the effect of segregating children among public schools on the basis of race, color, sex, or national origin.

(Pub. L. 93–380, title II, § 257, Aug. 21, 1974, 88 Stat. 520.)

§ 1757. Prohibition of forced busing during school year

(a) Congressional findings

The Congress finds that—

(1) the forced transportation of elementary and secondary school students in implementation of the constitutional requirement for the desegregation of such schools is controversial and difficult under the best planning and administration; and

(2) the forced transportation of elementary and secondary school students after the commencement of an academic school year is educationally unsound and administratively inefficient.

(b) Student transportation orders incidental to student transfers pursuant to school desegregation plans effective beginning with academic school year

Notwithstanding any other provisions of law, no order of a court, department, or agency of the United States, requiring the transportation of any student incident to the transfer of that student from one elementary or secondary school to another such school in a local educational agency pursuant to a plan requiring such transportation for the racial desegregation of any school in that agency, shall be effective until the beginning of an academic school year.

(c) "Academic school year" defined

For the purpose of this section, the term ''academic school year'' means, pursuant to regulations promulgated by the Secretary, the customary beginning of classes for the school year at an elementary or secondary school of a local educational agency for a school year that occurs not more often than once in any twelve-month period.

(d) Orders subject to provisions of section

The provisions of this section apply to any order which was not implemented at the beginning of the 1974–1975 academic year.

(Pub. L. 93–380, title II, § 258, Aug. 21, 1974, 88 Stat. 520; Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692.)

TRANSFER OF FUNCTIONS

''Secretary'', meaning the Secretary of Education, substituted for ''Commissioner'' in subsec. (c) pursuant to sections 301(a)(1) and 507 of Pub. L. 96–88, which are classified to sections 3441(a)(1) and 3507 of this title and which transferred functions of Commissioner of Education to Secretary of Education.

§ 1758. Reasonable time for developing voluntary school desegregation plans following detailed notice of violations

Notwithstanding any other law or provision of law, no court or officer of the United States shall enter, as a remedy for a denial of equal educational opportunity or a denial of equal protection of the laws, any order for enforcement of a plan of desegregation or modification of a court-approved plan, until such time as the local educational agency to be affected by such order has been provided notice of the details of the violation and given a reasonable opportunity to develop a voluntary remedial plan. Such time shall permit the local educational agency sufficient opportunity for community participation in the development of a remedial plan.

(Pub. L. 93–380, title II, § 259, Aug. 21, 1974, 88 Stat. 521.)

CHAPTER 40—CONSOLIDATION OF EDUCATION PROGRAMS

SUBCHAPTER I—LIBRARIES, LEARNING RESOURCES, EDUCATIONAL INNOVATION, AND SUPPORT

PART A—GENERAL PROVISIONS

§§ 1801 to 1806. Omitted

CODIFICATION

Sections were omitted in the general revision of the Elementary and Secondary Education Act of 1965, titles I to IX of Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, by Pub. L. 95–561, Nov. 1, 1978, 92 Stat. 2143.

Section 1801, Pub. L. 89–10, title IV, § 401, as added Pub. L. 93–380, title IV, § 401, Aug. 21, 1974, 88 Stat. 535; amended Pub. L. 94–482, title III, § 328, Oct. 12, 1976, 90 Stat. 2220; Pub. L. 95–112, § 2(d), Sept. 24, 1977, 91 Stat. 911, authorized appropriations for making grants for libraries and library resources for fiscal years ending prior to Oct. 1, 1979.

Section 1802, Pub. L. 89–10, title IV, § 402, as added Pub. L. 93–380, title IV, § 401, Aug. 21, 1974, 88 Stat. 537, provided for allotments to States.

Section 1803, Pub. L. 89–10, title IV, § 403, as added Pub. L. 93–380, title IV, § 401, Aug. 21, 1974, 88 Stat. 538; amended Pub. L. 94–482, title III, § 323(a)(3), title V, § 501(e)(1), Oct. 12, 1976, 90 Stat. 2217, 2237, provided for structure and function of State plans.

Section 1804, Pub. L. 89–10, title IV, § 404, as added Pub. L. 93–380, title IV, § 401, Aug. 21, 1974, 88 Stat. 540, directed Commissioner to afford the State educational agency reasonable notice and opportunity for a hearing prior to final disapproval of a State plan.

Section 1805, Pub. L. 89–10, title IV, § 405, as added Pub. L. 93–380, title IV, § 401, Aug. 21, 1974, 88 Stat. 541, related to payments to States.

Section 1806, Pub. L. 89–10, title IV, § 406, as added Pub. L. 93–380, title IV, § 401, Aug. 21, 1974, 88 Stat. 541; amended Pub. L. 94–482, title III, § 324, title V, § 501(r), Oct. 12, 1976, 90 Stat. 2220, 2238, related to participation of children enrolled in private schools.

PART B—LIBRARIES AND LEARNING RESOURCES

§ 1821. Omitted

CODIFICATION

Section, Pub. L. 89–10, title IV, § 421, as added Pub. L. 93–380, title IV, § 401, Aug. 21, 1974, 88 Stat. 542, which authorized a program of grants relating to libraries and learning resources, was omitted in the general revision of the Elementary and Secondary Education Act of 1965, titles I to IX of Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, by Pub. L. 95–561, Nov. 1, 1978, 92 Stat. 2143.

PART C—EDUCATIONAL INNOVATION AND SUPPORT

§§ 1831, 1832. Omitted

CODIFICATION

Section 1831, Pub. L. 89–10, title IV, § 431, as added Pub. L. 93–380, title IV, § 401, Aug. 21, 1974, 88 Stat. 543; amended Pub. L. 94–482, title V, § 501(e)(2), Oct. 12, 1976, 90 Stat. 2237, which authorized a program of educational innovation and support, was omitted in the general revision of the Elementary and Secondary Education Act of 1965, titles I to IX of Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, by Pub. L. 95–561, Nov. 1, 1978, 92 Stat. 2143.

Section 1832, Pub. L. 89–10, title IV, § 432, as added Pub. L. 93–380, title IV, § 401, Aug. 21, 1974, 88 Stat. 544, which provided for the use of cultural and educational resources, was omitted in the general revision of the Elementary and Secondary Education Act of 1965, titles I to IX of Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, by Pub. L. 95–561, Nov. 1, 1978, 92 Stat. 2143.

SUBCHAPTER II—SPECIAL PROJECTS

§§ 1851 to 1853. Repealed. Pub. L. 95–561, title III, § 301(b)(2), Nov. 1, 1978, 92 Stat. 2228

Section 1851, act July 26, 1954, ch. 576, § 2, as added Aug. 21, 1974, Pub. L. 93–380, title IV, § 402(a)(1), 88 Stat. 544, set out Congressional statement of purpose in making provision for special projects to experiment with new educational and administrative methods, techniques, and practices, to meet special or unique educational needs or problems, and to place special emphasis on national education priorities.

Section 1852, act July 26, 1954, ch. 576, § 3, as added Aug. 21, 1974, Pub. L. 93–380, title IV, § 402(a)(1), 88 Stat. 544; amended Apr. 21, 1976, Pub. L. 94–273, § 2(14), 90 Stat. 375, authorized Commissioner to contract with public and private groups in carrying out special projects.

Section 1853, act July 26, 1954, ch. 576, § 4, as added Aug. 21, 1974, Pub. L. 93–380, title IV, § 402(a)(1), 88 Stat. 545; amended Oct. 12, 1976, Pub. L. 94–482, title IV, § 409(c), 90 Stat. 2233; S. Res. 4, Feb. 4, 1977, authorized appropriations for section 1852 contracts and development of plans for succeeding year.

EFFECTIVE DATE OF REPEAL

Section 301(b)(2) of Pub. L. 95–561 provided that the repeal is effective Sept. 30, 1979.

SUBCHAPTER III—PREFERENTIAL PROGRAMS

§§ 1861 to 1864. Repealed. Pub. L. 95–561, title III, § 301(b)(1)(A)–(D), Nov. 1, 1978, 92 Stat. 2228

Section 1861, Pub. L. 93–380, title IV, § 402(b), Aug. 21, 1974, 88 Stat. 545, related to reservation and apportionment of funds for certain authorized and described programs.

Section 1862, Pub. L. 93–380, title IV, § 403, Aug. 21, 1974, 88 Stat. 546, related to education for use of metric system of measurement.

Section 1863, Pub. L. 93–380, title IV, § 404, Aug. 21, 1974, 88 Stat. 547, related to education of gifted and talented children.

Section 1864, Pub. L. 93–380, title IV, § 405, Aug. 21, 1974, 88 Stat. 549; Pub. L. 94–482, title V, § 501(a)(5), Oct. 12, 1976, 90 Stat. 2235, related to Community schools.

EFFECTIVE DATE OF REPEAL

Section 301(b)(1) of Pub. L. 95–561 provided that the repeal is effective Sept. 30, 1979.

§ 1865. Transferred

CODIFICATION

Section, Pub. L. 93–380, title IV, § 406, Aug. 21, 1974, 88 Stat. 551; Pub. L. 94–273, § 2(15), Apr. 21, 1976, 90 Stat. 375; Pub. L. 94–482, title V, § 501(a)(6), (7), Oct. 12, 1976, 90 Stat. 2235; Pub. L. 95–207, § 13(e), Dec. 13, 1977, 91 Stat. 1472; Pub. L. 95–561, title III, § 301(b)(1)(E), (3), Nov. 1, 1978, 92 Stat. 2228, which related to career education and establishment of Office of Career Education and National Advisory Council for Career Education, was transferred to section 2612a of this title and subsequently omitted from the Code.

§§ 1866, 1867. Repealed. Pub. L. 95–561, title III, § 301(b)(1)(G), (H), Nov. 1, 1978, 92 Stat. 2228

Section 1866, Pub. L. 93–380, title IV, § 408, Aug. 21, 1974, 88 Stat. 554; Pub. L. 94–482, title III, § 325, title V, § 501(a)(8), Oct. 12, 1976, 90 Stat. 2220, 2235, related to educational equity for women.

Section 1867, Pub. L. 93–380, title IV, § 409, Aug. 21, 1974, 88 Stat. 556; Pub. L. 94–273, § 2(15), Apr. 21, 1976, 90 Stat. 375; Pub. L. 94–462, title V, § 501, Oct. 8, 1976, 90 Stat. 1981, provided for a program of elementary and secondary school education in the arts.

EFFECTIVE DATE OF REPEAL

Section 301(b)(1) of Pub. L. 95–561 provided that the repeal is effective Sept. 30, 1979.

CHAPTER 41—NATIONAL READING IMPROVEMENT PROGRAM

§ 1901. Repealed. Pub. L. 95–561, title XV, § 1529, Nov. 1, 1978, 92 Stat. 2380

Section, Pub. L. 93–380, title VII, § 701, Aug. 21, 1974, 88 Stat. 588, set forth statement of purpose for provisions respecting national reading improvement program.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1978, see section 1530(a) of Pub. L. 95–561, set out as an Effective Date of 1978 Amendment note under section 1221e–3 of this title.

SUBCHAPTER I—READING IMPROVEMENT PROJECTS

§ 1921. Repealed. Pub. L. 95–561, title XV, § 1529, Nov. 1, 1978, 92 Stat. 2380

Section, Pub. L. 93–380, title VII, § 705, Aug. 21, 1974, 88 Stat. 589; Pub. L. 94–194, §§ 1(a), (b)(3), 2, 3, Dec. 31,

1975, 89 Stat. 1103, 1104, set forth requirements for agreements for reading deficiencies projects with State and local educational agencies.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1978, see section 1530(a) of Pub. L. 95–561, set out as an Effective Date of 1978 Amendment note under section 1221e–3 of this title.

SUBCHAPTER II—STATE READING IMPROVEMENT PROGRAMS

§§ 1941 to 1944. Repealed. Pub. L. 95–561, title XV, § 1529, Nov. 1, 1978, 92 Stat. 2380

Section 1941, Pub. L. 93–380, title VII, §711, Aug. 21, 1974, 88 Stat. 591, set forth provisions respecting statement of purpose for State reading improvement programs.

Section 1942, Pub. L. 93–380, title VII, §712, Aug. 21, 1974, 88 Stat. 591, set forth applicability and effective date of provisions respecting State reading improvement programs.

Section 1943, Pub. L. 93–380, title VII, §713, Aug. 21, 1974, 88 Stat. 591, set forth requirements for allotments and reallotments for States.

Section 1944, Pub. L. 93–380, title VII, §714, Aug. 21, 1974, 88 Stat. 592; Pub. L. 94–194, §4, Dec. 31, 1975, 89 Stat. 1104, set forth provisions respecting requirements for grants for State reading improvement programs.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1978, see section 1530(a) of Pub. L. 95–561, set out as an Effective Date of 1978 Amendment note under section 1221e–3 of this title.

SUBCHAPTER III—OTHER READING IMPROVEMENT PROGRAMS

§§ 1961 to 1966. Repealed. Pub. L. 95–561, title XV, § 1529, Nov. 1, 1978, 92 Stat. 2380

Section 1961, Pub. L. 93–380, title VII, §721, Aug. 21, 1974, 88 Stat. 594; Pub. L. 94–194, §10, Dec. 31, 1975, 89 Stat. 1107, set forth provisions relating to contracting requirements for special emphasis projects.

Section 1962, Pub. L. 93–380, title VII, §722, Aug. 21, 1974, 88 Stat. 595, set forth provisions relating to granting and contracting requirements for reading training on public television.

Section 1963, Pub. L. 93–380, title VII, §723, Aug. 21, 1974, 88 Stat. 595; Pub. L. 94–194, §5, Dec. 31, 1975, 89 Stat. 1104, set forth provisions relating to granting and contracting requirements for reading academies.

Section 1964, Pub. L. 93–380, title VII, §724, as added Pub. L. 94–194, §1(b)(1), Dec. 31, 1975, 89 Stat. 1103, set forth provisions relating to scope, authority, etc., with respect to State leadership and training activity agreements.

Section 1965, Pub. L. 93–380, title VII, §725, as added and amended Pub. L. 94–194, §6(a), (b)(1), Dec. 31, 1975, 89 Stat. 1104, 1105, set forth provisions relating to granting and contracting requirements for national impact reading programs.

Section 1966, Pub. L. 93–380, title VII, §726, as added Pub. L. 94–194, §9(a), Dec. 31, 1975, 89 Stat. 1105, set forth provisions relating to contracting requirements for an inexpensive book distribution program for reading motivation.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1978, see section 1530(a) of Pub. L. 95–561, set out as an Effective Date of 1978 Amendment note under section 1221e–3 of this title.

SUBCHAPTER IV—GENERAL PROVISIONS

§§ 1981 to 1983. Repealed. Pub. L. 95–561, title XV, § 1529, Nov. 1, 1978, 92 Stat. 2380

Section 1981, Pub. L. 93–380, title VII, §731, Aug. 21, 1974, 88 Stat. 596; Pub. L. 94–194, §7, Dec. 31, 1975, 89 Stat. 1105; S. Res. 4, Feb. 4, 1977, set forth evaluation requirements for programs.

Section 1982, Pub. L. 93–380, title VII, §732, Aug. 21, 1974, 88 Stat. 596; Pub. L. 94–194, §§1(c), 6(c), 9(b), Dec. 31, 1975, 89 Stat. 1104–1106, set forth provisions authorizing appropriations for covered programs.

Section 1983, Pub. L. 93–380, title VII, §733, as added Pub. L. 94–194, §8, Dec. 31, 1975, 89 Stat. 1105, set forth provisions relating to acceptance of gifts or donations by the Commissioner.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1978, see section 1530(a) of Pub. L. 95–561, set out as an Effective Date of 1978 Amendment note under section 1221e–3 of this title.

CHAPTER 42—HARRY S TRUMAN MEMORIAL SCHOLARSHIPS

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§ 2001. Congressional statement of findings

The Congress finds that—

because a high regard for the public trust and a lively exercise of political talents were outstanding characteristics of the thirty-third President of the United States;

because a special interest of the man from Independence in American history and a broad knowledge and understanding of the American political and economic system gained by study and experience in county and National Government culminated in the leadership of America remembered for the quality of his character, courage, and commonsense;

because of the desirability of encouraging young people to recognize and provide service in the highest and best traditions of the American political system at all levels of government, it is especially appropriate to honor former President Harry S Truman through the creation of a perpetual education scholarship program to develop increased opportunities for young Americans to prepare and pursue careers in public service.

(Pub. L. 93–642, § 2, Jan. 4, 1975, 88 Stat. 2276.)

SHORT TITLE

Section 1 of Pub. L. 93–642 provided: ''That this Act [enacting this chapter] may be cited as the 'Harry S Truman Memorial Scholarship Act'.''

§ 2002. Definitions

As used in this chapter, the term—

(1) ''Board'' means the Board of Trustees of the Harry S Truman Scholarship Foundation;

(2) ''Foundation'' means the Harry S Truman Scholarship Foundation;

(3) ''fund'' means the Harry S Truman Memorial Scholarship Fund;

(4) ''institution of higher education'' means any such institution as defined by section 1141(a) of this title;

(5) ''State'' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, and, considered as a single entity, Guam, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands; and

(6) ''Secretary'' means the Secretary of the Treasury.

(Pub. L. 93–642, § 3, Jan. 4, 1975, 88 Stat. 2276.)

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

§ 2003. Other Federal memorials prohibited

The Harry S Truman Scholarship Program as authorized by this chapter shall be the sole Federal memorial to President Harry S Truman.

(Pub. L. 93–642, § 4, Jan. 4, 1975, 88 Stat. 2277.)

§ 2004. Harry S Truman Scholarship Foundation

(a) Establishment

There is established, as an independent establishment of the executive branch of the United States Government, the Harry S Truman Scholarship Foundation.

(b) Board of Trustees; membership

(1)[1] The Foundation shall be subject to the supervision and direction of a Board of Trustees. The Board shall be composed of thirteen members, as follows:

(A) two Members of the Senate, one from each political party, to be appointed by the President of the Senate;

(B) two Members of the House of Representatives, one from each political party, to be appointed by the Speaker;

(C) eight members, not more than four of whom shall be of the same political party, to be appointed by the President with the advice and consent of the Senate, of whom one shall be a chief executive officer of a State, one a chief executive officer of a city or county, one a member of a Federal court, one a member of a State court, one a person active in postsecondary education, and three representatives of the general public; and

(D) the Secretary of Education or his designate, who shall serve ex officio as a member of the Board, but shall not be eligible to serve as Chairman.

(c) Term of office

The term of office of each member of the Board shall be six years; except that (1) the members first taking office shall serve as designated by the President, four for terms of two years, five for terms of four years, and four for terms of six years, and (2) any member appointed to fill a vacancy shall serve for the remainder of the term for which his predecessor was appointed, and shall be appointed in the same manner as the original appointment for that vacancy was made.

(d) Compensation

Members of the Board shall serve without pay, but shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of their duties.

(Pub. L. 93–642, § 5, Jan. 4, 1975, 88 Stat. 2277; Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692.)

TRANSFER OF FUNCTIONS

''Secretary of Education'' substituted for ''Commissioner of Education'' in subsec. (b)(1)(D) pursuant to sections 301(a)(1) and 507 of Pub. L. 96–88, which are classified to sections 3441(a)(1) and 3507 of this title and which transferred functions of Commissioner of Education to Secretary of Education.

§ 2005. Truman scholars

(a) Basis for award

The Foundation is authorized to award scholarships to persons who demonstrate outstanding potential for and who plan to pursue a career in public service. Award recipients shall be known as Truman scholars.

(b) Maximum period of award

Scholarships under this chapter shall be awarded for such periods as the Foundation may prescribe but not to exceed four academic years.

(c) Recipient's choice of institution

A student awarded a scholarship under this chapter may attend any institution of higher education offering courses of study, training, or other educational activities designed to prepare persons for a career in public service as determined pursuant to criteria established by the Foundation.

(d) Encouragement of recipient to pursue public service career

Each student awarded a scholarship under this chapter must have indicated a serious intent to enter the public service upon the completion of

[1] So in original. No par. (2) has been enacted.

his or her educational program. Each institution of higher education at which such a student is in attendance will make reasonable continuing efforts to encourage such a student to enter the public service upon completing his or her educational program.

(Pub. L. 93–642, § 6, Jan. 4, 1975, 88 Stat. 2278.)

§ 2006. Selection of scholars

(a) Nationwide competition

The Foundation is authorized, either directly or by contract, to provide for the conduct of a nationwide competition for the purpose of selecting Truman scholars.

(b) Procedures

The Foundation shall adopt selection procedures which shall assure that at least one Truman scholar shall be selected each year from each State in which there is at least one resident applicant who meets the minimum criteria established by the Foundation.

(Pub. L. 93–642, § 7, Jan. 4, 1975, 88 Stat. 2278.)

§ 2007. Stipends

Each student awarded a scholarship under this chapter shall receive a stipend which shall not exceed the cost to such student for tuition, fees, books, room and board, or $10,000 (adjusted annually to reflect increases, if any, in the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics) whichever is less for each academic year of study.

(Pub. L. 93–642, § 8, Jan. 4, 1975, 88 Stat. 2278; Pub. L. 99–159, title V, § 501, Nov. 22, 1985, 99 Stat. 904.)

AMENDMENTS

1985—Pub. L. 99–159 increased amount from $5,000 to $10,000 with provision for annual adjustments.

§ 2008. Scholarship conditions

(a) Satisfactory proficiency and devotion of full time to study or research; unapproved employment

A student awarded a scholarship under the provisions of this chapter shall continue to receive the payments provided in this chapter only during such periods as the Foundation finds that he or she is maintaining satisfactory proficiency and devoting full time to study or research designed to prepare him or her for a career in public service and is not otherwise engaging in gainful employment other than employment approved by the Foundation pursuant to regulation.

(b) Reports; certification by official of institution

The Foundation is authorized to require reports containing such information in such form and to be filed at such times as the Foundation determines to be necessary from any student awarded a scholarship under the provisions of this chapter. Such reports shall be accompanied by a certificate from an appropriate official at the institution of higher education, approved by the Foundation, stating that such student is making satisfactory progress in, and is devoting essentially full time to, study or research, except as otherwise provided in subsection (a) of this section.

(Pub. L. 93–642, § 9, Jan. 4, 1975, 88 Stat. 2278.)

§ 2009. Harry S Truman Memorial Scholarship Trust Fund

(a) Establishment

There is established in the Treasury of the United States a trust fund to be known as the Harry S Truman Memorial Scholarship Trust Fund. The fund shall consist of amounts appropriated to it by section 2013 of this title.

(b) Investment in interest bearing obligations

It shall be the duty of the Secretary to invest in full the amounts appropriated to the fund. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose, such obligations may be acquired (1) on original issue at the issue price, or (2) by purchase of outstanding obligations at the market place. The purposes for which obligations of the United States may be issued under chapter 31 of title 31, are hereby extended to authorize the issuance at par of special obligations exclusively to the fund. Such special obligations shall bear interest at a rate equal to the average rate of interest, computed as to the end of the calendar month next preceding the date of such issue, borne by all marketable interest-bearing obligations of the United States then forming a part of the public debt; except that where such average rate is not a multiple of one-eighth of 1 per centum, the rate of interest of such special obligations shall be the multiple of one-eighth of 1 per centum next lower than such average rate. Such special obligations shall be issued only if the Secretary determines that the purchase of other interest-bearing obligations of the United States, or of obligations guaranteed as to both principal and interest by the United States or original issue or at the market price, is not in the public interest.

(c) Sale and redemption of obligations

Any obligation acquired by the fund (except special obligations issued exclusively to the fund) may be sold by the Secretary at the market price, and such special obligations may be redeemed at par plus accrued interest.

(d) Credit to the fund of interest and proceeds of sale or redemption

The interest on, and the proceeds from the sale or redemption of, any obligations held in the fund shall be credited to and form a part of the fund.

(Pub. L. 93–642, § 10, Jan. 4, 1975, 88 Stat. 2279.)

CODIFICATION

In subsec. (b), ''chapter 31 of title 31'' substituted for ''the Second Liberty Bond Act, as amended'' on authority of Pub. L. 97–258, § 4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

§ 2010. Expenditures and audit of Trust Fund

(a) Authorization of funding

The Secretary is authorized to pay to the Foundation from the interest and earnings of

the fund such sums as the Board determines are necessary and appropriate to enable the Foundation to carry out the purposes of this chapter.

(b) Access to books, records, etc., by General Accounting Office

The activities of the Foundation under this chapter may be audited by the General Accounting Office under such rules and regulations as may be prescribed by the Comptroller General of the United States. The representatives of the General Accounting Office shall have access to all books, accounts, records, reports, and files and all other papers, things, or property belonging to or in use by the Foundation, pertaining to such activities and necessary to facilitate the audit.

(Pub. L. 93–642, § 11, Jan. 4, 1975, 88 Stat. 2279.)

§ 2011. Executive Secretary of Foundation

(a) Appointment; functions

There shall be an Executive Secretary of the Foundation who shall be appointed by the Board. The Executive Secretary shall be the chief executive officer of the Foundation and shall carry out the functions of the Foundation subject to the supervision and direction of the Board. The Executive Secretary shall carry out such other functions consistent with the provisions of this chapter as the Board shall delegate.

(b) Compensation

The Executive Secretary of the Foundation shall be compensated at the rate specified for employees placed in grade 18 of the General Schedule set forth in section 5332 of title 5.

(Pub. L. 93–642, § 12, Jan. 4, 1975, 88 Stat. 2280.)

REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, § 101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

§ 2012. Administrative provisions

(a) Powers of Foundation

In order to carry out the provisions of this chapter, the Foundation is authorized to—

(1) appoint and fix the compensation of such personnel as may be necessary to carry out the provisions of this chapter, except that in no case shall employees other than the Executive Secretary be compensated at a rate to exceed the rate provided for employees in grade 15 of the General Schedule set forth in section 5332 of title 5;

(2) procure temporary and intermittent services of experts and consultants as are necessary to the extent authorized by section 3109 of title 5, but at rates not to exceed the rate specified at the time of such service for grade GS–18 in section 5332 of such title;

(3) prescribe such regulations as it deems necessary governing the manner in which its functions shall be carried out;

(4) receive money and other property donated, bequeathed, or devised, without condition or restriction other than it be used for the purposes of the Foundation; and to use, sell, or otherwise dispose of such property for the purpose of carrying out its functions;

(5) accept and utilize the services of voluntary and noncompensated personnel and reimburse them for travel expenses, including per diem, as authorized by section 5703 of title 5;

(6) enter into contracts, grants, or other arrangements, or modifications thereof, to carry out the provisions of this chapter, and such contracts or modifications thereof may, with the concurrence of two-thirds of the members of the Board, be entered into without performance or other bonds, and without regard to section 5 of title 41;

(7) make advances, progress, and other payments which the Board deems necessary under this chapter without regard to the provisions of section 3324(a) and (b) of title 31;

(8) rent office space in the District of Columbia; and

(9) make other necessary expenditures.

(b) Annual report to Congress

The Foundation shall submit to the President and to the Congress an annual report of its operations under this chapter.

(Pub. L. 93–642, § 13, Jan. 4, 1975, 88 Stat. 2280.)

CODIFICATION

In subsec. (a)(7), ''section 3324(a) and (b) of title 31'' substituted for ''section 3648 of the Revised Statutes, as amended (31 U.S.C. 529)'' on authority of Pub. L. 97–258, § 4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, § 101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

§ 2013. Authorization of appropriations

There are authorized to be appropriated $30,000,000 to the fund.

(Pub. L. 93–642, § 14, Jan. 4, 1975, 88 Stat. 2280.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2009 of this title.

CHAPTER 43—AMERICAN FOLKLIFE PRESERVATION

Sec.

2101. Congressional declaration of findings and purpose.
2102. Definitions.
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(g) Duties of Director and Deputy Director.
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§ 2101. Congressional declaration of findings and purpose

(a) The Congress hereby finds and declares—

(1) that the diversity inherent in American folklife has contributed greatly to the cultural richness of the Nation and has fostered a sense of individuality and identity among the American people;

(2) that the history of the United States effectively demonstrates that building a strong nation does not require the sacrifice of cultural differences;

(3) that American folklife has a fundamental influence on the desires, beliefs, values, and character of the American people;

(4) that it is appropriate and necessary for the Federal Government to support research and scholarship in American folklife in order to contribute to an understanding of the complex problems of the basic desires, beliefs, and values of the American people in both rural and urban areas;

(5) that the encouragement and support of American folklife, while primarily a matter for private and local initiative, is also an appropriate matter of concern to the Federal Government; and

(6) that it is in the interest of the general welfare of the Nation to preserve, support, revitalize, and disseminate American folklife traditions and arts.

(b) It is therefore the purpose of this chapter to establish in the Library of Congress an American Folklife Center to preserve and present American folklife.

(Pub. L. 94–201, § 2, Jan. 2, 1976, 89 Stat. 1129.)

SHORT TITLE

Section 1 of Pub. L. 94–201 provided: ''That this Act [enacting this chapter] may be cited as the 'American Folklife Preservation Act'.''

§ 2102. Definitions

As used in this chapter—

(1) the term ''American folklife'' means the traditional expressive culture shared within the various groups in the United States: familial, ethnic, occupational, religious, regional; expressive culture includes a wide range of creative and symbolic forms such as custom, belief, technical skill, language, literature, art, architecture, music, play, dance, drama, ritual, pageantry, handicraft; these expressions are mainly learned orally, by imitation, or in performance, and are generally maintained without benefit of formal instruction or institutional direction;

(2) the term ''Board'' means the Board of Trustees of the Center;

(3) the term ''Center'' means the American Folklife Center established under this chapter;

(4) the term ''group'' includes any State or public agency or institution and any nonprofit society, institution, organization, association, or establishment in the United States;

(5) the term ''Librarian'' means the Librarian of Congress;

(6) the term ''State'' includes, in addition to the several States of the Union, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, and the Virgin Islands; and

(7) the term ''workshop'' means an activity the primary purpose of which is to encourage the development of skills, appreciation, or enjoyment of American folklife among amateur, student, or nonprofessional participants, or to promote scholarship or teaching among the participants.

(Pub. L. 94–201, § 3, Jan. 2, 1976, 89 Stat. 1129.)

§ 2103. American Folklife Center

(a) Establishment

There is hereby established in the Library of Congress an American Folklife Center.

(b) Board of Trustees; composition; regional balance

The Center shall be under the direction of a Board of Trustees. The Board shall be composed as follows—

(1) four members appointed by the President from among individuals who are officials of Federal departments and agencies concerned with some aspect of American folklife traditions and arts;

(2) four members appointed by the President pro tempore of the Senate from among individuals from private life who are widely recognized by virtue of their scholarship, experience, creativity, or interest in American folklife traditions and arts, and four members appointed by the Speaker of the House of Representatives from among such individuals;

(3) the Librarian of Congress;

(4) the Secretary of the Smithsonian Institution;

(5) the Chairman of the National Endowment for the Arts;

(6) the Chairman of the National Endowment for the Humanities; and

(7) the Director of the Center.

In making appointments from private life under clause 2, the President pro tempore of the Senate and the Speaker of the House of Representatives shall give due consideration to the appointment of individuals who collectively will provide appropriate regional balance on the Board. Not more than three of the members appointed by the President pro tempore of the

Senate or by the Speaker of the House of Representatives may be affiliated with the same political party.

(c) Term of office

The term of office of each appointed member of the Board shall be six years; except that (1)(A) the members first appointed under clause (1) of subsection (b) of this section shall serve as designated by the President, one for a term of two years, two for a term of four years, and one for a term of six years, and (B) the members first appointed under clause (2) of subsection (b) of this section shall serve as jointly designated by the President pro tempore of the Senate and the Speaker of the House of Representatives, two for terms of two years, four for terms of four years, and two for terms of six years; and (2) any member appointed to fill a vacancy occurring prior to the expiration of the term to which his predecessor was appointed shall be appointed for the remainder of such term. Members appointed by the President under clause (1) of subsection (b) of this section shall serve only during the time they are officials of Federal departments and agencies concerned with some aspect of American folklife traditions and arts.

(d) Compensation of Board members; travel expenses

Members of the Board who are not regular full-time employees of the United States shall be entitled, while serving on business of the Center, to receive compensation at rates fixed by the Librarian, but not exceeding $100 per diem, including traveltime; and while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5 for persons in Government service employed intermittently.

(e) Chairman; Vice Chairman; election; vacancies; quorum

(1) The Librarian shall call the first meeting of the Board, at which the first order of business shall be the election of a Chairman and a Vice Chairman, who shall serve for a term of one year. Thereafter each Chairman and Vice Chairman shall be elected for a term of two years. The Vice Chairman shall perform the duties of the Chairman in his absence. In case of a vacancy occurring in the chairmanship or vice-chairmanship, the Board shall elect a member to fill the vacancy for the remainder of the unexpired term.

(2) A majority of the members of the Board shall constitute a quorum.

(f) Director; Deputy Director; appointment and compensation

After consultation with the Board, the Librarian shall appoint the Director of the Center. The basic pay of the Director shall be at a per year rate not to exceed GS–18 of the General Schedule under section 5332 of title 5. The Librarian upon the recommendation of the Director shall appoint a Deputy Director of the Center. The basic pay of the Deputy Director shall be fixed at a rate not to exceed GS–16 of the General Schedule under section 5332 of such title.

(g) Duties of Director and Deputy Director

(1) The Director shall be the chief executive officer of the Center. Subject to the direction of the Board and the general supervision of the Librarian, the Director shall have responsibility for carrying out functions of the Center, and shall have authority over all personnel and activities of the Center.

(2) The Deputy Director shall perform such functions as the Director, with the approval of the Librarian, may prescribe, and shall serve as Acting Director during the absence or disability of the Director or in the event of a vacancy in the office of the Director.

(Pub. L. 94–201, § 4, Jan. 2, 1976, 89 Stat. 1130; Pub. L. 95–259, § 2, Apr. 17, 1978, 92 Stat. 196.)

AMENDMENTS

1978—Subsec. (c). Pub. L. 95–259 inserted provision limiting time of service of members appointed by the President to the time they are officials of Federal departments and agencies concerned with some aspect of American folklife traditions and arts.

REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, § 101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

§ 2104. Functions of Center

(a) Contracts; national archive and center for American folklife; loan of items in archive; procurement, display, etc., of items in archive; miscellaneous programs

The Librarian is authorized to—

(1) enter into, in conformity with Federal procurement statutes and regulations, contracts with individuals and groups for programs for the—

(A) initiation, encouragement, support, organization, and promotion of research, scholarship, and training in American folklife;

(B) initiation, promotion, support, organization, and production of live performances, festivals, exhibits, and workshops related to American folklife;

(C) purchase, receipt, production, arrangement for, and support of the production of exhibitions, displays, publications, and presentations (including presentations by still and motion picture films, and audio and visual magnetic tape recordings) which represent or illustrate some aspect of American folklife; and

(D) purchase, production, arrangement for, and support of the production of exhibitions, projects, presentations, and materials specially designed for classroom use representing or illustrating some aspect of American folklife;

(2) establish and maintain in conjunction with any Federal department, agency, or institution a national archive and center for American folklife;

(3) procure, receive, purchase, and collect for preservation or retention in an appropriate ar-

chive creative works, exhibitions, presentations, objects, materials, artifacts, manuscripts, publications, and audio and visual records (including still and motion picture film records, audio and visual magnetic tape recordings, written records, and manuscripts) which represent or illustrate some aspect of American folklife;

(4) loan, or otherwise make available, through Library of Congress procedures, any item in the archive established under this chapter to any individual or group;

(5) present, display, exhibit, disseminate, communicate, and broadcast to local, regional, State, or National audiences any exhibition, display, or presentation referred to in clause (3) of this section or any item in the archive established pursuant to clause (2) of this section, by making appropriate arrangements, including contracts with public, nonprofit, and private radio and television broadcasters, museums, educational institutions, and such other individuals and organizations, including corporations, as the Board deems appropriate;

(6) loan, lease, or otherwise make available to public, private, and nonprofit educational institutions, and State arts councils established pursuant to the National Foundation on the Arts and the Humanities Act of 1965 [20 U.S.C. 951 et seq.], such exhibitions, programs, presentations, and material developed pursuant to clause (1)(D) of this subsection as the Board deems appropriate; and

(7) develop and implement other appropriate programs to preserve, support, revitalize, and disseminate American folklife.

(b) Functions carried out through Center

The Librarian shall carry out his functions under this chapter through the Center.

(Pub. L. 94–201, § 5, Jan. 2, 1976, 89 Stat. 1131.)

REFERENCES IN TEXT

The National Foundation on the Arts and the Humanities Act of 1965, referred to in subsec. (a)(6), is Pub. L. 89–209, Sept. 29, 1965, 79 Stat. 845, as amended, which is classified principally to subchapter I (§ 951 et seq.) of chapter 26 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 951 of this title and Tables.

§ 2105. Limitations on contracts

(a) Time

No payment shall be made pursuant to this chapter to carry out any research or training over a period in excess of two years, except that with the concurrence of at least two-thirds of the members of the Board of the Center such research or training may be carried out over a period of not to exceed five years.

(b) Items excluded

Assistance pursuant to this chapter shall not cover the cost of land acquisition, construction, building acquisitions, or acquisition of major equipment.

(c) Former Government employees

No individual formerly in the employment of the Federal Government shall be eligible to receive any assistance pursuant to this chapter, or to serve as a trustee of the Center in the two-year period following the termination of such employment.

(Pub. L. 94–201, § 6, Jan. 2, 1976, 89 Stat. 1132.)

§ 2106. Administration

(a) Regulations; receipt of money and other property; compensation of personnel; services of experts and consultants; contracts; payments

In addition to any authority vested in it by other provisions of this chapter, the Librarian of Congress, in carrying out the Center's functions, is authorized to—

(1) prescribe such regulations as he deems necessary;

(2) receive money and other property donated, bequeathed, or devised, without condition or restriction other than that it be for the purposes of the Center and to use, sell, or otherwise dispose of such property for the purpose of carrying out its functions, without reference to Federal property disposal statutes;

(3) in the discretion of the Board of Trustees, receive (and use, sell, or otherwise dispose of, in accordance with clause (2)) money and other property donated, bequeathed, or devised to the Center with a condition or restriction, including a condition that the Center use other funds of the Center for the purpose of the gift;

(4) appoint and fix the compensation of such personnel as may be necessary to carry out the provisions of this chapter in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of title 5 relating to classification and General Schedule pay rates, except that the Librarian of Congress may appoint and fix the compensation of a reasonable number of personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5 relating to classification and General Schedule pay rates, but no individual so appointed shall receive compensation in excess of the rate received by the Deputy Director of the Center;

(5) obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5;

(6) accept and utilize the services of voluntary and noncompensated personnel and reimburse them for travel expenses, including per diem, as authorized by section 5703 of title 5;

(7) enter into contracts to carry out the provisions of this chapter, and such contracts may, with the concurrence of two-thirds of the members of the Board, be entered into without performance or other bonds and in conformity with section 5 of title 41; and

(8) make advances, progress, and other payments which the Board deems necessary under this chapter in conformity with the provisions of section 3324(a) and (b) of title 31.

(b) Annual report to Congress

The Director shall submit to the Librarian for inclusion in the annual report of the Library of Congress to the Congress an annual report of the operations of the Center under this chapter, which shall include a detailed statement of all

private and public funds received and expended by it, and such recommendations as the Center deems appropriate.

(Pub. L. 94–201, §7, Jan. 2, 1976, 89 Stat. 1133.)

REFERENCES IN TEXT

The Federal property disposal statutes, referred to in subsec. (a)(2), are generally classified to chapter 10 (§471 et seq.) of Title 40, Public Buildings, Property, and Works.

CODIFICATION

In subsec. (a)(8), ''section 3324(a) and (b) of title 31'' substituted for ''section 3648 of the Revised Statutes, as amended (31 U.S.C. 529)'' on authority of Pub. L. 97–258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

§2107. Authorization of appropriations

There are authorized to be appropriated to the Center to carry out this chapter such sums as may be necessary for each of the fiscal years 1997 and 1998.

(Pub. L. 94–201, §8, Jan. 2, 1976, 89 Stat. 1134; Pub. L. 95–259, §1, Apr. 17, 1978, 92 Stat. 196; Pub. L. 96–522, Dec. 12, 1980, 94 Stat. 3038; Pub. L. 98–392, §§1, 2, Aug. 21, 1984, 98 Stat. 1362; Pub. L. 99–473, Oct. 16, 1986, 100 Stat. 1212; Pub. L. 101–99, Sept. 26, 1989, 103 Stat. 637; Pub. L. 102–399, Oct. 7, 1992, 106 Stat. 1954; Pub. L. 103–101, §1, Oct. 8, 1993, 107 Stat. 1020; Pub. L. 104–197, title II, §209, Sept. 16, 1996, 110 Stat. 2410.)

AMENDMENTS

1996—Pub. L. 104–197 substituted ''Authorization of appropriations'' for ''Authorization'' in section catchline and amended text generally. Prior to amendment, text read as follows: ''There are authorized to be appropriated to the Center to carry out the provisions of this chapter $133,500 for the fiscal year 1976 and for the period from July 1 through September 30, 1976, $295,000 for the fiscal year 1977, $349,000 for the fiscal year 1978, $685,000 for the fiscal year ending September 30, 1979, $1,065,000 for the fiscal year ending September 30, 1980, $1,355,000 for the fiscal year ending September 30, 1981, $740,000 for the fiscal year ending September 30, 1982, $890,000 for the fiscal year ending September 30, 1983, $990,000 for the fiscal year ending September 30, 1984, $838,549 for the fiscal year ending September 30, 1985, $867,898 for the fiscal year ending September 30, 1986, $867,900 for the fiscal year ending September 30, 1987, $919,974 for the fiscal year ending September 30, 1988, $975,172 for the fiscal year ending September 30, 1989, $998,000 for the fiscal year ending September 30, 1990, $1,050,100 for the fiscal year ending September 30, 1991, $1,120,000 for the fiscal year ending September 30, 1992, $1,120,000 for the fiscal year ending September 30, 1993, $1,120,000 for the fiscal year ending September 30, 1994, and $1,120,000 for the fiscal year ending September 30, 1995.''

1993—Pub. L. 103–101 struck out ''and'' after ''September 30, 1992,'' and inserted before period at end '', $1,120,000 for the fiscal year ending September 30, 1994, and $1,120,000 for the fiscal year ending September 30, 1995''.

1992—Pub. L. 102–399 substituted ''1991,'' for ''1991, and'' and inserted '', and $1,120,000 for the fiscal year ending September 30, 1993'' after ''September 30, 1992''.

1989—Pub. L. 101–99 inserted provisions authorizing appropriations for fiscal years ending Sept. 30, 1990, Sept. 30, 1991, and Sept. 30, 1992, of $998,000, $1,050,100, and $1,120,000, respectively. Direction to strike out ''and'' after ''1988'' was executed by striking ''and'' after ''1988,'' to reflect the probable intent of Congress.

1986—Pub. L. 99–473 struck out subsec. designation ''(a)'' before ''There are authorized'' and ''and'' after ''1985,'', inserted '', $867,900 for the fiscal year ending September 30, 1987, $919,974 for the fiscal year ending September 30, 1988, and $975,172 for the fiscal year ending September 30, 1989'', and struck out subsec. (b) which provided that no amount authorized by subsec. (a) of this section for fiscal years ending Sept. 30, 1985, or Sept. 30, 1986, be used for pay, benefits, or other expenses of any personnel position established after Aug. 21, 1984.

1984—Pub. L. 98–392 designated existing provisions as subsec. (a), in subsec. (a), as so designated, inserted provisions authorizing appropriations for fiscal years ending Sept. 30, 1985, and Sept. 30, 1986, of $838,549 and $867,898, respectively, and added subsec. (b).

1980—Pub. L. 96–522 inserted provisions authorizing appropriations for fiscal years ending Sept. 30, 1982, Sept. 30, 1983, and Sept. 30, 1984, of $740,000, $890,000, and $990,000, respectively.

1978—Pub. L. 95–259 inserted provisions for the appropriation of $685,000, $1,065,000 and $1,355,000 for the fiscal years ending Sept. 30, 1979, 1980 and 1981, respectively.

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CODIFICATION

The Carl D. Perkins Vocational and Applied Technology Education Act, comprising this chapter, was originally enacted as part A of Pub. L. 88–210, Dec. 18, 1963, 77 Stat. 403, known as the Vocational Education Act of 1963, and classified to sections 35 to 35n of this title. Because of the extensive amendments, reorganization of the subject matter, and expansion of the Act by the acts summarized below, the Act is shown, herein, as having been added by Pub. L. 98–524 or Pub. L. 101–392 without reference to intervening amendments.

Part A of Pub. L. 88–210 was redesignated as title I and amended generally and reorganized by Pub. L. 90–576, title I, § 101, Oct. 16, 1968, 82 Stat. 1064, and reclassified to chapter 32 (§§ 1241 to 1393f) of this title.

Title I of Pub. L. 88–210 was amended generally and reorganized by Pub. L. 94–482, title II, § 202(a), Oct. 12, 1976, 90 Stat. 2169, and reclassified to this chapter (§§ 2301 to 2461).

Pub. L. 88–210 was amended by Pub. L. 98–524, § 1, Oct. 19, 1984, 98 Stat. 2435, by striking out all after the enacting clause and inserting in lieu thereof titles I to V (§§ 1–521), to be cited as the Carl D. Perkins Vocational Education Act.

Title II of Pub. L. 88–210 as added by Pub. L. 98–524 and amended, comprised subchapter II (§ 2331 et seq.) of this chapter. Such title is shown herein, however, as having been added by Pub. L. 101–392, title II, § 201, Sept. 25, 1990, 104 Stat. 776, without reference to intervening amendments because of the extensive revision of the title's provisions by Pub. L. 101–392.

Pub. L. 101–392, which made further extensive amendments to Pub. L. 88–210, amended section 1 of Pub. L. 88–210 to provide that the Act be cited as the Carl D. Perkins Vocational and Applied Technology Education Act, which comprises this chapter.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 1203a, 1206a, 5886, 5891, 6122, 6143, 6212, 6314, 7815, 8857 of this title; title 8 section 1255a; title 29 sections 49f, 721, 1531, 1532, 1533, 1535, 1605, 1645, 1661c, 1697, 1735, 1751, 1754, 1792, 1792b, 2308; title 31 section 6703; title 40 App. sections 211, 214; title 42 sections 3056, 3056a, 3056c.

§ 2301. Statement of purpose

It is the purpose of this chapter to make the United States more competitive in the world economy by developing more fully the academic and occupational skills of all segments of the population. This purpose will principally be achieved through concentrating resources on improving educational programs leading to academic and occupational skill competencies needed to work in a technologically advanced society.

(Pub. L. 88–210, § 2, as added Pub. L. 98–524, § 1, Oct. 19, 1984, 98 Stat. 2437; amended Pub. L. 101–392, § 2, Sept. 25, 1990, 104 Stat. 756.)

AMENDMENTS

1990—Pub. L. 101–392 amended section generally. Prior to amendment, section consisted of pars. (1) to (9) setting forth purpose of this chapter as assisting States in developing quality vocational education programs, assuring access to such programs, promoting cooperation between public agencies and the private sector in improving vocational education, improving academic foundations of vocational students, training and retraining in new skills in demand, raising employment in economically depressed areas, assisting States with supportive services, improving consumer and homemaking education and reducing sex-role stereotyping, and authorizing national programs to meet vocational education needs.

EFFECTIVE DATE OF 1990 AMENDMENT

Section 702 of Pub. L. 101–392 provided that:

''(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this Act [enacting subchapter II of this chapter, sections 2311a, 2327, 2328, 2394 to 2394e, 2395 to 2395e, 2396 to 2396m, 2411 to 2420a, 2424, 2466b to 2466e, 2468, 2468b to 2468e, and 3423a of this title, and subchapter III of chapter 20 of Title 25, Indians, amending this section, sections 2311 to 2313, 2321 to 2324, 2352, 2361 to 2363, 2382, 2391, 2392, 2401 to 2404, 2421 to 2423, 2451, 2463, and 2471 of this title, section 1812 of Title 25, and sections 49f, 1533, 1604, and 1661c of Title 29, Labor, repealing sections 1131, 2371 to 2373, 2376 to 2378, 2431, 2462, 2464, 2465, and 3423 of this title, and amending provisions set out below] shall take effect on July 1, 1991.

''(b) SPECIAL RULE.—Sections 3, 115, 116, 504, and 512 and part H of title III of the Carl D. Perkins Vocational and Applied Technology Education Act [sections 2302, 2325, 2326, 2466a, and 2468a of this title and part H (§ 2397 et seq.) of subchapter III of this chapter] (as amended by this Act) shall take effect upon the enactment of this Act [Sept. 25, 1990].''

EFFECTIVE DATE

Section 2 of Pub. L. 98–524 provided that:

''(a) This Act [enacting this chapter, amending sections 1013, 1014, 1135c–1, 1205, 1211c, and 3223 of this title, sections 721, 1503, 1532, 1535, 1697, 1751, 1753, 1754, 1772, and 1773 of Title 29, Labor, sections 113 and 114 of the Appendix to Title 40, Public Buildings, Property, and Works, enacting provisions set out as a note under section 1551 of Title 29, amending provisions set out as a note under section 11 of this title, and repealing provisions set out as a note under section 237 of this title] shall take effect for fiscal years beginning on or after October 1, 1984, except that the authority of the Secretary to prescribe regulations under this Act and the responsibility of States to submit State plans are effective upon the date of enactment of this Act [Oct. 19, 1984].

''(b) Not later than 90 days after the date of the enactment of this Act, the Secretary shall prescribe regulations for carrying out the provisions of this Act.''

SHORT TITLE OF 1990 AMENDMENT

Section 1(a) of Pub. L. 101–392 provided that: ''This Act [see Tables for classification] may be cited as the 'Carl D. Perkins Vocational and Applied Technology Education Act Amendments of 1990'.''

SHORT TITLE OF 1968 AMENDMENT

Pub. L. 90–576, § 1, Oct. 16, 1968, 82 Stat. 1064, provided that: ''This Act [enacting sections 6, 1119c to 1119c–4, 1226, 1241 to 1248, 1261 to 1264, 1281 to 1284, 1301 to 1305, 1321 to 1323, 1341, 1351 to 1355, 1371 to 1374, and 1391 of this title, amending sections 237, 237 note, 238, 239, 240, 241, 403, 421, 422, 423, 423 note, 425, 425 note, 426, 441, 442,

442 note, 443, 444, 462, 464, 481, 482, 482 note, 483, 484, 491, 511, 521, 541, 551, 561, 563, 588, 589, 611, 633, 644, 645, 1202, and 1221 of this title, repealing sections 15i, 15i note, 15j to 15q, 15aa to 15jj, 15aaa to 15ggg, 30, 31 to 33, and 34 of this title and section 1667 of Title 48, Territories and Insular Possessions, and enacting provisions set out as notes under sections 6, 11, 240, 886, 1202, 1321, and 2301 of this title and section 2809 of Title 42, The Public Health and Welfare may be cited as the 'Vocational Education Amendments of 1968'.''

SHORT TITLE

Section 1(a) of Pub. L. 88–210, as added by Pub. L. 98–524, §1, Oct. 19, 1984, 98 Stat. 2435, and amended Pub. L. 101–392, §1(b), Sept. 25, 1990, 104 Stat. 753, provided: ''This Act [enacting this chapter] may be cited as the 'Carl D. Perkins Vocational and Applied Technology Education Act'.''

Part E (§§341–347) of title III of Pub. L. 88–210, which enacted part E (§2394 et seq.) of subchapter III of this chapter, is known as the ''Tech-Prep Education Act'', see section 341 of Pub. L. 88–210, set out as a Short Title note under section 2394 of this title.

Part G (§§361–375) of title III of Pub. L. 88–210, which enacted part G (§2396 et seq.) of subchapter III of this chapter, is known as the ''Community Education Employment Center Act of 1990'', see section 361 of Pub. L. 88–210, set out as a Short Title note under section 2396 of this title.

Part H (§§381–390) of title III of Pub. L. 88–210, which enacted part H (§2397 et seq.) of subchapter III of this chapter, is known as the ''Tribally Controlled Vocational Institutions Support Act of 1990'', see section 381 of Pub. L. 88–210, set out as a Short Title note under section 2397 of this title.

TRANSITION PROVISIONS

Section 701 of Pub. L. 101–392 provided that: ''Upon the enactment of the Carl D. Perkins Vocational and Applied Technology Education Act Amendments of 1990 [Pub. L. 101–392, approved Sept. 25, 1990], each State and eligible recipient of Federal financial assistance under a State plan submitted pursuant to section 113 of the Carl D. Perkins Vocational Education Act [section 2323 of this title] may expend funds currently available under the Carl D. Perkins Vocational Education Act [this chapter] to—

''(1) conduct planning for any program or activity authorized under the Carl D. Perkins Vocational and Applied Technology Education Act, including the development of a State plan under section 113 of such Act;

''(2) develop State and local standards and measures as required by section 115 of the Carl D. Perkins Vocational and Applied Technology Education Act [section 2325 of this title]; and

''(3) conduct assessments as required by section 116 of the Carl D. Perkins Vocational and Applied Technology Education Act [section 2326 of this title].''

Section 3(a) of Pub. L. 98–524, as amended by Pub. L. 99–159, title VII, §712, Nov. 22, 1985, 99 Stat. 907, provided that: ''Until July 1, 1986, a State or eligible recipient may use funds received under the Vocational Educational Act of 1963 [this chapter prior to amendment by Pub. L. 98–524] or the Carl D. Perkins Vocational Education Act [this chapter] to—

''(1) conduct planning for any program or activity authorized under the Carl D. Perkins Vocational Education Act; and

''(2) conduct any other activity deemed necessary by the recipient to provide for an orderly transition to the operation of programs under the Carl D. Perkins Vocational Education Act.''

VOCATIONAL EDUCATION POLICY

Section 6 of Pub. L. 98–524 provided that: ''It is the sense of the Congress that effective vocational education programs are essential to our future as a free and democratic society; that such programs are best administered by local communities, and community colleges school boards, where the primacy of parental control can be emphasized with a minimum of Federal interference; and that as a means to strengthening vocational education and training programs, nongovernmental alternatives promoting links between public school needs and private sector sources of support should be encouraged and implemented.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2401 of this title.

§ 2302. Authorization of appropriations

(a) In general

There are authorized to be appropriated $1,600,000,000 for the fiscal year 1991 and such sums as may be necessary for each of the fiscal years 1992, 1993, 1994, and 1995 to carry out the provisions of subchapters I, II, III, and IV of this chapter.

(b) Subchapter I

(1) Of the amounts remaining from amounts made available under subsection (a) of this section after providing amounts for the programs described in paragraph (2) and subsections (d) and (f) of this section—

(A) 1.5 percent shall be available to carry out the provisions of section 2313 of this title, relating to Indian and Hawaiian natives programs; and

(B) .2 percent shall be available to carry out the provisions of section 2311a of this title, relating to the territories.

(2) Of the amounts made available in the fiscal year 1991 under subsection (a) of this section, not more than $9,000,000 shall be available to carry out the provisions of section 2322 of this title, relating to State councils on vocational education.

(c) Basic programs

Of the amounts remaining from amounts made available under subsection (a) of this section after providing amounts for the programs described in subsections (b)(2), (d), and (f) of this section, 95.8 percent shall be available to carry out the provisions of subchapter II of this chapter, relating to basic programs.

(d) Special programs

(1) Subject to paragraph (2), of the amounts made available under subsection (a) of this section for the fiscal year 1991—

(A) not more than $15,000,000 shall be available to carry out the provisions of part A of subchapter III of this chapter, relating to State assistance for vocational education support programs by community-based organizations;

(B) not more than $38,500,000 shall be available to carry out the provisions of part B of subchapter III of this chapter, relating to consumer and homemaking education;

(C) not more than $20,000,000 shall be available to carry out the provisions of part C of subchapter III of this chapter, relating to comprehensive career guidance and counseling programs;

(D) not more than $10,000,000 shall be available to carry out the provisions of part D of subchapter III of this chapter, relating to business-labor-education partnerships;

(E) not more than $125,000,000 shall be available to carry out the provisions of part E of subchapter III of this chapter, relating to tech-prep education;

(F) not more than $100,000,000 shall be available to carry out the provisions of part F of subchapter III of this chapter, relating to supplementary State grants for facilities and equipment and other program improvement activities;

(G) not more than $10,000,000 shall be available to carry out the provisions of part G of subchapter III of this chapter, of which—

(i) an amount equal to 75 percent of the amounts made available to carry out such part shall be available to carry out the provisions of subpart 1 of such part, relating to community education employment centers; and

(ii) an amount equal to 25 percent of the amounts made available to carry out such part shall be available to carry out the provisions of subpart 2 of such part, relating to vocational education lighthouse schools; and

(H) not more than $4,000,000 shall be available to carry out the provisions of part H of subchapter III of this chapter, relating to tribally controlled postsecondary vocational institutions.

(2) Notwithstanding the provisions of paragraph (1), amounts shall be available to carry out the provisions of part C, D, or G of subchapter III of this chapter in any fiscal year only to the extent that the amount available for such fiscal year to carry out the provisions of subchapter II of this chapter exceeds $1,000,000,000.

(e) National programs

For each fiscal year, of the amounts remaining from amounts available pursuant to subsection (a) of this section after providing amounts for the programs described in subsections (b)(2), (d), and (f) of this section, 2.5 percent of such remainder shall be available to carry out the provisions of subchapter IV of this chapter (other than parts D[1] and E), relating to national programs.

(f) Other national programs

(1) Of amounts made available under subsection (a) of this section for the fiscal year 1991, not more than $350,000 shall be available to carry out the provisions of part D[1] of subchapter IV of this chapter, relating to the National Council on Vocational Education.

(2) Of amounts made available under subsection (a) of this section for the fiscal year 1991, not more than $10,000,000 shall be available to carry out the provisions of part E of subchapter IV of this chapter, relating to bilingual vocational training programs.

(Pub. L. 88–210, § 3, as added Pub. L. 98–524, § 1, Oct. 19, 1984, 98 Stat. 2437; amended Pub. L. 100–418, title VI, §§ 6131(b), 6134(b), Aug. 23, 1988, 102 Stat. 1511, 1512; Pub. L. 101–392, § 3, Sept. 25, 1990, 104 Stat. 756.)

[1] See References in Text note below.

REFERENCES IN TEXT

Part D of subchapter IV of this chapter, referred to in subsecs. (e) and (f)(1), was repealed by Pub. L. 101–392, title IV, § 411(a), Sept. 25, 1990, 104 Stat. 829, effective Oct. 1, 1991.

AMENDMENTS

1990—Pub. L. 101–392 amended section generally, substituting provisions consisting of subsecs. (a) to (f) authorizing appropriations for fiscal years 1991 to 1995 for provisions consisting of subsecs. (a) to (e) authorizing appropriations for fiscal years 1985 to 1989.

1988—Subsec. (b)(3)(A). Pub. L. 100–418, § 6131(b)(1), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: ''There are authorized to be appropriated $35,000,000 for the fiscal year 1985 and such sums as may be necessary for each of the fiscal years 1986 through 1989 to carry out part C of subchapter III of this chapter, relating to adult training, retraining, and employment development.''

Subsec. (b)(3)(B). Pub. L. 100–418, § 6131(b)(2), substituted ''subparagraph (A)(i)'' for ''subparagraph (A)''.

Subsec. (b)(5). Pub. L. 100–418, § 6134(b), designated existing provisions as subpar. (A) and added subpar. (B).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2311, 2312, 2322, 2392, 2393, 2394a, 2451, 2466a of this title.

§ 2303. Interdepartmental Task Force on Vocational Education and Related Programs

(a) Establishment

There is established the Interdepartmental Task Force on Vocational Education and Related Programs (in this section referred to as the ''Task Force'').

(b) Membership

The Task Force shall consist of the Secretary of Education, the Secretary of Labor, the Secretary of Health and Human Services, and such other personnel of the Department of Education, the Department of Labor, and the Department of Health and Human Services as the Secretaries consider appropriate.

(c) Duties

The Task Force shall—

(1) examine principal data required for programs under the Adult Education Act [20 U.S.C. 1201 et seq.], the Carl D. Perkins Vocational and Applied Technology Education Act [20 U.S.C. 2301 et seq.], the Job Training Partnership Act [29 U.S.C. 1501 et seq.], the Rehabilitation Act of 1973 [29 U.S.C. 701 et seq.], and the Wagner-Peyser Act [29 U.S.C. 49 et seq.];

(2) examine possible common objectives, definitions, measures, and standards for such programs; and

(3) consider integration of research and development conducted with Federal assistance in the area of vocational education and related areas, including areas of emerging technologies.

(Pub. L. 101–392, § 4, Sept. 25, 1990, 104 Stat. 758; Pub. L. 104–66, title I, § 1041(f), Dec. 21, 1995, 109 Stat. 715.)

REFERENCES IN TEXT

The Adult Education Act, referred to in subsec. (c)(1), is title III of Pub. L. 89–750, Nov. 3, 1966, 80 Stat. 1216, as amended, which is classified generally to chapter 30 (§ 1201 et seq.) of this title. For complete classification

of this Act to the Code, see Short Title note set out under section 1201 of this title and Tables.

The Carl D. Perkins Vocational and Applied Technology Education Act, referred to in subsec. (c)(1), is Pub. L. 88–210, Dec. 18, 1963, 77 Stat. 403, as amended, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2301 of this title and Tables.

The Job Training Partnership Act, referred to in subsec. (c)(1), is Pub. L. 97–300, Oct. 13, 1982, 96 Stat. 1322, as amended, which is classified generally to chapter 19 (§1501 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 1501 of Title 29 and Tables.

The Rehabilitation Act of 1973, referred to in subsec. (c)(1), is Pub. L. 93–112, Sept. 26, 1973, 87 Stat. 355, as amended, which is classified principally to chapter 16 (§701 et seq.) of Title 29. For complete classification of this Act to the Code, see Short Title note set out under section 701 of Title 29 and Tables.

The Wagner-Peyser Act, referred to in subsec. (c)(1), is act June 6, 1933, ch. 49, 48 Stat. 113, as amended, which is classified principally to chapter 4B (§49 et seq.) of Title 29. For complete classification of this Act to the Code, see Short Title note set out under section 49 of Title 29 and Tables.

CODIFICATION

Section was enacted as part of the Carl D. Perkins Vocational and Applied Technology Education Act Amendments of 1990, and not as part of the Carl D. Perkins Vocational and Applied Technology Education Act which comprises this chapter.

AMENDMENTS

1995—Subsec. (d). Pub. L. 104–66 struck out heading and text of subsec. (d). Text read as follows: ''The Task Force shall, every 2 years, submit a report on its findings to the appropriate committees of the Congress.''

SUBCHAPTER I—VOCATIONAL EDUCATION ASSISTANCE TO THE STATES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 2302, 2323 of this title.

PART A—ALLOTMENT AND ALLOCATION

§ 2311. Allotment

(a) Allotment formula; minimum allotment

(1) In each fiscal year, of the amounts remaining from amounts made available under section 2302(a) of this title after providing amounts for the programs described in subsections (b)(2), (d), and (f) of section 2302 of this title, the Secretary shall reserve—

(A) 2.5 percent for the activities described in subchapter IV of this chapter (other than parts D[1] and E);

(B) 1.5 percent for the purpose of carrying out section 2313 of this title, of which—

(i) 1.25 percent shall be for the purpose of carrying out section 2313(b) of this title; and

(ii) .25 percent shall be for the purpose of carrying out section 2313(c) of this title; and

(C) .2 percent for the purpose of carrying out section 2311a of this title.

(2) Subject to the provisions of paragraph (3), from the remainder of the sums appropriated pursuant to section 2302(a) and (b) of this title, the Secretary shall allot to each State for each fiscal year—

(A) an amount which bears the same ratio to 50 percent of the sums being allotted as the product of the population aged fifteen to nineteen inclusive, in the State in the fiscal year preceding the fiscal year for which the determination is made and the State's allotment ratio bears to the sum of the corresponding products for all the States;

(B) an amount which bears the same ratio to 20 percent of the sums being allotted as the product of the population aged twenty to twenty-four, inclusive, in the State in the fiscal year preceding the fiscal year for which the determination is made and the State's allotment ratio bears to the sum of the corresponding products for all the States;

(C) an amount which bears the same ratio to 15 percent of the sums being allotted as the product of the population aged twenty-five to sixty-five, inclusive, in the State in the fiscal year preceding the fiscal year for which the determination is made and the State's allotment ratio bears to the sum of the corresponding products for all the States; and

(D) an amount which bears the same ratio to 15 percent of the sums being allotted as the amounts allotted to the State under clauses (A), (B), and (C) for such years bears to the sum of the amounts allotted to all the States under clauses (A), (B), and (C) for such year.

(3)(A)(i) Notwithstanding any other provision of law and subject to clause (ii), for any fiscal year for programs authorized by subchapter II of this chapter or part B of subchapter III of this chapter, no State shall receive less than the payments made to the State for each such program for fiscal year 1985 under Public Laws 98–619 and 99–88. Amounts necessary for increasing such payments to States to comply with the preceding sentence shall be obtained by ratably reducing the amounts to be paid to other States, but no such amount shall be reduced to an amount which is less than the amount a State received under the Act[1] for each such program for fiscal year 1985.

(ii) If for any fiscal year the amount appropriated for programs authorized by subchapter II of this chapter or part B of subchapter III of this chapter and available for allotment under this section is insufficient to satisfy the provisions of clause (i), the payments to all States for each such program shall be ratably reduced as necessary.

(B)(i) Notwithstanding any other provision of law and subject to subparagraphs (A), (C), and (D) and clause (ii), for any fiscal year for which the amounts appropriated for programs authorized by subchapter II of this chapter or part A, B, C, or D of subchapter III of this chapter (and available for allotment under this section) exceed the amounts so available for fiscal year 1985, no State shall receive less than one-half of one percent of the amount available for each such program for that fiscal year under this subsection. Amounts necessary for increasing such payments to States to comply with the preceding sentence shall be obtained by ratably reducing the amounts to be paid to other States.

(ii) Due to the application of the provisions of clause (i), for any fiscal year, no State shall re-

[1] See References in Text note below.

ceive more than 150 percent of the payments made to the State for each program authorized by subchapter II of this chapter, or part A, B, C, D, or E[2] of subchapter III of this chapter for the preceding fiscal year.

(C) In the case of the Virgin Islands, the minimum allotment for all programs under this chapter shall not be less than $200,000.

(D)(i) Subject to clause (iii), no State shall, by reason of subparagraph (B), be allotted more than the lesser of—

(I) 150 percent of the amount that the State received in the preceding fiscal year; and

(II) the amount calculated under clause (ii).

(ii) The amount calculated under this clause shall be determined by multiplying—

(I) the number of individuals in the State counted under paragraph (2) in the preceding fiscal year; by

(II) 150 percent of the national average per pupil payment made with funds available under this section for that year.

(iii) Notwithstanding the provisions of clauses (i) and (ii), no State shall be allotted an amount under this section in any fiscal year that is less than the amount such State is allotted in the fiscal year 1991.

(b) Reallotments

If the Secretary determines that any amount of any State's allotment under subsection (a) of this section for any fiscal year will not be required for such fiscal year for carrying out the program for which such amount has been allotted, the Secretary shall make such amount available for reallotment. Any such reallotment among other States shall occur on such dates during the same year as the Secretary shall fix, and shall be made on the basis of criteria established by regulation. No funds may be reallotted for any use other than the use for which they were appropriated. Any amount reallotted to a State under this subsection for any fiscal year shall remain available for obligation during the succeeding fiscal year and shall be deemed to be part of its allotment for the year in which it is obligated.

(c) Allotment ratios

(1) The allotment ratio for any State shall be 1.00 less the product of—

(A) 0.50; and

(B) the quotient obtained by dividing the per capita income for the State by the per capita income for all the States (exclusive of Puerto Rico and the Virgin Islands), except that (i) the allotment ratio in no case shall be more than 0.60 or less than 0.40 and (ii) the allotment ratio for Puerto Rico and the Virgin Islands shall be 0.60.

(2) The allotment ratios shall be promulgated by the Secretary for each fiscal year between October 1 and December 31 of the fiscal year preceding the fiscal year for which the determination is made. Allotment ratios shall be computed on the basis of the average of the appropriate per capita incomes for the three most recent consecutive fiscal years for which satisfactory data are available.

(3) The term ''per capita income'' means, with respect to a fiscal year, the total personal income in the calendar year ending in such year, divided by the population of the area concerned in such year.

(4) For the purposes of this section, population shall be determined by the Secretary on the basis of the latest estimates available to the Department.

(d) "State" defined

For the purpose of this section, the term ''State'' means any 1 of the 50 States, the Commonwealth of Puerto Rico, the District of Columbia, and the Virgin Islands.

(Pub. L. 88–210, title I, § 101, as added Pub. L. 98–524, § 1, Oct. 19, 1984, 98 Stat. 2438; amended Pub. L. 99–159, title VII, § 701, Nov. 22, 1985, 99 Stat. 904; Pub. L. 99–357, July 8, 1986, 100 Stat. 761; Pub. L. 101–392, title I, § 101(a), Sept. 25, 1990, 104 Stat. 759.)

REFERENCES IN TEXT

Part D of subchapter IV of this chapter, referred to in subsec. (a)(1)(A), was repealed by Pub. L. 101–392, title IV, § 411(a), Sept. 25, 1990, 104 Stat. 829, effective Oct. 1, 1991.

Public Laws 98–619 and 99–88, referred to in subsec. (a)(3)(A)(i), are Pub. L. 98–619, Nov. 8, 1984, 98 Stat. 3305, known as the Departments of Labor, Health and Human Services, and Education and Related Agencies Appropriation Act, 1985, and Pub. L. 99–88, Aug. 15, 1985, 99 Stat. 293, known as the Supplemental Appropriations Act, 1985. For complete classification of these Acts to the Code, see Tables.

The Act, referred to in subsec. (a)(3)(A)(i), probably means Pub. L. 98–619 and Pub. L. 99–88. See note above.

AMENDMENTS

1990—Subsec. (a)(1). Pub. L. 101–392, § 101(a)(1), amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''From the sums appropriated pursuant to section 2302(a) of this title, the Secretary shall reserve—

''(A) 2 percent for the activities described in subchapter IV of this chapter (other than part E); and

''(B) 1½ percent for the purpose of carrying out section 2313 of this title of which (i) 1¼ percent shall be for the purposes of section 2313(b) of this title and (ii) ¼ percent shall be for the purposes of section 2313(c) of this title.''

Subsec. (a)(3)(B)(i). Pub. L. 101–392, § 101(a)(1)(B)(i)(I), substituted ''subparagraphs (A), (C), and (D)'' for ''subparagraph (A)''.

Pub. L. 101–392, § 101(a)(1)(B)(i)(II), which directed substitution of ''or (D)'' for ''(D), or (E)'' each place it appears, was executed by substituting ''or D'' for ''D, or E'' before ''of subchapter III'', the only place it appeared in cl. (i) to reflect the probable intent of Congress.

Subsec. (a)(3)(C). Pub. L. 101–392, § 101(a)(1)(B)(ii), amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: ''In the case of the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, the minimum allotment for all programs under the Act shall be $200,000.''

Subsec. (a)(3)(D). Pub. L. 101–392, § 101(a)(1)(B)(iii), added subpar. (D).

Subsec. (c)(1)(B). Pub. L. 101–392, § 101(a)(2), substituted ''and the Virgin Islands'' for '', Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands'' in two places.

[2] So in original. Probably should be ''part A, B, C, or D''. See 1990 Amendment note below.

Subsec. (d). Pub. L. 101–392, §101(a)(3), added subsec. (d).

1986—Subsec. (a)(3). Pub. L. 99–357, amended par. (3) generally. Prior to amendment, par. (3) read as follows:

''(3)(A) No State shall receive in any fiscal year less than the total amount of payments made to the State under allotments determined under the Vocational Education Act of 1963 for fiscal year 1984. Any amounts necessary for increasing the sum of the allotments of certain States to comply with the preceding sentence shall be obtained by ratably reducing the sums of the allotments of the other States, but no such sum shall be thereby reduced to an amount which is less than the total amount of payments made to the State under allotments determined under that Act for fiscal year 1984.

''(B) In any fiscal year in which the amounts appropriated and available for allotments under this section exceeds the amounts so available for fiscal year 1984, and subject to the application of subparagraph (A), no State shall receive less than one-half of one percent of the amount available under this subsection for each such fiscal year except that in the case of the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands the minimum allotment shall be $200,000.

''(C) No State shall, by reason of the application of the provisions of subparagraph (B) of this paragraph, be allotted more than 150 percent of the allotment of that State in the fiscal year preceding the fiscal year for which the determination is made.''

1985—Subsec. (a)(3)(D). Pub. L. 99–159 struck out subpar. (D) which read as follows: ''For the purpose of this paragraph, the term 'State' does not include the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.''

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–392 effective July 1, 1991, see section 702(a) of Pub. L. 101–392, set out as a note under section 2301 of this title.

EFFECTIVE DATE OF 1985 AMENDMENT

Section 714 of title VII of Pub. L. 99–159 provided that:

''(a) The provisions of this title [amending this section, sections 2312, 2322, 2323, 2333, 2361, 2362, 2363, 2383, 2392, 2417, 2462, 2464, and 2471 of this title, and sections 1503 and 1753 of Title 29, Labor, and amending provisions set out as a note under section 2301 of this title] shall take effect July 1, 1985.

''(b) The amendment made by section 703(c)(2) of this Act [amending section 2322 of this title] shall not apply to funds appropriated before the date of the enactment of this Act [Nov. 22, 1985].''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2311a, 2313, 2322, 2352, 2361, 2381, 2394a, 2403, 2411, 2461 of this title.

§ 2311a. The territories

(a) The territories

From funds reserved pursuant to section 2311(a)(1)(C) of this title, the Secretary shall—

(1) make a grant in the amount of $500,000 to Guam; and

(2) make a grant in the amount of $190,000 to each of American Samoa and the Commonwealth of the Northern Mariana Islands.

(b) Remainder

Subject to the provisions of subsection (a) of this section, the Secretary shall make a grant of the remainder of funds reserved pursuant to section 2311(a)(1)(C) of this title to the Pacific Region Educational Laboratory in Honolulu, Hawaii, to make grants for vocational education and training in Guam, American Samoa, the Republic of Palau, the Commonwealth of the Northern Mariana Islands, the Federated States of Micronesia, and the Republic of the Marshall Islands, for the purpose of providing direct educational services, including—

(1) teacher and counselor training and retraining;

(2) curriculum development; and

(3) improving vocational education and training programs in secondary schools and institutions of higher education, or improving cooperative education programs involving both secondary schools and institutions of higher education.

(c) Limitation

The Pacific Region Educational Laboratory may use not more than 5 percent of the funds received pursuant to subsection (b) of this section for administrative costs.

(Pub. L. 88–210, title I, §101A, as added Pub. L. 101–392, title I, §101(b), Sept. 25, 1990, 104 Stat. 760; amended Pub. L. 103–208, §3, Dec. 20, 1993, 107 Stat. 2487; Pub. L. 103–382, title III, §369, Oct. 20, 1994, 108 Stat. 3976.)

AMENDMENTS

1994—Pub. L. 103–382 amended section generally, restating provisions of section but without including authority to make a specific grant in amount of $190,000 to Palau.

1993—Subsec. (b). Pub. L. 103–208, §3(1), in introductory provisions, substituted ''Pacific Regional Educational Laboratory, Honolulu, Hawaii'' for ''Center for the Advancement of Pacific Education, Honolulu, Hawaii, or its successor entity as the Pacific regional educational laboratory'' and inserted ''or provide direct services regarding'' after ''grants for''.

Subsec. (c). Pub. L. 103–208, §3(2), substituted ''Pacific Regional Educational Laboratory, Honolulu, Hawaii,'' for ''Center for the Advancement of Pacific Education''.

EFFECTIVE DATE

Section effective July 1, 1991, see section 702(a) of Pub. L. 101–392, set out as an Effective Date of 1990 Amendment note under section 2301 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2302, 2311 of this title.

§ 2312. Within State allocation

(a) Programs other than State grants

From the allotment made to each State from funds appropriated under section 2302(a) of this title for each fiscal year—

(1) an amount equal to at least 75 percent of the allotment shall be available only for basic programs under part C of subchapter II of this chapter;

(2) an amount equal to 10.5 percent of the allotment shall be available only for the program for single parents, displaced homemakers, and single pregnant women described in section 2335 of this title and the sex equity program described in section 2335a of this title, of which—

(A) not less than 7 percent of such allotment shall be reserved for the program for single parents, displaced homemakers, and single pregnant women; and

(B) not less than 3 percent of such allotment shall be reserved for the sex equity program;

(3) an amount equal to not more than 8.5 percent of the allotment shall be available only for State programs and activities described in section 2331 of this title;

(4) the State may use for administration of the State plan an amount that does not exceed 5 percent of the allotment or $250,000, whichever is greater, of which—

(A) not less than $60,000 shall be available only for purposes of carrying out the provisions of section 2321(b)(1) of this title; and

(B) remaining amounts may be used for the costs of—

(i) developing the State plan;

(ii) reviewing local applications;

(iii) monitoring and evaluating program effectiveness;

(iv) providing technical assistance; and

(v) assuring compliance with all applicable Federal laws, including required services and activities for individuals who are members of special populations; and

(5) an amount equal to 1 percent of the allotment shall be available only for programs for criminal offenders under section 2336 of this title.

(b) Matching requirement

Each State receiving financial assistance under this chapter shall match, from non-Federal sources and on a dollar-for-dollar basis, the funds reserved pursuant to subsection (a)(4) of this section.

(c) Hold harmless provision

(1) Except as provided in paragraph (3) and notwithstanding the provisions of subsection (a) of this section, each State shall reserve for the program for single parents, displaced homemakers, and single pregnant women under section 2335 of this title, and the sex equity program under section 2335a of this title, respectively, an amount that is not less than the amount such State reserved for each such program in the fiscal year 1990.

(2) Except as provided in paragraph (3) and notwithstanding the provisions of subsection (a) of this section, each State shall reserve for the program for criminal offenders under section 2336 of this title, an amount that is not less than the amount such State expended under this chapter for such program for the fiscal year 1990.

(3) In any year in which a State receives an amount for purposes of carrying out programs under subchapter II of this chapter that is less than the amount such State received for such purposes in the fiscal year 1990, such State shall ratably reduce the amounts reserved under paragraph (1).

(Pub. L. 88–210, title I, §102, as added Pub. L. 98–524, §1, Oct. 19, 1984, 98 Stat. 2440; amended Pub. L. 99–159, title VII, §702, Nov. 22, 1985, 99 Stat. 904; Pub. L. 101–392, title I, §102, Sept. 25, 1990, 104 Stat. 761; Pub. L. 102–103, title III, §311(a), Aug. 17, 1991, 105 Stat. 505.)

AMENDMENTS

1991—Subsec. (c)(1). Pub. L. 102–103, §311(a)(1), substituted ''paragraph (3)'' for ''paragraph (2)'', inserted ''and'' before ''the sex equity program'', and struck out ''and the program for criminal offenders under section 2336 of this title,'' before ''respectively,''.

Subsec. (c)(2), (3). Pub. L. 102–103, §311(a)(2), (3), added par. (2) and redesignated former par. (2) as (3).

1990—Pub. L. 101–392 amended section generally, substituting provisions relating to availability of funds from State's allotment for programs other than State grants and for administration of State plan and requirement of State to match funds and to maintain proportion of allotment reserved for certain programs for provisions relating to reservation of funds by States out of allotment of funds for administration of State plan, vocational education opportunities, and vocational education program improvement, innovation, and expansion.

1985—Subsec. (a). Pub. L. 99–159 amended subsec. (a) generally, substituting provisions setting forth requirements for States to reserve amounts from the allotment of funds, for provisions setting forth requirements for States for allocations from the allotment in each fiscal year.

Subsec. (b). Pub. L. 99–159 amended subsec. (b) generally, substituting provisions setting forth additional requirements for States with respect to reserves from the remainder of the allotment of funds, for provisions setting forth additional requirements for States with respect to allocations from the allotment.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–392 effective July 1, 1991, see section 702(a) of Pub. L. 101–392, set out as a note under section 2301 of this title.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–159 effective July 1, 1985, see section 714(a) of Pub. L. 99–159, set out as a note under section 2311 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2321, 2323, 2331, 2335, 2335a, 2335b, 2336, 6215 of this title.

§ 2313. Indian and Hawaiian natives programs

(a) Definitions; authority of Secretary to contract

(1) For the purpose of this section—

(A) the term ''Act of April 16, 1934'' means the Act entitled ''An Act authorizing the Secretary of the Interior to arrange with States or territories for the education, medical attention, relief of distress, and social welfare of Indians, and for other purposes'', enacted April 16, 1934 (48 Stat. 596; 25 U.S.C. 452–457); and

(B) the term ''Hawaiian native'' means any individual any of whose ancestors were natives, prior to 1778, of the area which now comprises the State of Hawaii.

(2) From the funds reserved pursuant to section 2311(a)(1)(B) of this title, the Secretary shall enter into contracts for Indian and Hawaiian native programs in accordance with the provisions of this section.

(b) Indian tribes; fund expenditure plans; Bureau of Indian Affairs deemed State board

(1)(A) From the funds reserved pursuant to section 2311(a)(1)(B)(i) of this title, the Secretary is directed—

(i) upon the request of any Indian tribe which is eligible to contract with the Secretary of the Interior for the administration of programs under the Indian Self-Determination Act [25 U.S.C. 450f et seq.] or under the Act of April 16, 1934 [25 U.S.C. 452–457]; or

(ii) upon an application received from a Bureau funded school (as such term is defined in section 2019(3)[1] of title 25) offering secondary programs filed at such time and under such conditions as the Secretary may prescribe,

to make grants to or enter into contracts with any tribal organization of any such Indian tribe or to make a grant to such Bureau funded school, as appropriate, to plan, conduct, and administer programs or portions of programs authorized by and consistent with the purposes of this chapter, except that—

(I) such grants or contracts with any tribal organization shall be subject to the terms and conditions of section 102 of the Indian Self-Determination Act [25 U.S.C. 450f] and shall be conducted in accordance with the provisions of sections 4, 5, and 6 of the Act of April 16, 1934 [25 U.S.C. 455, 456, and 457], which are relevant to the programs administered under this sentence; and

(II) such grants to Bureau funded schools shall not be subject to the requirements of the Indian Self-Determination Act or the Act of April 16, 1934.

(B)(i) Any tribal organization or school eligible to receive assistance under this paragraph may apply individually or as part of a consortium with another such tribal organization or school.

(ii) In the case of a Bureau funded school, the minimum amount of a grant made under this section shall be $35,000.

(C) The Secretary may not place upon grants made or contracts entered into under this paragraph any restrictions relating to programs or outcomes other than restrictions which apply to grants made to or contracts entered into with States under section 2311 of this title. The Secretary, in making grants under this paragraph, shall give special consideration to—

(i) grants which involve, coordinate with, or encourage tribal economic development plans; and

(ii) applications from tribally controlled community colleges which—

(I) are accredited or are candidates for accreditation by a nationally recognized accreditation organization as an institution of postsecondary vocational education; or

(II) operate vocational education programs that are accredited or are candidates for accreditation by a nationally recognized accreditation organization and issue certificates for completion of vocational education programs.

(D)(i) Funds received pursuant to grants and contracts described in subparagraph (A) may be used to provide stipends to students who are enrolled in vocational education programs and who have acute economic needs which cannot be met through work-study programs.

(ii) Stipends described in clause (i) shall not exceed reasonable amounts as prescribed by the Secretary.

(2) The Bureau of Indian Affairs shall expend an amount equal to the amount made available under this subsection, relating to programs for Indians, to pay a part of the costs of programs funded under this subsection. During each fiscal year the Bureau of Indian Affairs shall expend no less than the amount expended during the prior fiscal year on vocational education programs, services, and activities administered either directly by, or under contract with, the Bureau of Indian Affairs. The Secretary and the Assistant Secretary of the Interior for Indian Affairs shall jointly prepare a plan for the expenditure of funds made available and for the evaluation of programs assisted under this subsection. Upon the completion of a joint plan for the expenditure of these funds and the evaluation of the programs, the Secretary shall assume responsibility for the administration of the program, with the assistance and consultation of the Bureau of Indian Affairs.

(3) Programs funded under this subsection shall be in addition to such other programs, services, and activities as are made available to eligible Indians under other provisions of this chapter.

(4) For the purposes of this chapter, the Bureau of Indian Affairs shall be deemed to be a State board; and all the provisions of this chapter shall be applicable to the Bureau as if it were a State board.

(c) Hawaiian natives

From the funds reserved pursuant to section 2311(a)(1)(B)(ii) of this title, the Secretary is directed, to enter into contracts with organizations primarily serving and representing Hawaiian natives which are recognized by the Governor of the State of Hawaii to plan, conduct, and administer programs, or portions thereof, which are authorized by and consistent with the provisions of this section for the benefit of Hawaiian natives.

(Pub. L. 88–210, title I, §103, as added Pub. L. 98–524, §1, Oct. 19, 1984, 98 Stat. 2440; amended Pub. L. 101–392, title I, §103, Sept. 25, 1990, 104 Stat. 762; Pub. L. 102–103, title III, §311(b), Aug. 17, 1991, 105 Stat. 505.)

REFERENCES IN TEXT

Act of April 16, 1934, referred to in subsecs. (a)(1) and (b)(1)(A), is act Apr. 16, 1934, ch. 147, 48 Stat. 596, as amended, popularly known as the Johnson-O'Malley Act, which is classified generally to section 452 et seq. of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 452 of Title 25 and Tables.

The Indian Self-Determination Act, referred to in subsec. (b)(1)(A), is title I of Pub. L. 93–638, Jan. 4, 1975, 88 Stat. 2206, which is classified principally to part A (§450f et seq.) of subchapter II of chapter 14 of Title 25. For complete classification of this Act to the Code, see Short Title note set out under section 450 of Title 25 and Tables.

Section 2019(3) of title 25, referred to in subsec. (b)(1)(A)(ii), was in the original a reference to section 1139(3) of the Education Amendments of 1978, Pub. L. 95–561. Section 1139 of Pub. L. 95–561 was omitted in the general amendment of chapter 22 (§2001 et seq.) of Title 25 by Pub. L. 103–382, title III, §381, Oct. 20, 1994, 108 Stat. 3979. Pub. L. 103–382 enacted a new section 1139 of Pub. L. 95–561, relating to regulations, which is classified to section 2019 of Title 25. Provisions defining ''Bureau funded schools'' are now contained in section 2026 of Title 25.

AMENDMENTS

1991—Subsec. (b)(1)(D). Pub. L. 102–103 added subpar. (D).

[1] See References in Text note below.

1990—Subsec. (b)(1). Pub. L. 101–392 amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''From the funds reserved pursuant to section 2311(a)(1)(B)(i) of this title, the Secretary is directed, upon the request of any Indian tribe which is eligible to contract with the Secretary of the Interior for the administration of programs under the Indian Self-Determination Act or under the Act of April 16, 1934, to enter into grants or contracts with any tribal organization of any such Indian tribe to plan, conduct, and administer programs, or portions thereof, which are authorized by and consistent with the purposes of this chapter, except that such grants or contracts shall be subject to the terms and conditions of section 102 of the Indian Self-Determination Act and shall be conducted in accordance with the provisions of sections 4, 5, and 6 of the Act of April 16, 1934, which are relevant to the programs administered under this sentence. From any remaining funds reserved pursuant to section 2311(a)(1)(B) of this title and available for this subsection, the Secretary is authorized to enter into an agreement with the Assistant Secretary of the Interior for Indian Affairs for the operation of vocational education programs authorized by this chapter in institutions serving Indians eligible to receive educational benefits as Indians from the Bureau of Indian Affairs, and the Secretary of the Interior is authorized to receive the funds for the purposes described in this paragraph.''

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–392 effective July 1, 1991, see section 702(a) of Pub. L. 101–392, set out as a note under section 2301 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2302, 2311 of this title.

PART B—STATE ORGANIZATIONAL AND PLANNING RESPONSIBILITIES

§ 2321. State administration

(a) Establishment of board; administrative responsibilities; delegation of functions

(1) Any State desiring to participate in the vocational education program authorized by this chapter shall, consistent with State law, designate or establish a State board of vocational education which shall be the sole State agency responsible for the administration or the supervision of the State vocational education program. The responsibilities of the State board shall include—

(A) coordination of the development, submission, and implementation of the State plan, and the evaluation of the program, services, and activities assisted under this chapter pursuant to section 2323(b)(8) of this title, section 2326 of this title, and section 2327 of this title; and[1]

(B) the development, in consultation with the State council on vocational education, and the submission to the Secretary, of the State plan required by section 2323 of this title and by section 2324 of this title;

(C) consultation with the State council established pursuant to section 2322 of this title, and other appropriate agencies, groups, and individuals, including business, industry, and labor, involved in the planning, administration, evaluation, and coordination of programs funded under this chapter;

(D) convening and meeting as a State board (consistent with State law and procedure for the conduct of such meetings) at such time as the State board determines necessary to carry out its functions under this chapter, but not less than four times annually; and

(E) the adoption of such procedures as the State board considers necessary to implement State level coordination with the State job training coordinating council to encourage cooperation in the conduct of their respective programs.

Except with respect to the functions set forth in the preceding sentence, the State board may delegate any of its other responsibilities involving administration, operation, or supervision, in whole or in part, to one or more appropriate State agencies.

(2) Each State shall include a description of any delegation of its functions under paragraph (1) in its State plan, or amendments to such plan, submitted to the Secretary.

(b) Assignment of personnel by State; functions of personnel; implementing funds; "State" defined

(1) Any State desiring to participate in the programs authorized by this chapter shall assign one individual within the appropriate agency established or designated by the State board under the last sentence of subsection (a)(1) of this section to administer vocational education programs within the State, to work full time to assist the State board to fulfill the purposes of this chapter by—

(A) administering the program of vocational education for single parents and homemakers described in section 2335 of this title and the sex equity program described in section 2335a of this title;

(B) gathering, analyzing, and disseminating data on the adequacy and effectiveness of vocational education programs in the State in meeting the education and employment needs of women (including preparation for employment in technical occupations, new and emerging occupational fields, and occupations regarded as nontraditional for women), and on the status of men and women students and employees in such programs;

(C) reviewing and commenting upon, and making recommendations concerning, the plans of local educational agencies, area vocational education schools, intermediate educational agencies, and postsecondary educational institutions to ensure that the needs of women and men for training in nontraditional jobs are met;

(D) reviewing vocational education programs (including career guidance and counseling) for sex stereotyping and sex bias, with particular attention to practices which tend to inhibit the entry of women in high technology occupations, and submitting (i) recommendations for inclusion in the State plan of programs and policies to overcome sex bias and sex stereotyping in such programs, and (ii) an assessment of the State's progress in meeting the purposes of this chapter with regard to overcoming sex discrimination and sex stereotyping;

[1] So in original. The word ''and'' probably should not appear.

(E) reviewing proposed actions on grants, contracts, and the policies of the State board to ensure that the needs of women are addressed in the administration of this chapter;

(F) developing recommendations for programs of information and outreach to women concerning vocational education and employment opportunities for women (including opportunities for careers as technicians and skilled workers in technical fields and new and emerging occupational fields);

(G) providing technical assistance and advice to local educational agencies, postsecondary institutions, and other interested parties in the State, in expanding vocational opportunities for women;

(H) assisting administrators, instructors, and counselors in implementing programs and activities to increase access for women (including displaced homemakers and single heads of households) to vocational education and to increase male and female students' enrollment in nontraditional programs;

(I) developing an annual plan for the use of all funds available for such programs;

(J) managing the distribution of funds pursuant to section 2335b of this title;

(K) monitoring the use of funds distributed to recipients under such programs; and

(L) evaluating the effectiveness of programs and activities supported by such funds.

(2) For the purpose of this subsection, the term ''State'' means any one of the fifty States and the District of Columbia.

(3) Each State shall from funds allocated under section 2312(a)(4)(A) of this title expend not less than $60,000 in each fiscal year to carry out the provisions of this subsection.

(c) Review of plans with respect to students with handicaps

(1) Any State desiring to participate in the programs authorized by this chapter shall designate or assign the head of the State office responsible for administering part B of the Education of the Handicapped Act [20 U.S.C. 1411 et seq.] to review the implementation of the provisions of this chapter as such provisions relate to students with handicaps by reviewing all or a representative sample of plans of eligible recipients to—

(A) assure that individuals with handicaps are receiving vocational educational services;

(B) assure that the plans of the eligible recipient provide assurances of compliance with the provisions of section 794 of title 29 and the Education of[2] Handicapped Act [20 U.S.C. 1400 et seq.] regarding equal access to programs; and

(C) assure that the eligible recipients have—

(i) identified the number of students with handicaps enrolled in vocational programs operated by the eligible recipient;

(ii) assessed the vocational needs of the students identified pursuant to clause (i); and

(iii) developed an adequate plan to provide supplementary services sufficient to meet the needs of such students.

(2) For purposes of this subsection and subsections (d) and (e) of this section, the term ''State'' means any 1 of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

(d) Needs of economically disadvantaged students

Any State desiring to participate in the programs authorized by this chapter shall assign the head of the State office or other appropriate individual responsible for coordinating services under title I of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6301 et seq.] to review all or a representative sample of plans of the eligible recipients to ensure that the number of economically disadvantaged students have been identified, and that the needs of such students are being met as outlined by such plans.

(e) Needs of students of limited English proficiency

Any State desiring to participate in the programs authorized by this chapter shall designate or assign the head of the State office or other appropriate individual responsible for administering programs for students of limited English proficiency to review all or a representative sample of the plans of the eligible recipients to ensure the numbers of students of limited English proficiency have been identified and that the needs of such students for participation in vocational education programs are being met as outlined by such plans.

(f) Program listing; availability to private industry councils

The State board shall make available to each private industry council established under section 102 of the Job Training Partnership Act [29 U.S.C. 1512] within the State a listing of all programs assisted under this chapter.

(g) Technical committees; procedures established by State board; membership

Each State board, in consultation with the State council, shall establish a limited number of technical committees to advise the council and the board on the development of model curricula to address State labor market needs. Technical committees shall develop an inventory of skills that may be used by the State board to define state-of-the-art model curricula. Such inventory will provide the type and level of knowledge and skills needed for entry, retention, and advancement in occupational areas taught in the State. The State board shall establish procedures for membership, operation, and duration of such committees consistent with the purposes of this chapter. The membership shall be representatives of (1) employers from any relevant industry or occupation for which the committee is established; (2) trade or professional organizations representing any relevant occupations; and (3) organized labor, where appropriate.

(Pub. L. 88–210, title I, §111, as added Pub. L. 98–524, §1, Oct. 19, 1984, 98 Stat. 2441; amended Pub. L. 101–392, title I, §111, Sept. 25, 1990, 104 Stat. 763; Pub. L. 103–382, title III, §391(s)(1), Oct. 20, 1994, 108 Stat. 4024.)

[2] So in original. Probably should be ''of the''.

REFERENCES IN TEXT

The Education of the Handicapped Act, referred to in subsec. (c)(1), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, as amended, known as the Individuals with Disabilities Education Act, which is classified generally to chapter 33 (§1400 et seq.) of this title. Part B of the Act is classified generally to subchapter II (§1411 et seq.) of chapter 33 of this title. For complete classification of this Act to the Code, see section 1400 of this title and Tables.

The Elementary and Secondary Education Act of 1965, referred to in subsec. (d), is Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, as amended generally by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519. Title I of the Act is classified generally to subchapter I (§6301 et seq.) of chapter 70 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

AMENDMENTS

1994—Subsec. (d). Pub. L. 103–382 substituted ''title I'' for ''chapter 1 of title I''.

1990—Subsec. (a)(1)(A). Pub. L. 101–392, §111(1), substituted ''section 2323(b)(8) of this title, section 2326 of this title, and section 2327 of this title'' for ''section 2323(b)(9) of this title''.

Subsec. (a)(1)(C). Pub. L. 101–392, §111(2), inserted '', including business, industry, and labor,'' before ''involved''.

Subsec. (b)(1)(A). Pub. L. 101–392, §111(3)(A), substituted ''section 2335 of this title'' for ''section 2331(f) of this title'' and ''section 2335a of this title'' for ''section 2331(g) of this title''.

Subsec. (b)(1)(C) to (L). Pub. L. 101–392, §111(3)(B)–(F), added subpars. (C) and (I) to (L) and redesignated former subpars. (C) to (G) as (D) to (H), respectively.

Subsec. (b)(3). Pub. L. 101–392, §111(4), inserted ''from funds allocated under section 2312(a)(4)(A) of this title'' before ''expend''.

Subsecs. (c) to (g). Pub. L. 101–392, §111(5)–(7), added subsecs. (c) to (e), redesignated former subsecs. (c) and (d) as (f) and (g), respectively, and struck out former subsec. (e) which required that imposition of any State rule or policy relating to administration and operation of programs funded by this chapter (including any rule or policy based on State interpretation of any Federal law, regulation, or guideline) had to be identified as State imposed requirement.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–392 effective July 1, 1991, see section 702(a) of Pub. L. 101–392, set out as a note under section 2301 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2312, 2325, 2335a, 2335b, 2362, 2395d, 2441, 6123, 6143, 6193 of this title; title 29 sections 1532, 1697.

§ 2322. State council on vocational education

(a) Establishment; membership

Except as provided in subsection (g) of this section, each State which desires to participate in vocational education programs authorized by this chapter for any fiscal year shall establish a State council, which shall be appointed by the Governor or, in the case of States in which the members of the State board of education are elected (including election by the State legislature), by such board. Each State council shall be composed of 13 individuals, and shall be broadly representative of citizens and groups within the State having an interest in vocational education. Each State council shall consist of—

(1) seven individuals who are representative of the private sector in the State who shall constitute a majority of the membership—

(A) five of whom shall be representative of business, industry, trade organizations, and agriculture including—

(i) one member who is representative of small business concerns; and

(ii) one member who is a private sector member of the State job training coordinating council (established pursuant to section 122 of the Job Training Partnership Act [29 U.S.C. 1532]), and

(B) two of whom shall be representatives of labor organizations;

(2) six individuals who are representative of secondary and postsecondary vocational institutions (equitably distributed among such institutions), career guidance and counseling organizations within the State, individuals who have special knowledge and qualifications with respect to the special educational and career development needs of special populations (including women, the disadvantaged, the handicapped, individuals with limited English proficiency, and minorities) and of whom one member shall be representative of special education and may include members of vocational student organizations and school board members.

In selecting individuals under subsection (a) of this section to serve on the State council, due consideration shall be given to the appointment of individuals who serve on a private industry council under the Job Training Partnership Act [29 U.S.C. 1501 et seq.], or on State councils established under other related Federal Acts. No employee of the State board shall serve on the State council.

(b) Certification requirements of establishment and membership

The State shall certify to the Secretary the establishment and membership of the State council by the beginning of each State plan period described in section 2323(a)(1) of this title.

(c) Meetings; chairperson; rules for operating procedure and staffing

Each State council shall meet as soon as practical after certification has been accepted by the Secretary and shall select from among its membership a chairperson who shall be representative of the private sector. The time, place, and manner of meeting, as well as council operating procedures and staffing, shall be as provided by the rules of the State council, except that such rules must provide for not less than one public meeting each year at which the public is given an opportunity to express views concerning the vocational education program of the State.

(d) Functions and duties

During each State plan period described in section 2323(a)(1) of this title, each State council shall—

(1) meet with the State board or its representatives to advise on the development of the subsequent State plan;

(2) made recommendations to the State board and make reports to the Governor, the business community, and general public of the State, concerning—

(A) the State plan;

(B) policies the State should pursue to strengthen vocational education (with particular attention to programs for the handicapped); and

(C) initiatives and methods the private sector could undertake to assist in the modernization of vocational education programs;

(3) analyze and report on the distribution of spending for vocational education in the State and on the availability of vocational education activities and services within the State;

(4) furnish consultation to the State board on the establishment of evaluation criteria for vocational education programs within the State;

(5) submit recommendations to the State board on the conduct of vocational education programs conducted in the State which emphasize the use of business concerns and labor organizations;

(6) assess the distribution of financial assistance furnished under this chapter, particularly with the analysis of the distribution of financial assistance between secondary vocational education programs and postsecondary vocational education programs;

(7) recommend procedures to the State board to ensure and enhance the participation of the public in the provision of vocational education at the local level within the State, particularly the participation of local employers and local labor organizations;

(8) report to the State board on the extent to which individuals who are members of special populations are provided with equal access to quality vocational education programs;

(9) analyze and review corrections education programs; and

(10)(A) evaluate at least once every 2 years—

(i) the extent to which vocational education, employment, and training programs in the State represent a consistent, integrated, and coordinated approach to meeting the economic needs of the State;

(ii) the vocational education program delivery system assisted under this chapter, and the job training program delivery system assisted under the Job Training Partnership Act [29 U.S.C. 1501 et seq.], in terms of such delivery systems' adequacy and effectiveness in achieving the purposes of each of this chapter and the Job Training Partnership Act; and

(iii) make recommendations to the State board on the adequacy and effectiveness of the coordination that takes place between vocational education and the Job Training Partnership Act;

(B) comment on the adequacy or inadequacy of State action in implementing the State plan;

(C) make recommendations to the State board on ways to create greater incentives for joint planning and collaboration between the vocational education system and the job training system at the State and local levels; and

(D) advise the Governor, the State board, the State job training coordinating council, the Secretary, and the Secretary of Labor regarding such evaluation, findings, and recommendations.

(e) Employment of professional, technical, and clerical personnel; contracts for employment of personnel for implementation of evaluation functions; comment statement

Each State council is authorized to obtain the services of such professional, technical, and clerical, personnel as may be necessary to enable it to carry out its functions under this chapter and to contract for such services as may be necessary to enable the Council to carry out its evaluation functions, independent of programmatic and administrative control by other State boards, agencies, and individuals. Each State Council[1] may submit a statement to the Secretary reviewing and commenting upon the State plan. Such statement shall be sent to the Secretary with the State plan.

(f) Authorization of appropriations for grants to councils; amounts of grants; expenditure of funds

(1)(A) Except as provided in subparagraph (B), from the sums appropriated pursuant to section 2302(c) of this title, the Secretary shall first make grants of $150,000 to each State council. From the remainder of such sums the Secretary shall allot to each State council an amount in accordance with the method of allotment set forth in section 2311(a)(2) of this title, provided that—

(i) no State council shall receive more than $250,000 for each fiscal year;

(ii) no State council shall receive less than $150,000 for each fiscal year; and

(iii) no State council shall receive less than such State council was allotted in the fiscal year 1990;

(B) From the sums appropriated pursuant to section 2302(c) of this title for each fiscal year, the Secretary shall make grants of—

(i) $60,000 to each of the State councils of the Virgin Islands and Guam; and

(ii) $25,000 to each of the State councils of American Samoa, Palau (until the Compact of Free Association with Palau takes effect pursuant to section 1931(a) of title 48), and the Commonwealth of the Northern Mariana Islands.

(2) The expenditure of the funds paid pursuant to this subsection is to be determined solely by the State council for carrying out its functions under this chapter, and may not be diverted or reprogramed for any other purpose by any State board, agency, or individual. Each State council shall designate an appropriate State agency or other public agency, eligible to receive funds under this chapter, to act as its fiscal agent for purposes of disbursement, accounting, and auditing.

(g) Designation of State human resource investment council as "State Council"

(1) In lieu of establishing the State council required under subsection (a) of this section, each State may satisfy the requirements of this section by designating the State human resource

[1] So in original. Probably should not be capitalized.

investment council established in accordance with title VII of the Job Training Partnership Act [29 U.S.C. 1792 et seq.] (in this subsection referred to as the ''State Council'') to carry out the duties described in subsection (d) of this section.

(2) Funds available under subsection (f) of this section may be allotted to the State Council to carry out such duties and the other duties of the State Council if the Governor and head of the State agency responsible for administration of the programs under this chapter agree to such an allotment. Only funds available under subsection (f) of this section may be so allotted.

(Pub. L. 88–210, title I, §112, as added Pub. L. 98–524, §1, Oct. 19, 1984, 98 Stat. 2443; amended Pub. L. 99–159, title VII, §703, Nov. 22, 1985, 99 Stat. 905; Pub. L. 101–392, title I, §112, Sept. 25, 1990, 104 Stat. 765; Pub. L. 102–367, title VI, §601(b)(1), Sept. 7, 1992, 106 Stat. 1102.)

REFERENCES IN TEXT

The Job Training Partnership Act, referred to in subsecs. (a), (d)(10)(A), and (g)(1), is Pub. L. 97–300, Oct. 13, 1982, 96 Stat. 1322, as amended, which is classified generally to chapter 19 (§1501 et seq.) of Title 29, Labor. Title VII of the Act is classified to subchapter VI (§1792 et seq.) of chapter 19 of Title 29. For complete classification of this Act to the Code, see Short Title note set out under section 1501 of Title 29 and Tables.

For Oct. 1, 1994, as the date the Compact of Free Association with Palau takes effect, referred to in subsec. (f)(1)(B)(ii), see Proc. No. 6726, Sept. 27, 1994, 59 F.R. 49777, set out as a note under section 1931 of Title 48, Territories and Insular Possessions.

AMENDMENTS

1992—Subsec. (a). Pub. L. 102–367, §601(b)(1)(A), which directed the substitution of ''Except as provided in subsection (g) of this section, each'' for ''Each'', was executed by substituting the quoted language for ''Each'' the first place appearing, to reflect the probable intent of Congress.

Subsec. (g). Pub. L. 102–367, §601(b)(1)(B), added subsec. (g).

1990—Subsec. (a). Pub. L. 101–392, §112(3), inserted at end ''No employee of the State board shall serve on the State council.''

Subsec. (a)(1)(A). Pub. L. 101–392, §112(1), inserted ''trade organizations,'' after ''industry,''.

Subsec. (a)(2). Pub. L. 101–392, §112(2), inserted before period at end ''and may include members of vocational student organizations and school board members''.

Subsec. (d)(2). Pub. L. 101–392, §112(4), substituted ''make recommendations to'' for ''advise'' in introductory provisions, added subpar. (A), and redesignated former subpars. (A) and (B) as (B) and (C), respectively.

Subsec. (d)(8). Pub. L. 101–392, §112(5)(A), substituted ''individuals who are members of special populations'' for ''the individuals described in section 2331(b) of this title''.

Subsec. (d)(9), (10). Pub. L. 101–392, §112(5)(B), (6), added pars. (9) and (10) and struck out former par. (9) which read as follows: ''(A) evaluate at least once every two years (i) the vocational education program delivery systems assisted under this chapter, and under the Job Training Partnership Act, in terms of their adequacy and effectiveness in achieving the purposes of each of this chapter and the Job Training Partnership Act and (ii) make recommendations to the State board on the adequacy and effectiveness of the coordination that takes place between vocational education and the Job Training Partnership Act and (B) advise the Governor, the State board, the State job training coordinating council, the Secretary, and the Secretary of Labor of these findings and recommendations.''

Subsec. (e). Pub. L. 101–392, §112(7), inserted provisions directing that, if State Councils submit statements to Secretary reviewing and commenting upon State plan, such statements are to be sent to Secretary with State plan.

Subsec. (f)(1)(A). Pub. L. 101–392, §112(8), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: ''Except as provided in subparagraph (B), from the amounts appropriated pursuant to section 2302(c) of this title the Secretary shall make grants to State councils from amounts allotted to State councils in accordance with the method for allotment contained in section 2311(a)(2) of this title, without regard to paragraph (3), except that no State council shall be allotted less than $120,000 nor more than $225,000 for each fiscal year.''

Subsec. (f)(1)(B). Pub. L. 101–392, §112(9), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: ''From the amounts appropriated pursuant to section 2302(c) of this title, for each fiscal year, the Secretary shall make grants of $50,000 to the State councils of the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.''

1985—Subsec. (b). Pub. L. 99–159, §703(a), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: ''The State shall certify the establishment and membership of the State council at least 90 days prior to the beginning of each planning period described in section 2323(a)(1) of this title.''

Subsec. (d). Pub. L. 99–159, §703(b), inserted provisions relating to each State plan period in text preceding par. (1), and in par. (1) struck out ''during the planning year'' after ''representatives'' and inserted ''subsequent'' before ''State plan''.

Subsec. (f)(1)(A). Pub. L. 99–159, §703(c)(1), inserted provisions excepting applicability of subpar. (B).

Subsec. (f)(1)(B). Pub. L. 99–159, §703(c)(2), amended subpar. (B) generally, substituting provisions authorizing grants for each fiscal year to Guam, etc., for provisions defining ''State''.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–367 effective July 1, 1993, see section 701(a) of Pub. L. 102–367, set out as a note under section 1501 of Title 29, Labor.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–392 effective July 1, 1991, see section 702(a) of Pub. L. 101–392, set out as a note under section 2301 of this title.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–159 effective July 1, 1985, with amendment by section 703(c)(2) of Pub. L. 99–159 not applicable to funds appropriated before Nov. 22, 1985, see section 714 of Pub. L. 99–159, set out as a note under section 2311 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2302, 2321, 2323, 2395d, 2461, 2471 of this title; title 29 section 1792b.

§ 2323. State plan

(a) In general

(1)(A) Any State desiring to receive funds from its allotment for any fiscal year shall submit to the Secretary a State plan for a 3-year period, in the case of the initial plan, and a 2-year period thereafter, together with such annual revisions as the State board determines to be necessary.

(B) The planning periods required by subparagraph (A) shall be coterminous with the planning program periods required under section 104(a) of the Job Training Partnership Act [29 U.S.C. 1514(a)].

(2)(A) In formulating the State plan (and amendments thereto), the State board shall meet with and utilize the State council established pursuant to section 2322 of this title.

(B) The State board shall conduct public hearings in the State, after appropriate and sufficient notice, for the purpose of affording all segments of the public and interested organizations and groups an opportunity to present their views and make recommendations regarding the State plan. A summary of such recommendations and the State board's response shall be included with the State plan.

(3) In developing the State plan, the State shall conduct an assessment according to section 2326 of this title. Such assessment shall include analysis of—

(A) the relative academic, occupational, training, and retraining needs of secondary, adult, and postsecondary students; and

(B) the capability of vocational education programs to provide vocational education students, to the extent practicable, with—

(i) strong experience in and understanding of all aspects of the industry the students are preparing to enter (including planning, management, finances, technical and production skills, underlying principles of technology, labor and community issues, and health, safety, and environmental issues); and

(ii) strong development and use of problem-solving skills and basic and advanced academic skills (including skills in the areas of mathematics, reading, writing, science, and social studies) in a technological setting.

(b) Contents

Each State plan shall—

(1) describe the procedures and the results of each of the assessments required by section 2326(a) of this title, including the needs identified by such assessments;

(2) describe how uses of funds reflect the needs described in paragraph (1);

(3) provide assurances that, and where necessary a description of the manner in which, eligible recipients will comply with the requirements of subchapters I and II of this chapter, including—

(A) a description of the manner in which the State will comply with the criteria required for programs for individuals who are members of special populations and a description of the responsiveness of such programs to the special needs of such students;

(B) assurances that the State board will develop measurable goals and accountability measures for meeting the needs of individuals who are members of special populations;

(C) assurances that the State board will conduct adequate monitoring of programs conducted by eligible recipients to ensure that programs within the State are meeting the goals described in subparagraph (B); and

(D) assurances that, to the extent consistent with the number and location of individuals who are members of special populations who are enrolled in private secondary schools, provision is made for the participation of such individuals in the vocational education programs assisted under section 2341 of this title;

(4) describe the estimated distribution of funds to corrections educational agencies as prescribed by section 2336 of this title, the estimated distribution of funds to local educational agencies, area vocational education schools, or intermediate educational agencies as prescribed by section 2341 of this title, and the planned estimated distribution of funds to eligible institutions as prescribed by section 2341a of this title;

(5) provide assurances that the State will comply with the provisions of section 2312 of this title, including assurances that the State will distribute not less than 75 percent of the funds made available for subchapter II of this chapter to eligible recipients pursuant to such subchapter;

(6) describe the criteria the State board will use—

(A) in approving applications of eligible recipients; and

(B) for spending the amounts reserved for the State under paragraphs (2) through (5) of section 2312(a) of this title;

(7) describe how funds expended for occupationally specific training will be used for occupations in which job openings are projected or available, based on a labor market analysis;

(8) provide assurances that the State will develop and implement a system of standards for performance and measures of performance for vocational education programs at the State level that meets the requirements of section 2325 of this title;

(9) describe, in each State plan submitted after the fiscal year 1991, the progress the State has made in achieving the goals described in previous State plans;

(10) provide such methods of administration as are necessary for the prompt and efficient administration of programs under this chapter;

(11) provide assurances that, in the use of funds available for single parents, displaced homemakers, and single pregnant women under section 2335 of this title, the State will emphasize assisting individuals with the greatest financial need, and that the State will give special consideration to displaced homemakers who because of divorce, separation, or the death or disability of a spouse must prepare for paid employment;

(12) provide assurances that the State will furnish relevant training and vocational education activities to men and women who desire to enter occupations that are not traditionally associated with their sex;

(13) describe how the State is implementing performance evaluations with eligible recipients as prescribed in section 2327 of this title;

(14) describe the methods proposed for the joint planning and coordination of programs carried out under this chapter with programs conducted under the Job Training Partnership Act [29 U.S.C. 1501 et seq.], the Adult Education Act [20 U.S.C. 1201 et seq.], title I of the

Elementary and Secondary Education Act of 1965 [20 U.S.C. 6301 et seq.], the Education of the Handicapped Act [20 U.S.C. 1400 et seq.], and the Rehabilitation Act of 1973 [29 U.S.C. 701 et seq.], and with apprenticeship programs;

(15) provide assurances that programs of personnel development and curriculum development shall be funded to further the goals identified in the State plan;

(16) provide assurances that the vocational education needs of identifiable segments of the population in the State that have the highest rates of unemployment have been thoroughly assessed, and that such needs are reflected in and addressed by the State plan;

(17) provide assurances that the State board will cooperate with the State council in carrying out the Board's duties under this part;

(18) provide assurances that none of the funds expended under this chapter will be used to acquire equipment (including computer software) in any instance in which such acquisition results in a direct financial benefit to any organization representing the interests of the purchasing entity or its employees or any affiliate of such an organization;

(19) provide assurances that State and local funds will be used in the schools of each local educational agency that are receiving funds under this chapter to provide services which, taken as a whole, are at least comparable to services being provided in schools in such agency which are not receiving such funds;

(20)(A) provide assurances that the State will provide leadership, supervision, and resources for comprehensive career guidance, vocational counseling, and placement programs;

(B) as a component of the assurances described in subparagraph (A), annually assess and report on the degree to which expenditures aggregated within the State for career guidance and vocational counseling from allotments under subchapter II of this chapter are not less than such expenditures for such guidance and counseling within the State in the fiscal year 1988;

(21) provide assurances that the State will provide for such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursement of, and accounting for, Federal funds paid to the State (including such funds paid by the State to eligible recipients under this chapter);

(22) provide procedures by which an area vocational education school, intermediate educational agency, or local educational agency may appeal decisions adverse to its interests with respect to programs assisted under this chapter; and

(23) describe how the State will comply with the provisions of section 2328 of this title.

(c) Amendments to State plan

When changes in program conditions, labor market conditions, funding, or other factors require substantial amendment to an approved State plan, the State board, in consultation with the State council, shall submit amendments to such State plan to the Secretary. Any such amendments shall be subject to review by the State job training coordinating council and the State council.

(Pub. L. 88–210, title I, § 113, as added Pub. L. 98–524, § 1, Oct. 19, 1984, 98 Stat. 2445; amended Pub. L. 99–159, title VII, §§ 704, 713(a)(1), (2), Nov. 22, 1985, 99 Stat. 905, 907; Pub. L. 101–392, title I, § 113, Sept. 25, 1990, 104 Stat. 766; Pub. L. 101–476, title IX, § 901(a)(2), Oct. 30, 1990, 104 Stat. 1142; Pub. L. 103–382, title III, § 391(s)(2), Oct. 20, 1994, 108 Stat. 4024.)

REFERENCES IN TEXT

The Job Training Partnership Act, referred to in subsec. (b)(14), is Pub. L. 97–300, Oct. 13, 1982, 96 Stat. 1322, as amended, which is classified generally to chapter 19 (§ 1501 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 1501 of Title 29 and Tables.

The Adult Education Act, referred to in subsec. (b)(14), is title III of Pub. L. 89–750, Nov. 3, 1966, 80 Stat. 1216, as amended, which is classified generally to chapter 30 (§ 1201 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1201 of this title and Tables.

The Elementary and Secondary Education Act of 1965, referred to in subsec. (b)(14), is Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, as amended generally by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519. Title I of the Act is classified generally to subchapter I (§ 6301 et seq.) of chapter 70 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

The Education of the Handicapped Act, referred to in subsec. (b)(14), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, as amended, known as the Individuals with Disabilities Education Act, which is classified generally to chapter 33 (§ 1400 et seq.) of this title. For complete classification of this Act to the Code, see section 1400 of this title and Tables.

The Rehabilitation Act of 1973, referred to in subsec. (b)(14), is Pub. L. 93–112, Sept. 26, 1973, 87 Stat. 355, as amended, which is classified generally to chapter 16 (§ 701 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 701 of Title 29 and Tables.

AMENDMENTS

1994—Subsec. (b)(14). Pub. L. 103–382 substituted ''title I'' for ''chapter 1 of title I''.

1990—Pub. L. 101–392 amended section generally, substituting provisions relating to types of analysis to include in State's assessment of State plan for provisions relating to types of assessments State was to make in development of State plan, amending list of descriptions and assurances to be provided in State plan, and deleting requirement that Secretary approve State plan amendments.

Subsec. (b)(10). Pub. L. 101–476 substituted ''Individuals with Disabilities Education Act'' for ''Education of the Handicapped Act''.

1985—Subsec. (b)(9)(C). Pub. L. 99–159, § 704, substituted ''the projects, services, and activities supported under this chapter of not less than 20 percent of the participating eligible recipients within the State in each fiscal year'' for ''not less than 20 percent of the eligible recipients assisted within the State in each fiscal year''.

Subsec. (b)(10). Pub. L. 99–159, § 713(a)(1), inserted ''of 1981'' after ''Education Consolidation and Improvement Act''.

Subsec. (b)(11). Pub. L. 99–159, § 713(a)(2), inserted ''provide assurances'' before ''that''.

EFFECTIVE DATE OF 1990 AMENDMENTS

Amendment by Pub. L. 101–476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101–476, set out as a note under section 1087ee of this title.

Amendment by Pub. L. 101–392 effective July 1, 1991, see section 702(a) of Pub. L. 101–392, set out as a note under section 2301 of this title.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–159 effective July 1, 1985, see section 714(a) of Pub. L. 99–159, set out as a note under section 2311 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2321, 2322 of this title; title 29 section 1532.

§ 2324. State plan approval

(a) In general

The State board shall develop the portion of each State plan relating to the amount and uses of any funds proposed to be reserved for adult education, postsecondary education, tech-prep education, and secondary education after consultation with the State agency responsible for supervision of community colleges, technical institutes, or other 2-year postsecondary institutions primarily engaged in providing postsecondary vocational education, and the State agency responsible for secondary education. The State board shall, in developing such plan, take into consideration the relative training and retraining needs of secondary, adult, and postsecondary students, and shall include the State's rationale for distribution of funds. If a State agency finds that a portion of the final State plan is objectionable, such agency shall file such objections with the State board. The State board shall respond to any objections of such agency in submitting such plan to the Secretary. The Secretary shall consider such comments in reviewing the State plan.

(b) Time for submission; approval

Each State plan shall be submitted to the Secretary by May 1 preceding the beginning of the first fiscal year for which such plan is to be in effect. The Secretary shall approve each plan before the expiration of the 60-day period beginning on the date the plan is submitted, if the plan meets the requirements of section 2323 of this title and is of sufficient quality to meet the objectives of this chapter (including the objective of developing and implementing program evaluations and improvements), and shall subsequently take appropriate actions to monitor the State's compliance with the provisions of its plan and the requirements of this chapter on a regular basis. The Secretary shall not finally disapprove a State plan except after giving reasonable notice and an opportunity for a hearing to the State board.

(Pub. L. 88–210, title I, §114, as added Pub. L. 98–524, §1, Oct. 19, 1984, 98 Stat. 2449; amended Pub. L. 101–392, title I, §114, Sept. 25, 1990, 104 Stat. 769.)

AMENDMENTS

1990—Pub. L. 101–392 amended section generally, substituting provisions consisting of subsecs. (a) and (b) relating to consultation by State board with State agency responsible for supervision of 2-year postsecondary vocational education institutions in developing portion of State plan relating to funds for adult education, postsecondary education, tech-prep education, and secondary education and procedures for submission of State plan to Secretary and obtaining approval for provisions consisting of subsecs. (a) to (c) relating to submission of State plan to State legislature and State job training coordinating council for review and comment, technical assistance and guidance by Secretary to State in fulfilling requirements for State plans, and procedures for submission of State plan to Secretary and obtaining approval.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–392 effective July 1, 1991, see section 702(a) of Pub. L. 101–392, set out as a note under section 2301 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2321, 2362, 2461, 2471 of this title.

§ 2325. State and local standards and measures

(a) General authority

Each State board receiving funds under this chapter shall develop and implement a statewide system of core standards and measures of performance for secondary and postsecondary vocational education programs. Each State board receiving funds under this chapter, before the expiration of the 30-day period beginning on September 25, 1990, shall appoint the State Committee of Practitioners (in this section referred to as the ''Committee'') as prescribed by section 2468a(a) of this title after consulting with local school officials representing eligible recipients, and representatives of organized labor, business, superintendents, community-based organizations, private industry councils established under section 102(a) of the Job Training Partnership Act [29 U.S.C. 1512(a)], State councils, parents, special populations, correctional institutions, the administrator appointed under section 2321(b)(1) of this title, the State administrator of programs assisted under part B of the Individuals with Disabilities Education Act [20 U.S.C. 1411 et seq.], the State administrator of programs assisted under title I of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6301 et seq.], the State administrator of programs for students of limited English proficiency, and guidance counselors. Such system shall be developed and implemented before the end of the 2-year period beginning on September 25, 1990, and shall apply to all programs assisted under this chapter. Eligible recipients may make local modifications to such system based on economic, geographic, or demographic factors, or the characteristics of the population to be served. Such modifications shall conform to the assessment criteria contained in the State plan. The State board shall convene the Committee on a regular basis to review, comment on, and propose revisions to a draft State proposal, which the State board shall develop, for a system of core standards and measures of performance for vocational programs.

(b) Requirements

Each system developed under subsection (a) of this section shall include—

(1) measures of learning and competency gains, including student progress in the achievement of basic and more advanced academic skills;

(2) 1 or more measures of performance, which shall include only—

(A) competency attainment;

(B) job or work skill attainment or enhancement including student progress in

achieving occupational skills necessary to obtain employment in the field for which the student has been prepared, including occupational skills in the industry the student is preparing to enter;

(C) retention in school or completion of secondary school or its equivalent; and

(D) placement into additional training or education, military service, or employment;

(3) incentives or adjustments that are—

(A) designed to encourage service to targeted groups or special populations; and

(B) for each student, consistent with the student's individualized education program developed under section 614(a)(5)[1] of the Individuals with Disabilities Education Act, where appropriate; and

(4) procedures for using existing resources and methods developed in other programs receiving Federal assistance.

(c) Consistency with other programs

In developing the standards and measures included in a system developed under subsection (a) of this section, the State board shall take into consideration—

(1) standards and measures developed under job opportunities and basic skills training programs established and operated under a plan approved by the Secretary of Health and Human Services that meets the requirements of section 602(a)(19)[1] of title 42; and

(2) standards prescribed by the Secretary of Labor under section 106 of the Job Training Partnership Act [29 U.S.C. 1516].

(d) Information provided by State board

(1) The Committee shall make recommendations to the State board with respect to modifying standards and measures to be used under this section, based on the information provided under paragraph (2).

(2) To assist the Committee in formulating recommendations under paragraph (1), the State board shall provide to the Committee information concerning differing types of standards and measurement, including—

(A) the advantages and disadvantages of each type of standard or measurement;

(B) instances in which such standards and measures have been effective; and

(C) instances in which such standards and measures have not been effective.

(3) In the event that the State board does not accept the Committee's recommendations made as required by paragraph (1), the State board shall set forth in the State plan its reasons for not accepting such recommendations.

(e) Technical assistance

The Secretary shall provide technical assistance to the States with respect to the development of systems under subsection (a) of this section. In providing such assistance, the Secretary shall utilize existing resources in other Federal agencies.

(f) Report

The Secretary shall submit a report to the appropriate committees of the Congress not later than the expiration of the 4-year period beginning on September 25, 1990. Such report shall include—

(1) a detailed description of the status of each State's system of standards and measures developed as required by this section;

(2) an assessment of the validity, predictiveness, and reliability of such standards and measures, unbiased to special populations, in the areas of academic achievement, vocational skill competencies, employment outcomes, and postsecondary continuation and attainment; and

(3) an evaluation of the comparability of State-developed performance standards across States to establish a core of common indicators.

(Pub. L. 88–210, title I, § 115, as added Pub. L. 98–524, § 1, Oct. 19, 1984, 98 Stat. 2449; amended Pub. L. 101–392, title I, § 115, Sept. 25, 1990, 104 Stat. 770; Pub. L. 101–476, title IX, § 901(a)(2), Oct. 30, 1990, 104 Stat. 1142; Pub. L. 103–382, title III, § 391(s)(3), Oct. 20, 1994, 108 Stat. 4024.)

REFERENCES IN TEXT

The Individuals with Disabilities Education Act, referred to in subsec. (a), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, as amended. Part B of the Individuals with Disabilities Education Act is classified generally to subchapter II (§ 1411 et seq.) of chapter 33 of this title. Section 614 of the Act was classified to section 1414 of this title and was omitted in the general amendment of subchapter II of chapter 33 of this title by Pub. L. 105–17, title I, § 101, June 4, 1997, 111 Stat. 37. Pub. L. 105–17 enacted a new section 614 of the Act, which is classified to section 1414 of this title, and which no longer contains a subsec. (a)(5). For complete classification of this Act to the Code, see section 1400 of this title and Tables.

The Elementary and Secondary Education Act of 1965, referred to in subsec. (a), is Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, as amended generally by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519. Title I of the Act is classified generally to subchapter I (§ 6301 et seq.) of chapter 70 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

Section 602 of title 42, referred to in subsec. (c)(1), was repealed and a new section 602 enacted by Pub. L. 104–193, title I, § 103(a)(1), Aug. 22, 1996, 110 Stat. 2112, and, as so enacted, no longer contains a subsec. (a)(19).

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–382 substituted ''title I of the Elementary and Secondary Education Act of 1965'' for ''chapter 1 of title I of the Elementary and Secondary Education Act''.

1990—Pub. L. 101–476 substituted ''Individuals with Disabilities Education Act'' for ''Education of the Handicapped Act'' in subsecs. (a) and (b)(3)(A).

Pub. L. 101–392 amended section generally, substituting provisions relating to State and local standards and measures of performance for secondary and postsecondary vocational education programs for provisions relating to local applications for assistance under this chapter, including requirements, review and comment, and exemptions from requirements.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101–476, set out as a note under section 1087ee of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2323, 2326, 2327, 2471, 5886 of this title.

[1] See References in Text note below.

§ 2326. State assessment

(a) In general

Each State board receiving assistance under this chapter shall conduct an assessment using measurable objective criteria developed by the State board to assess program quality. Such criteria shall be developed in consultation with representatives of the groups described in section 2325(a) of this title and shall use information gathered by the National Occupational Information Coordinating Committee and, if appropriate, other information. Each State board shall widely disseminate such criteria. State boards shall develop such criteria no later than the beginning of the 1991–1992 school year. Such criteria shall include such factors as—

(1) integration of academic and vocational education;

(2) sequential course of study leading to both academic and occupational competencies;

(3) increased student work skill attainment and job placement;

(4) increased linkages between secondary and postsecondary educational institutions;

(5) instruction and experience, to the extent practicable, in all aspects of the industry the students are preparing to enter;

(6) the ability of the eligible recipients to meet the needs of special populations with respect to vocational education;

(7) raising the quality of vocational education programs in schools with high concentrations of poor and low-achieving students;

(8) the relevance of programs to the workplace and to the occupations for which students are to be trained, and the extent to which such programs reflect a realistic assessment of current and future labor market needs, including needs in areas of emerging technologies;

(9) the ability of the vocational curriculum, equipment, and instructional materials to meet the demands of the workforce;

(10) basic and higher order current and future workplace competencies which will reflect the hiring needs of employers; and

(11) other factors considered appropriate by the State board.

(b) Deadline for assessment

Each State board shall complete the assessment required by subsection (a) of this section before the expiration of the 6-month period beginning on September 25, 1990.

(Pub. L. 88–210, title I, § 116, as added Pub. L. 101–392, title I, § 116, Sept. 25, 1990, 104 Stat. 772.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2321, 2323, 2471 of this title.

§ 2327. Program evaluation and improvement

(a) Annual evaluation

Each recipient of financial assistance under part C of subchapter II of this chapter shall annually evaluate the effectiveness of the program conducted with assistance under this chapter based on the standards and measures (or modifications thereto) developed as required by section 2325 of this title. As part of each such evaluation, each such recipient shall—

(1) review programs, with the full and informed participation of representatives of individuals who are members of special populations, to—

(A) identify and adopt strategies to overcome any barriers which are resulting in lower rates of access to vocational education programs or success in such programs for individuals who are members of special populations; and

(B) evaluate the progress of individuals who are members of special populations in vocational education programs assisted under this chapter; and

(2) evaluate the progress of vocational education programs assisted under this chapter in providing vocational education students with strong experience in and understanding of all aspects of the industry the students are preparing to enter.

(b) Local program improvement plan

Beginning not less than 1 year after the implementation of the provisions of section 2325 of this title, if any recipient described in subsection (a) of this section determines that the recipient is not making substantial progress in meeting the standards and measures developed as required by section 2325 of this title, such recipient shall develop a plan, in consultation with teachers, parents, and students concerned, for program improvement for the succeeding school year. Such plan shall describe how the recipient will identify and modify programs funded under part C of subchapter II of this chapter, including—

(1) a description of vocational education and career development strategies designed to achieve progress in improving the effectiveness of the program conducted with assistance under this chapter; and

(2) if necessary, a description of strategies designed to improve supplementary services provided to individuals who are members of special populations.

(c) State and local joint plan

If, after 1 year of implementation of the plan described in subsection (b) of this section, sufficient progress in meeting the standards and measures developed as required by section 2325 of this title has not been made, the State shall work jointly with the recipient and teachers, parents, and students concerned to develop a plan for program improvement. Each such plan shall contain—

(1) a description of the technical assistance and program activities the State will provide to enhance the performance of the eligible recipient;

(2) a reasonable timetable to improve the school performance under the plan;

(3) a description of vocational education strategies designed to improve the performance of the program as measured by the evaluation; and

(4) if necessary, a description of strategies designed to improve supplementary services provided to individuals who are members of special populations.

(d) Further action

The State shall, in conjunction with the eligible recipient, annually review and revise the joint plan developed under subsection (c) of this section in order to improve performance and will continue to do so each consecutive year until the recipient sustains, for more than 1 year, fulfillment of the State and local standards and measures developed under section 2325 of this title.

(Pub. L. 88–210, title I, § 117, as added Pub. L. 101–392, title I, § 116, Sept. 25, 1990, 104 Stat. 772.)

EFFECTIVE DATE

Section effective July 1, 1991, see section 702(a) of Pub. L. 101–392, set out as an Effective Date of 1990 Amendment note under section 2301 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2321, 2323, 2471 of this title.

§ 2328. Criteria for services and activities for individuals who are members of special populations

(a) Assurances of equal access for members of special populations

The State board, in its State plan, shall provide assurances that—

(1) individuals who are members of special populations will be provided with equal access to recruitment, enrollment, and placement activities;

(2) individuals who are members of special populations will be provided with equal access to the full range of vocational education programs available to individuals who are not members of special populations, including occupationally specific courses of study, cooperative education, apprenticeship programs, and, to the extent practicable, comprehensive career guidance and counseling services, and shall not be discriminated against on the basis of their status as members of special populations;

(3)(A) vocational education programs and activities for individuals with handicaps will be provided in the least restrictive environment in accordance with section 1412(5)(B)[1] of this title and will, whenever appropriate, be included as a component of the individualized education program developed under section 1414(a)(5)[1] of this title;

(B) students with handicaps who have individualized education programs developed under section 1414(a)(5)[1] of this title shall, with respect to vocational education programs, be afforded the rights and protections guaranteed such students under sections 1412, 1414, and 1415 of this title;

(C) students with handicaps who do not have individualized education programs developed under section 1414(a)(5)[1] of this title or who are not eligible to have such a program shall, with respect to vocational education programs, be afforded the rights and protections guaranteed such students under section 794 of title 29 and, for the purpose of this chapter, such rights and protections shall include making vocational education programs readily accessible to eligible individuals with disabilities through the provision of services described in subsection (c)(3) of this section;

(D) vocational education planning for individuals with handicaps will be coordinated between appropriate representatives of vocational education, special education, and State vocational rehabilitation agencies; and

(E) the provision of vocational education to each student with handicaps will be monitored to determine if such education is consistent with the individualized education program developed for such student under section 1414(a)(5)[1] of this title, in any case in which such a program exists;

(4) the provision of vocational education will be monitored to ensure that disadvantaged students and students of limited English proficiency have access to such education in the most integrated setting possible; and

(5)(A) the requirements of this chapter relating to individuals who are members of special populations—

(i) will be carried out under the general supervision of individuals in the appropriate State educational agency or State board who are responsible for students who are members of special populations; and

(ii) will meet education standards of the State educational agency or State board; and

(B) with respect to students with handicaps, the supervision carried out under subparagraph (A) shall be carried out consistent with and in conjunction with supervision by the State educational agency or State board carried out under section 1412(6)[1] of this title.

(b) Provision of information

(1) Each local educational agency shall provide to students who are members of special populations and parents of such students at least 1 year before the students enter or are of an appropriate age for the grade level in which vocational education programs are first generally available in the State, but in no event later than the beginning of the ninth grade, information concerning—

(A) the opportunities available in vocational education;

(B) the requirements for eligibility for enrollment in such vocational education programs;

(C) specific courses that are available;

(D) special services that are available;

(E) employment opportunities; and

(F) placement.

(2) Each eligible institution that receives assistance under subchapter II of this chapter shall provide the information described in paragraph (1) to each individual who requests information concerning or seeks admission to vocational education programs offered by the institution, and, when appropriate, assist in the preparation of applications relating to such admission.

(3) The information provided under this subsection shall, to the extent practicable, be in a

[1] See References in Text note below.

language and form that the parents and students understand.

(c) Assurances

Each eligible recipient that receives assistance under subchapter II of this chapter shall provide assurances that such eligible recipient shall—

(1) assist students who are members of special populations to enter vocational education programs, and, with respect to students with handicaps, assist in fulfilling the transitional service requirements of section 1425[1] of this title;

(2) assess the special needs of students participating in programs receiving assistance under subchapter II of this chapter with respect to their successful completion of the vocational education program in the most integrated setting possible;

(3) provide supplementary services to students who are members of special populations, including, with respect to individuals with handicaps—

(A) curriculum modification;

(B) equipment modification;

(C) classroom modification;

(D) supportive personnel; and

(E) instructional aids and devices;

(4) provide guidance, counseling, and career development activities conducted by professionally trained counselors and teachers who are associated with the provision of such special services; and

(5) provide counseling and instructional services designed to facilitate the transition from school to post-school employment and career opportunities.

(d) Participatory planning

The State board shall—

(1) establish effective procedures, including an expedited appeals procedure, by which parents, students, teachers, and area residents concerned will be able to directly participate in State and local decisions that influence the character of programs under this chapter affecting their interests; and

(2) provide technical assistance and design such procedures to ensure that such individuals are given access to the information needed to use such procedures.

(Pub. L. 88–210, title I, § 118, as added Pub. L. 101–392, title I, § 116, Sept. 25, 1990, 104 Stat. 773.)

REFERENCES IN TEXT

Sections 1412(5)(B), (6) and 1414(a)(5) of this title, referred to in subsec. (a)(3)(A)–(C), (E), (5)(B), were in the original references to sections 612(5)(B), (6), and 614(a)(5), respectively, of the Education of the Handicapped Act (now the Individuals with Disabilities Education Act), Pub. L. 91–230, title VI. Sections 612 and 614 were omitted in the general amendment of subchapter II of chapter 33 of this title by Pub. L. 105–17, title I, § 101, June 4, 1997, 111 Stat. 37. Pub. L. 105–17 enacted new sections 612 and 614 of Pub. L. 91–230, which are classified to sections 1412 and 1414, respectively, of this title, and, as so enacted, section 612 no longer contains pars. (5) and (6), and section 614(a) no longer contains a par. (5).

Section 1425 of this title, referred to in subsec. (c)(1), was repealed by Pub. L. 105–17, title II, § 203(c), June 4, 1997, 111 Stat. 157.

EFFECTIVE DATE

Section effective July 1, 1991, see section 702(a) of Pub. L. 101–392, set out as an Effective Date of 1990 Amendment note under section 2301 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2323, 2342 of this title.

SUBCHAPTER II—BASIC STATE GRANTS FOR VOCATIONAL EDUCATION

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 2302, 2311, 2312, 2323, 2328, 2392, 2468e of this title.

PART A—STATE PROGRAMS

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 8852 of this title.

§ 2331. State programs and State leadership

(a) General authority

From amounts reserved under section 2312(a)(3) of this title, each State shall conduct State programs and State leadership activities.

(b) Required uses of funds

The programs and activities described in subsection (a) of this section shall include—

(1) professional development activities for vocational teachers and academic teachers working with vocational education students, including corrections educators and counselors, and educators and counselors in community-based organizations, including inservice and preservice training of teachers in state-of-the-art programs and techniques, including integration of vocational and academic curricula, with particular emphasis on inservice and preservice training of minority teachers;

(2) development, dissemination, and field testing of curricula, especially—

(A) curricula that integrate vocational and academic methodologies; and

(B) curricula that provide a coherent sequence of courses through which academic and occupational skills may be measured; and

(3) assessment of programs conducted with assistance under this chapter, including the development of—

(A) performance standards and measures for such programs; and

(B) program improvement and accountability with respect to such programs.

(c) Authorized activities

The programs and activities described in subsection (a) of this section may include—

(1) the promotion of partnerships among business, education (including educational agencies), industry, labor, community-based organizations, or governmental agencies;

(2) the support for tech-prep education as described in section 2394b of this title;

(3) the support of vocational student organizations, especially with respect to efforts to increase minority participation in such organizations;

(4) leadership and instructional programs in technology education; and

(5) data collection.

(Pub. L. 88–210, title II, § 201, as added Pub. L. 101–392, title II, § 201, Sept. 25, 1990, 104 Stat. 776.)

PRIOR PROVISIONS

Prior sections 2331 to 2334 were omitted in the general revision of this subchapter by Pub. L. 101–392.

Section 2331, Pub. L. 88–210, title II, § 201, as added Pub. L. 98–524, § 1, Oct. 19, 1984, 98 Stat. 2450; amended Pub. L. 100–297, title II, § 2401(a), Apr. 28, 1988, 102 Stat. 324, related to use of a portion of a State's allotment to provide vocational education services and activities to meet special needs of handicapped individuals, disadvantaged individuals, single parents, homemakers, or single pregnant women, and other groups.

Section 2332, Pub. L. 88–210, title II, § 202, as added Pub. L. 98–524, § 1, Oct. 19, 1984, 98 Stat. 2452; amended Pub. L. 100–202, § 101(h) [title III, § 300], Dec. 22, 1987, 101 Stat. 1329–256, 1329–279; Pub. L. 100–297, title II, § 2401(b), (c), Apr. 28, 1988, 102 Stat. 324, related to distribution of assistance from State allotment to provide vocational education opportunities.

Section 2333, Pub. L. 88–210, title II, § 203, as added Pub. L. 98–524, § 1, Oct. 19, 1984, 98 Stat. 2453; amended Pub. L. 99–159, title VII, § 705, Nov. 22, 1985, 99 Stat. 905, related to allocation within individual States of the funds available for vocational education services and activities for the handicapped.

Section 2334, Pub. L. 88–210, title II, § 204, as added Pub. L. 98–524, § 1, Oct. 19, 1984, 98 Stat. 2454; amended Pub. L. 101–476, title IX, § 901(a)(2), Oct. 30, 1990, 104 Stat. 1142, related to criteria for services and activities for the handicapped and for the disadvantaged.

EFFECTIVE DATE

Subchapter effective July 1, 1991, see section 702(a) of Pub. L. 101–392, set out as an Effective Date of 1990 Amendment note under section 2301 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2312, 6215 of this title.

PART B—OTHER STATE-ADMINISTERED PROGRAMS

SUBPART 1—PROGRAMS TO PROVIDE SINGLE PARENTS, DISPLACED HOMEMAKERS, AND SINGLE PREGNANT WOMEN WITH MARKETABLE SKILLS AND TO PROMOTE THE ELIMINATION OF SEX BIAS

§ 2335. Programs for single parents, displaced homemakers, and single pregnant women

(a) General authority

Each State shall use the amount reserved under section 2312(a)(2)(A) of this title only to—

(1) provide, subsidize, reimburse, or pay for preparatory services, including instruction in basic academic and occupational skills, necessary educational materials, and career guidance and counseling services, in preparation for vocational education and training that will furnish single parents, displaced homemakers, and single pregnant women with marketable skills;

(2) make grants to eligible recipients for expanding preparatory services and vocational education services when the expansion directly increases the eligible recipients' capacity for providing single parents, displaced homemakers, and single pregnant women with marketable skills;

(3) make grants to community-based organizations for the provision of preparatory and vocational education services to single parents, displaced homemakers, and single pregnant women if the State determines that the community-based organization has demonstrated effectiveness in providing comparable or related services to single parents, displaced homemakers, and single pregnant women, taking into account the demonstrated performance of such an organization in terms of cost, the quality of training, and the characteristics of the participants;

(4) make preparatory services and vocational education and training more accessible to single parents, displaced homemakers, and single pregnant women by assisting such individuals with dependent care, transportation services, or special services and supplies, books, and materials, or by organizing and scheduling the programs so that such programs are more accessible; or

(5) provide information to single parents, displaced homemakers, and single pregnant women to inform such individuals of vocational education programs, related support services, and career counseling.

(b) Settings

The programs and services described in subsection (a) of this section may be provided in postsecondary or secondary school settings, including area vocational education schools, that serve single parents, displaced homemakers, and single pregnant women.

(Pub. L. 88–210, title II, § 221, as added Pub. L. 101–392, title II, § 201, Sept. 25, 1990, 104 Stat. 777.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2312, 2321, 2323 of this title.

§ 2335a. Sex equity programs

(a) General authority

Except as provided in subsection (b) of this section, each State shall use the amount reserved under section 2312(a)(2)(B) of this title only for—

(1) programs, services, comprehensive career guidance and counseling, and activities to eliminate sex bias and stereotyping in secondary and postsecondary vocational education;

(2) preparatory services and vocational education programs, services, and activities for girls and women, aged 14 through 25, designed to enable the participants to support themselves and their families; and

(3) support services for individuals participating in vocational education programs, services, and activities described in paragraphs (1) and (2), including dependent-care services and transportation.

(b) Waiver of age limit

The administrator appointed under section 2321(b)(1) of this title may waive the requirement with respect to age limitations contained in subsection (a)(2) of this section whenever the administrator determines that the waiver is essential to meet the objectives of this section.

(Pub. L. 88–210, title II, § 222, as added Pub. L. 101–392, title II, § 201, Sept. 25, 1990, 104 Stat. 778.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2312, 2321, 2343 of this title.

§ 2335b. Competitive award of amounts; evaluation of programs

The administrator appointed under section 2321(b)(1) of this title—

(1) shall, on a competitive basis, allocate and distribute to eligible recipients or community-based organizations the amounts reserved under section 2312(a)(2) of this title for carrying out this subpart, ensuring that each grant made under this subpart is for a program that is of sufficient size, scope, and quality to be effective; and

(2) shall develop procedures for the collection from eligible recipients, including community-based organizations, that receive funds under this subpart of data appropriate to the individuals served in order to permit evaluation of the effectiveness of such programs as required by section 2321(b)(1)(L) of this title.

(Pub. L. 88–210, title II, § 223, as added Pub. L. 101–392, title II, § 201, Sept. 25, 1990, 104 Stat. 778.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2321 of this title.

SUBPART 2—CORRECTIONS EDUCATION

§ 2336. Programs for criminal offenders

(a) Designation of State corrections educational agency

(1) Each State board shall designate 1 or more State corrections agencies as State corrections educational agencies to administer vocational education programs assisted under this chapter for juvenile and adult criminal offenders in correctional institutions in the State, including correctional institutions operated by local authorities.

(2) Any corrections agency that desires to be designated under paragraph (1) shall submit to the State board a plan for the use of funds provided to such corrections agency from the amounts reserved by the State under section 2312(a)(5) of this title.

(b) Duties of State corrections educational agency

In administering programs receiving funds under this section, each State corrections educational agency designated under subsection (a) of this section shall, in carrying out a vocational education program for criminal offenders—

(1) give special consideration to—

(A) providing services to offenders who are completing their sentences and preparing for release; and

(B) providing grants for the establishment of vocational education programs in correctional institutions that do not have such programs;

(2) provide vocational education programs for women who are incarcerated;

(3) improve equipment; and

(4) in cooperation with eligible recipients, administer and coordinate vocational education services to offenders before and after their release.

(Pub. L. 88–210, title II, § 225, as added Pub. L. 101–392, title II, § 201, Sept. 25, 1990, 104 Stat. 778.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2312, 2323 of this title.

PART C—SECONDARY, POSTSECONDARY, AND ADULT VOCATIONAL EDUCATION PROGRAMS

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 2312, 2327 of this title.

SUBPART 1—WITHIN-STATE ALLOCATION

§ 2341. Distribution of funds to secondary school programs

(a) General rule

Except as otherwise provided in this section and section 2341b of this title, each State shall distribute funds available in any fiscal year for secondary school vocational education programs to local educational agencies within the State as follows:

(1) From 70 percent of such funds, each local educational agency shall be allocated an amount that bears the same relationship to such 70 percent as the amount such local educational agency was allocated under section 1124 or such section's predecessor authority of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6333] in the preceding fiscal year bears to the total amount received under such section by local educational agencies in the State in such year.

(2) From 20 percent of such funds, each local educational agency shall be allocated an amount that bears the same relationship to such 20 percent as the number of students with handicaps who have individualized education programs under section 1414(a)(5)[1] of this title served by such local educational agency in the preceding fiscal year bears to the total number of such students served by local educational agencies in the State in such year.

(3) From 10 percent of such funds, each local educational agency shall be allocated an amount that bears the same relationship to such 10 percent as the number of students enrolled in schools and adults enrolled in training programs under the jurisdiction of such local educational agency in the preceding fiscal year bears to the number of students enrolled in schools and adults enrolled in training programs under the jurisdiction of all local educational agencies in the State in such year.

(b) Minimum grant amount

(1) Except as provided in paragraph (2), no local educational agency shall be eligible for a grant under this part unless the amount allocated to such agency under subsection (a) of this section is not less than $15,000. A local educational agency may enter into a consortium with other local educational agencies for pur-

[1] See References in Text note below.

poses of meeting the minimum grant requirement of this paragraph.

(2) The State may waive the application of paragraph (1) in any case in which the local educational agency—

(A) is located in a rural, sparsely-populated area; and

(B) demonstrates that the agency is unable to enter into a consortium for purposes of providing services under this part.

(3) Any amounts which are not allocated by reason of paragraph (1) or paragraph (2) shall be redistributed to local educational agencies that meet the requirements of paragraph (1) or paragraph (2) in accordance with the provisions of this section.

(c) Limited jurisdiction agencies

(1) In applying the provisions of subsection (a) of this section, no State board receiving assistance under this chapter shall allocate funds to a local educational agency that serves only elementary schools, but shall distribute such funds to the local or regional educational agency which provides secondary school services to secondary school students in the same attendance area.

(2) The amount to be allocated under paragraph (1) to a local educational agency that has jurisdiction only over secondary schools shall be determined based on the number of students that entered such secondary schools in the previous year from the elementary schools involved.

(d) Allocations to area vocational education schools and intermediate educational agencies

(1) The State shall distribute funds available for secondary school vocational education programs to the appropriate area vocational education school or intermediate educational agency in any case in which—

(A) the area vocational education school or intermediate educational agency and the local educational agency concerned—

(i) have formed or will form a consortium for the purpose of receiving funds under this section; or

(ii) have entered into or will enter into a cooperative arrangement for such purpose; and

(B)(i) the area vocational education school or intermediate educational agency serves an approximately equal or greater proportion of students with handicaps and students who are economically disadvantaged than the proportion of such students attending the secondary schools under the jurisdiction of all of the local educational agencies sending students to the area vocational education school or the intermediate educational agency; or

(ii) the area vocational education school, intermediate educational agency, or local educational agency demonstrates that it is unable to meet the criterion described in clause (i) due to the lack of interest by students described in clause (i) in attending vocational education programs in that area school or intermediate educational agency.

(2) If an area vocational education school or intermediate educational agency meets the requirements of paragraph (1), then—

(A) the amount that would otherwise be distributed to the local educational agency shall be allocated to the area vocational education school, the intermediate educational agency, and the local educational agency based on each school's or entity's relative share of students described in paragraph (1)(B)(i) who are attending vocational education programs that meet the requirements of section 2342 of this title (based, if practicable, on the average enrollment for the prior 3 years); or

(B) such amount may be allocated on the basis of an agreement between the local educational agency and the area vocational education school or intermediate educational agency.

(3)(A) For the purposes of this subsection, the State may determine the number of economically disadvantaged students attending vocational education programs on the basis of eligibility for any of the following:

(i) Free or reduced-price meals under the National School Lunch Act [42 U.S.C. 1751 et seq.].

(ii) The State program funded under part A of title IV of the Social Security Act [42 U.S.C. 601 et seq.].

(iii) Benefits under the Food Stamp Act of 1977 [7 U.S.C. 2011 et seq.].

(iv) Services under title I of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6301 et seq.].

(v) Other indices of economic status including estimates of such indices, if the State demonstrates to the satisfaction of the Secretary that such indices are more representative of such number.

(B) If a State elects to use more than 1 factor described in subparagraph (A) for purposes of making the determination described in such subparagraph, the State shall ensure that the data used is not duplicative.

(4) The State board shall establish an appeals procedure for resolution of any dispute arising between a local educational agency and an area vocational education school or an intermediate educational agency with respect to the allocation procedures described in this section, including the decision of a local educational agency to leave a consortium.

(5) Notwithstanding the provisions of paragraphs (1), (2), (3), and (4) any local educational agency receiving an allocation which is not sufficient to conduct a program which meets the requirements of section 2342(c) of this title is encouraged to—

(A) form a consortium or enter into a cooperative agreement with an area vocational education school or intermediate educational agency offering programs that meet the requirements of section 2342(c) of this title and that are accessible to economically disadvantaged students and students with handicaps served by such local educational agency; and

(B) transfer such allocation to the area vocational education school or intermediate educational agency.

(Pub. L. 88–210, title II, § 231, as added Pub. L. 101–392, title II, § 201, Sept. 25, 1990, 104 Stat. 779; amended Pub. L. 103–382, title III, § 391(s)(4), (5), Oct. 20, 1994, 108 Stat. 4025; Pub. L. 104–193, title I, § 110(i)(1), Aug. 22, 1996, 110 Stat. 2172.)

REFERENCES IN TEXT

Such section's predecessor authority, referred to in subsec. (a)(1), probably refers to section 2711 of this title which contained provisions similar to those in section 6333 of this title. Section 2711 was omitted in the general amendment of Pub. L. 89–10 by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519.

Section 1414(a)(5) of this title, referred to in subsec. (a)(2), was in the original a reference to section 614(a)(5) of the Education of the Handicapped Act (now the Individuals with Disabilities Education Act), Pub. L. 91–230, title VI. Section 614 was omitted in the general amendment of subchapter II of chapter 33 of this title by Pub. L. 105–17, title I, § 101, June 4, 1997, 111 Stat. 37. Pub. L. 105–17 enacted a new section 614 of Pub. L. 91–230, which is classified to section 1414 of this title, and which no longer contains a subsec. (a)(5).

The National School Lunch Act, referred to in subsec. (d)(3)(A)(i), is act June 4, 1946, ch. 281, 60 Stat. 230, as amended, which is classified generally to chapter 13 (§ 1751 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1751 of Title 42 and Tables.

The Social Security Act, referred to in subsec. (d)(3)(A)(ii), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Part A of title IV of the Act is classified generally to part A (§ 601 et seq.) of subchapter IV of chapter 7 of Title 42. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

The Food Stamp Act of 1977, referred to in subsec. (d)(3)(A)(iii), is Pub. L. 88–525, Aug. 31, 1964, 78 Stat. 703, as amended, which is classified generally to chapter 51 (§ 2011 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of Title 7 and Tables.

The Elementary and Secondary Education Act of 1965, referred to in subsec. (d)(3)(A)(iv), is Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, as amended generally by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519. Title I of the Act is classified generally to subchapter I (§ 6301 et seq.) of chapter 70 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

PRIOR PROVISIONS

A prior section 2341, Pub. L. 88–210, title II, § 251, as added Pub. L. 98–524, § 1, Oct. 19, 1984, 98 Stat. 2455; amended Pub. L. 100–418, title VI, § 6132, Aug. 23, 1988, 102 Stat. 1511, related to the uses of the portion of a State's allotment available for vocational education program improvement, innovation, and expansion, prior to the general revision of this subchapter by Pub. L. 101–392.

AMENDMENTS

1996—Subsec. (d)(3)(A)(ii). Pub. L. 104–193 substituted ''The State program funded'' for ''The program for aid to dependent children''.

1994—Subsec. (a)(1). Pub. L. 103–382, § 391(s)(4), substituted ''section 1124 or such section's predecessor authority'' for ''section 1005''.

Subsec. (d)(3)(A)(iv). Pub. L. 103–382, § 391(s)(5), substituted ''title I'' for ''chapter 1 of title I''.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–193 effective July 1, 1997, with transition rules relating to State options to accelerate such date, rules relating to claims, actions, and proceedings commenced before such date, rules relating to closing out of accounts for terminated or substantially modified programs and continuance in office of Assistant Secretary for Family Support, and provisions relating to termination of entitlement under AFDC program, see section 116 of Pub. L. 104–193, as amended, set out as an Effective Date note under section 601 of Title 42, The Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1213c, 2323, 2341b, 2341c, 2342, 2343 of this title.

§ 2341a. Distribution of funds to postsecondary and adult programs

(a) General rule

(1) Except as provided in subsection (b) of this section and section 2341b of this title, each State shall distribute funds available in any fiscal year for postsecondary and adult vocational education programs to eligible institutions or consortia thereof within the State. Each such eligible institution or consortium shall receive an amount that bears the same relationship to the amount of funds available under such section as the number of Pell Grant recipients and recipients of assistance from the Bureau of Indian Affairs enrolled in programs meeting the requirements of section 2342 of this title offered by such institution or consortium in the preceding fiscal year bears to the number of such recipients enrolled in such programs within the State in such year.

(2) In order for a consortium of eligible institutions described in paragraph (1) to receive assistance pursuant to such paragraph such consortium shall operate joint projects that—

(A) provide services to all postsecondary institutions participating in the consortium; and

(B) are of sufficient size, scope and quality as to be effective.

(b) Waiver for more equitable distribution

The Secretary may waive the application of subsection (a) of this section in the case of any State that submits to the Secretary an application for such a waiver that—

(1) demonstrates that the formula described in subsection (a) of this section does not result in a distribution of funds to the institutions or consortia within the State that have the highest numbers of economically disadvantaged individuals and that an alternative formula would result in such a distribution; and

(2) includes a proposal for an alternative formula that may include criteria relating to the number of individuals attending institutions or consortia within the State who—

(A) receive need-based postsecondary financial aid provided from public funds;

(B) are members of families participating in the State program funded under part A of title IV of the Social Security Act [42 U.S.C. 601 et seq.];

(C) are enrolled in postsecondary educational institutions that—

(i) are funded by the State;

(ii) do not charge tuition; and

(iii) serve only economically disadvantaged students;

(D) are enrolled in programs serving economically disadvantaged adults;

(E) are participants in programs assisted under the Job Training Partnership Act [29 U.S.C. 1501 et seq.]; or

(F) are recipients of Pell Grants.

(c) Minimum grant amount

(1) No grant provided to any institution or consortium under this section shall be for an amount that is less than $50,000.

(2) Any amounts which are not allocated by reason of paragraph (1) shall be redistributed to eligible institutions or consortia in accordance with the provisions of this section.

(d) Definitions

For the purposes of this section—

(1) the term ''eligible institution'' means an institution of higher education, a local educational agency serving adults, or an area vocational education school serving adults that offers or will offer a program that meets the requirements of section 2342 of this title and seeks to receive assistance under this part;

(2) the term ''institution of higher education'', notwithstanding section 427(b)(2) of the Higher Education Amendments of 1992, has the meaning given that term in section 435(b) of the Higher Education Act of 1965 as such section was in effect on July 22, 1992; and

(3) the term ''Pell Grant recipient'' means a recipient of financial aid under subpart 1 of part A of title IV of the Higher Education Act of 1965 [20 U.S.C. 1070a et seq.].

(Pub. L. 88–210, title II, § 232, as added Pub. L. 101–392, title II, § 201, Sept. 25, 1990, 104 Stat. 781; amended Pub. L. 103–208, § 4, Dec. 20, 1993, 107 Stat. 2487; Pub. L. 103–382, title III, § 351(a)(1), Oct. 20, 1994, 108 Stat. 3966; Pub. L. 104–193, title I, § 110(i)(2), Aug. 22, 1996, 110 Stat. 2172.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (b)(2)(B), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Part A of title IV of the Act is classified generally to part A (§ 601 et seq.) of subchapter IV of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

The Job Training Partnership Act, referred to in subsec. (b)(2)(E), is Pub. L. 97–300, Oct. 13, 1982, 96 Stat. 1322, as amended, which is classified generally to chapter 19 (§ 1501 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 1501 of Title 29 and Tables.

Section 427(b)(2) of the Higher Education Amendments of 1992, referred to in subsec. (d)(2), is section 427(b)(2) of Pub. L. 102–325 which is set out as a note under section 1085 of this title.

Section 435(b) of the Higher Education Act of 1965 as such section was in effect on July 22, 1992, referred to in subsec. (d)(2), means section 435(b) of Pub. L. 89–329 which was classified to section 1085(b) of this title prior to repeal by Pub. L. 102–325, title IV, § 427(b)(1), July 23, 1992, 106 Stat. 549.

The Higher Education Act of 1965, referred to in subsec. (d)(3), is Pub. L. 89–329, Nov. 8, 1965, 79 Stat. 1219, as amended. Subpart 1 of part A of title IV of the Act is classified generally to subpart 1 (§ 1070a et seq.) of part A of subchapter IV of chapter 28 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

AMENDMENTS

1996—Subsec. (b)(2)(B). Pub. L. 104–193 substituted ''the State program funded'' for ''the program for aid to families with dependent children''.

1994—Subsec. (d)(2). Pub. L. 103–382 inserted '', notwithstanding section 427(b)(2) of the Higher Education Amendments of 1992,'' before ''has'' and ''as such section was in effect on July 22, 1992'' before the semicolon.

1993—Subsec. (a). Pub. L. 103–208, § 4(1), designated existing provisions as par. (1), inserted ''or consortia thereof'' before ''within the State'' in first sentence, inserted ''or consortium'' before ''shall receive an amount'' and before ''in the preceding fiscal year'' in second sentence, and added par. (2).

Subsec. (b)(1). Pub. L. 103–208, § 4(2)(A), inserted ''or consortia'' after ''institutions''.

Subsec. (b)(2). Pub. L. 103–208, § 4(2)(B), inserted ''or consortia'' after ''institutions'' in introductory provisions.

Subsec. (c)(1). Pub. L. 103–208, § 4(3)(A), inserted ''or consortium'' after ''institution''.

Subsec. (c)(2). Pub. L. 103–208, § 4(3)(B), inserted ''or consortia'' after ''institutions''.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–193 effective July 1, 1997, with transition rules relating to State options to accelerate such date, rules relating to claims, actions, and proceedings commenced before such date, rules relating to closing out of accounts for terminated or substantially modified programs and continuance in office of Assistant Secretary for Family Support, and provisions relating to termination of entitlement under AFDC program, see section 116 of Pub. L. 104–193, as amended, set out as an Effective Date note under section 601 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1994 AMENDMENT

Section 351(b) of Pub. L. 103–382 provided that: ''Subsection (a) [amending this section and section 2404 of this title] and the amendments made by subsection (a) shall take effect on the date of enactment of this Act [Oct. 20, 1994], except that a State that, prior to such date, distributed funds under section 232 of the Carl D. Perkins Vocational and Applied Technology Education Act [this section] from funds appropriated for fiscal year 1994 for such program to proprietary institutions of higher education, as such term is defined in section 481(b) of the Higher Education Act of 1965 [20 U.S.C. 1088(b)], may continue to distribute such funds to such institutions until July 1, 1995.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2323, 2341b, 2341c, 2342, 2471 of this title.

§ 2341b. Special rule for minimal allocation

(a) General authority

In any fiscal year in which a minimal amount is made available by a State for distribution under section 2341 of this title or section 2341a of this title such State may, notwithstanding the provisions of section 2341 of this title or section 2341a of this title, as appropriate, in order to result in a more equitable distribution of funds for programs serving the highest numbers of economically disadvantaged individuals, distribute such minimal amount—

(1) on a competitive basis; or

(2) through any alternative method determined by the State.

(b) Minimal amount

For purposes of this section, the term ''minimal amount'' means not more than 15 percent of the total amount made available for distribution under this part.

(Pub. L. 88–210, title II, § 233, as added Pub. L. 101–392, title II, § 201, Sept. 25, 1990, 104 Stat. 782.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2341, 2341a of this title.

§ 2341c. Reallocation

(a) In general

In any academic year that a local educational agency or eligible institution does not expend all of the amounts it is allocated for such year under section 2341 of this title or section 2341a of this title, such local educational agency or eligible institution shall return any unexpended amounts to the State to be reallocated under section 2341 of this title or section 2341a of this title, as appropriate.

(b) Reallocation of amounts returned late in academic year

In any academic year in which amounts are returned to the State under sections[1] 2341 or 2341a of this title and the State is unable to reallocate such amounts according to such sections in time for such amounts to be expended in such academic year, the State shall retain such amounts to be distributed in combination with amounts provided under this subchapter for the following academic year.

(Pub. L. 88–210, title II, § 234, as added Pub. L. 101–392, title II, § 201, Sept. 25, 1990, 104 Stat. 783.)

SUBPART 2—USES OF FUNDS

§ 2342. Uses of funds

(a) General authority

Each eligible recipient that receives a grant under this part shall use funds provided under such grant to improve vocational education programs, with the full participation of individuals who are members of special populations, at a limited number of sites or with respect to a limited number of program areas.

(b) Priority

Each eligible recipient that receives a grant under this part shall give priority for assistance under this part to sites or programs that serve the highest concentrations of individuals who are members of special populations.

(c) Requirements for uses of funds

(1) Funds made available under a grant under this part shall be used to provide vocational education in programs that—

(A) are of such size, scope, and quality as to be effective;

(B) integrate academic and vocational education in such programs through coherent sequences of courses so that students achieve both academic and occupational competencies; and

(C) provide equitable participation in such programs for the special populations consistent with the assurances and requirements in section 2328 of this title.

(2) In carrying out the provisions of paragraph (1), grant funds may be used for activities such as—

(A) upgrading of curriculum;

(B) purchase of equipment, including instructional aids;

(C) inservice training of both vocational instructors and academic instructors working with vocational education students for integrating academic and vocational education;

(D) guidance and counseling;

(E) remedial courses;

(F) adaptation of equipment;

(G) tech-prep education programs;

(H) supplementary services designed to meet the needs of special populations;

(I) a special populations coordinator paid in whole or in part from such funds who shall be a qualified counselor or teacher to ensure that individuals who are members of special populations are receiving adequate services and job skill training;

(J) apprenticeship programs;

(K) programs that are strongly tied to economic development efforts in the State;

(L) programs which train adults and students for all aspects of the occupation, in which job openings are projected or available;

(M) comprehensive mentor programs in institutions of higher education offering comprehensive programs in teacher preparation, which seek to fully use the skills and work experience of individuals currently or formerly employed in business and industry who are interested in becoming classroom instructors and to meet the need of vocational educators who wish to upgrade their teaching competencies;

(N) provision of education and training through arrangements with private vocational training institutions, private postsecondary educational institutions, employers, labor organizations, and joint labor-management apprenticeship programs whenever such institutions, employers, labor organizations, or programs can make a significant contribution to obtaining the objectives of the State plan and can provide substantially equivalent training at a lesser cost, or can provide equipment or services not available in public institutions.

(3) Equipment purchases pursuant to sections 2341 and 2341a of this title, when not being used to carry out the provisions of this chapter, may be used for other instructional purposes if—

(A) the acquisition of the equipment was reasonable and necessary for the purpose of conducting a properly designed project or activity under this subchapter;

(B) is used after regular school hours or on weekends; and

(C) such other use is—

(i) incidental to the use of that equipment under this subchapter;

(ii) does not interfere with the use of that equipment under this subchapter; and

(iii) does not add to the cost of using that equipment under this subchapter.

(4) Each eligible recipient receiving funds under this part shall use no more than 5 percent of such funds for administrative costs.

(Pub. L. 88–210, title II, § 235, as added Pub. L. 101–392, title II, § 201, Sept. 25, 1990, 104 Stat. 783.)

PRIOR PROVISIONS

A prior section 2342, Pub. L. 88–210, title II, § 252, as added Pub. L. 98–524, § 1, Oct. 19, 1984, 98 Stat. 2457, related to criteria for program improvement, innovation, and expansion, prior to the general revision of this subchapter by Pub. L. 101–392.

[1] So in original. Probably should be ''section''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2341, 2341a, 2343 of this title.

SUBPART 3—LOCAL APPLICATION

§ 2343. Local application

Any eligible recipient desiring financial assistance under this part shall, according to requirements established by the State board, submit to the State board an application, covering the same period as the State plan, for the use of such assistance. The State board shall determine requirements for local applications, except that each such application shall—

(1) contain a description of the vocational education programs to be funded, including—

(A) the extent to which the program incorporates each of the elements described in section 2342 of this title;

(B) how the eligible recipient will use the funds available under this part and from other resources to improve the program with regard to each use of funds described in section 2342 of this title;

(2) contain a report on the number of individuals in each of the special populations;

(3) contain a description of how the needs of individuals who are members of special populations will be assessed and a description of the planned use of funds to meet such needs;

(4) describe how access to programs of good quality will be provided to students who are economically disadvantaged (including foster children), students with handicaps, and students of limited English proficiency through affirmative outreach and recruitment efforts;

(5) provide assurances that the programs funded under this part shall be carried out according to the criteria for programs for each special population;

(6) describe the program evaluation standards the applicant will use to measure its progress;

(7) describe methods to be used to coordinate vocational education services with relevant programs conducted under the Job Training Partnership Act [29 U.S.C. 1501 et seq.], including cooperative arrangements established with private industry councils established under section 102(a) of such Act [29 U.S.C. 1512(a)], in order to avoid duplication and to expand the range of and accessibility to vocational education services;

(8) describe methods used to develop vocational educational programs in consultation with parents and students of special populations;

(9) provide a description of coordination with community-based organizations;

(10) consider the demonstrated occupational needs of the area in assisting programs funded by this chapter;

(11) provide a description of how the eligible recipient will provide a vocational education program that—

(A) integrates academic and occupational disciplines so that students participating in the program are able to achieve both academic and occupational competence; and

(B) offers coherent sequences of courses leading to a job skill;

(12) provide assurances that the eligible recipient will provide a vocational education program that—

(A) encourages students through counseling to pursue such coherent sequences of courses;

(B) assists students who are economically disadvantaged, students of limited English proficiency, and students with handicaps to succeed through supportive services such as counseling, English-language instruction, child care, and special aids;

(C) is of such size, scope, and quality as to bring about improvement in the quality of education offered by the school; and

(D) seeks to cooperate with the sex equity program carried out under section 2335a of this title;

(13) provide an assurance that the eligible recipient will provide sufficient information to the State to enable the State to comply with the provisions of section 2341(d) of this title; and

(14) describe how the eligible recipient will monitor the provision of vocational education to individuals who are members of special populations.

(Pub. L. 88–210, title II, § 240, as added Pub. L. 101–392, title II, § 201, Sept. 25, 1990, 104 Stat. 784.)

REFERENCES IN TEXT

The Job Training Partnership Act, referred to in par. (7), is Pub. L. 97–300, Oct. 13, 1982, 96 Stat. 1322, as amended, which is classified generally to chapter 19 (§ 1501 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 1501 of Title 29 and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2471 of this title.

SUBCHAPTER III—SPECIAL PROGRAMS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 2302 of this title.

PART A—STATE ASSISTANCE FOR VOCATIONAL EDUCATION SUPPORT PROGRAMS BY COMMUNITY-BASED ORGANIZATIONS

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 2302, 2311 of this title.

§ 2351. Applications

(a)[1] Each community-based organization which desires to receive assistance under this part shall prepare jointly with the appropriate eligible recipient and submit an application to the State board at such time, in such manner, and containing or accompanied by such information as the State board may require. Each such application shall—

(1) contain an agreement between the community-based organization and the eligible recipients in the area to be served, which in-

[1] So in original. No subsec. (b) has been enacted.

cludes the designation of fiscal agents established for the program;

(2) provide a description of the uses for which assistance is sought pursuant to section 2352(b) of this title together with evaluation criteria to be applied to the program;

(3) provide assurances that the community-based organization will give special consideration to the needs of severely economically and educationally disadvantaged youth ages sixteen through twenty-one, inclusive;

(4) provide assurances that business concerns will be involved, as appropriate, in services and activities for which assistance is sought;

(5) describe the collaborative efforts with the eligible recipients and the manner in which the services and activities for which assistance is sought will serve to enhance the enrollment of severely economically and educationally disadvantaged youth into the vocational education programs; and

(6) provide assurances that the programs conducted by the community-based organization will conform to the applicable standards of performance and measures of effectiveness required of vocational education programs in the State.

(Pub. L. 88–210, title III, §301, as added Pub. L. 98–524, §1, Oct. 19, 1984, 98 Stat. 2457.)

§ 2352. Uses of funds

(a) Financial assistance; joint programs of eligible recipients and community-based organizations; special services and activities

From the portion of the allotment of each State under section 2311 of this title available for this part, each State shall provide financial assistance to joint programs of eligible recipients and community-based organizations within the State for the conduct of special vocational education services and activities described in subsection (b) of this section.

(b) Programs eligible for funding

Funds provided under this section may be used in accordance with State plans for—

(1) outreach programs to facilitate the entrance of youth into a program of transitional services and subsequent entrance into vocational education, employment or other education and training;

(2) transitional services such as attitudinal and motivational prevocational training programs;

(3) prevocational educational preparation and basic skills development conducted in cooperation with business concerns;

(4) special prevocational preparations programs targeted to inner-city youth, non-English speaking youth, Appalachian youth, and the youth of other urban and rural areas having a high density of poverty who need special prevocational education programs;

(5) career intern programs;

(6) model programs for school dropouts;

(7) assessment of students needs in relation to vocational education and jobs; and

(8) guidance and counseling to assist students with occupational choices and with the selection of a vocational education program.

(Pub. L. 88–210, title III, §302, as added Pub. L. 98–524, §1, Oct. 19, 1984, 98 Stat. 2458; amended Pub. L. 101–392, title III, §301, Sept. 25, 1990, 104 Stat. 786.)

AMENDMENTS

1990—Subsec. (b)(6) to (8). Pub. L. 101–392 added par. (6) and redesignated former pars. (6) and (7) as (7) and (8), respectively.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–392 effective July 1, 1991, see section 702(a) of Pub. L. 101–392, set out as a note under section 2301 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2351 of this title.

PART B—CONSUMER AND HOMEMAKING EDUCATION

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 2302, 2311 of this title.

§ 2361. Consumer and homemaking education grants

From the portion of the allotment of each State under section 2311 of this title available for this part, the Secretary is authorized to make grants to States to assist them in conducting consumer and homemaking education programs. Such programs may include (1) instructional programs, services, and activities that prepare youth and adults for the occupation of homemaking, and (2) instruction in the areas of food and nutrition, individual and family health, consumer education, family living and parenthood education, child development and guidance, housing, home management (including resource management), and clothing and textiles.

(Pub. L. 88–210, title III, §311, as added Pub. L. 98–524, §1, Oct. 19, 1984, 98 Stat. 2458; amended Pub. L. 99–159, title VII, §706(b), Nov. 22, 1985, 99 Stat. 906; Pub. L. 101–392, title III, §302, Sept. 25, 1990, 104 Stat. 786.)

AMENDMENTS

1990—Pub. L. 101–392 inserted ''individual and family health,'' after ''food and nutrition,''.

1985—Pub. L. 99–159, §706(b), substituted ''homemaking'' for ''homemaker'' in section catchline, and ''homemaking education'' for ''homemaker education'' in text.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–392 effective July 1, 1991, see section 702(a) of Pub. L. 101–392, set out as a note under section 2301 of this title.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–159 effective July 1, 1985, see section 714(a) of Pub. L. 99–159, set out as a note under section 2311 of this title.

§ 2362. Use of funds from consumer and homemaking education grants

(a) Areas for which grants may be used

Grants to any State under this part shall be used, in accordance with State plans approved under section 2324 of this title—

(1) to conduct programs for residents of economically depressed areas;

(2) to encourage participation of traditionally underserved populations;

(3) to encourage, in cooperation with the individual appointed under section 2321(b)(1) of this title, the elimination of sex bias and sex stereotyping;

(4) to improve, expand, and update programs with an emphasis on those which specifically address needs described under clauses (1), (2), and (3); and

(5) to address priorities and emerging concerns at the local, State, and national levels.

(b) Program development and improvement; support services and activities

Grants for the purposes set forth in subsection (a) of this section may be used for—

(1) program development and improvement of instruction and curricula relating to managing individual and family resources, making consumer choices, balancing work and family, improving responses to individual and family crises (including family violence and child abuse), strengthening parenting skills (especially among teenage parents), preventing teenage pregnancy, assisting aged and individuals with handicaps, and members of at-risk populations (including the homeless), improving individual, child, and family nutrition and wellness, conserving limited resources, understanding the impact of new technology on life and work, applying consumer and homemaking education skills to jobs and careers, and other needs as determined by the State; and

(2) support services and activities designed to ensure the quality and effectiveness of programs, including demonstration of innovative and exemplary projects, community outreach to underserved populations, application of academic skills (such as reading, writing, mathematics, and science) through consumer and homemaking education programs, curriculum development, research, program evaluation, development of instructional materials, teacher education, upgrading of equipment, teacher supervision, and State administration and leadership, including activities of the student organization.

(c) Expending grants in economically depressed areas with high rates of unemployment

Not less than one-third of the Federal funds made available to any State under this section shall be expended in economically depressed areas or areas with high rates of unemployment for programs designed to assist consumers and to help improve home environments and the quality of family life.

(Pub. L. 88–210, title III, § 312, as added Pub. L. 98–524, § 1, Oct. 19, 1984, 98 Stat. 2458; amended Pub. L. 99–159, title VII, § 706(c), Nov. 22, 1985, 99 Stat. 906; Pub. L. 101–392, title III, § 303, Sept. 25, 1990, 104 Stat. 786.)

AMENDMENTS

1990—Subsec. (a)(1). Pub. L. 101–392, § 303(1)(A), substituted ''for residents of'' for ''in''.

Subsec. (a)(3). Pub. L. 101–392, § 303(1)(B), inserted '', in cooperation with the individual appointed under section 2321(b)(1) of this title,'' after ''encourage''.

Subsec. (b)(1). Pub. L. 101–392, § 303(2), substituted ''balancing work and family, improving responses to individual and family crises (including family violence and child abuse), strengthening parenting skills (especially among teenage parents), preventing teenage pregnancy, assisting aged and individuals with handicaps, and members of at-risk populations (including the homeless), improving individual, child, and family nutrition and wellness'' for ''managing home and work responsibilities, improving responses to individual and family crises, strengthening parenting skills, assisting aged and handicapped individuals, improving nutrition''.

1985—Pub. L. 99–159, § 706(c)(2), substituted ''homemaking'' for ''homemaker'' in section catchline.

Subsec. (b). Pub. L. 99–159, § 706(c)(1), substituted ''homemaking'' for ''homemaker'' in pars. (1) and (2).

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–392 effective July 1, 1991, see section 702(a) of Pub. L. 101–392, set out as a note under section 2301 of this title.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–159 effective July 1, 1985, see section 714(a) of Pub. L. 99–159, set out as a note under section 2311 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2420a of this title.

§ 2363. Information dissemination and leadership

(a) Sharing experience with administrators; program planning; home economic education

The State board shall ensure that the experience and information gained through carrying out programs assisted under this part is shared with administrators for the purpose of program planning. Funds available under this part shall be used to assist in providing State leadership and full time State administrators qualified by experience and educational preparation in home economics education.

(b) Limitation on use of funds

Not more than 6 percent of the funds available under this part may be used for State administration of projects, services, and activities under this part.

(Pub. L. 88–210, title III, § 313, as added Pub. L. 98–524, § 1, Oct. 19, 1984, 98 Stat. 2459; amended Pub. L. 99–159, title VII, § 707, Nov. 22, 1985, 99 Stat. 906; Pub. L. 101–392, title III, § 304, Sept. 25, 1990, 104 Stat. 786.)

AMENDMENTS

1990—Subsec. (a). Pub. L. 101–392 inserted ''and full time State administrators'' after ''State leadership'' and ''educational'' after ''experience and''.

1985—Subsec. (b). Pub. L. 99–159 substituted ''for State administration of projects, services, and activities under this part'' for ''to carry out leadership activities under this section''.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–392 effective July 1, 1991, see section 702(a) of Pub. L. 101–392, set out as a note under section 2301 of this title.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–159 effective July 1, 1985, see section 714(a) of Pub. L. 99–159, set out as a note under section 2311 of this title.

PART C—COMPREHENSIVE CAREER GUIDANCE AND COUNSELING PROGRAMS

PRIOR PROVISIONS

A prior part C consisting of subpart 1 (§§ 2371 to 2373) and subpart 2 (§§ 2376 to 2378) and relating to adult training, retraining, and employment development was repealed by Pub. L. 101–392, title III, § 305, Sept. 25, 1990, 104 Stat. 786, effective July 1, 1991.

Section 2371, Pub. L. 88–210, title III, § 321, as added Pub. L. 98–524, § 1, Oct. 19, 1984, 98 Stat. 2459; amended Pub. L. 100–418, title VI, § 6131(a)(2), Aug. 23, 1988, 102 Stat. 1509, provided findings and purposes of program.

Section 2372, Pub. L. 88–210, title III, § 322, as added Pub. L. 98–524, § 1, Oct. 19, 1984, 98 Stat. 2460; amended Pub. L. 100–418, title VI, § 6131(a)(2), Aug. 23, 1988, 102 Stat. 1509; Pub. L. 101–476, title IX, § 901(a)(2), Oct. 30, 1990, 104 Stat. 1142, authorized Secretary to make grants and specified uses of funds for program.

Section 2373, Pub. L. 88–210, title III, § 323, as added Pub. L. 98–524, § 1, Oct. 19, 1984, 98 Stat. 2461; amended Pub. L. 100–418, title VI, § 6131(a)(2), Aug. 23, 1988, 102 Stat. 1509, provided for coordination of program with Job Training Partnership Act.

Section 2376, Pub. L. 88–210, title III, § 326, as added Pub. L. 100–418, title VI, § 6131(a)(3), Aug. 23, 1988, 102 Stat. 1509, provided findings and purpose of special program of financial assistance to States to enable them to expand and improve vocational education programs designed to meet current needs for training, retraining, and employment development of adults who had completed or left high school and were preparing to enter or had entered the labor market, including workers who were 55 years of age and older, in order to equip adults with competencies and skills required for productive employment.

Section 2377, Pub. L. 88–210, title III, § 327, as added Pub. L. 100–418, title VI, § 6131(a)(3), Aug. 23, 1988, 102 Stat. 1509; amended Pub. L. 101–476, title IX, § 901(a)(2), Oct. 30, 1990, 104 Stat. 1142, authorized giving of grants and uses of funds in connection with special program.

Section 2378, Pub. L. 88–210, title III, § 328, as added Pub. L. 100–418, title VI, § 6131(a)(3), Aug. 23, 1988, 102 Stat. 1510, provided for coordination of special program with Job Training Partnership Act.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1991, see section 702(a) of Pub. L. 101–392, set out as an Effective Date of 1990 Amendment note under section 2301 of this title.

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 2302, 2311 of this title.

§ 2381. Grants for career guidance and counseling

From the portion of the allotment of each State under section 2311 of this title available for this part, the Secretary is authorized to make grants to States to assist them in conducting career guidance and counseling programs authorized by this part.

(Pub. L. 88–210, title III, § 321, formerly § 331, as added Pub. L. 98–524, § 1, Oct. 19, 1984, 98 Stat. 2462; renumbered § 321, Pub. L. 101–392, title III, § 306(a)(2), Sept. 25, 1990, 104 Stat. 786.)

PRIOR PROVISIONS

For prior section 321 of Pub. L. 88–210, see note set out preceding this section.

§ 2382. Use of funds from career guidance and counseling grants

(a) Programs eligible for funding

Grants to any State under this part shall be used, in accordance with State plans (and amendments thereto), for programs (organized and administered by certified counselors) designed to improve, expand, and extend career guidance and counseling programs to meet the career development, vocational education, and employment needs of vocational education students and potential students. Such programs shall be designed to assist individuals—

(1) to acquire self-assessment, career planning, career decisionmaking, and employability skills;

(2) to make the transition from education and training to work;

(3) to maintain marketability of current job skills in established occupations;

(4) to develop new skills to move away from declining occupational fields and enter new and emerging fields in high-technology areas and fields experiencing skill shortages;

(5) to develop midcareer job search skills and to clarify career goals; and

(6) to obtain and use information on financial assistance for postsecondary and vocational education, and job training.

(b) Goals for programs

Programs of career guidance and counseling under this part shall encourage the elimination of sex, age, handicapping condition, and race bias and stereotyping, provide for community outreach, enlist the collaboration of the family, the community, business, industry, and labor and be accessible to all segments of the population, including women, minorities, the handicapped, and the economically disadvantaged. The programs authorized by this part shall consist of—

(1) instructional activities and other services at all educational levels to help students with the skills described in clauses (1) through (6) of subsection (a) of this section; and

(2) services and activities designed to ensure the quality and effectiveness of career guidance and counseling programs and projects assisted under this part, such as counselor education (including education of counselors working with individuals with limited English proficiency), training of support personnel, curriculum development, research and demonstration projects, experimental programs, instructional materials development, equipment acquisition, development of career information delivery systems, and State and local leadership and supervision; and

(3) projects which provide opportunities for counselors to obtain firsthand experience in business and industry, and projects which provide opportunities to acquaint students with business, industry, the labor market, and training opportunities (including secondary educational programs that have at least one characteristic of an apprenticeable occupation as recognized by the Department of Labor or the State Apprenticeship Agency in accordance with the Act of August 16, 1937, known as the National Apprenticeship Act [29 U.S.C. 50 et seq.], in concert with local business, industry, labor, and other appropriate apprenticeship training entities, designed to prepare participants for an apprenticeable occupation or provide information concerning apprenticeable occupations and their prerequisites).

(c) Minimum level of funding

Not less than 20 percent of the sums made available to a State under this part shall be used for programs designed to eliminate sex, age, and race bias and stereotyping under subsection (b) of this section and for activities to ensure that programs under this part are accessible to all segments of the population, including women, the disadvantaged, the handicapped, individuals with limited English proficiency, and minorities.

(Pub. L. 88–210, title III, § 322, formerly § 332, as added Pub. L. 98–524, § 1, Oct. 19, 1984, 98 Stat. 2462; renumbered § 322 and amended Pub. L. 101–392, title III, § 306(a)(2), (c), Sept. 25, 1990, 104 Stat. 786, 787.)

REFERENCES IN TEXT

Act of August 16, 1937, known as the National Apprenticeship Act, referred to in subsec. (b)(3), is act Aug. 16, 1937, ch. 663, 50 Stat. 664, as amended, which is classified generally to chapter 4C (§ 50 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 50 of Title 29 and Tables.

PRIOR PROVISIONS

For prior section 322 of Pub. L. 88–210, see note set out preceding section 2381 of this title.

AMENDMENTS

1990—Subsec. (b)(2). Pub. L. 101–392, § 306(c), inserted ''development of career information delivery systems,'' after ''equipment acquisition,''.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–392 effective July 1, 1991, see section 702(a) of Pub. L. 101–392, set out as a note under section 2301 of this title.

§ 2383. Information dissemination and leadership

(a) Sharing of information with administrators

The State board shall ensure that the experience and information gained through programs assisted under this part is shared with administrators for the purpose of program planning. Funds available under this part shall be used to assist in providing State leadership qualified by experience and knowledge in guidance and counseling.

(b) Limitation on use of funds

Not more than 6 percent of the funds available under this part may be used for State administration of projects, services, and activities under this part.

(Pub. L. 88–210, title III, § 323, formerly § 333, as added Pub. L. 98–524, § 1, Oct. 19, 1984, 98 Stat. 2463; amended Pub. L. 99–159, title VII, § 708, Nov. 22, 1985, 99 Stat. 906; renumbered § 323, Pub. L. 101–392, title III, § 306(a)(2), Sept. 25, 1990, 104 Stat. 786.)

PRIOR PROVISIONS

For prior section 323 of Pub. L. 88–210, see note set out preceding section 2381 of this title.

AMENDMENTS

1985—Subsec. (b). Pub. L. 99–159 substituted ''for State administration of projects, services, and activities under this part'' for ''to carry out leadership activities under this section''.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–159 effective July 1, 1985, see section 714(a) of Pub. L. 99–159, set out as a note under section 2311 of this title.

PART D—BUSINESS-LABOR-EDUCATION PARTNERSHIP FOR TRAINING

PRIOR PROVISIONS

A prior part D, consisting of sections 2381 to 2383, was redesignated part C by Pub. L. 101–392, title III, § 306(a)(1), (b), Sept. 25, 1990, 104 Stat. 786, 787.

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 2302, 2311 of this title.

§ 2391. Findings and purpose

The Congress finds that—

(1) there is a need to infuse resources into the schools for the purpose of improving the quality of vocational education; and

(2) there is a need to fulfill the needs of business for skilled employees who meet certain minimal standards in key occupational areas.

(Pub. L. 88–210, title III, § 331, formerly § 341, as added Pub. L. 98–524, § 1, Oct. 19, 1984, 98 Stat. 2463; renumbered § 331 and amended Pub. L. 101–392, title III, § 307(a)(2), (c), Sept. 25, 1990, 104 Stat. 787.)

PRIOR PROVISIONS

A prior section 331 of Pub. L. 88–210 was renumbered section 321 and is classified to section 2381 of this title.

AMENDMENTS

1990—Pub. L. 101–392, § 307(c), amended section generally. Prior to amendment, section read as follows:

''(a) The Congress finds that—

''(1) shortages of technicians in high-technology fields are adversely affecting the Nation's productivity, its competitiveness in world markets, defense capability, and economic health; and

''(2) the Nation's vocational education system can make a major contribution in meeting the need for trained technicians and skilled workers in these fields, particularly through partnerships between vocational agencies and institutions and private business and industry.

''(b) It is therefore the purpose of this part—

''(1) to provide incentives for business and industry and the vocational education community to develop programs to train the skilled workers needed to produce, install, operate, and maintain high-technology equipment, systems, and processes; and

''(2) to ensure that such programs are relevant to the labor market and accessible to all segments of the population, including women, minorities, the handicapped, and the economically disadvantaged.''

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–392 effective July 1, 1991, see section 702(a) of Pub. L. 101–392, set out as a note under section 2301 of this title.

§ 2392. Authorization of grants

(a) Authority of Secretary to make grants

(1) From amounts authorized under section 2302(d)(1)(D) of this title that are made available for this part, the Secretary shall make grants to States to enable States to award grants to partnerships among—

(A) an area vocational education school, a State agency, a local educational agency, a

secondary school funded by the Bureau of Indian Affairs, an institution of higher education, a State corrections educational agency or an adult learning center; and

(B) business, industry, labor organizations, or apprenticeship programs;

to carry out business-labor-education partnership training programs in accordance with this part.

(2) The Secretary shall ensure an equitable geographic distribution of grants under this part.

(b) Use of grants; accordance with State plans containing assurances to Secretary

Grants to any State under this part shall be used in accordance with State plans and shall provide incentives for the coordination of programs assisted with funds under this part with related efforts under part E of this subchapter and under the Job Training Partnership Act [29 U.S.C. 1501 et seq.]. Each such State plan shall contain assurances to the Secretary that—

(1) funds received under this part will be awarded on a competitive basis solely for vocational education programs, including programs—

(A) to provide apprenticeships and internships in industry;

(B) to provide new equipment;

(C) to provide teacher internships or teacher training;

(D) that bring representatives of business and organized labor into the classroom;

(E) to increase the access to, and quality of, programs for individuals who are members of special populations;

(F) to strengthen coordination between vocational education programs, and the labor and skill needs of business and industry;

(G) to address the economic development needs of the area served by the partnership;

(H) to provide training and career counseling that will enable workers to retain their jobs;

(I) to provide training and career counseling that will enable workers to upgrade their jobs; and

(J) that address the needs of new and emerging industries, particularly industries in high-technology fields.[1]

(2) the State will give preference to partnerships that coordinate with local chambers of commerce (or the equivalent), local labor organizations, or local economic development plans;

(3) the State will give priority to programs offered by partnerships that provide job training in areas or skills where there are significant labor shortages;

(4) the State shall ensure an equitable distribution of assistance under this part between urban and rural areas;

(5) except as provided in paragraph (6), not less than 50 percent of the aggregate cost of programs and projects assisted under this part will be provided from non-Federal sources, and not less than 50 percent of such non-Federal share will be provided by businesses or labor organizations participating in the partnership; and

(6) in the event that the partnership includes a small business or labor organization, 40 percent of the aggregate cost of the programs and projects assisted under this part will be provided from non-Federal sources and not less than 50 percent of such non-Federal share will be provided by participating businesses or labor organizations.

(c) Business and industrial share; fair valuation; Federal share; demonstration of lack of capability to provide non-Federal share of costs

(1) The business and industrial share of the costs required by subsection (b)(3) of this section may be in the form of cash or of in-kind contributions (such as facilities, overhead, personnel, and equipment) fairly valued.

(2) The Federal share of such costs shall be available equally from funds available to the States under this part and from funds allotted to the States under subchapter II of this chapter.

(3) If an eligible recipient demonstrates to the satisfaction of the State that it is incapable of providing all or part of the non-Federal portion of such costs as required by subsection (b)(3) of this section, the State may designate funds available under part B of subchapter II of this chapter or funds available from State sources in lieu of such non-Federal portion.

(d) Secretary to prescribe policies; allowable expenses

The Secretary shall prescribe policies for vocational education programs carried out with assistance under this part. Such policies shall include examples of allowable expenses for business-labor-education partnerships.

(Pub. L. 88–210, title III, §332, formerly §342, as added Pub. L. 98–524, §1, Oct. 19, 1984, 98 Stat. 2464; amended Pub. L. 99–159, title VII, §709, Nov. 22, 1985, 99 Stat. 906; renumbered §332 and amended Pub. L. 101–392, title III, §307(a)(2), (d), Sept. 25, 1990, 104 Stat. 787.)

REFERENCES IN TEXT

The Job Training Partnership Act, referred to in subsec. (b), is Pub. L. 97–300, Oct. 13, 1982, 96 Stat. 1322, as amended, which is classified generally to chapter 19 (§1501 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 1501 of Title 29 and Tables.

PRIOR PROVISIONS

A prior section 332 of Pub. L. 88–210 was renumbered section 322 and is classified to section 2382 of this title.

AMENDMENTS

1990—Subsec. (a). Pub. L. 101–392, §307(d)(1), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: ''From the portion of the allotment of each State under section 2311 of this title available for this part, the Secretary shall make grants to the States to carry out industry-education partnership training programs in high-technology occupations in accordance with this part.''

Subsec. (b). Pub. L. 101–392, §307(d)(2), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: ''Grants to any State under this part shall be used, in accordance with State plans which contain assurances to the Secretary that—

''(1) funds received under this part will be used solely for vocational education programs designed to

[1] So in original. The period probably should be a semicolon.

train skilled workers and technicians in high-technology occupations (including programs providing related instruction to apprentices) and projects to train skilled workers needed to produce, install, operate, and maintain high-technology equipment, systems, and processes;

''(2) to the maximum extent practicable, funds received under this part will be utilized in coordination with the Job Training Partnership Act to avoid duplication of effort and to ensure maximum effective utilization of funds under this chapter and the Job Training Partnership Act;

''(3) except as provided in subsection (c) of this section, not less than 50 per centum of the aggregate costs of programs and projects assisted under this part will be provided from non-Federal sources, and not less than 50 per centum of such non-Federal share of aggregate costs in the State will be provided by participating business and industrial firms;

''(4) programs and projects assisted under this part will be coordinated with those assisted under subchapter II of this chapter, and to the maximum extent practicable (consistent with the purposes of programs assisted under subchapter II of this chapter), supportive services will be so organized as to serve programs under both subchapters; and

''(5) programs and projects assisted under this part will be developed with the active participation of the State council established pursuant to section 2322 of this title.''

Subsec. (d). Pub. L. 101–392, § 307(d)(3), added subsec. (d).

1985—Subsec. (c). Pub. L. 99–159 substituted ''subsection (b)(3)'' for ''subsection (b)(2)'' in pars. (1) and (3).

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–392 effective July 1, 1991, see section 702(a) of Pub. L. 101–392, set out as a note under section 2301 of this title.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–159 effective July 1, 1985, see section 714(a) of Pub. L. 99–159, set out as a note under section 2311 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2393 of this title.

§ 2393. Use of funds

(a) Limitation on programs and projects

Funds made available to the States by grants under this part may be used solely for the establishment and operation of programs and projects described by section 2392(b)[1] of this title and for—

(1) necessary administrative costs of the State board and of eligible recipients associated with the establishment and operation of programs authorized by this part;

(2) training and retraining of instructional and guidance personnel;

(3) curriculum development and the development or acquisition of instructional and guidance equipment and materials;

(4) acquisition and operation of communications and telecommunications equipment and other high-technology equipment for programs authorized by this part; and

(5) such other activities authorized by this subchapter as may be essential to the successful establishment and operation of programs and projects authorized by this part, including activities and related services to ensure access of women, minorities, the handicapped, and the economically disadvantaged.

(b) Approval by State board; special considerations

In approving programs and projects assisted under this part, the State board shall give special consideration to—

(1) the level and degree of business and industry participation in the development and operation of the program;

(2) the current and projected demand within the State or relevant labor market area for workers with the level and type of skills the program is designed to produce;

(3) the overall quality of the proposal, with particular emphasis on the probability of successful completion of the program by prospective trainees and the capability of the eligible recipient (with assistance from participating business or industry) to provide high quality training for skilled workers and technicians in high technology; and

(4) the commitment to serve all segments of the population, including women, minorities, the handicapped, and the economically disadvantaged (as demonstrated by special efforts to provide outreach, information, and counseling, and by the provision of remedial instruction and other assistance).

(c) Limitation on expenditure of funds

Expenditures for administrative costs pursuant to subsection (a)(1) of this section may not exceed 10 per centum of the State's allotment for this part in the first year and 5 per centum of such allotment in each subsequent year.

(d) Covered programs

(1) Funds made available pursuant to section 2302(b)(5)(B)[2] of this title may be used, in accordance with this part, to provide vocational education to individuals in order to assist their entry into, or advancement in, high technology occupations or to meet the technological needs of other industries or businesses.

(2) Special consideration shall be given to individuals described in paragraph (1) who have attained 55 years of age.

(Pub. L. 88–210, title III, § 333, formerly § 343, as added Pub. L. 98–524, § 1, Oct. 19, 1984, 98 Stat. 2465; amended Pub. L. 100–418, title VI, § 6134(a), Aug. 23, 1988, 102 Stat. 1512; renumbered § 333, Pub. L. 101–392, title III, § 307(a)(2), Sept. 25, 1990, 104 Stat. 787.)

REFERENCES IN TEXT

Section 2392(b) of this title, referred to in subsec. (a), was in the original a reference to section 342(b) of Pub. L. 88–210. Section 342(b) of Pub. L. 88–210 was renumbered section 332(b) by Pub. L. 101–392, title III, § 307(a)(2), Sept. 25, 1990, 104 Stat. 787, without a corresponding amendment to this section.

Section 2302 of this title, referred to in subsec. (d)(1), was amended generally by Pub. L. 101–392, § 3, Sept. 25, 1990, 104 Stat. 756, and as so amended, provisions authorizing appropriations for this part which formerly appeared in subsec. (b)(5)(B), are contained in subsec. (d)(1)(D).

[1] See References in Text note below.

[2] See References in Text note below.

PRIOR PROVISIONS

A prior section 333 of Pub. L. 88–210 was renumbered section 323 and is classified to section 2383 of this title.

AMENDMENTS

1988—Subsec. (d). Pub. L. 100–418 added subsec. (d).

PART E—TECH-PREP EDUCATION

PRIOR PROVISIONS

A prior part E, consisting of sections 2391 to 2393, was redesignated part D by Pub. L. 101–392, title III, § 307(a)(1), Sept. 25, 1990, 104 Stat. 787.

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 2302, 2392 of this title.

§ 2394. Findings and purpose

(a) Findings

The Congress finds that—

(1) rapid technological advances and global economic competition demand increased levels of skilled technical education preparation and readiness on the part of youths entering the workforce;

(2) effective strategies reaching beyond the boundaries of traditional schooling are necessary to provide early and sustained intervention by parents, teachers, and educational institutions in the lives of students;

(3) a combination of nontraditional school-to-work technical education programs, using state-of-the-art equipment and appropriate technologies, will reduce the dropout rate for high school students in the United States and will produce youths who are mature, responsible, and motivated to build good lives for themselves;

(4) the establishment of systematic technical education articulation agreements between secondary schools and postsecondary educational institutions is necessary for providing youths with skills in the liberal and practical arts and in basic academics, including literacy instruction in the English language, and with the intense technical preparation necessary for finding a position in a changing workplace;

(5) by the year 2000 an estimated 15,000,000 manufacturing jobs will require more advanced technical skills, and an equal number of service jobs will become obsolete;

(6) more than 50 percent of jobs that are developing will require skills greater than those provided by existing educational programs;

(7) dropout rates in urban schools are 50 percent or higher, and more than 50 percent of all Hispanic youth drop out of high school; and

(8) employers in the United States pay an estimated $210,000,000,000 annually for formal and informal training, remediation, and lost productivity as a result of untrained and unprepared youth joining, or attempting to join, the workforce of the United States.

(b) Purpose

It is the purpose of this part—

(1) to provide planning and demonstration grants to consortia of local educational agencies and postsecondary educational institutions, for the development and operation of 4-year programs designed to provide a tech-prep education program leading to a 2-year associate degree or a 2-year certificate; and

(2) to provide, in a systematic manner, strong, comprehensive links between secondary schools and postsecondary educational institutions.

(Pub. L. 88–210, title III, § 342, as added Pub. L. 101–392, title III, § 308, Sept. 25, 1990, 104 Stat. 789.)

PRIOR PROVISIONS

A prior section 342 of Pub. L. 88–210 was renumbered section 332 and is classified to section 2392 of this title.

EFFECTIVE DATE

Part effective July 1, 1991, see section 702(a) of Pub. L. 101–392, set out as an Effective Date of 1990 Amendment note under section 2301 of this title.

SHORT TITLE

Section 341 of Pub. L. 88–210, as added by Pub. L. 101–392, title III, § 308, Sept. 25, 1990, 104 Stat. 788, provided that: ''This part [part E (§§ 341–347) of title III of Pub. L. 88–210, enacting this part] may be cited as the 'Tech-Prep Education Act'.''

§ 2394a. Program authorized

(a) Discretionary amounts

In any fiscal year in which the amount made available under section 2302(d)(1)(E) of this title to carry out the provisions of this part is equal to or less than $50,000,000, the Secretary, in accordance with the provisions of this part which are not inconsistent with this paragraph, shall award grants for tech-prep education programs to consortia of—

(1) local educational agencies, intermediate educational agencies or area vocational education schools serving secondary school students, or secondary schools funded by the Bureau of Indian Affairs; and

(2)(A) nonprofit institutions of higher education which offer a 2-year associate degree program, a 2-year certificate program, and which are qualified as institutions of higher education pursuant to section 1088(a) of this title, including institutions receiving assistance under the Tribally Controlled Community College Assistance Act of 1978 [25 U.S.C. 1801 et seq.], or a 2-year apprenticeship program that follows secondary instruction, if such nonprofit institutions of higher education are not prohibited from receiving assistance under part B of the Higher Education Act of 1965 [20 U.S.C. 1071 et seq.] pursuant to the provisions of section 435(a)(3) of such Act [20 U.S.C. 1085(a)(3)]; or

(B) proprietary institutions of higher education which offer a 2-year associate degree program and which are qualified as institutions of higher education pursuant to section 1088(a) of this title if such proprietary institutions of higher education are not subject to a default management plan required by the Secretary.

(b) State grants

(1) In any fiscal year for which the amount made available under section 2302(d)(1)(E) of this

title to carry out the provisions of this part exceeds $50,000,000, the Secretary shall allot such amount to the States in accordance with the provisions of section 2311(a)(2) of this title.

(2) From amounts made available to each State under paragraph (1), the State board, in accordance with the provisions of this part which are not inconsistent with this paragraph, shall award grants on a competitive basis or on the basis of a formula determined by the State board, for tech-prep education programs to consortia described in subsection (a)(1) of this section.

(Pub. L. 88–210, title III, § 343, as added Pub. L. 101–392, title III, § 308, Sept. 25, 1990, 104 Stat. 789; amended Pub. L. 102–103, title III, § 315, Aug. 17, 1991, 105 Stat. 508.)

REFERENCES IN TEXT

The Tribally Controlled Community College Assistance Act of 1978, referred to in subsec. (a)(2)(A), is Pub. L. 95–471, Oct. 17, 1978, 92 Stat. 1325, as amended, which is classified principally to chapter 20 (§ 1801 et seq.) of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of Title 25 and Tables.

The Higher Education Act of 1965, referred to in subsec. (a)(2)(A), is Pub. L. 89–329, Nov. 8, 1965, 79 Stat. 1219, as amended. Part B probably means part B of title IV of such Act which is classified generally to part B (§ 1071 et seq.) of subchapter IV of chapter 28 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

PRIOR PROVISIONS

A prior section 343 of Pub. L. 88–210 was renumbered section 333 and is classified to section 2393 of this title.

AMENDMENTS

1991—Subsec. (a)(2)(A). Pub. L. 102–103 substituted ''prohibited from receiving assistance under part B of the Higher Education Act of 1965 pursuant to the provisions of section 435(a)(3) of such Act'' for ''subject to a default management plan required by the Secretary''.

§ 2394b. Tech-prep education programs

(a) General authority

Each grant recipient shall use amounts provided under the grant to develop and operate a 4-year tech-prep education program.

(b) Contents of program

Any such program shall—

(1) be carried out under an articulation agreement between the participants in the consortium;

(2) consist of the 2 years or 4 years of secondary school preceding graduation and 2 years of higher education, or an apprenticeship program of at least 2 years following secondary instruction, with a common core of required proficiency in mathematics, science, communications, and technologies designed to lead to an associate degree or certificate in a specific career field;

(3) include the development of tech-prep education program curricula appropriate to the needs of the consortium participants;

(4) include in-service training for teachers that—

(A) is designed to train teachers to effectively implement tech-prep education curricula;

(B) provides for joint training for teachers from all participants in the consortium; and

(C) may provide such training in weekend, evening, and summer sessions, institutes or workshops;

(5) include training programs for counselors designed to enable counselors to more effectively—

(A) recruit students for tech-prep education programs;

(B) ensure that such students successfully complete such programs; and

(C) ensure that such students are placed in appropriate employment;

(6) provide equal access to the full range of technical preparation programs to individuals who are members of special populations, including the development of tech-prep education program services appropriate to the needs of such individuals; and

(7) provide for preparatory services which assist all participants in such programs.

(c) Additional authorized activities

Each such program may—

(1) provide for the acquisition of tech-prep education program equipment; and

(2) as part of the program's planning activities, acquire technical assistance from State or local entities that have successfully designed, established and operated tech-prep programs.

(Pub. L. 88–210, title III, § 344, as added Pub. L. 101–392, title III, § 308, Sept. 25, 1990, 104 Stat. 790; amended Pub. L. 103–239, title VII, § 711(a), May 4, 1994, 108 Stat. 606.)

AMENDMENTS

1994—Subsec. (b)(2). Pub. L. 103–239 inserted ''or 4 years'' before ''of secondary school''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1011f, 1102b, 2331, 2394c of this title.

§ 2394c. Applications

(a) In general

Each consortium that desires to receive a grant under this part shall submit an application to the Secretary or the State board, as appropriate, at such time and in such manner as the Secretary or the State board, as appropriate, shall prescribe.

(b) Three-year plan

Each application submitted under this section shall contain a 3-year plan for the development and implementation of activities under this part.

(c) Approval

The Secretary or the State board, as appropriate, shall approve applications based on their potential to create an effective tech-prep education program as provided for in section 2394b of this title.

(d) Special consideration

The Secretary or the State board, as appropriate, shall give special consideration to applications which—

(1) provide for effective employment placement activities or transfer of students to 4-year baccalaureate degree programs;

(2) are developed in consultation with business, industry, labor unions, and institutions of higher education that award baccalaureate degrees; and

(3) address effectively the issues of dropout prevention and re-entry and the needs of minority youths, youths of limited English proficiency, youths with handicaps, and disadvantaged youths.

(e) Equitable distribution of assistance

In making grants under this part, the Secretary shall ensure an equitable distribution of assistance among States and the Secretary or the State board, as appropriate, shall ensure an equitable distribution of assistance between urban and rural consortium participants.

(f) Notice

(1) In the case of grants to be made by the Secretary, each consortium that submits an application under this section shall provide notice of such submission and a copy of such application to the State educational agency and the State agency for higher education of the State in which the consortium is located.

(2) The Secretary shall notify the State educational agency, the State agency for higher education, and the State council on vocational education of any State each time a consortium located in such State is selected to receive a grant under this part.

(Pub. L. 88–210, title III, § 345, as added Pub. L. 101–392, title III, § 308, Sept. 25, 1990, 104 Stat. 791; amended Pub. L. 103–239, title VII, § 711(b), May 4, 1994, 108 Stat. 606.)

AMENDMENTS

1994—Subsec. (d)(2). Pub. L. 103–239 amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''are developed in consultation with business, industry, and labor unions; and''.

§ 2394d. Reports

(a) Report to Secretary

In the case of grants made by the Secretary, each grant recipient shall, with respect to assistance received under this part, submit to the Secretary such reports as may be required by the Secretary to ensure that such grant recipient is complying with the requirements of this part.

(b) Report to Congress

After grant recipients who receive grants in the first year in which grants are made under this part complete their eligibility under the program, the Secretary shall submit to the Congress a report evaluating the effectiveness of the program under this part.

(Pub. L. 88–210, title III, § 346, as added Pub. L. 101–392, title III, § 308, Sept. 25, 1990, 104 Stat. 792.)

§ 2394e. Definitions

For purposes of this part:

(1) The term ''articulation agreement'' means a commitment to a program designed to provide students with a nonduplicative sequence of progressive achievement leading to competencies in a tech-prep education program.

(2) The term ''community college''—

(A) has the meaning provided in section 1141(a) of this title for an institution which provides not less than a 2-year program which is acceptable for full credit toward a bachelor's degree; and

(B) includes tribally controlled community colleges.

(3) The term ''tech-prep education program'' means a combined secondary and postsecondary program which—

(A) leads to an associate degree or 2-year certificate;

(B) provides technical preparation in at least 1 field of engineering technology, applied science, mechanical, industrial, or practical art or trade, or agriculture, health, or business;

(C) builds student competence in mathematics, science, and communications (including through applied academics) through a sequential course of study; and

(D) leads to placement in employment.

(4) The terms ''institution of higher education'' and ''higher education'' include institutions offering apprenticeship programs of at least 2 years beyond the completion of secondary school.

(Pub. L. 88–210, title III, § 347, as added Pub. L. 101–392, title III, § 308, Sept. 25, 1990, 104 Stat. 792.)

PART F—SUPPLEMENTARY STATE GRANTS FOR FACILITIES AND EQUIPMENT AND OTHER PROGRAM IMPROVEMENT ACTIVITIES

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 2302 of this title.

§ 2395. Statement of purpose

It is the purpose of this part to provide funding to local educational agencies in economically depressed areas for program improvement activities, especially the improvement of facilities and acquisition or leasing of equipment to be used to carry out vocational education programs that receive assistance under this chapter.

(Pub. L. 88–210, title III, § 351, as added Pub. L. 101–392, title III, § 309, Sept. 25, 1990, 104 Stat. 792.)

EFFECTIVE DATE

Part effective July 1, 1991, see section 702(a) of Pub. L. 101–392, set out as an Effective Date of 1990 Amendment note under section 2301 of this title.

§ 2395a. Allotment to States

In each fiscal year, from any amounts appropriated for purposes of carrying out this part, the Secretary shall allot to each State an amount which bears the same ratio to such appropriated amounts as the aggregate amount allocated to counties in such State for such fiscal year under section 2712[1] of this title bears to the

[1] See References in Text note below.

total amount appropriated for carrying out such section for such fiscal year.

(Pub. L. 88–210, title III, § 352, as added Pub. L. 101–392, title III, § 309, Sept. 25, 1990, 104 Stat. 793.)

REFERENCES IN TEXT

Section 2712 of this title, referred to in text, was in the original ''section 1006 of the Elementary and Secondary Education Act of 1965'', Pub. L. 89–10, and was omitted in the general amendment of that Act by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519.

§ 2395b. Allocation to local educational agencies

(a) Distribution of all grant amounts

In each fiscal year for which a State receives a grant under this part, the State shall distribute not less than 100 percent of the amounts made available under the grant to eligible local educational agencies as provided in subsection (b) of this section.

(b) Grant amounts

In each fiscal year for which a State receives a grant under this part, each eligible local educational agency or consortium of such agencies in the State shall receive an amount under this part that bears the same relationship to the amount received by such local educational agency or agencies under section 2712[1] of this title bears to the aggregate amount received by local educational agencies in such State under such section in such fiscal year.

(Pub. L. 88–210, title III, § 353, as added Pub. L. 101–392, title III, § 309, Sept. 25, 1990, 104 Stat. 793.)

REFERENCES IN TEXT

Section 2712 of this title, referred to in subsec. (b), was in the original ''section 1006 of the Elementary and Secondary Education Act of 1965'', Pub. L. 89–10, and was omitted in the general amendment of that Act by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2395d of this title.

§ 2395c. Uses of funds

Each local educational agency or consortium of such agencies that receives a grant under this part shall—

(1) give first priority to using funds provided under the grant for improving facilities and acquiring or leasing equipment for carrying out vocational education programs that receive assistance under this chapter; and

(2) then may use any funds not required to carry out the provisions of paragraph (1) for other program improvement activities, such as curriculum development or teacher training.

(Pub. L. 88–210, title III, § 354, as added Pub. L. 101–392, title III, § 309, Sept. 25, 1990, 104 Stat. 793.)

§ 2395d. State applications

(a) In general

Each State that desires to receive a grant under this part shall submit to the Secretary an application at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require. Each such application shall—

(1) designate the sole State agency described in section 2321(a)(1) of this title as the State agency responsible for the administration and supervision of activities carried out with assistance under this part;

(2) provide for a process of consultation with the State council established under section 2322 of this title;

(3) describes how funds will be allocated in a manner consistent with section 2395b of this title;

(4) provide for an annual submission of data concerning the use of funds and students served with assistance under this part;

(5) provide that the State educational agency will keep such records and provide such information to the Secretary as may be required for purposes of financial audits and program evaluations; and

(6) contain assurances that the State will comply with the requirements of this part.

(b) Period of application

An application submitted by the State under subsection (a) of this section shall be for a period of not more than 3 years and shall be amended annually.

(Pub. L. 88–210, title III, § 355, as added Pub. L. 101–392, title III, § 309, Sept. 25, 1990, 104 Stat. 793.)

§ 2395e. Local applications

Each local educational agency or consortium of such agencies that desires to receive a grant under this part shall submit to the State an application at such time, in such manner, and containing or accompanied by such information as the State may reasonably require.

(Pub. L. 88–210, title III, § 356, as added Pub. L. 101–392, title III, § 309, Sept. 25, 1990, 104 Stat. 794.)

PART G—COMMUNITY EDUCATION EMPLOYMENT CENTERS AND VOCATIONAL EDUCATION LIGHTHOUSE SCHOOLS

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 2302 of this title.

SUBPART 1—COMMUNITY EDUCATION EMPLOYMENT CENTERS

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in section 2302 of this title.

§ 2396. Purpose

It is the purpose of this part to establish and evaluate model high school community education employment centers to meet the education needs of low-income urban and rural youth by awarding grants to eligible recipients to enable such eligible recipients to establish community education employment centers to provide students with the education, skills, support services, and enrichment necessary to ensure—

[1] See References in Text note below.

(1) graduation from secondary school;

(2) successful transition from secondary schools to a broad range of postsecondary institutions; and

(3) employment, including military service.

(Pub. L. 88–210, title III, § 362, as added Pub. L. 101–392, title III, § 310, Sept. 25, 1990, 104 Stat. 794.)

EFFECTIVE DATE

Part effective July 1, 1991, see section 702(a) of Pub. L. 101–392, set out as an Effective Date of 1990 Amendment note under section 2301 of this title.

SHORT TITLE

Section 361 of Pub. L. 88–210, as added by Pub. L. 101–392, title III, § 310, Sept. 25, 1990, 104 Stat. 794, provided that: ''This part [part G (§§ 361–375) of title III of Pub. L. 88–210, enacting this part] may be cited as the 'Community Education Employment Center Act of 1990'.''

§ 2396a. Program authorized

(a) In general

The Secretary is authorized to make grants to eligible recipients having applications approved pursuant to section 2396g of this title to establish and operate not more than 10 community education employment centers nationwide.

(b) Grant period

Grants awarded under this section may be for a period of 5 years.

(Pub. L. 88–210, title III, § 363, as added Pub. L. 101–392, title III, § 310, Sept. 25, 1990, 104 Stat. 794.)

§ 2396b. Program requirements

Each eligible recipient receiving a grant under this part shall—

(1) operate a community education employment center on an extended year and extended day basis;

(2) establish a collegial working environment, with substantial opportunities for staff training and development and shared decisionmaking;

(3) maintain small class sizes, and to the extent possible, maintain an average class size of 15 students or less;

(4) have the option to organize community education and employment centers into 1 or more programs, specializing in different areas of study of particular interest and employment opportunities for the student population;

(5) offer a broad array of secondary school coursework, including, to the extent possible—

(A) English, mathematics, history, geography, biology, chemistry, physics, and computer science;

(B) opportunities for student participation in a wide range of extracurricular activities, including community service and exploration, sports, fine and performing arts and tutorial study sessions;

(C) a comprehensive vocational-technical education program developed through regular consultation with employer-labor panels with knowledge of relevant industries, and which offers skills in planning, management, finances, technical and production skills, underlying principles of technology, labor and community issues, economic development and health, safety, and environment issues;

(D) courses in health, nutrition, and parenting;

(6) offer students on-site opportunities for assistance with career planning and decisionmaking, employability, entrepreneurial abilities, interpersonal communication skills, and remedial studies;

(7) maintain an emphasis on the development of academic skills, regardless of student career objectives;

(8) provide technical assistance and training to staff from other schools and local education agencies within the State who wish to replicate community education employment center capabilities;

(9) seek to utilize community organizations to provide support for educational activities and services to parents and students; and

(10) offer school-to-work transition services.

(Pub. L. 88–210, title III, § 364, as added Pub. L. 101–392, title III, § 310, Sept. 25, 1990, 104 Stat. 794.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2396g of this title.

§ 2396c. Support services requirements

Each eligible recipient receiving a grant under this part shall establish in each community education employment center a support system to coordinate services for students, including—

(1) a comprehensive program of confidential guidance counseling, providing—

(A) guidance for career and personal decisionmaking and postsecondary institution placement;

(B) mentoring and referral to appropriate social services; and

(C) an accessible counseling service to help parents to focus on the enhancement of student education;

(2) an on-site job service office to offer students—

(A) career guidance, development, and employment counseling, which provides information about a broad range of occupations and alternative career paths;

(B) labor market information, job development, career testing, and occupational placement services for part-time and summer employment, internships, cooperative programs, and part-time and full-time employment opportunities upon graduation; and

(C) assistance in arranging part-time employment, so long as such employment does not adversely affect academic performance;

(3) assistance in arranging a summer program of work, education, or enrichment sessions;

(4) to the extent possible, providing transportation to and from the community education employment center and part-time job sites; and

(5) access to day care services for children of participating students.

(Pub. L. 88–210, title III, § 365, as added Pub. L. 101–392, title III, § 310, Sept. 25, 1990, 104 Stat. 795.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2396g of this title.

§ 2396d. Parental and community participation

(a) In general

Each eligible recipient receiving a grant under this part shall employ a parent/community coordinator to provide for the active and informed participation of parents and appropriate community representatives in each community education employment center by—

(1) encouraging parents and students to make informed decisions in reviewing and selecting the choice of community education employment center programs for their children;

(2) conducting regular parent seminars to—

(A) inform parents about community education employment center operations;

(B) obtain parent input; and

(C) disseminate information on how parents can encourage student performance;

(3) providing the parents of each student with a regular opportunity to meet with counselors, teachers, and the student to discuss student progress, plans, and needs;

(4) providing a range of roles in which parents may work with students at home or as class assistants or volunteer coordinators;

(5) establishing an advisory Council of Advisors (in this part referred to as the ''Council'') consisting of 1 individual representing each of the following entities:

(A) the local educational agency;

(B) the State council on vocational education and the State agency responsible for secondary vocational education;

(C) the student body;

(D) the local teacher organization;

(E) guidance counselors;

(F) community-based organizations;

(G) parents; and

(H) the appropriate private industry council.

(b) Functions of Council

The Council shall provide recommendations to, and work with, eligible recipients to—

(1) establish annual community education employment center priorities, programs, and procedures;

(2) establish student selection criteria to ensure that all students in the school district have an equal opportunity to attend the community education employment center and that participants will be representative of the secondary school population in the school district;

(3) promulgate a student code of conduct that shall be developed in consultation with the students and teachers;

(4) assist in the selection of the community education employment center principal, administrators, department chairpersons, and teachers;

(5) assist in the selection and application of assessment tools for continuous evaluation of student learning progress;

(6) make recommendations for the selection of curriculum textbooks, software, and other learning resources and equipment; and

(7) make recommendations regarding the coordination of activities assisted under this part with activities assisted under the Job Training Partnership Act [29 U.S.C. 1501 et seq.] and school to work transitions.

(Pub. L. 88–210, title III, § 366, as added Pub. L. 101–392, title III, § 310, Sept. 25, 1990, 104 Stat. 796.)

REFERENCES IN TEXT

The Job Training Partnership Act, referred to in subsec. (b)(7), is Pub. L. 97–300, Oct. 13, 1982, 96 Stat. 1322, as amended, which is classified generally to chapter 19 (§ 1501 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 1501 of Title 29 and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2396g of this title.

§ 2396e. Professional staff

(a) In general

Each eligible recipient receiving a grant under this part shall only employ professional staff who demonstrate the highest of academic, teaching, guidance, or administrative standards.

(b) Teachers

(1) Each eligible recipient receiving a grant under this part shall ensure that community education employment center teachers receive inservice training at least annually in techniques, procedures and policies relevant to the community education employment center.

(2) Each eligible recipient receiving a grant under this part shall employ a sufficient number of full-time certified or licensed guidance and career counselors to assist, enhance and monitor student progress.

(Pub. L. 88–210, title III, § 367, as added Pub. L. 101–392, title III, § 310, Sept. 25, 1990, 104 Stat. 797.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2396g of this title.

§ 2396f. Eligibility

An eligible recipient shall be eligible to receive a grant under this part if—

(1) the eligible recipient is located in or serves 1 or more local educational agencies that are eligible for assistance under section 2712[1] of this title; and

(2) the eligible recipient demonstrates that it will serve a student population which is predominantly educationally and economically disadvantaged.

(Pub. L. 88–210, title III, § 368, as added Pub. L. 101–392, title III, § 310, Sept. 25, 1990, 104 Stat. 797.)

[1] See References in Text note below.

REFERENCES IN TEXT

Section 2712 of this title, referred to in par. (1), was in the original ''section 1006 of the Elementary and Secondary Education Act of 1965'', Pub. L. 89–10, and was omitted in the general amendment of that Act by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2396g of this title.

§ 2396g. Application

(a) Application required

Each eligible recipient desiring to participate in the demonstration grant program authorized by this part shall prepare and submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may require.

(b) Contents of application

Each application submitted pursuant to subsection (a) of this section shall—

(1) demonstrate that the area where the center is to be located has a high concentration of children from low-income families, relative to the county and State as a whole;

(2) describe the activities and services for which assistance is sought;

(3) provide assurances that the eligible recipient will comply with the provisions of sections 2396b, 2396c, 2396d, 2396e, and 2396f of this title;

(4) contain assurances that the State and local educational agency will, in any fiscal year, at least supply the same fiscal effort per student with respect to the free provision of public education to community education employment center students as such local educational agency provides for students attending secondary schools in such local educational agency;

(5) utilize funding available from appropriate employment, training, and education programs in the State;

(6) contain assurances that the community education employment center will coordinate the operations of such center to help meet local economic needs; and

(7) provide such additional assurances as the Secretary may reasonably require.

(Pub. L. 88–210, title III, § 369, as added Pub. L. 101–392, title III, § 310, Sept. 25, 1990, 104 Stat. 797.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2396a of this title.

§ 2396h. Evaluation

Each community education employment center shall submit annually to the Secretary a comprehensive and continuous evaluation of student learning progress, including—

(1) academic and vocational competencies;

(2) dropout rates;

(3) information concerning employment and earnings while the students are attending a community education employment center and upon the graduation of such students from such center;

(4) information concerning student attendance at postsecondary institutions or student enlistment into military service upon the graduation of such students from the community employment education center; and

(5) parental, student and community participation in the activities of the community employment education center.

(Pub. L. 88–210, title III, § 370, as added Pub. L. 101–392, title III, § 310, Sept. 25, 1990, 104 Stat. 798; amended Pub. L. 104–66, title I, § 1041(d), Dec. 21, 1995, 109 Stat. 714.)

AMENDMENTS

1995—Pub. L. 104–66 struck out ''and report'' after ''Evaluation'' in section catchline, struck out subsec. (a) designation and heading ''Local Evaluation'', and struck out heading and text of subsec. (b). Text read as follows: ''The Secretary shall report to the Congress on the evaluations submitted pursuant to subsection (a) of this section not later than October 1, 1995.''

§ 2396i. Definitions

As used in this part—

(1) the term ''eligible recipient'' means a secondary school or an area vocational school; and

(2) the term ''parent'' includes a legal guardian or other person standing in loco parentis.

(Pub. L. 88–210, title III, § 371, as added Pub. L. 101–392, title III, § 310, Sept. 25, 1990, 104 Stat. 798.)

SUBPART 2—VOCATIONAL EDUCATION LIGHTHOUSE SCHOOLS

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in section 2302 of this title.

§ 2396m. Vocational education lighthouse schools

(a) Program authorized

The Secretary is authorized to make grants to secondary schools and area vocational education schools to enable such schools to establish and operate vocational education lighthouse schools.

(b) Use of funds

Grants awarded under this section shall be used to establish vocational education lighthouse schools which—

(1) serve as a model vocational education program—

(A) to provide each student with knowledge of, and experience in, all aspects of the industry or enterprise the student is preparing to enter;

(B) to provide each student with basic and higher order skills and develop the student's problem solving abilities in a vocational setting;

(C) to offer exceptionally high quality programs for disadvantaged and minority students;

(D) to provide the special services and modifications necessary to help individual students successfully complete the program;

(E) which is planned, developed and implemented with the participation of staff, local employers and local community; and

(F) which offers a full range of programs, including comprehensive career guidance

and counseling, for students who plan to seek employment upon graduation or who will enroll in a 2- or 4-year college;

(2) provide information and assistance to other grant recipients, vocational programs, vocational education personnel, parents, students, other educators, community members and community organizations throughout the State regarding—

(A) curriculum materials;

(B) curriculum development, especially the integration of vocational and academic education;

(C) inservice and preservice staff development, training, and assistance, through offsite activities and through a range of short-term and long-term opportunities to participate in activities at the demonstration site;

(D) opportunities to systematically observe the model program; and

(E) technical assistance and staff development, as appropriate;

(3) use funds received under this section, together with funds from non-Federal sources, to develop and implement model programs containing the elements described in paragraph (1);

(4) develop comprehensive linkages with other local schools, community colleges, 4-year colleges, private vocational schools, community-based organizations, labor unions, employers, and other business groups, as appropriate; and

(5) develop and disseminate model approaches—

(A) for meeting the education training needs and career counseling needs of minority students, disadvantaged students, students with handicaps, and students of limited English proficiency; and

(B) to reduce and eliminate sex bias and stereotyping.

(Pub. L. 88–210, title III, § 375, as added Pub. L. 101–392, title III, § 310, Sept. 25, 1990, 104 Stat. 798.)

PART H—TRIBALLY CONTROLLED POSTSECONDARY VOCATIONAL INSTITUTIONS

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 2302 of this title.

§ 2397. Purpose

It is the purpose of this part to provide grants for the operation and improvement of tribally controlled postsecondary vocational institutions to ensure continued and expanded educational opportunities for Indian students, and to allow for the improvement and expansion of the physical resources of such institutions.

(Pub. L. 88–210, title III, § 382, as added Pub. L. 101–392, title III, § 311, Sept. 25, 1990, 104 Stat. 800.)

SHORT TITLE

Section 381 of Pub. L. 88–210, as added by Pub. L. 101–392, title III, § 311, Sept. 25, 1990, 104 Stat. 799, provided that: ''This part [part H (§§ 381–390) of title III of Pub. L. 88–210, enacting this part] may be cited as the 'Tribally Controlled Vocational Institutions Support Act of 1990'.''

§ 2397a. Grants authorized

(a) General authority

The Secretary shall, subject to the availability of appropriations, make grants pursuant to this section to tribally controlled postsecondary vocational institutions to provide basic support for the education and training of Indian students.

(b) Use of grants

Amounts made available under grants made pursuant to this section may be used for—

(1) training costs;

(2) educational costs;

(3) equipment costs;

(4) administrative costs; and

(5) costs of operation and maintenance of the institution.

(Pub. L. 88–210, title III, § 383, as added Pub. L. 101–392, title III, § 311, Sept. 25, 1990, 104 Stat. 800.)

§ 2397b. Eligible grant recipients

To be eligible for assistance under this part a tribally controlled postsecondary vocational institution shall—

(1) be governed by a board of directors or trustees, a majority of whom are Indians;

(2) demonstrate adherence to stated goals, a philosophy or a plan of operation which fosters individual Indian economic and self-sufficiency opportunity, including programs which are appropriate to stated tribal goals of developing individual entrepreneurships and self-sustaining economic infrastructures on reservations;

(3) have been in operation for at least 3 years;

(4) hold accreditation with or be a candidate for accreditation by a nationally recognized accrediting authority for postsecondary vocational education; and

(5) enroll the full-time equivalency of not less than 100 students, of whom a majority are Indians.

(Pub. L. 88–210, title III, § 384, as added Pub. L. 101–392, title III, § 311, Sept. 25, 1990, 104 Stat. 800.)

§ 2397c. Grants to tribally controlled postsecondary vocational institutions

(a) Applications

Any tribally controlled postsecondary vocational institution that desires to receive a grant under this part shall submit an application to the Secretary. Such application shall include a description of recordkeeping procedures for the expenditure of funds received under this part which will allow the Secretary to audit and monitor programs.

(b) Initial grants

In the first year for which amounts are appropriated to carry out this part, the number of grants issued shall be not less than 2.

(c) Consultation

In making grants pursuant to this part, the Secretary shall, to the extent practicable, con-

sult with the boards of trustees and the tribal governments chartering the institutions being considered.

(d) Limitation

Amounts made available under grants made pursuant to this part shall not be used in connection with religious worship or sectarian instruction.

(Pub. L. 88–210, title III, § 385, as added Pub. L. 101–392, title III, § 311, Sept. 25, 1990, 104 Stat. 800.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2397d of this title.

§ 2397d. Amount of grants

(a) Allowable expenses

Except as provided in subsection (d) of this section, the Secretary shall, subject to the availability of appropriations, provide for each program year to each tribally controlled vocational institution having an application approved by the Secretary, an amount necessary to pay expenses associated with—

(1) the maintenance and operation of the program, including development costs, costs of basic and special instruction (including special programs for individuals with handicaps and academic instruction), materials, student costs, administrative expenses, boarding costs, transportation, student services, day care and family support programs for students and their families (including contributions to the costs of education for dependents);

(2) capital expenditures, including operations and maintenance and minor improvements and repair, physical plant maintenance costs; and

(3) costs associated with repair, upkeep, replacement, and upgrading of the instructional equipment.

(b) Payments

(1) For each fiscal year, the Secretary shall provide amounts to institutions that are approved for grants under section 2397c of this title in 2 payments.

(2)(A) The first payment shall be made before the end of the 30-day period beginning on the date of the enactment of an Act providing appropriations for such fiscal year for purposes of carrying out this part. Except as provided in subparagraph (B), such payment shall be in an amount that is equal to at least 50 percent of the amount determined to be required under subsection (a) of this section for the preceding year.

(B) In the first year that an institution receives a grant under this part, the Secretary shall determine the amount of the first payment by estimating the costs described in subsection (a) of this section based upon information submitted by the institution.

(3) Each institution that receives a grant under section 2397c of this title shall receive a final payment of amounts to which it is entitled based on its costs under subsection (a) of this section not later than January 1 of the fiscal year in which the costs are incurred.

(c) Accounting

Each institution receiving payments under this part shall annually provide to the Secretary an accurate and detailed accounting of its operating and maintenance expenses and such other information concerning costs as the Secretary may reasonably require.

(d) Additional grants authorized

(1) After providing grants to all eligible institutions under subsection (a) of this section, the Secretary shall, from any amounts remaining—

(A) first allocate to institutions receiving their first grant under this part an amount equal to the training equipment costs necessary to implement training programs; and

(B) from any remaining funds, review training equipment needs at each institution receiving assistance under this part at the end of the 5-year period beginning on the first day of the first year for which the institution received a grant under this part, and provide allocations for other training equipment needs if it is demonstrated by the institution that its training equipment has become obsolete for its purposes, or that the development of other training programs is appropriate.

(2) For the purposes of carrying out this subsection, the Secretary may require from each institution the submission of such information relating to the feasibility of such training programs as is reasonable and practical.

(Pub. L. 88–210, title III, § 386, as added Pub. L. 101–392, title III, § 311, Sept. 25, 1990, 104 Stat. 801.)

§ 2397e. Effect on other programs

(a) In general

Except as specifically provided in this chapter, eligibility for assistance under this part shall not preclude any tribally controlled postsecondary vocational institution from receiving Federal financial assistance under any program authorized under the Higher Education Act of 1965 [20 U.S.C. 1001 et seq.] or any other applicable program for the benefit of institutions of higher education or vocational education.

(b) Prohibition on alteration of grant amount

The amount of any grant for which tribally controlled postsecondary vocational institutions are eligible under this part shall not be altered because of funds allocated to any such institution from funds appropriated under section 13 of title 25.

(c) Prohibition on contract denial

No tribally controlled postsecondary vocational institution for which an Indian tribe has designated a portion of the funds appropriated for the tribe from funds appropriated under section 13 of title 25 may be denied a contract for such portion under the Indian Self-Determination and Education Assistance Act [25 U.S.C. 450 et seq.] (except as provided in that Act), or denied appropriate contract support to administer such portion of the appropriated funds.

(Pub. L. 88–210, title III, § 387, as added Pub. L. 101–392, title III, § 311, Sept. 25, 1990, 104 Stat. 802.)

REFERENCES IN TEXT

The Higher Education Act of 1965, referred to in subsec. (a), is Pub. L. 89–329, Nov. 8, 1965, 79 Stat. 1219, as amended, which is classified principally to chapter 28 (§ 1001 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

The Indian Self-Determination and Education Assistance Act, referred to in subsec. (c), is Pub. L. 93–638, Jan. 4, 1975, 88 Stat. 2203, as amended, which is classified principally to subchapter II (§ 450 et seq.) of chapter 14 of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 450 of Title 25 and Tables.

§ 2397f. Grant adjustments

(a) Allocation

(1) If the sums appropriated for any fiscal year for grants under this part are not sufficient to pay in full the total amount which approved applicants are eligible to receive under this part for such fiscal year, the Secretary shall first allocate to each such applicant which received funds under this part for the preceding fiscal year an amount equal to 100 percent of the product of the per capita payment for the preceding fiscal year and such applicant's Indian student count for the current program year, plus an amount equal to the actual cost of any increase to the per capita figure resulting from inflationary increases to necessary costs beyond the institution's control.

(2) For purposes of paragraph (1), the per capita payment for any fiscal year shall be determined by dividing the amount available for grants to tribally controlled postsecondary vocational institutions under this part for such program year by the sum of the Indian student counts of such institutions for such program year. The Secretary shall, on the basis of the most accurate data available from the institutions, compute the Indian student count for any fiscal year for which such count was not used for the purpose of making allocations under this part.

(b) Needs estimate

The Secretary shall, based on the most accurate data available from the institutions and Indian tribes whose Indian students are served under this part, in consideration of employment needs, economic development needs, population training needs, prepare an actual budget needs estimate for each institution eligible under this part for each subsequent program year, and submit such budget needs estimate to the Congress in such a timely manner as will enable the appropriate committees of the Congress to consider such needs data for purposes of the uninterrupted flow of adequate appropriations to such institutions.

(Pub. L. 88–210, title III, § 388, as added Pub. L. 101–392, title III, § 311, Sept. 25, 1990, 104 Stat. 802.)

§ 2397g. Report on facilities and facilities improvement

(a) Study of training and housing needs

(1) The Secretary shall conduct a detailed study of the training and housing needs of each institution eligible under this part.

(2) The study required by paragraph (1) shall include an examination of—

(A) training equipment needs; and

(B) housing needs of families whose heads of household are students and whose dependents have no alternate source of support while such heads of household are students.

(3) The Secretary shall report to the Congress not later than July 1, 1991, on the results of the study required by paragraph (1).

(4) The report required by paragraph (3) shall—

(A) include the number, type, and cost of meeting the needs described in paragraph (2); and

(B) rank each institution by relative need.

(5) In conducting the study required by paragraph (1), the Secretary shall give priority to institutions which are receiving assistance under this part.

(b) Long-term study of facilities

(1) The Secretary shall provide for the conduct of a long-term study of facilities of each institution eligible for assistance under this part.

(2) The study required by paragraph (1) shall include a 5-year projection of training facilities and equipment and housing needs and shall consider such factors as projected service population, employment and economic development forecasting, based on the most current and accurate data available from the institutions and Indian tribes affected.

(3) The Secretary shall submit to the Congress a detailed report on the results of such study not later than the end of the 18-month period beginning on September 25, 1990.

(4) The Secretary shall submit to the Congress a progress report not less often than once every 6 months, beginning on September 25, 1990, concerning activities conducted pursuant to this section.

(c) Construction and renovation grants

Pursuant to the studies conducted and the report submitted under subsections (a) and (b) of this section, the Secretary is authorized to make grants to the tribally controlled vocational institutions for construction, rehabilitation, major alterations and renovation of buildings and other physical structures for the conduct of programs funded under this part. Such grants shall be made in such time and pursuant to such applications as the Secretary shall by regulation determine.

(Pub. L. 88–210, title III, § 389, as added Pub. L. 101–392, title III, § 311, Sept. 25, 1990, 104 Stat. 803.)

CODIFICATION

September 25, 1990, referred to in subsec. (b)(3), (4), was in the original ''the date of enactment of this Act'', which was translated as meaning the date of enactment of Pub. L. 101–392, which enacted this part, to reflect the probable intent of Congress.

§ 2397h. Definitions

For the purposes of this part:

(1) The terms ''Indian'' and ''Indian tribe'' have the meaning given such terms in section 1801 of title 25.

(2) The term ''tribally controlled postsecondary vocational institution'' means an institu-

tion of higher education which is formally controlled, or has been formally sanctioned or chartered by the governing body of an Indian tribe or tribes which offers technical degrees or certificate granting programs.

(3) The term ''Indian student count'' means a number equal to the total number of Indian students enrolled in each tribally controlled vocational institution, determined as follows:

(A) The registrations of Indian students as in effect on October 1 of each year.

(B) Credits or clock hours toward a certificate earned in classes offered during a summer term shall be counted toward the computation of the Indian student count in the succeeding fall term.

(C) Credits or clock hours toward a certificate earned in classes during a summer term shall be counted toward the computation of the Indian student count if the institution at which the student is in attendance has established criteria for the admission of such student on the basis of the student's ability to benefit from the education or training offered. The institution shall be presumed to have established such criteria if the admission procedures for such studies include counseling or testing that measures the student's aptitude to successfully complete the course in which the student has enrolled. No credit earned by such student for purposes of obtaining a high school degree or its equivalent shall be counted toward the computation of the Indian student count.

(D) Indian students earning credits in any continuing education program of a tribally controlled vocational institution shall be included in determining the sum of all credit or clock hours.

(E) Credits or clock hours earned in a continuing education program shall be converted to the basis that is in accordance with the institution's system for providing credit for participation in such programs.

(Pub. L. 88–210, title III, § 390, as added Pub. L. 101–392, title III, § 311, Sept. 25, 1990, 104 Stat. 803.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 25 sections 1616e, 1616f, 1665j.

SUBCHAPTER IV—NATIONAL PROGRAMS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 2302, 2311 of this title.

PART A—RESEARCH AND DEVELOPMENT

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 2451 of this title.

§ 2401. Research objectives

It is the purpose of this part—

(1) to authorize research activities which contribute to improving the access to vocational education programs of individuals who are disadvantaged, who are handicapped, women who are entering nontraditional occupations, adults who are in need of retraining, individuals who are single parents, displaced homemakers, or single pregnant women, individuals with limited English proficiency, and individuals who are incarcerated in correctional institutions;

(2) to authorize additional research and development activities that are related to the purposes of this chapter as stated in section 2301 of this title;

(3) to improve the competitive process by which research projects are awarded;

(4) to encourage the dissemination of findings of research projects assisted under this chapter to all States; and

(5) to authorize research activities which are readily applicable to the vocational education setting and are of practical application to vocational education administrators, counselors, and instructors and others involved in vocational education.

(Pub. L. 88–210, title IV, § 401, as added Pub. L. 98–524, § 1, Oct. 19, 1984, 98 Stat. 2466; amended Pub. L. 101–392, title IV, § 402, Sept. 25, 1990, 104 Stat. 806.)

AMENDMENTS

1990—Par. (1). Pub. L. 101–392, § 402(1), substituted ''single parents, displaced homemakers, or single pregnant women'' for ''single parents or homemakers''.

Pars. (2) to (5). Pub. L. 101–392, § 402(2), (3), added par. (2) and redesignated former pars. (2) to (4) as (3) to (5), respectively.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–392 effective July 1, 1991, see section 702(a) of Pub. L. 101–392, set out as a note under section 2301 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2402 of this title.

§ 2402. Research activities

(a) Conduct by Secretary; methods and strategies included

In order to carry out the objectives set forth in section 2401 of this title, the Secretary shall conduct applied research on aspects of vocational education specifically related to this chapter. Such research may be conducted through the Office of Educational Research and Improvement. Such research shall include—

(1) effective methods for providing quality vocational education to handicapped individuals, disadvantaged individuals, men and women in nontraditional fields, adults, single parents, displaced homemakers, single pregnant women, individuals with limited English proficiency, and individuals who are incarcerated in correctional institutions;

(2) research on the development and implementation of performance standards and measures that fit within the needs of State boards or eligible recipients in carrying out the provisions of this chapter and on the relationship of such standards and measures to the data system established under section 2421 of this title, which may include evaluation of existing performance standards and measures and dissemination of such information to the State board and eligible recipients;

(3) evaluation of the use of performance standards and measures under this chapter

and the effect of such standards and measures on the participation of students in vocational education programs and on the outcomes of students in such programs, especially students who are members of special populations;

(4) strategies for coordinating local, State, and Federal vocational education, employment training, and economic development programs to maximize their efficacy and for improving worker training and retraining;

(5) the constructive involvement of the private sector in public vocational education;

(6) successful methods of reinforcing and enhancing basic and more advanced academic and problem-solving skills in vocational settings;

(7) successful methods for providing students, to the maximum extent practicable, with experience in and understanding of all aspects of the industry such students are preparing to enter; and

(8) the development of effective methods for providing quality vocational education to individuals of limited English proficiency, including research related to bilingual vocational training.

(b) Additional research activities

In addition, the Secretary shall support meritorious, unsolicited research proposals from individual researchers, community colleges, State advisory councils, and State and local educators relating to the goals of this chapter.

(c) Dissemination

(1) The Secretary shall establish a system for disseminating information resulting from research and development activities carried out under this chapter. In establishing such system, the Secretary shall use existing dissemination systems, including the National Diffusion Network, the National Center or Centers for Research in Vocational Education, and the National Network for Curriculum Coordination in Vocational and Technical Education, in order to assure broad access at the State and local levels to the information being disseminated.

(2)(A) In order to comply with paragraph (1), the Secretary shall establish through grants or contracts a National Network for Curriculum Coordination in Vocational and Technical Education (in this paragraph referred to as the ''Network'') consisting of 6 regional curriculum coordination centers. The Network shall—

(i) provide national dissemination of information on effective vocational education programs and materials, with particular attention to regional programs;

(ii) be accessible by electronic means;

(iii) provide leadership and technical assistance in the design, development, and dissemination of curricula for vocational education;

(iv) coordinate the sharing of information among the States with respect to vocational education curricula;

(v) reduce duplication of effort in State activities for the development of vocational education curricula; and

(vi) promote the use of research findings with respect to vocational education curricula.

(B) The Secretary shall encourage the designation by each State of a liaison representative for the Network.

(d) Preference; public and postsecondary institutions

The Secretary shall give preference in carrying out the provisions of this part to public and private postsecondary institutions in conducting vocational education research.

(e) Program improvement activities

The Secretary shall institute measures designed to ensure that program improvement activities carried out under this section represent a coordinated effort to improve the quality of vocational education.

(Pub. L. 88–210, title IV, § 402, as added Pub. L. 98–524, § 1, Oct. 19, 1984, 98 Stat. 2466; amended Pub. L. 101–392, title IV, § 403, Sept. 25, 1990, 104 Stat. 806.)

AMENDMENTS

1990—Subsec. (a). Pub. L. 101–392, § 403(1)(A), substituted ''Office of Educational Research and Improvement'' for ''National Institute of Education or any other division of the Department of Education which the Secretary determines to be appropriate''.

Subsec. (a)(1). Pub. L. 101–392, § 403(1)(B), substituted ''single parents, displaced homemakers, single pregnant women'' for ''individuals who are single parents or homemakers''.

Subsec. (a)(2) to (4). Pub. L. 101–392, § 403(1)(E), (G), added pars. (2) and (3) and redesignated former pars. (2) and (3) as (4) and (5), respectively. Former par. (4) redesignated (6).

Subsec. (a)(5). Pub. L. 101–392, § 403(1)(C), (E), redesignated par. (3) as (5) and struck out former par. (5) which required research to include development of curriculum materials and instructional methods relating to new and emerging technologies, and assessments of nature of change in the workplace and its effect on individual jobs.

Subsec. (a)(6). Pub. L. 101–392, § 403(1)(C), (D), (H), redesignated par. (4) as (6), substituted ''basic and more advanced academic and problem-solving'' for ''basic academic'', and struck out former par. (6) which required research to include identification of institutional characteristics which improve preparation of youth and adults for employment.

Subsec. (a)(7). Pub. L. 101–392, § 403(1)(I), added par. (7). Former par. (7) redesignated (8).

Subsec. (a)(8). Pub. L. 101–392, § 403(1)(F), redesignated par. (7) as (8).

Subsec. (b). Pub. L. 101–392, § 403(2), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: ''In addition, the Secretary shall—

''(1) initiate leadership development and inservice education activities for State and local vocational education instructors, counselors, and administrators; and

''(2) support meritorious, unsolicited research proposals from individual researchers community colleges, State advisory councils, and State and local educators relating to the goals of this chapter.''

Subsecs. (c), (d). Pub. L. 101–392, § 403(3), (4), added subsec. (c) and redesignated former subsec. (c) as (d). Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 101–392, § 403(3), (5), (6), redesignated subsec. (d) as (e), struck out par. (1) designation, and struck out par. (2) which read as follows: ''The Secretary shall include in the annual report of the Secretary a summary of activities funded under this section, together with an appraisal of their contributions to the improvement and expansion of vocational education.''

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–392 effective July 1, 1991, see section 702(a) of Pub. L. 101–392, set out as a note under section 2301 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2451, 6194 of this title.

§ 2403. National assessment of vocational education programs

(a) In general

(1) The Office of Education Research and Improvement (in this section referred to as the ''Office'') shall conduct a national assessment of vocational education programs assisted under this chapter, through studies and analyses conducted independently through competitive awards.

(2) The Office shall appoint an independent advisory panel, consisting of vocational education administrators, educators, researchers, and representatives of business, industry, labor, and other relevant groups, to advise the Office on the implementation of such assessment, including the issues to be addressed, the methodology of the studies, and the findings and recommendations. The panel, at its discretion, may submit to the Congress an independent analysis of the findings and recommendations of the assessment. The Federal Advisory Committee Act shall not apply to the panel established under this paragraph.

(b) Contents

The assessment required under subsection (a) of this section shall include descriptions and evaluations of—

(1) the effect of this chapter on State and tribal administration of vocational education programs and on local vocational education practices, including the capacity of State, tribal and local vocational education systems to address the priorities identified in this chapter;

(2) expenditures at the Federal, State, tribal and local levels to address program improvement in vocational education, including the impact of Federal allocation requirements (such as within-State allocation formulas) on the delivery of services;

(3) preparation and qualifications of teachers of vocational and academic curricula in vocational education programs, as well as shortages of such teachers;

(4) participation in vocational education programs, including, in particular, access of individuals who are members of special populations to high-quality vocational education programs and the effect on the delivery of services to such populations, of Federal legislation giving States flexibility in allocating funds to serve such populations;

(5) academic and employment outcomes of vocational education, including analyses of—

(A) the effect of educational reform on vocational education;

(B) the extent and success of integration of academic and vocational curricula;

(C) the success of the school-to-work transition; and

(D) the degree to which vocational training is relevant to subsequent employment;

(6) employer involvement in, and satisfaction with, vocational education programs;

(7) the effect of performance standards and other measures of accountability on the delivery of vocational education services;

(8) the effect of Federal requirements regarding criteria for services to special populations, participatory planning in the States, and articulation between secondary and postsecondary programs;

(9) coordination of services under this chapter, the Adult Education Act [20 U.S.C. 1201 et seq.], the Job Training Partnership Act [29 U.S.C. 1501 et seq.], the National Apprenticeship Act [29 U.S.C. 50 et seq.], the Rehabilitation Act of 1973 [29 U.S.C. 701 et seq.], and the Wagner-Peyser Act [29 U.S.C. 49 et seq.]; and

(10) the degree to which minority students are involved in vocational student organizations.

(c) Consultation

(1) The Secretary shall consult with the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives in the design and implementation of the assessment required under subsection (a) of this section.

(2) The Secretary shall submit to the Congress—

(A) an interim report on or before January 1, 1994; and

(B) a final report, summarizing all studies and analyses completed after the assessment, on or before July 1, 1994.

(3) Notwithstanding any other provision of law or regulation, the reports required by this subsection shall not be subject to any review outside of the Office of Educational Research and Improvement before their transmittal to the Congress, but the President, the Secretary, and the independent advisory council established under subsection (a)(2) of this section may make such additional recommendations to the Congress with respect to the assessment as they deem appropriate.

(d) Study

(1) The assessment required by subsection (a) of this section shall include a study of the distribution of Federal vocational education funds to the States. The study shall—

(A) consider the distributional effects of the formula for allocation to the States established in section 2311(a)(2) of this title, including the age cohorts and the per capita income allotment ratios;

(B) examine the impact that various other factors such as State tax capacity, tax effort, per capita income, poverty and educational achievement, could have in achieving the Federal goals and policy objectives of this chapter;

(C) specifically address the appropriate distribution mechanism to serve the target populations of this chapter; and

(D) explore the use of other possible methods of targeting funds to individuals who are members of special populations, particularly

individuals who are economically disadvantaged, including the poverty rate of the school-aged population, the gross State product per school-aged child, relative tax capacity, and tax effort of the State, unemployment figures, and dropout rates.

(2) The findings of the study required by paragraph (1) shall be used to formulate recommendations on the most appropriate criteria and methods to direct Federal funds to the States and to achieve the Federal goals and policy objectives of this chapter.

(3) The study required under paragraph (1) shall be completed by January 1, 1994.

(Pub. L. 88–210, title IV, § 403, as added Pub. L. 98–524, § 1, Oct. 19, 1984, 98 Stat. 2467; amended Pub. L. 101–392, title IV, § 404, Sept. 25, 1990, 104 Stat. 807.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (a)(2), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

The Adult Education Act, referred to in subsec. (b)(9), is title III of Pub. L. 89–750, Nov. 3, 1966, 80 Stat. 1216, as amended, which is classified generally to chapter 30 (§ 1201 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1201 of this title and Tables.

The Job Training Partnership Act, referred to in subsec. (b)(9), is Pub. L. 97–300, Oct. 13, 1982, 96 Stat. 1322, as amended, which is classified generally to chapter 19 (§ 1501 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 1501 of Title 29 and Tables.

The National Apprenticeship Act, referred to in subsec. (b)(9), is act Aug. 16, 1937, ch. 663, 50 Stat. 664, as amended, which is classified generally to chapter 4C (§ 50 et seq.) of Title 29. For complete classification of this Act to the Code, see Short Title note set out under section 50 of Title 29 and Tables.

The Rehabilitation Act of 1973, referred to in subsec. (b)(9), is Pub. L. 93–112, Sept. 26, 1973, 87 Stat. 355, as amended, which is classified generally to chapter 16 (§ 701 et seq.) of Title 29. For complete classification of this Act to the Code, see Short Title note set out under section 701 of Title 29 and Tables.

The Wagner-Peyser Act, referred to in subsec. (b)(9), is act June 6, 1933, ch. 49, 48 Stat. 113, as amended, which is classified generally to chapter 4B (§ 49 et seq.) of Title 29. For complete classification of this Act to the Code, see Short Title note set out under section 49 of Title 29 and Tables.

AMENDMENTS

1990—Pub. L. 101–392 amended section generally, substituting provisions relating to national assessment of vocational education programs by Office of Education Research and Improvement through studies and analyses conducted independently through competitive awards, appointment of independent advisory panel to advise on implementation of assessment, contents of assessment, consultation with Congressional committees and reports to Congress, and study of distribution of Federal vocational education funds to States to be included in assessment for provisions which related to national assessment of vocational education programs by Secretary through independent studies and analyses by National Institute of Education, contents of assessment, consultation with Congressional committees and reports to Congress, analysis of State plans by Secretary with suggestions to State boards for improvements in planning or program operation, prohibition of review of reports outside National Institute of Education before transmittal to Congress, authority of President and Secretary to make additional recommendations to Congress regarding assessment, and limitation on expenditure of funds to carry out assessment.

CHANGE OF NAME

Committee on Education and Labor of House of Representatives treated as referring to Committee on Economic and Educational Opportunities of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Economic and Educational Opportunities of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Fifth Congress, Jan. 7, 1997.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–392 effective July 1, 1991, see section 702(a) of Pub. L. 101–392, set out as a note under section 2301 of this title.

STUDY OF DUAL SYSTEM OF VOCATIONAL EDUCATION IN FEDERAL REPUBLIC OF GERMANY

Section 611 of Pub. L. 101–392 provided that:

''(a) GENERAL AUTHORITY.—The General Accounting Office (in this section referred to as the 'Office') shall conduct a thorough study of the Dual System of Vocational Education in the Federal Republic of Germany, including an analysis of the desirability, advantages, and disadvantages of establishing a nationwide job apprenticeship program in the United States similar to the Dual System of Vocational Education in the Federal Republic of Germany.

''(b) CONTENTS.—In studying the West German Dual System of Vocational Education, the Office shall assess—

''(1) the ability of such a system to prepare workers for the technical workplace;

''(2) the level of academic skills an apprentice in the Dual System acquires;

''(3) the effectiveness of combining on-the-job training with classroom instruction;

''(4) the participation in apprenticeships by gender and minority status;

''(5) the dropout rate of West German students;

''(6) the construction and oversight of skill certification tests;

''(7) the unemployment rate and relative wage levels of former participants;

''(8) the labor mobility of apprentices;

''(9) whether such a system has helped West Germany maintain a competitive workforce and a competitive edge in the world economy;

''(10) the value and productivity of apprentices to business; and

''(11) the direct and indirect costs and benefits to the country, industry, company, and individual that result from the Dual System of Vocational Education.

''(c) FACTORS TO BE CONSIDERED.—In assessing the ability of a similar program to be replicated in the United States, the Office shall evaluate such factors as—

''(1) existing job apprenticeship programs and their ability to prepare workers for the technical workplace;

''(2) the future need for skilled workers and the extent to which job apprenticeship programs could meet such future workforce needs;

''(3) the appropriate age or grade level for students to enter job apprenticeship programs (such as secondary students, postsecondary students, or both);

''(4) the potential for such programs to reduce the dropout rate, place more qualified workers in the workplace, provide continuing education, including postsecondary opportunities, and increase the lifetime earnings of those who participate in such a job apprenticeship program;

''(5) the issues in obtaining labor and management utilization of skills, certification for employee recruitment, promotion, and other purposes, and issues in creating and improving such certification to reliably and validly reflect the changing structure of work in the skills certified;

''(6) the training wage appropriate for an apprentice;

''(7) the estimated value and productivity of apprentices to business;

''(8) the Federal, State, employer, and labor roles in regulating and funding such a program;

''(9) the direct and indirect costs and benefits of such a program to the Federal and State governments, industry, the company and the individual; and

''(10) the quality and adequacy of Federal and State data on training, including apprenticeships, directly or indirectly provided by employers, including data on the level and distribution of training by industry, firm size, and of labor and management employees.

''(d) DEADLINE FOR STUDY.—The study required by subsection (a), together with comments and recommendations, shall be completed and presented to Congress not later than the expiration of the 1-year period beginning on the date of enactment of this Act [Sept. 25, 1990].''

§ 2404. National Center or Centers for Research in Vocational Education

(a) General authority

(1) In order to address the purposes of this chapter through the involvement of a broad array of individuals, including both vocational and academic teachers and administrators, the Secretary is authorized to award a grant or grants for the establishment of 1 or 2 national centers in the areas of—

(A) applied research and development; and

(B) dissemination and training.

(2)(A) Each entity selected to establish and operate a Center pursuant to paragraph (1) shall operate such Center for a period of 5 years.

(B) Beginning after December 31, 1992, the Secretary shall award an annual grant to the National Center or Centers selected pursuant to paragraph (1) for each of the 5 years such National Center is operated. After the third year in which the National Center or Centers receive a grant under this section the Secretary shall review the research priorities of the National Center or Centers.

(3) Of the amount available pursuant to section 2451(a)(1) of this title for purposes of carrying out this section, at least ⅔ of such amount shall be available for applied research and development.

(4)(A) The Secretary shall hold a competition at the same point in time for the grant or grants for the activities described in paragraph (1). Any institution of higher education or consortium of such institutions may compete for either or both sets of activities.

(B) For the purpose of this section the term ''institution of higher education'', notwithstanding section 427(b)(2) of the Higher Education Amendments of 1992, has the same meaning as provided by section 1085(b) of this title as such section was in effect on July 22, 1992.

(5) If an institution or consortium demonstrates that it can effectively carry out both activities either directly or through contracting, such institution or consortium shall be given a preference in the grant selection. If no institution or consortium demonstrates such capability and 2 grants are awarded, the Secretary must assure coordination of the activities under both grants.

(6) Not more than 10 percent of each year's budget for the Center or for each of the Centers may be used to respond to field-initiated needs unanticipated prior to the annual funding period and which are in the mission of the Center but not part of the scope of work of the grant.

(7) The National Center in existence on September 25, 1990, shall continue to operate through its 5-year cycle ending December 31, 1992.

(b) Activities

(1) The applied research and development activities shall include—

(A) economic changes that affect the skills which employers seek and entrepreneurs need;

(B) integration of academic and vocational education;

(C) efficient and effective practices for addressing the needs of special populations;

(D) efficient and effective methods for delivering vocational education;

(E) articulation of school and college instruction with high quality work experience;

(F) recruitment, education, and enhancement of vocational teachers and other professionals in the field;

(G) accountability processes in vocational education, to include identification and evaluation of the use of appropriate performance standards for student, program, and State-level outcomes;

(H) effective practices that educate students in all aspects of the industry the students are preparing to enter;

(I) effective methods for identifying and inculcating literacy and other communication skills essential for effective job preparation and job performance;

(J) identification of strategic, high priority occupational skills and skills formation approaches needed to maintain the competitiveness of the United States workforce, sustain high-wage, high-technology jobs and which address national priorities such as technical jobs needed to protect and restore the environment;

(K) identification of practices and strategies that address entrepreneurial development for minority-owned enterprises; and

(L) upon negotiation with the Center, and if funds are provided pursuant to subsection (d) of this section, such other topics as the Secretary may designate.

(2) The Center conducting the activities described in paragraph (1) shall annually prepare a study on the research conducted on approaches that lead to effective articulation for the education-to-work transition, including tech-prep programs, cooperative education or other work-based programs, such as innovative apprenticeship or mentoring approaches, and shall submit copies of such study to the Secretary of Education, the Secretary of Labor, the Secretary of Health and Human Services, the Committee on Labor and Human Resources of the Senate, and the Committee on Education and Labor of the House of Representatives.

(c) Dissemination and training

(1) The dissemination and training activities shall include—

(A) teacher and administrator training and leadership development;

(B) technical assistance to assure that programs serving special populations are effective in delivering well-integrated and appropriately articulated vocational and academic offerings for secondary, postsecondary, and adult students;

(C) needs assessment, design, and implementation of new and revised programs with related curriculum materials to facilitate vocational-academic integration;

(D) evaluation and follow-through to maintain and extend quality programs;

(E) assistance in technology transfer and articulation of program offerings from advanced technology centers to minority enterprises;

(F) assistance to programs and States on the use of accountability indicators, including appropriate and innovative performance standards;

(G) delivery of information and services using advanced technology, where appropriate, to increase the effectiveness and efficiency of knowledge transfer;

(H) development of processes for synthesis of research, in cooperation with a broad array of users, including vocational and non-vocational educators, employers and labor organizations;

(I) dissemination of exemplary curriculum and instructional materials, and development and publication of curriculum materials (in conjunction with vocational and non-vocational constituency groups, where appropriate);

(J) technical assistance in recruiting, hiring, and advancing minorities in vocational education; and

(K) upon negotiation with the Center and if funds are provided pursuant to subsection (d) of this section, such other topics as the Secretary may designate.

(2) The Center conducting the activities described in paragraph (1) shall annually prepare a study on the dissemination and training activities described in paragraph (1) and shall submit copies of such study to the Secretary of Education, the Secretary of Labor, the Secretary of Health and Human Services, the Committee on Labor and Human Resources of the Senate, and the Committee on Education and Labor of the House of Representatives.

(d) Authorization of other research

There are authorized to be appropriated $3,000,000 for the fiscal year 1991 and such sums as may be necessary for each of the fiscal years 1992, 1993, 1994, and 1995 to carry out such additional activities assigned by the Secretary to the National Center in existence on September 25, 1990, until the termination of its grant on December 31, 1992 and to carry out the provisions of subsections (b)(1)(L) and (c)(1)(K) of this section.

(Pub. L. 88–210, title IV, § 404, as added Pub. L. 98–524, § 1, Oct. 19, 1984, 98 Stat. 2468; amended Pub. L. 101–392, title IV, § 405, Sept. 25, 1990, 104 Stat. 809; Pub. L. 103–382, title III, § 351(a)(2), Oct. 20, 1994, 108 Stat. 3966.)

REFERENCES IN TEXT

Section 427(b)(2) of the Higher Education Amendments of 1992, referred to in subsec. (a)(4)(B), is section 427(b)(2) of Pub. L. 102–325 which is set out as a note under section 1085 of this title.

Section 1085(b) of this title as such section was in effect on July 22, 1992, referred to in subsec. (a)(4)(B), means section 1085(b) of this title as in effect prior to repeal by Pub. L. 102–325, title IV, § 427(b)(1), July 23, 1992, 106 Stat. 549.

AMENDMENTS

1994—Subsec. (a)(4)(B). Pub. L. 103–382 inserted '', notwithstanding section 427(b)(2) of the Higher Education Amendments of 1992,'' before ''has'' and ''as such section was in effect on July 22, 1992'' before period at end.

1990—Pub. L. 101–392 amended section generally, substituting provisions relating to authority of Secretary to award grants for establishment of 1 or 2 national centers in applied research and development and dissemination and training to be operated for period of 5 years, with grant recipients to be selected from competition among institutions of higher education or consortia of such institutions, activities of Centers, and reporting requirements for provisions which related to establishment, support through grants, purpose, and functions of National Center for Research in Vocational Education, a nonprofit entity associated with a public or private nonprofit university which would be prepared to make substantial financial contribution toward its establishment, designated by Secretary from solicited applications once every 5 years, and appointment of advisory committee to advise Secretary and Director of National Center regarding policy issues.

CHANGE OF NAME

Committee on Education and Labor of House of Representatives treated as referring to Committee on Economic and Educational Opportunities of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Economic and Educational Opportunities of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Fifth Congress, Jan. 7, 1997.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–382 effective Oct. 20, 1994, except that a State that, prior to such date, distributed funds under section 2341a of this title appropriated for fiscal year 1994 to proprietary institutions of higher education may continue to distribute such funds to such institutions until July 1, 1995, see section 351(b) of Pub. L. 103–382, set out as a note under section 2341a of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–392 effective July 1, 1991, see section 702(a) of Pub. L. 101–392, set out as a note under section 2301 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2451 of this title.

PART B—DEMONSTRATION PROGRAMS

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 2451 of this title.

§ 2411. Programs authorized

(a) In general

From amounts available pursuant to section 2311(a)(1)(A) of this title in each fiscal year, the

Secretary shall make demonstration grants in accordance with the provisions of this part.

(b) Priority

In awarding demonstration grants pursuant to this part, the Secretary shall give priority to the programs described in sections 2412 and 2413 of this title.

(Pub. L. 88–210, title IV, § 411, as added Pub. L. 101–392, title IV, § 406(a), Sept. 25, 1990, 104 Stat. 812.)

PRIOR PROVISIONS

A prior section 2411, Pub. L. 88–210, title IV, § 411, as added Pub. L. 98–524, § 1, Oct. 19, 1984, 98 Stat. 2470, related to programs and projects Secretary was authorized to carry out from funds available for this part, prior to the general revision of this part by Pub. L. 101–392.

EFFECTIVE DATE

Part effective July 1, 1991, see section 702(a) of Pub. L. 101–392, set out as an Effective Date of 1990 Amendment note under section 2301 of this title.

EDUCATION FOR EMPLOYMENT DEMONSTRATION PROGRAM

Pub. L. 100–418, title VI, § 6133, Aug. 23, 1988, 102 Stat. 1512, directed Secretary to conduct, from sums available under this chapter and in partnership with business and industry, a demonstration program with secondary school students to provide students with practical skills needed for employment or further education, prior to repeal by Pub. L. 103–382, title III, § 391(i), Oct. 20, 1994, 108 Stat. 4023.

DEMONSTRATION PROGRAM FOR TECHNOLOGICAL LITERACY

Pub. L. 100–418, title VI, § 6135, Aug. 23, 1988, 102 Stat. 1512, directed Secretary to establish demonstration programs in vocational training centers and community colleges for purpose of providing modular training in basic skills with objective of rendering participants technologically literate, prior to repeal by Pub. L. 103–382, title III, § 391(i), Oct. 20, 1994, 108 Stat. 4023.

§ 2412. Materials development in telecommunications

(a) General authority

The Secretary is authorized to make grants to nonprofit educational telecommunications entities to pay the Federal share of the costs of the development, production, and distribution of instructional telecommunications materials and services for use in local vocational and technical educational schools and colleges.

(b) Federal share

(1) The Federal share of the cost of each project assisted under this section shall be 50 percent.

(2) The non-Federal share of the cost of each project assisted under this section shall be provided from non-Federal sources.

(c) Use of funds

Grants awarded pursuant to this section may be used to provide—

(1) a sequential course of study that includes either preproduced video courseware or direct interactive teaching delivered via satellite, accompanied by a variety of print and computer-based instructional materials;

(2) the development of individual videocassettes or a series of videocassettes that supplement instruction, which shall be distributed both via broadcast and nonbroadcast means;

(3) videodiscs that produce simulated hands-on training; and

(4) teacher training programs for vocational educators and administrators and correctional educators.

(d) Priority

In awarding grants under this section the Secretary shall give priority to programs or projects which serve—

(1) students in area vocational and technical schools;

(2) teachers, administrators, and counselors in need of training or retraining;

(3) out-of-school adults in need of basic skills improvement or a high school equivalency diploma to improve the employability of such individuals;

(4) college students, particularly college students who are working toward a 2-year associate degree from a technical or community college;

(5) workers in need of basic skills, vocational instruction, or career counseling to retain employment; and

(6) workers who need to improve their skills to obtain jobs in high-growth industries.

(Pub. L. 88–210, title IV, § 412, as added Pub. L. 101–392, title IV, § 406(a), Sept. 25, 1990, 104 Stat. 812.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2411 of this title.

§ 2413. Demonstration centers for training of dislocated workers

(a) General authority

The Secretary is authorized to establish 1 or more demonstration centers for the retraining of dislocated workers. Such center or centers may provide for the recruitment of unemployed workers, vocational evaluation, assessment and counseling services, vocational and technical training, support services, and job placement assistance. The design and operation of each center shall provide for the utilization of appropriate existing Federal, State, and local programs.

(b) Evaluation

The Secretary shall provide for the evaluation of each center established under subsection (a) of this section.

(c) Dissemination of information

The Secretary shall disseminate information on successful retraining models developed by any center established under subsection (a) of this section through dissemination programs operated by the Secretary and the Secretary of Labor.

(d) Eligible organizations

Any private, nonprofit organization that is eligible to receive funding under the Job Training Partnership Act [29 U.S.C. 1501 et seq.] is eligible to receive funding under this section.

(Pub. L. 88–210, title IV, § 413, as added Pub. L. 101–392, title IV, § 406(a), Sept. 25, 1990, 104 Stat. 813.)

REFERENCES IN TEXT

The Job Training Partnership Act, referred to in subsec. (d), is Pub. L. 97–300, Oct. 13, 1982, 96 Stat. 1322, as amended, which is classified generally to chapter 19 (§ 1501 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 1501 of Title 29 and Tables.

PRIOR PROVISIONS

A prior section 2413, Pub. L. 88–210, title IV, § 413, as added Pub. L. 98–524, § 1, Oct. 19, 1984, 98 Stat. 2471, related to program of competitive grants to State boards for State programs involving loan of high-technology, state-of-the-art equipment to eligible recipients for use in local vocational education programs, prior to the general revision of this part by Pub. L. 101–392.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2411 of this title.

§ 2414. Professional development

(a) Training and study grants

(1) The Secretary is authorized to provide grants to institutions of higher education, State educational agencies, or State correctional education agencies to provide grants, awards, or stipends—

(A) to individuals who are entering the field of vocational education;

(B) for graduate training in vocational education;

(C) for vocational teacher education; and

(D) for attracting gifted and talented students in vocational programs into further study and professional development.

(2) Grants, awards, and stipends awarded under paragraph (1) shall provide—

(A) opportunities for experienced vocational educators;

(B) opportunities for—

(i) certified teachers who have been trained to teach in other fields to become vocational educators, including teachers with skills related to vocational fields who can be trained as vocational educators, and especially minority instructors and instructors with experience in teaching individuals who are economically disadvantaged, individuals with handicaps, students of limited English proficiency, and adult and juvenile criminal offenders;

(ii) individuals in industry who have skills and experience in vocational fields to be trained as vocational educators; and

(iii) vocational educators to improve or maintain technological currency in their fields; and

(C) opportunities for gifted and talented vocational education secondary and postsecondary students to intern with Federal or State agencies, nationally recognized vocational education associations and student organizations or the National Center or Centers for Research in Vocational Education.

(b) Leadership development awards

(1) In order to meet the needs of all States for qualified vocational education leaders (such as administrators, supervisors, teacher educators, researchers, career guidance and vocational counseling personnel, vocational student organization leadership personnel and teachers in vocational education programs), the Secretary shall make grants to institutions of higher education for leadership development awards. Individuals selected for such awards shall—

(A) have not less than 3 years of experience in vocational education or in industrial training, or, in the case of researchers, experience in social science research which is applicable to vocational education;

(B) are currently employed or are reasonably assured of employment in vocational education and have successfully completed at least a baccalaureate degree program;

(C) are recommended by their employer, or others, as having leadership potential in the field of vocational education and have been accepted for admission as a graduate student in a program of higher education approved by the Secretary; and

(D) have made a commitment to return to the field of vocational education upon completion of education provided through the leadership development award.

(2) For a period of not more than 3 years, stipends shall be paid to individuals selected for leadership development awards. Such stipends shall be paid (including allowances for tuition, nonrefundable fees, and other expenses for such individuals and their dependents) as may be determined to be consistent with prevailing practices.

(3) The Secretary may provide grants to institutions for stipends to individuals, which shall not exceed $9,000 per individual per academic year or its equivalent and $3,000 per individual per summer session or its equivalent.

(4) The Secretary shall approve the application of the vocational education program of an institution of higher education for the purposes of this section only upon finding that—

(A) the institution offers a comprehensive program in vocational education with adequate supporting services and disciplines such as education administration, career guidance and vocational counseling, research, and curriculum development;

(B) such program is designed to substantially advance the objective of improving vocational education through providing opportunities for graduate training of vocational teachers, supervisors, and administrators, and of university-level vocational education teacher educators and researchers; and

(C) such programs are conducted by a school of graduate study in the institution of higher education.

(5) The Secretary, in carrying out this subsection shall apportion leadership development awards to institutions of higher education equitably among the States, taking into account such factors as the State's vocational education enrollments and the need for additional vocational education personnel in the State.

(6) Each individual who receives a leadership development award under this subsection shall receive payments as provided in paragraph (2) for not more than a 3-year period during which such individual is—

(A) pursuing a full-time course of study in vocational education in an approved institution of higher education;

(B) maintaining satisfactory proficiency in such course of study; and

(C) not engaged in gainful employment other than part-time employment by such institution in teaching, research, or similar activities.

(c) Vocational educator training fellowships

(1) The purpose of this subsection is to provide fellowships—

(A) to meet the need to provide adequate numbers of teachers and related classroom instructors in vocational education who are technologically current in their fields;

(B) to take full advantage of the education which has been provided to already certified teachers who are unable to find employment in their fields of training and of individuals employed in industry who have skills and experience in vocational fields; and

(C) to encourage more instructors from minority groups and teachers with skills and experience with individuals of limited English proficiency to become vocational education teachers.

(2)[1] The Secretary shall make available fellowships, in accordance with the provisions of this subsection, to individuals (especially minority instructors and instructors with experience in teaching individuals who are economically disadvantaged, individuals with disabilities, students of limited English proficiency, and adult and juvenile criminal offenders) who—

(A)(i)(I) are employed in vocational education and need an opportunity to improve or maintain technological skills;

(II) are certified by a State, or were so certified during the 10-year period preceding their application for a fellowship under this subsection, as teachers in secondary schools, area vocational education schools or institutes, or in community or junior colleges; and

(III) have skills and experiences in vocational fields so that such individuals can be trained to be vocational educators; or

(ii) are employed in agriculture, business, or industry (and may or may not hold a baccalaureate degree) and have skills and experience in vocational fields for which there is a need for vocational educators;

(B) have been accepted in a program to become a vocational educator by an institution of higher education approved by the Secretary; and

(C) have made a commitment to work in the field of vocational education upon completion of such program.

(2)[1] The Secretary shall, for a period of not more than 2 years, provide stipends to individuals who are awarded fellowships under this subsection (including such allowances for tuition, nonrefundable fees, subsistence and other expenses for such individuals and the dependents of such individuals) as the Secretary may determine to be consistent with prevailing practices.

(3) The Secretary shall approve an institution of higher education under this subsection if—

(A) the institution offers a comprehensive program in vocational education with adequate supporting services and disciplines such as education administration, career guidance and vocational counseling, research and curriculum development; and

(B) such program is available to individuals receiving fellowships under this subsection so that such individuals receive the same quality of education and training provided for undergraduate students at such institution who are preparing to become vocational education teachers.

(4) The Secretary shall apportion the fellowships available under this subsection equitably among the States, taking into account such factors as the State's vocational education enrollments, and the need in the State for additional vocational educators, especially minority educators and individuals with skills and experience in teaching individuals of limited English proficiency.

(5) Individuals receiving fellowships under this subsection shall continue to receive payments provided in paragraph (2) only during such period as such individuals—

(A) are maintaining satisfactory proficiency;

(B) are devoting full time to study in the field of vocational education in an institution of higher education; and

(C) are not engaging in gainful employment other than part-time employment by such institution.

(6)(A) The Secretary shall, before the beginning of each fiscal year for which amounts are appropriated or otherwise made available to carry out this subsection, publish a listing of—

(i) the areas of teaching in vocational education in need of additional personnel;

(ii) the areas of teaching which will likely have need of additional personnel in the future; and

(iii) areas of teaching in which technological upgrading may be especially critical.

(B) The listing required by subparagraph (A) shall be based on information from the National Occupational Information Coordinating Committee, State occupational information coordinating committees, the vocational education data system established pursuant to section 2421 of this title, and other appropriate sources.

(7) In selecting recipients for fellowships under this subsection, the Secretary shall, to the maximum extent practicable, grant fellowships to individuals seeking to become teachers or improve their skills in the areas identified in the listing required by paragraph (6)(A).

(d) Internships for gifted and talented students

(1) The purpose of this subsection is to provide stipends for internships to meet the need of attracting gifted and talented vocational education students into further study and professional development in the field of vocational education.

(2)(A) The Secretary shall, from recommendations provided by State directors of vocational education, select gifted and talented students from vocational education secondary and postsecondary programs to work as interns for Federal and State agencies, nationally recognized vocational education associations, or the Na-

[1] So in original. Two pars. (2) have been enacted.

tional Center or Centers for Research in Vocational Education. Each such student shall receive a stipend for the period of the student's internship, which shall not exceed 9 months. Such stipend shall cover subsistence and other expenses for such individuals and shall be in such amount as the Secretary may determine to be consistent with prevailing practices.

(B) Each individual selected under this paragraph shall have been recommended as gifted and talented by a vocational educator at the secondary or postsecondary school the student attends.

(C) Each individual selected under this paragraph shall, during the period of such individual's internship, be provided with professional supervision by an individual qualified and experienced in the field of vocational education at the agency or institution at which the internship is offered.

(Pub. L. 88–210, title IV, § 414, as added Pub. L. 101–392, title IV, § 406(a), Sept. 25, 1990, 104 Stat. 813.)

§ 2415. Blue Ribbon Vocational Education Programs

(a) Information dissemination

The Secretary is authorized to disseminate information and exemplary materials regarding effective vocational education.

(b) Standards of excellence

(1) The Secretary, in consultation with the National Center or Centers for Research in Vocational Education (in this section referred to as the ''National Center or Centers for Research''), the National Diffusion Network, and the Blue Ribbon Schools Program, is authorized to carry out programs to recognize secondary and postsecondary schools or programs which have established standards of excellence in vocational education and which have demonstrated a high level of quality. Such schools and programs shall be known as ''Blue Ribbon Vocational Programs''. The Secretary shall competitively select schools and programs to be recognized from among public and private schools or programs within the States and schools funded by the Department of the Interior.

(2) In the case of a private school or vocational education program that is designated as a Blue Ribbon Vocational Education Program, the Secretary shall make suitable arrangements to provide the award to such school.

(c) Awards

(1) The Secretary, in consultation with the National Center or Centers for Research and the National Occupational Information Coordinating Committee (in this section referred to as the ''Committee''), is authorized to designate each fiscal year a category or several categories of vocational education, which may include tech-prep education, in which Blue Ribbon Vocational Education Program awards will be named. Such categories shall emphasize the expansion or strengthening of the participation of individuals who are members of special populations and may give special consideration to any of the following:

(A) program improvement;

(B) academic and occupational competencies; and

(C) other categories determined by the Secretary in consultation with the National Center or Centers for Research and the Committee.

(2) Within each category, the Secretary shall determine the criteria and procedures for selection. Selection for such awards shall be based solely on merit. Schools or programs selected for awards under this section shall not be required to be representative of the States.

(d) Consultation

(1) The Secretary shall carry out the provisions of this section, including the establishment of the selection procedures, after consultation with appropriate outside parties.

(2) No award may be made under this section unless the local educational agency, area vocational education school, intermediate educational agency, tribal authority, Bureau of Indian Affairs, or appropriate State agency with jurisdiction over the school or program involved submits an application to the Secretary at such time, in such manner and containing such information as the Secretary may reasonably require.

(Pub. L. 88–210, title IV, § 415, as added Pub. L. 101–392, title IV, § 406(a), Sept. 25, 1990, 104 Stat. 817.)

PRIOR PROVISIONS

A prior section 2415, Pub. L. 88–210, title IV, § 415, as added Pub. L. 98–524, § 1, Oct. 19, 1984, 98 Stat. 2471, related to establishment by Secretary of demonstration centers for retraining of dislocated workers, prior to the general revision of this part by Pub. L. 101–392.

§ 2416. Development of business and education standards

(a) Findings

The Congress finds that, in order to meet the needs of business for competent entry-level workers who have received a quality vocational education, national standards should be developed for competencies in industries and trades.

(b) General authority

(1) The Secretary, in consultation with the Secretary of Labor, is authorized to establish a program of grants to industrial trade associations, labor organizations, or comparable national organizations for purposes of organizing and operating business-labor-education technical committees.

(2) The committees established with assistance under this section shall propose national standards for competencies in industries and trades. Such standards shall at least include standards for—

(A) major divisions or specialty areas identified within occupations studied;

(B) minimum hours of study to be competent in such divisions or specialty areas;

(C) minimum tools and equipment required in such divisions or specialty areas;

(D) minimum qualifications for instructional staff; and

(E) minimum tasks to be included in any course of study purporting to prepare individ-

uals for work in such divisions or specialty areas.

(c) Matching requirement

Each recipient of a grant under this section shall agree to provide for the committee to be established under the grant an amount equal to the amount provided under the grant.

(d) Application

Any industrial trade association, labor organization, national joint apprenticeship committee, or comparable national organization that desires to receive a grant under this section shall submit to the Secretary an application at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

(Pub. L. 88–210, title IV, § 416, as added Pub. L. 101–392, title IV, § 406(a), Sept. 25, 1990, 104 Stat. 818.)

§ 2417. Educational programs for Federal correctional institutions

(a) Program authorized

The Secretary is authorized to make grants to Federal correctional institutions in consortia with educational institutions, community-based organizations of demonstrated effectiveness, or business and industry, to provide education and training for criminal offenders in such institutions.

(b) Use of funds

Grants awarded pursuant to this section may be used for—

(1) basic education programs with an emphasis on literacy instruction;

(2) vocational training programs;

(3) guidance and counseling programs; and

(4) supportive services for criminal offenders, with special emphasis on the coordination of educational services with agencies furnishing services to criminal offenders after such offenders are released from correctional institutions.

(Pub. L. 88–210, title IV, § 417, as added Pub. L. 101–392, title IV, § 406(a), Sept. 25, 1990, 104 Stat. 818.)

PRIOR PROVISIONS

A prior section 2417, Pub. L. 88–210, title IV, § 417, as added Pub. L. 98–524, § 1, Oct. 19, 1984, 98 Stat. 2471; amended Pub. L. 99–159, title VII, § 710, Nov. 22, 1985, 99 Stat. 907, related to establishment of grant program to establish and operate model centers for vocational education for older individuals, prior to the general revision of this part by Pub. L. 101–392.

§ 2418. Dropout prevention

(a) Program authorized

The Secretary is authorized to make grants to partnerships between—

(1) local educational agencies or area vocational education schools; and

(2) institutions of higher education or public or private nonprofit organizations which have an established record of vocational education strategies that prevent students from dropping out of school.

(b) Use of funds

Grants awarded under this section shall be used to develop, implement, and operate vocational education programs designed to prevent students from dropping out of school. Such programs shall—

(1) serve special populations, including significant numbers of economically disadvantaged dropout-prone youth;

(2) provide inservice training for teachers and administrators in dropout prevention; and

(3) disseminate information relating to successful dropout prevention strategies and programs through the National Dropout Prevention Network and the Center on Adult, Career and Vocational Education of the Educational Resources Information Clearinghouse.

(c) Priority

In awarding grants under this section, the Secretary shall give priority to partnerships which—

(1) provide the special support services necessary to help individual students successfully complete the program such as mentoring, basic skills education, and services which address barriers to learning; and

(2) utilize measures to integrate basic and academic skills instruction with work experience and vocational education.

(Pub. L. 88–210, title IV, § 418, as added Pub. L. 101–392, title IV, § 406(a), Sept. 25, 1990, 104 Stat. 819.)

§ 2419. Model programs of regional training for skilled trades

(a) Program authorized

The Secretary is authorized to make grants to regional model centers which provide—

(1) training for skilled tradesmen within a region serving several States, and

(2) technical assistance for programs which train such tradesmen within a region serving several States.

(b) Use of funds

The regional model centers described in subsection (a) of this section shall—

(1) provide training and career counseling for skilled tradesmen in areas of skill shortages or projected skilled shortages;

(2) provide prejob and apprenticeship training and career counseling in skilled trades;

(3) upgrade specialized craft training; and

(4) improve the access of women, minorities, economically disadvantaged individuals, individuals with handicaps and ex-criminal offenders to trade occupations and training.

(c) Special rule

In awarding grants under this section, and to the extent practicable, the Secretary shall ensure an equitable distribution of funds available under this section to the various skilled trades.

(Pub. L. 88–210, title IV, § 419, as added Pub. L. 101–392, title IV, § 406(a), Sept. 25, 1990, 104 Stat. 819.)

§ 2420. Demonstration projects for integration of vocational and academic learning

(a) Program authorized

The Secretary is authorized to make grants to institutions of higher education, area vocational

education schools, local educational agencies, secondary schools funded by the Bureau of Indian Affairs, State boards, public or private nonprofit organizations, or any consortia thereof, to develop, implement and operate programs using different models of curricula which integrate vocational and academic learning by—

(1) designing integrated curricula and courses;

(2) providing inservice training for teachers and administrators in integrated curricula; and

(3) disseminating information regarding effective integrative strategies to other school districts through the National Diffusion Network established under part B of title XIII of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 8651 et seq.].

(b) Requirements relating to grant awards

In awarding grants under this section, the Secretary shall ensure—

(1) an equitable geographic distribution of funds awarded pursuant to this section;

(2) that programs supported under this section offer significantly different approaches to integrating curricula;

(3) that the programs supported under this section serve individuals who are members of special populations;

(4) that programs supported under this section serve—

(A) vocational students in secondary schools and at postsecondary institutions;

(B) individuals enrolled in adult programs; and

(C) single parents, displaced homemakers, and single pregnant women; and

(5) that adequate evaluation measures will be employed to measure the effectiveness of the curriculum approaches supported under this section.

(Pub. L. 88–210, title IV, § 420, as added Pub. L. 101–392, title IV, § 406(a), Sept. 25, 1990, 104 Stat. 820; amended Pub. L. 103–382, title III, § 391(s)(6), Oct. 20, 1994, 108 Stat. 4025.)

REFERENCES IN TEXT

The Elementary and Secondary Education Act of 1965, referred to in subsec. (a)(3), is Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, as amended generally by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519. Part B of title XIII of the Act is classified generally to part B (§ 8651 et seq.) of subchapter XIII of chapter 70 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

AMENDMENTS

1994—Subsec. (a)(3). Pub. L. 103–382 substituted ''part B of title XIII of the Elementary and Secondary Education Act of 1965'' for ''section 2962 of this title''.

§ 2420a. Cooperative demonstration programs

(a) Program authorized

The Secretary is authorized to carry out, directly or through grants to or contracts with State and local educational agencies, postsecondary educational institutions, institutions of higher education, and other public and private agencies, organizations, and institutions, programs and projects which support—

(1) model programs providing improved access to quality vocational education programs for those individuals described in section 2471(31) of this title and for men and women seeking nontraditional occupations;

(2) examples of successful cooperation between the private sector and public agencies in vocational education, involving employers or consortia of employers or labor organizations and building trade councils, and State boards or eligible recipients designed to demonstrate ways in which vocational education and the private sector of the economy can work together effectively to assist vocational education students to attain the advanced level of skills needed to make the transition from school to productive employment, including—

(A) work experience and apprenticeship programs;

(B) transitional worksite job training for vocational education students which is related to their occupational goals and closely linked to classroom and laboratory instruction provided by an eligible recipient;

(C) placement services in occupations which the students are preparing to enter;

(D) where practical, projects (such as the rehabilitation of public schools or housing in inner cities or economically depressed rural areas) that will benefit the public; and

(E) employment-based learning programs;

(3) programs to overcome national skill shortages, as designated by the Secretary in cooperation with the Secretary of Labor, Secretary of Defense, and Secretary of Commerce;

(4) model programs described in section 2362(b)(1) of this title, including child growth and development centers;

(5) grants to community-based organizations in partnerships with local schools, institutions of higher education, and businesses for programs and projects that assist disadvantaged youths in preparing for technical and professional health careers (which partnerships should include in-kind contributions from such schools, institutions, and businesses and involve health professionals serving as preceptors and counselors); and

(6) model programs providing improved access to vocational education programs through centers to be known as agriculture action centers, which programs shall be operated under regulations developed by the Secretary in consultation with the Secretary of Labor and—

(A) shall assist—

(i) individuals who are adversely affected by farm and rural economic downturns;

(ii) individuals who are dislocated from farming; and

(iii) individuals who are dislocated from agriculturally-related businesses and industries that are adversely affected by farm and rural economic downturns;

(B) shall provide services, including—

(i) crisis management counseling and outreach counseling that would include members of the family of the affected individual;

(ii) evaluation of vocational skills and counseling on enhancement of such skills;

(iii) assistance in obtaining training in basic, remedial, and literacy skills;

(iv) assistance in seeking employment and training in employment-seeking skills; and

(v) assistance in obtaining training related to operating a business or enterprise;

(C) shall provide for formal and on-the-job training to the extent practicable; and

(D) shall be coordinated with activities and discretionary programs conducted under title III of the Job Training Partnership Act [29 U.S.C. 1651 et seq.].

(b) Types of programs included; recipient's contribution

(1) Projects described in clause (2) of subsection (a) of this section may include institutional and on-the-job training, supportive services authorized by this chapter, and such other necessary assistance as the Secretary determines to be necessary for the successful completion of the project.

(2) Not less than 25 percent of the cost of the demonstration programs authorized by this subpart[1] shall be provided by the recipient of the grant or contract, and such share may be in the form of cash or in-kind contributions, including facilities, overhead, personnel, and equipment fairly valued.

(c) Program criteria

All programs assisted under this section shall be—

(1) of direct service to individuals enrolled in such programs; and

(2) capable of wide replication by service providers.

(d) Dissemination of program results

The Secretary shall disseminate the results of the programs and projects assisted under this section in a manner designed to improve the training of teachers, other instructional personnel, counsellors, and administrators who are needed to carry out the purposes of this chapter.

(Pub. L. 88–210, title IV, § 420A, as added Pub. L. 101–392, title IV, § 406(a), Sept. 25, 1990, 104 Stat. 820.)

REFERENCES IN TEXT

The Job Training Partnership Act, referred to in subsec. (a)(6)(D), is Pub. L. 97–300, Oct. 13, 1982, 96 Stat. 1322, as amended. Title III of the Act is classified generally to subchapter III (§ 1651 et seq.) of chapter 19 of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 1501 of Title 29 and Tables.

PART C—VOCATIONAL EDUCATION AND OCCUPATIONAL INFORMATION DATA SYSTEMS

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 2451 of this title.

§ 2421. Data systems authorized

(a) Establishment of system

(1) The Secretary shall, directly, or by grant, contract or cooperative agreement, establish a vocational educational data system (in this section referred to as the ''system''), using comparative information elements and uniform definitions, to the extent practicable.

(2) The Secretary shall establish the system not later than the end of the 6-month period beginning on September 25, 1990.

(3) The National Center for Education Statistics (in this section referred to as the ''National Center'') shall coordinate the development and implementation of the system.

(b) Functions of system

Through the system, the Secretary shall collect data and analyze such data in order to provide—

(1) the Congress with information relevant to policymaking; and

(2) Federal, State, and local agencies and Tribal agencies with information relevant to program management, administration and effectiveness with respect to education and employment opportunities.

(c) Contents of system

(1)(A) The system shall include information—

(i) describing the major elements of the vocational education system on at least a national basis, including information with respect to teachers, administrators, students, facilities, and, to the extent practicable, equipment; and

(ii) describing the condition of vocational education with respect to the elements described in clause (i).

(B) The information described in subparagraph (A) shall be provided, to the extent practicable, in the context of other educational data relating to the condition of the overall education system.

(C) The Secretary, in consultation with the Task Force, the National Center, and the Office of Adult and Vocational Education (in this section referred to as the ''Office''), shall modify existing general purpose and program data systems to ensure that an appropriate vocational education component is included in the design, implementation and reporting of such systems in order to fulfill the information requirements of this section.

(2) The information system shall include data reflecting the extent of participation of the following populations:

(A) women;

(B) Indians;

(C) individuals with handicaps;

(D) individuals of limited English proficiency;

(E) economically disadvantaged students (including information on students in rural and urban areas);

(F) adults who are in need of training and retraining;

(G) single parents;

(H) youths incarcerated in juvenile detention or correctional facilities or criminal offenders who are serving time in correctional institutions;

(I) individuals who participate in programs designed to eliminate gender bias and sex stereotyping in vocational education;

[1] So in original. Probably should be ''part''.

(J) minorities; and
(K) displaced homemakers.

(3) The Secretary, in consultation with the National Center and the Office, shall maintain and update the system at least every 3 years and assure the system provides the highest quality statistics and is adequate to meet the information needs of this chapter. In carrying out the requirements of this paragraph, the Secretary shall ensure that appropriate methodologies are used in assessments of students of limited English proficiency and students with handicaps to ensure valid and reliable comparisons with the general student population and across program areas. With respect to standardized tests and assessments administered under this chapter, test results shall be used as 1 of multiple independent indicators in assessment of performance and achievement.

(d) Assessment of international competitiveness

The Center shall carry out an assessment of data availability and adequacy with respect to international competitiveness in vocational skills. To the extent practicable, the assessment shall include comparative policy-relevant data on vocational education in nations which are major trade partners of the United States. The assessment shall at a minimum identify available internationally comparative data on vocational education and options for obtaining and upgrading such data. The results of the assessment required by this paragraph shall be reported to the appropriate committees of the Congress not later than August 31, 1994.

(e) Use of and compatibility with other data collection systems

(1) In establishing, maintaining, and updating the system, the Secretary shall—

(A) use existing data collection systems operated by the Secretary and, to the extent appropriate, data collection systems operated by other Federal agencies;

(B) conduct additional data collection efforts to augment the data collection systems described in subparagraph (A) by providing information necessary for policy analysis required by this section; and

(C) use any independent data collection efforts that are complementary to the data collection efforts described in subparagraphs (A) and (B).

(2) In carrying out the responsibilities imposed by this part, the Secretary shall cooperate with the Secretary of Commerce, the Secretary of Labor, and the National Occupational Information Coordinating Committee established under section 2422 of this title with respect to the development of an information system under section 1753 of title 29 to ensure that the information system operated under this section is compatible with and complementary to other occupational supply and demand information systems developed or maintained with Federal assistance. The Secretary shall also ensure that the system allows international comparisons to the extent feasible.

(3) The Secretary shall assure that the system, to the extent practicable, uses data definitions common to State plans, performance standards, local applications and evaluations required by this chapter. The data in the system shall be available for use in preparing such plans, standards, applications, and evaluations.

(f) Reports

The Secretary shall report to the Congress at least biennially with respect to—

(1) the performance of the system established under subsection (a) of this section; and

(2) strategies to improve the system and expand its implementation.

(g) Vocational Education Advisory Task Force

(1) The Secretary, in consultation with the National Center and the Office shall establish a Vocational Education Advisory Task Force.

(2) The Secretary shall establish the Task Force before the expiration of the 90-day period beginning on September 25, 1990, and shall terminate upon the expiration of the 2-year period beginning on such date.

(3) The Task Force shall advise the Secretary on the development and implementation of an information reporting and accounting system responsive to the diverse programs supported by this chapter.

(4) The membership of the Task Force shall be representative of Federal, State, and local agencies and Tribal agencies affected by technological information, representatives of secondary and vocational postsecondary educational institutions, representatives of vocational student organizations, representatives of special populations, representatives of adult training programs funded under this chapter, and representatives of apprenticeships, business, and industry.

(5) The National Center shall provide the Task Force with staff for the purpose of carrying out its functions.

(h) Assessment of educational progress activities

(1) As a regular part of its assessments, the National Assessment of Educational Progress shall collect and report information for at least a nationally representative subsample of vocational education students, including students who are members of special populations, which shall allow for fair and accurate assessment and comparison of the educational achievement of vocational education students and other students in the areas assessed. Such assessment may include international comparisons.

(2)(A) Notwithstanding any provision of section 1221e–1[1] of this title, the Commissioner of Education Statistics may authorize a State educational agency or a consortium of such agencies to use items and data from the National Assessment of Educational Progress for the purpose of evaluating a course of study related to vocational education, if the Commissioner has determined, in writing, that such use will not—

(i) result in the identification of characteristics or performance of individual students or schools;

(ii) result in the ranking or comparing of schools or local educational agencies;

(iii) be used to evaluate the performance of teachers, principals, or other local educators

[1] See References in Text note below.

for the purpose of dispensing rewards or punishments; or

(iv) corrupt or harm the use and value of data collected for the National Assessment of Educational Progress.

(B) Not later than 60 days after making an authorization under subsection (a) of this section, the Commissioner shall submit to the Committee on Education and Labor of the House of Representatives and to the Committee on Labor and Human Resources of the Senate, a report which contains—

(i) a copy of the request for such authorization;

(ii) a copy of the written determination under subsection (a) of this section; and

(iii) a description of the details and duration of such authorization.

(C) The Commissioner may not grant more than one such authorization in any fiscal year and shall ensure that the authorized use of items or data from the National Assessment is evaluated for technical merit and for its affect on the National Assessment of Educational Progress. The results of such evaluations shall be promptly reported to the committees specified in subparagraph (B).

(Pub. L. 88–210, title IV, § 421, as added Pub. L. 98–524, § 1, Oct. 19, 1984, 98 Stat. 2472; amended Pub. L. 101–392, title IV, § 407, Sept. 25, 1990, 104 Stat. 822; Pub. L. 101–476, title IX, § 901(a)(2), Oct. 30, 1990, 104 Stat. 1142; Pub. L. 103–227, title X, § 1021, Mar. 31, 1994, 108 Stat. 269.)

REFERENCES IN TEXT

Section 1221e–1 of this title, referred to in subsec. (h)(1), was repealed by Pub. L. 103–382, title II, § 212(a)(1), Oct. 20, 1994, 108 Stat. 3913. See section 9001 et seq. of this title.

AMENDMENTS

1994—Subsec. (h). Pub. L. 103–227 designated existing provisions as par. (1) and added par. (2).

1990—Pub. L. 101–392 amended section generally, substituting provisions relating to establishment by Secretary of vocational educational data system, to be developed and implemented by National Center for Education Statistics, functions and contents of data system, assessment of international competitiveness, use of and compatibility with other data collection systems, reports to Congress, and establishment of Vocational Education Advisory Task Force, for provisions which related to development within National Center for Education Statistics of national vocational education data reporting and accounting system, contents of data system, cost containment measures, compatibility with other systems, cooperation by States, updates of system, and special studies on enrollment of disadvantaged students.

Subsec. (b)(1). Pub. L. 101–476 substituted reference to Individuals with Disabilities Education Act for reference to Education of the Handicapped Act.

CHANGE OF NAME

Committee on Education and Labor of House of Representatives treated as referring to Committee on Economic and Educational Opportunities of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Economic and Educational Opportunities of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Fifth Congress, Jan. 7, 1997.

EFFECTIVE DATE OF 1990 AMENDMENTS

Amendment by Pub. L. 101–476 effective Oct. 1, 1991, see section 1001 of Pub. L. 101–476, set out as a note under section 1087ee of this title.

Amendment by Pub. L. 101–392 effective July 1, 1991, see section 702(a) of Pub. L. 101–392, set out as a note under section 2301 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2402, 2414, 2423, 2451 of this title.

§ 2422. National Occupational Information Coordinating Committee

(a) Establishment of National Occupational Information Coordinating Committee; membership; functions

There is established a National Occupational Information Coordinating Committee (in this section referred to as the ''Committee'') which shall consist of the Assistant Secretary for Vocational and Adult Education, the Commissioner of the Rehabilitative Services Administration, the Director of the Office of Bilingual Education and Minority Language Affairs, the Assistant Secretary for Postsecondary Education, and the Administrator of the National Center for Education Statistics of the Department of Education, the Commissioner of Labor Statistics and the Assistant Secretary for Employment and Training of the Department of Labor, the Undersecretary for Small Community and Rural Development of the Department of Agriculture, the Assistant Secretary for Economic Development of the Department of Commerce, and the Assistant Secretary of Defense (Force Management and Personnel). The Committee, with funds available to it under section 2451 of this title, shall provide funds, on an annual basis, to State occupational information coordinating committees and to eligible recipients and shall—

(1) in the use of program data and employment data, improve coordination and communication among administrators and planners of programs authorized by this chapter and by the Job Training Partnership Act [29 U.S.C. 1501 et seq.], employment security agency administrators, research personnel, and personnel of employment and training planning and administering agencies (including apprenticeship training agencies) at the Federal, State, and local levels;

(2) develop and implement, in cooperation with State and local agencies, an occupational information system to meet the common occupational information needs of vocational education programs and employment and training programs (including postsecondary employment and training programs) at the national, State, and local levels, which system shall include data on occupational demand and supply based on uniform definitions, standardized estimating procedures, and standardized occupational classifications, including regularly updated data on employment demand for agribusiness;

(3) conduct studies to improve the quality and delivery of occupational information systems to assist economic development activities, and examine the effects of technological

change on new and existing occupational areas and the required changes in knowledge and job skills;

(4) continue training, technical assistance activities to support comprehensive career guidance, and vocational counseling programs designed to promote improved career decision-making by individuals (especially in areas of career information delivery and use);

(5) coordinate the efforts of Federal, State, and local agencies and Tribal agencies with respect to such programs; and

(6) assist State occupational information coordinating committees established pursuant to subsection (b) of this section.

(b) State occupational information coordinating committees; membership; functions

Each State receiving assistance under this chapter shall establish a State occupational information coordinating committee composed of representatives of the State board, the State employment security agency, the State economic development agency, the State job training coordinating council, the State board or agency governing higher education, and the agency administering the vocational rehabilitation program. Such committee shall, with funds available to it from the National Occupational Information Coordinating Committee established pursuant to subsection (a) of this section—

(1) implement an occupational information system in the State which will meet the common needs for the planning for, and the operation of, programs of the State board assisted under this chapter, of the administering agencies under the Job Training Partnership Act [29 U.S.C. 1501 et seq.] and of the State board or agency governing higher education; and

(2) use the occupational information system to implement a career information delivery system.

(c) Demonstration program to monitor educational outcomes

(1)(A) The Committee, in consultation with the National Center or Centers for Research in Vocational Education, appropriate Federal agencies, and the States, shall establish a demonstration program to monitor educational outcomes for vocational education using wage and other records. The Committee shall develop procedures for establishing and maintaining nationally accessible information on a sample of wage and earning records maintained by States on earnings, establishment and industry affiliation and geographical location, and on educational activities. This information shall be collected on at least an annual basis. The program shall ensure that a scientific sample of vocational education students and nonvocational education students, local educational agencies, and States participate in the program. The Committee shall maintain, analyze, and report data collected under the program and shall provide technical assistance to States, local educational agencies, and others that wish to participate in the study.

(B)(i) Participation in the program described in subparagraph (A) shall be voluntary. The Committee shall enter into an agreement with any State which desires to carry out a study for the State under this subsection. Each such agreement shall contain provisions designed to assure—

(I) that the State will participate in the study;

(II) that the State will pay from non-Federal sources the non-Federal share of participation; and

(III) that the State agrees to the terms and conditions specified in this section.

(ii) For each fiscal year, the non-Federal share for the purpose of this program shall be the cost of conducting the study in the State, including the cost of administering the assessment for the State sample and the cost of coordination within the State.

(2) The program shall provide for an independent evaluation conducted by the Office of Technology Assessment of the Congress to assess the validity, fairness, accuracy, and utility of the data it produces. The report shall also describe the technical problems encountered and a description of what was learned about how to best implement and utilize data from the program.

(3) The provision of wage and other records to the Committee by a State employment security agency shall be voluntary and pursuant to an agreement between the Committee and the agency. Such agreement shall take into consideration issues such as—

(A) reimbursing the State employment security agency for the costs to the agency of providing the information; and

(B) compliance with safeguards established by the State employment security agency and determined by the Secretary of Labor to be appropriate to ensure that the information disclosed to the Committee is used only for the purposes of this subsection.

(4) The Executive Director of the Committee, in consultation with the Secretary, shall ensure that all personally identifiable information about students, their educational performance and their families and information with respect to individual schools shall remain confidential in accordance with the provisions of section 552 of title 5. The data gathered under this subsection shall not be used to rank, compare, or otherwise evaluate individual students or individual schools. No individual may be included in the program without that individual's written consent. At least once every 3 years the Secretary shall remind participants in writing of their inclusion in the program.

(d) Data collection system

In the development and design of a system to provide data on graduation or completion rates, job placement rates from occupationally specific programs, licensing rates, and awards of high school graduate equivalency diplomas (GED), each State board for higher education shall develop a data collection system the results of which can be integrated into the occupational information system developed under this section.

(e) Use of funds

Of amounts reserved under section 2451(a)(3)(A) of this title to carry out the provisions of this section, the Committee shall use—

(1) to support State occupational information coordinating committees for the purpose of operating State occupational information systems and career information delivery systems, the greater of—

(A) an amount equal to the aggregate amount appropriated or otherwise made available for that purpose for the fiscal year 1990; or

(B) an amount equal to 75 percent of the aggregate amount appropriated or otherwise made available to carry out this section; and

(2) for purposes of carrying out subsection (c) of this section—

(A) an amount equal to not less than 10 percent of the amounts available to carry out this section; or

(B) if the amount remaining after carrying out paragraph (1) is insufficient to provide the amount described in subparagraph (A), such remaining amount.

(Pub. L. 88–210, title IV, § 422, as added Pub. L. 98–524, § 1, Oct. 19, 1984, 98 Stat. 2473; amended Pub. L. 101–392, title IV, § 408, Sept. 25, 1990, 104 Stat. 825; Pub. L. 103–227, title IX, § 991, Mar. 31, 1994, 108 Stat. 264.)

REFERENCES IN TEXT

The Job Training Partnership Act, referred to in subsecs. (a)(1) and (b)(1), is Pub. L. 97–300, Oct. 13, 1982, 96 Stat. 1322, as amended, which is classified generally to chapter 19 (§ 1501 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 1501 of Title 29 and Tables.

AMENDMENTS

1994—Subsec. (a)(2). Pub. L. 103–227, § 991(1), inserted ''(including postsecondary employment and training programs)'' after ''training programs''.

Subsec. (b). Pub. L. 103–227, § 991(2)(B), inserted ''the State board or agency governing higher education,'' after ''coordinating council,'' in introductory provisions.

Subsec. (b)(1), (2). Pub. L. 103–227, § 991(2)(A), (C), redesignated subpars. (A) and (B) as pars. (1) and (2), respectively, and in par. (1) substituted ''chapter, of'' for ''chapter and of'' before ''the administering agencies'' and inserted ''and of the State board or agency governing higher education'' after ''Job Training Partnership Act''.

Subsecs. (d), (e). Pub. L. 103–227, § 991(3), (4), added subsec. (d) and redesignated former subsec. (d) as (e).

1990—Pub. L. 101–392, § 408(a), substituted ''National Occupational Information Coordinating Committee'' for ''Occupational information system'' in section catchline.

Subsec. (a). Pub. L. 101–392, § 408(b)(1)(A)–(C), in introductory provisions inserted ''(in this section referred to as the 'Committee')'' after ''Coordinating Committee'' and ''the Assistant Secretary for Postsecondary Education,'' after ''Office of Bilingual Education and Minority Language Affairs,'' and substituted ''(Force Management and Personnel)'' for ''(Manpower, Reserve Affairs, and Logistics)''.

Subsec. (a)(2). Pub. L. 101–392, § 408(b)(1)(D), inserted before semicolon at end '', including regularly updated data on employment demand for agribusiness''.

Subsec. (a)(3). Pub. L. 101–392, § 408(b)(1)(E), substituted ''conduct studies to improve the quality and delivery of occupational information systems to assist economic development activities, and examine'' for ''contract studies on'' and struck out ''and'' at end.

Subsec. (a)(4) to (6). Pub. L. 101–392, § 408(b)(1)(F), (G), added pars. (4) and (5) and redesignated former par. (4) as (6).

Subsecs. (c), (d). Pub. L. 101–392, § 408(b)(2), added subsecs. (c) and (d).

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–392 effective July 1, 1991, see section 702(a) of Pub. L. 101–392, set out as a note under section 2301 of this title.

TRANSITION PROVISIONS

Section 3(b)(1) of Pub. L. 98–524 provided that: ''On the effective date of the Carl D. Perkins Vocational Education Act [see Effective Date note set out under section 2301 of this title], the personnel, property, and records of the National Occupational Information Coordinating Committee established under section 161(b) of the Vocational Education Act of 1963 [Pub. L. 88–210, title I, as added Pub. L. 94–482, title II, § 202(a), Oct. 12, 1976, 90 Stat. 2197, and amended, formerly 20 U.S.C. 2391(b)] shall be transferred to the National Occupational Information Coordinating Committee established pursuant to section 422 of this Act [this section].''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2421, 2451 of this title; title 29 sections 1505, 1753, 1754.

§ 2423. Information base for vocational education data system

(a) Information relating to students with handicaps

(1) The Secretary shall ensure that adequate information on access to vocational education by secondary school students with handicaps is maintained in the data system established under section 2421 of this title.

(2) The system shall include detailed information obtained through scientific sample surveys concerning—

(A) types of programs available; and

(B) enrollment of students with handicaps by—

(i) type of program;

(ii) type of instructional setting; and

(iii) type of handicap.

(3)(A) The General Accounting Office shall conduct a 3-year study, using representative samples, of the effects of the amendments made by title II of the Carl D. Perkins Vocational and Applied Technology Education Amendments of 1990 on the access to and participation in vocational education of disadvantaged students, students with handicaps, students of limited English proficiency, and, to the extent practicable, foster children.

(B) The study shall include consideration of issues such as—

(i) the proportion of students described in paragraph (1) who are enrolled in vocational education programs during the first 3 program years to which the amendments made by the Carl D. Perkins Vocational and Applied Technology Education Amendments Act of 1990 apply compared to the program year preceding such years;

(ii) the number of such students who enroll in vocational education programs for the first time during the period of study;

(iii) the number of such students who participate in vocational education programs that lead to an occupational skill or job placement;

(iv) the extent to which academics are incorporated with vocational education courses;

(v) the manner in which vocational education programs have addressed special needs of such students for supportive services, material, and equipment;

(vi) the comparability of vocational education services provided to such students with vocational education services provided to students who are not members of special populations; and

(vii) in the case of students with handicaps—

(I) the types and severity of handicaps of such students who enroll in vocational education programs;

(II) the extent to which such students participate in the same vocational education programs as students who do not have handicaps;

(III) the number of such students with individualized education programs developed under section 1414(a)(5)[1] of this title who have individualized education programs that include vocational education programs;

(IV) the extent to which special personnel such as special education personnel or vocational rehabilitation personnel assist in the selection and provision of vocational education programs with respect to such students;

(V) the extent to which such students and their parents are involved in selecting vocational education courses and programs;

(VI) the number of such students who have returned to secondary vocational education programs after dropping out of or formally exiting the local educational system; and

(VII) the ages of such students.

(C) In conducting the study required by this subsection, the General Accounting Office may consider and include information from other sources to address or augment the issues considered in the study.

(4) The General Accounting Office shall submit to the appropriate committees of the Congress a report describing the results of the study conducted as required by this subsection not later than July 1, 1995.

(b) Information relating to students who have completed secondary school

(1) To carry out the provisions of this section, in accordance with the provisions of section 472 of title 2, the Office of Technology Assessment shall conduct an assessment of a sample of tests designed to be administered to students who have completed secondary school to assess the level of technical knowledge relating to broad technical fields possessed by such students. The assessment shall include at least—

(A) an assessment of the quality, validity, reliability, and predictive capability of widely used vocational aptitude and competency tests and assessments, with particular attention to—

(i) the use of such assessments with respect to students who are members of special populations; and

(ii) patterns of actual usage with respect to entry into vocational education programs, promotion within such programs, completion of such programs, and placement in appropriate positions;

(B) identification of trends in such tests and assessments, including any relationship to vocational education curricula; and

(C) identification of policy options for—

(i) strengthening development and quality of such tests and assessments to ensure that such tests and assessments are conducted in an impartial manner that does not penalize students on the basis of race, sex, or economic background; and

(ii) means of sustaining competition in the development of such tests and assessments.

(2) The results of the study required by paragraph (1) shall be reported to the appropriate committees of the Congress not later than September 30, 1994.

(Pub. L. 88–210, title IV, § 423, as added Pub. L. 98–524, § 1, Oct. 19, 1984, 98 Stat. 2474; amended Pub. L. 101–392, title IV, § 409, Sept. 25, 1990, 104 Stat. 827.)

REFERENCES IN TEXT

The Carl D. Perkins Vocational and Applied Technology Education Amendments of 1990, referred to in subsec. (a)(3)(A), (B)(i), is Pub. L. 101–392, Sept. 25, 1990, 104 Stat. 753. Title II of the Act amended generally subchapter II (§ 2331 et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title of 1990 Amendment note set out under section 2301 of this title and Tables.

Section 1414(a)(5) of this title, referred to in subsec. (a)(3)(B)(vii)(III), was in the original a reference to section 614(a)(5) of the Education of the Handicapped Act (now the Individuals with Disabilities Education Act), Pub. L. 91–230, title VI. Section 614 was omitted in the general amendment of subchapter II of chapter 33 of this title by Pub. L. 105–17, title I, § 101, June 4, 1997, 111 Stat. 37. Pub. L. 105–17 enacted a new section 614 of Pub. L. 91–230, which is classified to section 1414 of this title, and which no longer contains a subsec. (a)(5).

AMENDMENTS

1990—Pub. L. 101–392 amended section generally. Prior to amendment, section read as follows: ''The Secretary shall assure that adequate information on the access to vocational education programs by handicapped secondary school students be included in the national vocational education data system, required by section 161 of the Vocational Education Act of 1963 and by this part, for the biennial survey. The information base for the biennial survey for the handicapped shall be in 4-digit detail as defined in A Classification of Instructional Programs published by the National Center for Educational Statistics. The survey shall include information with respect to total handicapped enrollment by program, by type of instructional setting, and by type of handicapping condition.''

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–392 effective July 1, 1991, see section 702(a) of Pub. L. 101–392, set out as a note under section 2301 of this title.

§ 2424. Miscellaneous provisions

(a) Collection of information at reasonable cost

The Secretary shall take such action as may be necessary to secure at reasonable cost the information required by this part. To ensure reasonable cost, the Secretary, in consultation with the Vocational Education Task Force, the

[1] See References in Text note below.

National Center for Education Statistics, the Office of Vocational and Adult Education, and the National Occupational Information Coordinating Committee shall determine the methodology to be used and the frequency with which information is to be collected.

(b) Cooperation of States

All States receiving assistance under this chapter shall cooperate with the Secretary in implementing the information systems developed pursuant to this part.

(Pub. L. 88–210, title IV, § 424, as added Pub. L. 101–392, title IV, § 410, Sept. 25, 1990, 104 Stat. 829.)

EFFECTIVE DATE

Section effective July 1, 1991, see section 702(a) of Pub. L. 101–392, set out as an Effective Date of 1990 Amendment note under section 2301 of this title.

PART D—NATIONAL COUNCIL ON VOCATIONAL EDUCATION

§ 2431. Repealed. Pub. L. 101–392, title IV, § 411(a), Sept. 25, 1990, 104 Stat. 829

Section, Pub. L. 88–210, title IV, § 431, as added Pub. L. 98–524, § 1, Oct. 19, 1984, 98 Stat. 2474, established National Council on Vocational Education.

EFFECTIVE DATE OF REPEAL

Section 411(c) of Pub. L. 101–392 provided that: ''The amendments made by subsections (a) [repealing this section] and (b) shall take effect on October 1, 1991.''

PART E—BILINGUAL VOCATIONAL TRAINING

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 2302, 2311 of this title.

§ 2441. Program authorized

(a) Authority of Secretary; institutions serving individuals with limited English proficiency; uses of grants and contracts

(1) From the sums made available to carry out this section in each fiscal year under section 2302(d)[1] of this title, the Secretary is authorized to make grants to and to enter into contracts with appropriate State agencies, local educational agencies, postsecondary educational institutions, private nonprofit vocational training institutions, and other nonprofit organizations specially created to serve individuals who normally use a language other than English, for bilingual vocational education and training for individuals with limited English proficiency to prepare such individuals for jobs in recognized occupations and new and emerging occupations. Such training shall include instruction in the English language to ensure that participants in such training will be equipped to pursue such occupations in an English language environment. The Secretary may also enter into contracts with private for-profit agencies and organizations for bilingual vocational education and training programs.

(2) Grants and contracts under this subsection may be used for—

(A) bilingual vocational training programs for individuals who have completed or left elementary or secondary school and who are available for education in a postsecondary educational institution;

(B) bilingual vocational education and training programs for individuals who have already entered the labor market and who desire or need training or retraining to achieve year-round employment, adjust to changing manpower needs, expand their range of skills, or advance in employment; and

(C) training allowances for participants in bilingual vocational training programs.

(b) Instructor training; preservice or inservice training; fellowships or traineeships; limitation on grant authority of Secretary

(1) From the sums made available to carry out this section, the Secretary is authorized to make grants to and to enter into contracts with State agencies and public and private nonprofit educational institutions and to enter into contracts with private for-profit educational institutions to assist such entities in conducting training for instructors of bilingual vocational education and training programs.

(2) Grants and contracts under this subsection may be used for—

(A) preservice and inservice training for instructors, aides, counselors, or other ancillary personnel participating or preparing to participate in bilingual vocational training programs; and

(B) fellowships and traineeships for individuals participating in preservice or inservice training.

(3) The Secretary may not make a grant or enter into a contract under this subsection unless the Secretary determines that the applicant has an ongoing vocational training program in the field in which participants will be trained and can provide instructors with adequate language capabilities in the language other than English to be used in the program.

(c) Instructional and curriculum materials; methods; techniques; research and training

(1) From the sums made available to carry out this section, the Secretary is authorized to make grants to and to enter into contracts with State agencies, educational institutions, and appropriate nonprofit organizations, and to enter into contracts with private for-profit organizations and individuals, to assist in the development of instructional and curriculum materials, methods, or techniques for bilingual vocational training.

(2) Grants and contracts under this subsection may be used for—

(A) research in bilingual vocational training;

(B) training programs to familiarize State agencies and training institutions with research findings and with successful pilot and demonstration projects in bilingual vocational education and training; and

(C) experimental, developmental, pilot, and demonstration projects.

(d) Submission of application to Secretary; contents; Secretary to consult with State board; approval of application

(1) Any eligible entity which desires to receive a grant from the Secretary under subsection (a),

[1] See References in Text note below.

(b), or (c) of this section shall submit an application to the Secretary in such form, at such times, and accompanied by such information as the Secretary may require. Such application shall provide that the activities and services for which assistance is sought will be administered by or under the supervision of the applicant.

(2) An application pursuant to subsection (a) of this section shall (A) set forth a program of such size, scope, and design as will make a substantial contribution toward carrying out the purposes of this section, and (B) be submitted to the State board or agency under section 2321 of this title for review and comment. Any such comments shall be included for submission to the Secretary.

(3) An application pursuant to subsection (c) of this section shall set forth the qualifications of staff responsible for any such program.

(4) An application pursuant to subsection (b) of this section shall—

(A) describe the capabilities of the applicant (including vocational training or education courses offered by the applicant, accreditation, and any certification of courses by appropriate State agencies);

(B) describe the qualifications of principal staff responsible for any program under subsection (b) of this section; and

(C) describe minimum qualifications for individuals participating or to participate in any program, describe the selection process for such individuals, and the projected amount of the fellowships or traineeships, if any.

(5) Prior to making grants or contracts under subsection (a) or (b) of this section, the Secretary shall consult with the State board under section 2321 of this title to ensure an equitable distribution of assistance among populations of individuals with limited English proficiency within the State.

(6) The Secretary may approve an application for assistance under this section only if the application meets the requirements set forth under this section. An amendment to an application shall, except as the Secretary may otherwise provide, be subject to approval in the same manner as the initial application.

(e) Consultation with Secretary of Labor; programs in Puerto Rico; gathering and dissemination of information

(1) The Secretary shall administer programs under this section in consultation with the Secretary of Labor.

(2) Programs of bilingual vocational education and training under this section in the Commonwealth of Puerto Rico may provide for the needs of students of limited Spanish proficiency.

(3) The Secretary of Education, in consultation with the Secretary of Labor, shall gather and disseminate information concerning the status of bilingual vocational education in all geographic regions and shall evaluate the impact of bilingual vocational education on occupational shortages of skilled workers, the unemployment or underemployment of individuals with limited English proficiency, and the ability of such individuals to acquire sufficient job skills and English language skills to fully contribute to the economy.

(f) Minimum funding for grants and contracts

(1) For each fiscal year, not less than 75 per centum of sums appropriated for the purposes of this section shall be available only for grants and contracts under subsection (a) of this section.

(2) For each fiscal year, not less than 15 per centum of the sums appropriated for the purposes of this section shall be available only for grants and contracts under subsection (b) of this section.

(3) For each fiscal year, not less than 10 per centum of sums appropriated for the purposes of this section shall be available only for grants and contracts under subsection (c) of this section.

(Pub. L. 88–210, title IV, § 441, as added Pub. L. 98–524, § 1, Oct. 19, 1984, 98 Stat. 2477; amended Pub. L. 104–66, title I, § 1041(h), Dec. 21, 1995, 109 Stat. 715.)

REFERENCES IN TEXT

Section 2302 of this title, referred to in subsec. (a)(1), was amended generally by Pub. L. 101–392, § 3, Sept. 25, 1990, 104 Stat. 756, and, as so amended, provisions relating to bilingual vocational training programs, which formerly appeared in subsec. (d), are contained in subsec. (f)(2).

AMENDMENTS

1995—Subsec. (e)(3). Pub. L. 104–66 struck out at end ''The Secretary of Education and the Secretary of Labor shall annually report their findings to the President and the Congress.''

PART F—GENERAL PROVISIONS

§ 2451. Distribution of assistance

(a) In general

Subject to the provisions of subsection (b) of this section and section 2466a of this title, of the amounts available pursuant to section 2302(e)(1)[1] of this title for any fiscal year for this subchapter—

(1) 30 percent shall be available for part A, relating to research and development, of which 90 percent shall be available for section 2404 of this title, relating to the National Center or Centers;

(2) 30 percent shall be available for part B, relating to demonstration programs; and

(3) 40 percent shall be available for part C, relating to vocational education and occupational information data systems, of which not less than—

(A) 22 percent of the total amount appropriated pursuant to the authority of section 2302(e) of this title shall be available to carry out section 2422 of this title, relating to the National Occupational Information Coordinating Committee;

(B) 8 percent shall be available to carry out the provisions of section 2421 of this title, relating to data systems; and

(C) 10 percent shall be available to carry out the provisions of section 2402(c) of this title, relating to the National Network for Curriculum Coordination.

(b) Hold harmless

Notwithstanding the provisions of subsection (a) of this section, the amounts available to

[1] So in original. Probably should be section ''2302(e)''.

carry out the activities described in subsection (a)(1) of this section and in subsections (a)(3)(A) and (a)(3)(C) of this section shall be at least equal to the amounts made available for such activities in the fiscal year 1990.

(Pub. L. 88–210, title IV, § 451, as added Pub. L. 98–524, § 1, Oct. 19, 1984, 98 Stat. 2479; amended Pub. L. 101–392, title IV, § 412, Sept. 25, 1990, 104 Stat. 829.)

AMENDMENTS

1990—Pub. L. 101–392 amended section generally. Prior to amendment, section read as follows:

''(a) Subject to the provisions of subsection (b) of this section, of the amounts available pursuant to section 2302(e) of this title for any fiscal year for this subchapter—

''(1) 35 percent shall be available for part A, relating to research,

''(2) 35 percent shall be available for part B, relating to demonstration projects; and

''(3) 30 percent shall be available for part C, relating to vocational education in occupational information data systems.

''(b) Notwithstanding the provisions of subsection (a) of this section—

''(1) there shall be available in each fiscal year not less than $6,000,000 to carry out the provisions of section 2404 of this title, relating to the National Center for Research;

''(2) there shall be available for each fiscal year not less than $3,500,000 for the purpose of carrying out section 2422 of this title, relating to the occupational information system; and

''(3) there shall be available in each fiscal year $500,000 for the purpose of carrying out part D, relating to the National Council.''

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–392 effective July 1, 1991, see section 702(a) of Pub. L. 101–392, set out as a note under section 2301 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2404, 2422 of this title.

SUBCHAPTER V—GENERAL PROVISIONS

PART A—FEDERAL ADMINISTRATIVE PROVISIONS

§ 2461. Payments

(a) Federal share of costs of carrying out State plan

The Secretary shall pay from its allotment under section 2311 of this title to each State for any fiscal year for which the State has a State plan approved in accordance with section 2324 of this title (including any amendment to such plan) the Federal share of the costs of carrying out the State plan.

(b) State councils

The Secretary shall pay to each State council of a State which has a State plan approved in accordance with section 2324 of this title, from its allotment under section 2322(f) of this title, an amount equal to the reasonable amounts expended by the State council in carrying out its functions under this chapter in such fiscal year.

(Pub. L. 88–210, title V, § 501, as added Pub. L. 98–524, § 1, Oct. 19, 1984, 98 Stat. 2479.)

§ 2462. Repealed. Pub. L. 101–392, title V, § 501(a)(1), Sept. 25, 1990, 104 Stat. 830

Section, Pub. L. 88–210, title V, § 502, as added Pub. L. 98–524, § 1, Oct. 19, 1984, 98 Stat. 2479; amended Pub. L. 99–159, title VII, § 711, Nov. 22, 1985, 99 Stat. 907, related to Federal share of, and non-Federal contributions for, costs of vocational education programs.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1991, see section 702(a) of Pub. L. 101–392, set out as an Effective Date of 1990 Amendment note under section 2301 of this title.

§ 2463. Maintenance of effort

(a) Limitation on payments; determination by Secretary

No payments shall be made under this chapter for any fiscal year to a State unless the Secretary determines that the fiscal effort per student or the aggregate expenditures of such State for vocational education for the fiscal year preceding the fiscal year for which the determination is made, equaled or exceeded such effort or expenditures for vocational education for the second preceding fiscal year.

(b) Waiver of requirements

The Secretary may waive the requirements of this section (with respect to not more than 5 percent of expenditures by any State educational agency) for one fiscal year only, upon making a determination that such waiver would be equitable due to exceptional or uncontrollable circumstances affecting the ability of the applicant to meet such requirements, such as a natural disaster or an unforeseen and precipitous decline in financial resources. No level of funding permitted under such a waiver may be used as the basis for computing the fiscal effort required under this section for years subsequent to the year covered by such waiver; such fiscal effort shall be computed on the basis of the level of funding which would, but for such waiver, have been required.

(Pub. L. 88–210, title V, § 502, formerly § 503, as added Pub. L. 98–524, § 1, Oct. 19, 1984, 98 Stat. 2480; renumbered § 502 and amended Pub. L. 101–392, title V, § 501(a)(2), (b), Sept. 25, 1990, 104 Stat. 830.)

PRIOR PROVISIONS

A prior section 502 of Pub. L. 88–210 was classified to section 2462 of this title, prior to repeal by Pub. L. 101–392.

AMENDMENTS

1990—Subsec. (b). Pub. L. 101–392, § 501(b), inserted ''(with respect to not more than 5 percent of expenditures by any State educational agency)'' after ''requirements of this section''.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–392 effective July 1, 1991, see section 702(a) of Pub. L. 101–392, set out as a note under section 2301 of this title.

§§ 2464, 2465. Repealed. Pub. L. 101–392, title V, § 501(a)(1), Sept. 25, 1990, 104 Stat. 830

Section 2464, Pub. L. 88–210, title V, § 504, as added Pub. L. 98–524, § 1, Oct. 19, 1984, 98 Stat. 2480; amended Pub. L. 99–159, title VII, § 713(a)(3), Nov. 22, 1985, 99 Stat.

907, related to withholding of payments and judicial review of such action.

Section 2465, Pub. L. 88–210, title V, § 505, as added Pub. L. 98–524, § 1, Oct. 19, 1984, 98 Stat. 2482, required States to conduct biennial audits.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1991, see section 702(a) of Pub. L. 101–392, set out as an Effective Date of 1990 Amendment note under section 2301 of this title.

§ 2466. Authority to make payments

Any authority to make payments or to enter into contracts under this chapter shall be available only to such extent or in such amounts as are provided in advance appropriation Acts.

(Pub. L. 88–210, title V, § 503, formerly § 506, as added Pub. L. 98–524, § 1, Oct. 19, 1984, 98 Stat. 2482; renumbered § 503, Pub. L. 101–392, title V, § 501(a)(2), Sept. 25, 1990, 104 Stat. 830.)

PRIOR PROVISIONS

A prior section 503 of Pub. L. 88–210 was renumbered section 502 and is classified to section 2463 of this title.

§ 2466a. Regional meetings and negotiated rulemaking

(a) In general

(1) The Secretary shall convene regional meetings to obtain public involvement in the development of proposed regulations under the Carl D. Perkins Vocational and Applied Technology Education Act Amendments of 1990. Such meetings shall include individuals and representatives of groups involved in vocational education programs under this chapter, such as Federal, State, tribal and local administrators, parents, teachers, members of local boards of education and special populations.

(2) During each meeting described in paragraph (1), the Secretary shall provide for a comprehensive discussion and exchange of information on at least 4 key issues, selected by the Secretary, concerning implementation of the Carl D. Perkins Vocational and Applied Technology Education Act Amendments of 1990. The Secretary shall take into account information received at such meetings in the development of proposed regulations, and shall publish a summary of such information in the Federal Register together with such proposed regulations.

(b) Draft regulations

After holding regional meetings and before publishing proposed regulations in the Federal Register, the Secretary shall prepare draft regulations under this chapter and submit regulations on at least 2 key issues to a negotiated rulemaking process. The Secretary shall follow the guidance provided in the Administrative Conference of the United States in Recommendation 82–4 and 85–5, ''Procedures for Negotiating Proposed Regulations'' (1 C.F.R. 305.82–4 and 85–5) and any successor recommendation, regulation, or law. Participants in the negotiation process shall be chosen by the Secretary from among participants in the regional meetings, representing the groups described in subsection (a)(1) of this section and all geographic regions. At least 10 participants, 1 from each of the regions served by a regional office established pursuant to section 3476 of this title, representing the groups described in subsection (a)(1) of this section, shall be chosen under the preceding sentence. The negotiation process shall be conducted in a timely manner in order that final regulations may be issued by the Secretary within the 360-day period required by section 1232(e) of this title.

(c) Special rule

If a regulation must be issued within a very limited time period to assist States and eligible recipients with the operation of a program under this chapter, the Secretary may issue a regulation without fulfilling the requirements of subsections (a) and (b) of this section, but shall immediately convene regional meetings to review the regulation before such regulation is issued in final form.

(d) Applicability of Federal Advisory Committee Act

The Federal Advisory Committee Act shall not apply to activities carried out under this section.

(e) Reservation of amounts

For the fiscal year 1991, the Secretary may reserve for purposes of carrying out subsection (b) of this section not more than $300,000 from amounts made available under section 2302(e) of this title.

(Pub. L. 88–210, title V, § 504, as added Pub. L. 101–392, title V, § 501(c)(2), Sept. 25, 1990, 104 Stat. 830; amended Pub. L. 103–382, title II, § 261(i)(1), Oct. 20, 1994, 108 Stat. 3929.)

REFERENCES IN TEXT

The Carl D. Perkins Vocational and Applied Technology Education Act Amendments of 1990, referred to in subsec. (a), is Pub. L. 101–392, Sept. 25, 1990, 104 Stat. 753. For complete classification of this Act to the Code, see Short Title of 1990 Amendment note set out under section 2301 of this title.

The Federal Advisory Committee Act, referred to in subsec. (d), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

PRIOR PROVISIONS

A prior section 504 of Pub. L. 88–210 was classified to section 2464 of this title, prior to repeal by Pub. L. 101–392.

AMENDMENTS

1994—Subsec. (b). Pub. L. 103–382 substituted ''360-day'' for ''240-day'' and ''section 1232(e)'' for ''section 1232(g)''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2451, 2468 of this title.

§ 2466b. Requirements relating to reports, plans, and regulations

The General Accounting Office shall, upon the request of any Member of the Congress—

(1) investigate the circumstances of any failure by the Secretary to submit any report or research finding or issue any regulation required by this chapter by the time specified in the provision of this chapter requiring the submission of such report or research finding or issuance of such regulation; and

(2) submit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report containing the results of any investigation conducted pursuant to paragraph (1), including an identification of the cause of delay and of the office or offices of the Department of Education or of the Office of Management and Budget responsible for the delay.

(Pub. L. 88–210, title V, § 505, as added Pub. L. 101–392, title V, § 501(c)(2), Sept. 25, 1990, 104 Stat. 831.)

PRIOR PROVISIONS

A prior section 505 of Pub. L. 88–210 was classified to section 2465 of this title, prior to repeal by Pub. L. 101–392.

CHANGE OF NAME

Committee on Education and Labor of House of Representatives treated as referring to Committee on Economic and Educational Opportunities of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Economic and Educational Opportunities of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Fifth Congress, Jan. 7, 1997.

EFFECTIVE DATE

Section effective July 1, 1991, see section 702(a) of Pub. L. 101–392, set out as an Effective Date of 1990 Amendment note under section 2301 of this title.

§ 2466c. Federal laws guaranteeing civil rights

Nothing in this chapter shall be construed to be inconsistent with appropriate Federal laws guaranteeing civil rights.

(Pub. L. 88–210, title V, § 506, as added Pub. L. 101–392, title V, § 501(c)(2), Sept. 25, 1990, 104 Stat. 831.)

REFERENCES IN TEXT

Federal civil rights laws, referred to in text, are classified generally to chapter 21 (§ 1981 et seq.) of Title 42, The Public Health and Welfare.

PRIOR PROVISIONS

A prior section 506 of Pub. L. 88–210 was renumbered section 503 and is classified to section 2466 of this title.

EFFECTIVE DATE

Section effective July 1, 1991, see section 702(a) of Pub. L. 101–392, set out as an Effective Date of 1990 Amendment note under section 2301 of this title.

§ 2466d. Student assistance and other Federal programs

(a) Attendance costs not treated as income or resources

The portion of any student financial assistance received under this chapter that is made available for attendance costs described in subsection (b) of this section shall not be considered as income or resources in determining eligibility for assistance under any other program funded in whole or in part with Federal funds.

(b) Attendance costs

The attendance costs described in this subsection are—

(1) tuition and fees normally assessed a student carrying the same academic workload as determined by the institution, and including costs for rental or purchase of any equipment, materials, or supplies required of all students in the same course of study; and

(2) an allowance for books, supplies, transportation, dependent care, and miscellaneous personal expenses for a student attending the institution on at least a half-time basis, as determined by the institution.

(Pub. L. 88–210, title V, § 507, as added Pub. L. 101–392, title V, § 501(c)(2), Sept. 25, 1990, 104 Stat. 831.)

EFFECTIVE DATE

Section effective July 1, 1991, see section 702(a) of Pub. L. 101–392, set out as an Effective Date of 1990 Amendment note under section 2301 of this title.

§ 2466e. Federal monitoring

The Secretary shall make every effort to provide adequate monitoring of compliance by recipients of assistance under this chapter with the provisions of this chapter. Such monitoring activities shall be developed by the Secretary in consultation with parents, students, and advocacy organizations, and shall—

(1) consider items such as whether the provisions of the State plan are being fully implemented;

(2) consider items such as whether the State board's monitoring of local recipients of assistance under this chapter is adequate to assure full compliance with the provisions of this chapter by such recipients;

(3) consider items such as whether the State-level coordinators for individuals who are members of special populations are able to review the local plans for serving such individuals;

(4) consider items such as whether the other State responsibilities under this chapter are being implemented; and

(5) provide for input from students, parents, teachers, and special populations in the States.

(Pub. L. 88–210, title V, § 508, as added Pub. L. 101–392, title V, § 501(c)(2), Sept. 25, 1990, 104 Stat. 831.)

EFFECTIVE DATE

Section effective July 1, 1991, see section 702(a) of Pub. L. 101–392, set out as an Effective Date of 1990 Amendment note under section 2301 of this title.

PART B—STATE ADMINISTRATIVE PROVISIONS

PRIOR PROVISIONS

A prior part B, consisting of section 2471, was redesignated part C by Pub. L. 101–392, title V, § 501(c)(1), Sept. 25, 1990, 104 Stat. 830.

§ 2468. Joint funding

(a) General authority

Funds made available to States under this chapter may be used to provide additional funds under an applicable program if—

(1) such program otherwise meets the requirements of this chapter and the requirements of the applicable program;

(2) such program serves the same individuals that are served under this chapter;

(3) such program provides services in a coordinated manner with services provided under this chapter; and

(4) such funds would be used to supplement, and not supplant, funds provided from non-Federal sources.

(b) Applicable programs

For the purposes of this section, the term ''applicable program'' means any program under any of the following provisions of law:

(1) Section 123 [29 U.S.C. 1533], title II [29 U.S.C. 1601 et seq.], and title III [29 U.S.C. 1651 et seq.] of the Job Training Partnership Act.

(2) The Wagner-Peyser Act [29 U.S.C. 49 et seq.].

(c) Issuance of regulations

Notwithstanding the provisions of section 2466a of this title, the Secretary shall develop regulations to be issued under this section in consultation with the Secretary of Labor.

(d) Use of funds as matching funds

For the purposes of this section, the term ''additional funds'' includes the use of funds as matching funds.

(Pub. L. 88–210, title V, § 511, as added Pub. L. 101–392, title V, § 501(c)(2), Sept. 25, 1990, 104 Stat. 832.)

REFERENCES IN TEXT

The Job Training Partnership Act, referred to in subsec. (b)(1), is Pub. L. 97–300, Oct. 13, 1982, 96 Stat. 1322, as amended. Titles II and III of the Act are classified generally to subchapters II (§ 1601 et seq.) and III (§ 1651 et seq.), respectively, of chapter 19 of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 1501 of Title 29 and Tables.

The Wagner-Peyser Act, referred to in subsec. (b)(2), is act June 6, 1933, ch. 49, 48 Stat. 113, as amended, which is classified generally to chapter 4B (§ 49 et seq.) of Title 29. For complete classification of this Act to the Code, see Short Title note set out under section 49 of Title 29 and Tables.

EFFECTIVE DATE

Section effective July 1, 1991, see section 702(a) of Pub. L. 101–392, set out as an Effective Date of 1990 Amendment note under section 2301 of this title.

§ 2468a. Review of regulations

(a) Establishment of Review Committee

Except as provided in subsection (b) of this section, before any State publishes any proposed or final State rule or regulation pursuant to this chapter, the State shall establish and convene a State Committee of Practitioners (in this section referred to as the ''Committee'') for the purpose of reviewing such rule or regulation. The Committee shall be selected from nominees solicited from State organizations representing school administrators, teachers, parents, members of local boards of education, and appropriate representatives of institutions of higher education. The Committee shall consist of—

(1) representatives of local educational agencies, who shall constitute a majority of the members of the Committee;

(2) school administrators;

(3) teachers;

(4) parents;

(5) members of local boards of education;

(6) representatives of institutions of higher education; and

(7) students.

(b) Limited exception

In an emergency, where a regulation must be issued within a very limited time period to assist eligible recipients with the operation of a program, the State may issue a regulation without fulfilling the requirements of subsection (a) of this section, but shall immediately convene the Committee to review the regulation before it is issued in final form.

(Pub. L. 88–210, title V, § 512, as added Pub. L. 101–392, title V, § 501(c)(2), Sept. 25, 1990, 104 Stat. 832.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2325 of this title.

§ 2468b. Identification of State-imposed requirements

Any State rule or policy imposed on the administration or operation of programs funded by this chapter, including any rule or policy based on State interpretation of any Federal law, regulation, or guideline, shall be identified as a State imposed requirement.

(Pub. L. 88–210, title V, § 513, as added Pub. L. 101–392, title V, § 501(c)(2), Sept. 25, 1990, 104 Stat. 833.)

EFFECTIVE DATE

Section effective July 1, 1991, see section 702(a) of Pub. L. 101–392, set out as an Effective Date of 1990 Amendment note under section 2301 of this title.

§ 2468c. Prohibition on use of funds to induce out-of-State relocation of businesses

No funds provided under this chapter shall be used for the purpose of directly providing incentives or inducements to an employer to relocate a business enterprise from 1 State to another State if such relocation would result in a reduction in the number of jobs available in the State where the business enterprise is located before such incentives or inducements are offered.

(Pub. L. 88–210, title V, § 514, as added Pub. L. 101–392, title V, § 501(c)(2), Sept. 25, 1990, 104 Stat. 833.)

EFFECTIVE DATE

Section effective July 1, 1991, see section 702(a) of Pub. L. 101–392, set out as an Effective Date of 1990 Amendment note under section 2301 of this title.

§ 2468d. State administrative costs

For each fiscal year for which a State receives assistance under this chapter, the State shall provide from non-Federal sources for costs the State incurs for administration of programs under this chapter an amount that is not less than the amount provided by the State from non-Federal sources for such costs for the preceding fiscal year.

(Pub. L. 88–210, title V, § 515, as added Pub. L. 101–392, title V, § 501(c)(2), Sept. 25, 1990, 104 Stat. 833.)

EFFECTIVE DATE

Section effective July 1, 1991, see section 702(a) of Pub. L. 101–392, set out as an Effective Date of 1990 Amendment note under section 2301 of this title.

§ 2468e. Additional administrative provisions

(a) In general

(1)(A) Funds made available under subchapter II of this chapter shall be used to supplement, and to the extent practicable increase the amount of State and local funds that would in the absence of such Federal funds be made available for the uses specified in the application, and in no case supplant such State or local funds.

(B) Notwithstanding subparagraph (A), funds made available under subchapter II of this chapter may be used to pay for the costs of vocational education services required in an individualized education plan developed pursuant to sections 1412(4)[1] and 1414(a)(5)[1] of this title, in a manner consistent with section 1414(a)(1)[1] of this title, and services necessary to meet the requirements of section 794 of title 29 with respect to ensuring equal access to vocational education.

(2) No State shall take into consideration payments under this chapter in determining, for any educational agency or institution in that State, the eligibility for State aid, or the amount of State aid, with respect to public education within the State.

(b) Limitation

Any project assisted with funds made available under subchapter II of this chapter shall be of sufficient size, scope, and quality to give reasonable promise of meeting the vocational education needs of the students involved in the project.

(c) Permissible services and activities

(1) Vocational education services and activities authorized in subchapter II of this chapter may include work-site programs such as cooperative vocational education, programs with community-based organizations, work-study, and apprenticeship programs.

(2) Vocational education services and activities described in subchapter II of this chapter may include placement services for students who have successfully completed vocational education programs.

(3) Vocational education services and activities described in subchapter II of this chapter may include programs which involve students in addressing the needs of the community in the production of goods or services which contribute to the community's welfare or which involve the students with other community development planning, institutions, and enterprises.

(d) Academic credit

Each State board receiving financial assistance under subchapter II of this chapter may consider granting academic credit for vocational education courses which integrate core academic competencies.

(Pub. L. 88–210, title V, § 516, as added Pub. L. 101–392, title V, § 501(c)(2), Sept. 25, 1990, 104 Stat. 833.)

[1] See References in Text note below.

REFERENCES IN TEXT

Sections 1412(4) and 1414(a)(1), (5) of this title, referred to in subsec. (a)(1)(B), were in the original references to sections 612(4) and 614(a)(1), (5), respectively, of the Education of the Handicapped Act (now the Individuals with Disabilities Education Act), Pub. L. 91–230, title VI. Sections 612 and 614 were omitted in the general amendment of subchapter II of chapter 33 of this title by Pub. L. 105–17, title I, § 101, June 4, 1997, 111 Stat. 37. Pub. L. 105–17 enacted new sections 612 and 614 of Pub. L. 91–230, which are classified to sections 1412 and 1414, respectively, of this title, and, as so enacted, section 612 no longer contains par. (4), section 614(a) no longer contains par. (5), and section 614(a)(1) no longer specifies requisite features of programs for which excess costs are to be paid under subchapter II of chapter 33.

EFFECTIVE DATE

Section effective July 1, 1991, see section 702(a) of Pub. L. 101–392, set out as an Effective Date of 1990 Amendment note under section 2301 of this title.

PART C—DEFINITIONS

§ 2471. Definitions

As used in this chapter:

(1) The term ''administration'' means activities of a State necessary for the proper and efficient performance of its duties under this chapter, including supervision, but does not include curriculum development activities, personnel development, or research activities.

(2) The term ''all aspects of the industry'' means strong experience in, and understanding of, all aspects of the industry the students are preparing to enter, including planning, management, finances, technical and production skills, underlying principles of technology, labor issues, and health and safety.

(3) The term ''apprenticeship training program'' means a program registered with the Department of Labor or the State apprenticeship agency in accordance with the Act of August 16, 1937, commonly known as the National Apprenticeship Act [29 U.S.C. 50 et seq.], which is conducted or sponsored by an employer, a group of employers, or a joint apprenticeship committee representing both employers and a union, and which contains all terms and conditions for the qualification, recruitment, selection, employment, and training of apprentices.

(4) The term ''area vocational education school'' means—

(A) a specialized high school used exclusively or principally for the provision of vocational education to individuals who are available for study in preparation for entering the labor market;

(B) the department of a high school exclusively or principally used for providing vocational education in not less than 5 different occupational fields to individuals who are available for study in preparation for entering the labor market;

(C) a technical institute or vocational school used exclusively or principally for the provision of vocational education to individuals who have completed or left high school and who are available for study in preparation for entering the labor market; or

(D) the department or division of a junior college, community college or university op-

erating under the policies of the State board and which provides vocational education in not less than 5 different occupational fields leading to immediate employment but not necessarily leading to a baccalaureate degree, if, in the case of a school, department, or division described in subparagraph (C) or this subparagraph, it admits as regular students both individuals who have completed high school and individuals who have left high school.

(5) The term ''career guidance and counseling'' means programs—

(A) which pertain to the body of subject matter and related techniques and methods organized for the development in individuals of career awareness, career planning, career decisionmaking, placement skills, and knowledge and understanding of local, State, and national occupational, educational, and labor market needs, trends, and opportunities; and

(B) which assist such individuals in making and implementing informed educational and occupational choices.

(6) The term ''community-based organization'' means any such organization of demonstrated effectiveness described in section 1503(5) of title 29.

(7) The term ''construction'' includes construction of new buildings and acquisition, and expansion, remodeling, and alternation[1] of existing buildings, and includes site grading and improvement and architect fees.

(8) The term ''cooperative education'' means a method of instruction of vocational education for individuals who, through written cooperative arrangements between the school and employers, receive instruction, including required academic courses and related vocational instruction by alternation of study in school with a job in any occupational field. Such alternation shall be planned and supervised by the school and employers so that each contributes to the student's education and to his or her employability. Work periods and school attendance may be on alternate half days, full days, weeks, or other periods of time in fulfilling the cooperative program.

(9) The term ''criminal offender'' means any individual who is charged with or convicted of any criminal offense, including a youth offender or a juvenile offender.

(10) The term ''correctional institution'' means any—

(A) prison,

(B) jail,

(C) reformatory,

(D) work farm,

(E) detention center, or

(F) halfway house, community-based rehabilitation center, or any other similar institution designed for the confinement or rehabilitation of criminal offenders.

(11) The term ''Council'' means the National Council on Vocational Education.

(12) The term ''curriculum materials'' means instructional and related or supportive material, including materials using advanced learning technology, in any occupational field which is designed to strengthen the academic foundation and prepare individuals for employment at the entry level or to upgrade occupational competencies of those previously or presently employed in any occupational field, and appropriate counseling and guidance material.

(13) The term ''disadvantaged'' means individuals (other than individuals with handicaps) who have economic or academic disadvantages and who require special services and assistance in order to enable such individuals to succeed in vocational education programs. Such term includes individuals who are members of economically disadvantaged families, migrants, individuals of limited English proficiency and individuals who are dropouts from, or who are identified as potential dropouts from, secondary school.

(14) The term ''displaced homemaker'' means an individual who—

(A) is an adult; and

(B)(i) has worked as an adult primarily without remuneration to care for the home and family, and for that reason has diminished marketable skills;

(ii) has been dependent on public assistance or on the income of a relative but is no longer supported by such income;

(iii) is a parent whose youngest dependent child will become ineligible to receive assistance under the State program funded under part A of title IV of the Social Security Act [42 U.S.C. 601 et seq.] within 2 years of the parent's application for assistance under this chapter; or

(iv) is unemployed or underemployed and is experiencing difficulty in obtaining any employment or suitable employment, as appropriate, or

(C) is described in subparagraph (A) or (B) and is a criminal offender.

The Secretary may not prescribe the manner in which the States will comply with the application of the definition contained in this paragraph.

(15) The term ''economically disadvantaged family or individual'' means such families or individuals who are determined by the Secretary to be low-income according to the latest available data from the Department of Commerce.

(16) Except as otherwise provided, the term ''eligible recipient'' means a local educational agency, an area vocational education school, an intermediate educational agency, a postsecondary educational institution, a State corrections educational agency, or an eligible institution (as such term is defined in section 2341a(d)(1) of this title).

(17) The term ''general occupational skills'' means experience in and understanding of all aspects of the industry the student is preparing to enter, including planning, management, finances, technical and production skills, underlying principles of technology, labor and community issues, and health, safety, and environmental issues.

(18) The term ''high technology'' means state-of-the-art computer, microelectronic,

[1] So in original. Probably should be ''alteration''.

hydraulic, pneumatic, laser, nuclear, chemical, telecommunication, and other technologies being used to enhance productivity in manufacturing, communication, transportation, agriculture, mining, energy, commercial, and similar economic activity, and to improve the provision of health care.

(19) The term ''individual with handicaps'' means any individual who is an individual with any disability (as defined in section 12102(2) of title 42).

(20) The term ''intermediate educational agency'' means a combination of school districts or counties (as defined in section 8801 of title 20) as are recognized in a State as an administrative agency for such State's vocational or technical education schools or for vocational programs within its public elementary or secondary schools. Such term includes any other public institution or agency having administrative control and direction over a public elementary or secondary school.

(21) The term ''limited English proficiency'' has the meaning given such term in section 7601(8)[2] of this title.

(22) The term ''local educational agency'' means a board of education or other legally constituted local school authority having administrative control and direction of public elementary or secondary schools in a city, county, township, school district, or political subdivision in a State, or any other public educational institution or agency having administrative control and direction of a vocational education program. For the purposes of sections 2324, 2325, 2326, 2327, and 2343 of this title, such term shall include a State corrections educational agency.

(23) The term ''postsecondary educational institution'' means an institution legally authorized to provide postsecondary education within a State, a Bureau of Indian Affairs controlled postsecondary institution, or any postsecondary educational institution operated by or on behalf of any Indian tribe which is eligible to contract with the Secretary of the Interior for the administration of programs under the Indian Self-Determination Act [25 U.S.C. 450f et seq.] or under the Act of April 16, 1934 [25 U.S.C. 452–457].

(24) The term ''preparatory services'' means services, programs, or activities designed to assist individuals who are not enrolled in vocational education programs in the selection of, or preparation for participation in, an appropriate vocational education or training program, such as—

(A) services, programs, or activities related to outreach to or recruitment of potential vocational education students;

(B) career counseling and personal counseling;

(C) vocational assessment and testing; and

(D) other appropriate services, programs, or activities.

(25) The term ''private vocational training institution'' means a business or trade school, or technical institution or other technical or vocational school, in any State, which—

(A) admits as regular students only persons who have completed or left elementary or secondary school and who have the ability to benefit from the training offered by such institution;

(B) is legally authorized to provide, and provides within that State, a program of postsecondary vocational or technical education designed to fit individuals for useful employment in recognized occupations;

(C) has been in existence for 2 years or has been specially accredited by the Secretary as an institution meeting the other requirements of this subsection; and

(D) is accredited—

(i) by a nationally recognized accrediting agency or association listed by the Secretary pursuant to this clause;

(ii) if the Secretary determines that there is no nationally recognized accrediting agency or association qualified to accredit schools of a particular category, by a State agency listed by the Secretary pursuant to this clause; or

(iii) if the Secretary determines that there is no nationally recognized or State agency or association qualified to accredit schools of a particular category, by an advisory committee appointed by the Secretary and composed of persons specially qualified to evaluate training provided by schools of that category, which committee shall prescribe the standards of content, scope, and quality which must be met by those schools and shall also determine whether particular schools meet those standards.

For the purpose of this paragraph, the Secretary shall publish a list of nationally recognized accrediting agencies or associations and State agencies which the Secretary determines to be reliable authority as to the quality of education or training afforded.

(26) The term ''school facilities'' means classrooms and related facilities (including initial equipment) and interests in lands on which such facilities are constructed. Such term shall not include any facility intended primarily for events for which admission is to be charged to the general public.

(27) The term ''Secretary'' means the Secretary of Education.

(28) The term ''small business'' means for-profit enterprises employing 500 or fewer employees.

(29) The term ''sequential course of study'' means an integrated series of courses which are directly related to the educational and occupational skills preparation of individuals for jobs, or preparation for postsecondary education.

(30) The term ''single parent'' means an individual who—

(A) is unmarried or legally separated from a spouse; and

(B)(i) has a minor child or children for which the parent has either custody or joint custody; or

(ii) is pregnant.

(31) The term ''special populations'' includes individuals with handicaps, educationally and

[2] See References in Text note below.

economically disadvantaged individuals (including foster children), individuals of limited English proficiency, individuals who participate in programs designed to eliminate sex bias, and individuals in correctional institutions.

(32) The term ''specific job training'' means training and education for skills required by the employer that provides the individual student with the ability to obtain employment and to adapt to the changing demands of the workplace.

(33) The term ''State'' includes, in addition to the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and Palau (until the Compact of Free Association with Palau takes effect pursuant to section 1931(a) of title 48).

(34) The term ''State board'' means a State board designated or created by State law as the sole State agency responsible for the administration of vocational education, or for supervision of the administration of vocational education in the State.

(35) The term ''State corrections educational agency'' means the State agency or agencies responsible for carrying out corrections education programs in the State.

(36) The term ''State council'' means the State council on vocational education established in accordance with section 2322 of this title.

(37) The term ''State educational agency'' means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary or secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law.

(38) The term ''supplementary services'' means curriculum modification, equipment modification, classroom modification, supportive personnel, and instructional aids and devices.

(39) The term ''technology education'' means an applied discipline designed to promote technological literacy which provides knowledge and understanding of the impacts of technology including its organizations, techniques, tools and skills to solve practical problems and extend human capabilities in areas such as construction, manufacturing, communication, transportation, power and energy.

(40) The term ''tribally controlled community college'' means an institution which receives assistance under the Tribally Controlled Community College Assistance Act of 1976[3] [25 U.S.C. 1801 et seq.] or the Navajo Community College Act [25 U.S.C. 640a et seq.].

(41) The term ''vocational education'' means organized educational programs offering a sequence of courses which are directly related to the preparation of individuals in paid or unpaid employment in current or emerging occupations requiring other than a baccalaureate or advanced degree. Such programs shall include competency-based applied learning which contributes to an individual's academic knowledge, higher-order reasoning, and problem-solving skills, work attitudes, general employability skills, and the occupational-specific skills necessary for economic independence as a productive and contributing member of society. Such term also includes applied technology education.

(42) The term ''vocational student organizations'' means those organizations for individuals enrolled in vocational education programs which engage in activities as an integral part of the instructional program. Such organizations may have State and national units which aggregate the work and purposes of instruction in vocational education at the local level.

(Pub. L. 88–210, title V, § 521, as added Pub. L. 98–524, § 1, Oct. 19, 1984, 98 Stat. 2482; amended Pub. L. 99–159, title VII, § 713(a)(4), Nov. 22, 1985, 99 Stat. 907; Pub. L. 101–392, title V, § 502, Sept. 25, 1990, 104 Stat. 834; Pub. L. 103–382, title III, § 391(s)(7), (8), Oct. 20, 1994, 108 Stat. 4025; Pub. L. 104–193, title I, § 110(i)(3), Aug. 22, 1996, 110 Stat. 2172.)

REFERENCES IN TEXT

Act of August 16, 1937, commonly known as the National Apprenticeship Act, referred to in par. (3), is act Aug. 16, 1937, ch. 663, 50 Stat. 664, as amended, which is classified generally to chapter 4C (§ 50 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 50 of Title 29 and Tables.

The Social Security Act, referred to in par. (14)(B)(iii), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Part A of title IV of the Act is classified generally to part A (§ 601 et seq.) of subchapter IV of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

Section 7601(8) of this title, referred to in par. (21), was in the original section 7004(a) of the Elementary and Secondary Education Act of 1965, and was translated as if it read section 7501(8) of that Act to reflect the probable intent of Congress, because the Elementary and Secondary Education Act of 1965 does not contain a section 7004, and section 7501(8) defines limited English proficiency.

The Indian Self-Determination Act, referred to in par. (23), is title I of Pub. L. 93–638, Jan. 4, 1975, 88 Stat. 2206, which is classified principally to part A (§ 450f et seq.) of subchapter II of chapter 14 of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 450 of Title 25 and Tables.

Act of April 16, 1934, referred to in par. (23), is act Apr. 16, 1934, ch. 147, 48 Stat. 596, as amended, popularly known as the Johnson-O'Malley Act, which is classified generally to section 452 et seq. of Title 25. For complete classification of this Act to the Code, see Short Title note set out under section 452 of Title 25 and Tables.

For Oct. 1, 1994, as the date the Compact of Free Association with Palau takes effect, referred to in par. (33), see Proc. No. 6726, Sept. 27, 1994, 59 F.R. 49777, set out as a note under section 1931 of Title 48, Territories and Insular Possessions.

The Tribally Controlled Community College Assistance Act of 1976, referred to in par. (40), probably means the Tribally Controlled Community College Assistance Act of 1978, Pub. L. 95–471, Oct. 17, 1978, 92 Stat. 1325, as amended, which is classified principally to chapter 20 (§ 1801 et seq.) of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of Title 25 and Tables.

[3] See References in Text note below.

The Navajo Community College Act, referred to in par. (40), is Pub. L. 92–189, Dec. 15, 1971, 85 Stat. 646, as amended, which is classified to section 640a et seq. of Title 25. For complete classification of this Act to the Code, see Short Title note set out under section 640a of Title 25 and Tables.

AMENDMENTS

1996—Par. (14)(B)(iii). Pub. L. 104–193 substituted ''the State program funded'' for ''the program for aid to families with dependent children''.

1994—Par. (20). Pub. L. 103–382, §391(s)(7), substituted ''section 8801'' for ''section 2891(5)''.

Par. (21). Pub. L. 103–382, §391(s)(8), substituted ''section 7601(8) of this title'' for ''section 703(a)(1) of the Elementary and Secondary Education Act of 1965''.

1990—Pub. L. 101–392 amended section generally, adding pars. (2), (14), (17), (19), (20), (24), (29), (31), (32), (35), and (38) through (40), redesignating former pars. (2) through (12) as (3) through (13), respectively, (14) as (16), (16) as (18), (18) and (19) as (21) and (22), respectively, (20) as (15), (21) as (23), (22) through (24) as (25) through (27), respectively, (25) as (30), (26) as (28), (27) and (28) as (33) and (34), respectively, (29) and (30) as (36) and (37), respectively, and (31) and (32) as (41) and (42), respectively, and striking out former par. (13) defining ''economically depressed area'', par. (15) defining ''handicapped'', and par. (17) defining ''homemaker''.

1985—Par. (15). Pub. L. 99–159 inserted ''or language'' after ''speech''.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–193 effective July 1, 1997, with transition rules relating to State options to accelerate such date, rules relating to claims, actions, and proceedings commenced before such date, rules relating to closing out of accounts for terminated or substantially modified programs and continuance in office of Assistant Secretary for Family Support, and provisions relating to termination of entitlement under AFDC program, see section 116 of Pub. L. 104–193, as amended, set out as an Effective Date note under section 601 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–392 effective July 1, 1991, see section 702(a) of Pub. L. 101–392, set out as a note under section 2301 of this title.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–159 effective July 1, 1985, see section 714(a) of Pub. L. 99–159, set out as a note under section 2311 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1088, 1091, 2420a, 3902 of this title; title 19 section 2296; title 26 section 135; title 29 section 1503; title 42 section 604.

CHAPTER 45—CAREER EDUCATION AND CAREER DEVELOPMENT

SUBCHAPTER I—CAREER EDUCATION AND DEVELOPMENT PROGRAMS AND ACTIVITIES

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SUBCHAPTER I—CAREER EDUCATION AND DEVELOPMENT PROGRAMS AND ACTIVITIES

§ 2501. Statement of purpose

It is the purpose of this subchapter to provide Federal assistance to States to enable them to plan for the development of career education and career development programs and activities for individuals of all ages, and to plan for the improvement of existing programs and activities, in the areas of awareness, exploration, planning, and decisionmaking of individuals served with regard to career opportunities and career development throughout the lifetimes of such individuals, through—

(1) planning for the development of information on the needs for career education and career development for all individuals;

(2) planning for the promotion of a national dialogue on career education and career development designed to encourage each State and local educational agency to determine and adopt the approach best suited to the needs of the individuals served by each such agency;

(3) planning for the assessment of the status of career education and career development programs and practices, including a reassessment of the stereotyping of career opportunities by race or by sex;

(4) planning for the demonstration of the best of the current career education and career development programs and practices by planning to develop and test exemplary programs and practices using various theories, concepts, and approaches with respect to career education and through planning for a nationwide system of regional career education centers;

(5) planning for the training and retraining of persons for conducting career education and career development programs; and

(6) developing State and local plans for implementing programs designed to ensure that every person has the opportunity to gain the knowledge and skills necessary for gainful or maximum employment and for full participation in our society according to his or her ability.

(Pub. L. 94–482, title III, § 331, Oct. 12, 1976, 90 Stat. 2221.)

EFFECTIVE DATE

Chapter effective 30 days after Oct. 12, 1976, except either as specifically otherwise provided or, if not so specifically otherwise provided, effective July 1, 1976, where section provides for authorization of appropriations, see section 532 of Pub. L. 94–482, set out as an Effective Date of 1976 Amendment note under section 1001 of this title.

SHORT TITLE OF 1978 AMENDMENT

Pub. L. 95–270, Apr. 27, 1978, 92 Stat. 220, which enacted sections 2566 to 2569 of this title, is known as the Hubert H. Humphrey Institute of Public Affairs and the Everett McKinley Dirksen Congressional Leadership Research Center Assistance Act. For complete classification of this Act to the Code, see Short Title note set out under section 2566 of this title and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2502 of this title.

§ 2502. Funding requirements

(a) Authorization of appropriations

There are authorized to be appropriated for the purpose of this subchapter $10,000,000 for fiscal year 1978. The provisions of section 1226a[1] of this title shall not apply to the authorization made by this subsection.

(b) Availability of amounts appropriated; allotments to States, etc.

(1) From the sums appropriated under this subchapter, the Secretary of Education shall reserve an amount not to exceed $2,000,000, for the purpose of carrying out section 2505 of this title.

(2) From the remainder of the sums appropriated under this subchapter, the Secretary of Education shall reserve such amount, not to exceed 1 per centum thereof, as he may determine necessary and shall allot such amount among the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands, according to their relative need for assistance under this subchapter.

(3)(A) Of the remainder of the sums appropriated, the Secretary of Education shall allot to each State $100,000, and of the remainder of the sums appropriated the Secretary of Education shall allot to each State an amount which bears the same ratio to such sums for such year as the population of the State bears to the population of all States, for purposes of carrying out section 2501 of this title.

(B) For purposes of this paragraph, the term ''State'' means any of the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

(c) Federal share

The Federal share of funds allotted to States under this subchapter shall not exceed 80 per centum of the total cost of the planning undertaken pursuant to this subchapter.

(Pub. L. 94–482, title III, § 332, Oct. 12, 1976, 90 Stat. 2222; Pub. L. 95–207, § 16, Dec. 13, 1977, 91 Stat. 1474; Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692.)

REFERENCES IN TEXT

Section 1226a of this title, referred to in subsec. (a), was in the original a reference to section 414 of the General Education Provisions Act. Section 414 of that Act was renumbered as section 422 by Pub. L. 103–382, title II, § 212(b)(1), Oct. 20, 1994, 108 Stat. 3913, and is classified to section 1226a of this title.

AMENDMENTS

1977—Subsec. (b)(2). Pub. L. 95–207, § 16(1), substituted ''1 per centum'' for ''3 per centum'' and struck out ''the Commonwealth of Puerto Rico,'' after ''shall allot such amount among''.

Subsec. (b)(3)(B). Pub. L. 95–207, § 16(2), substituted '', the District of Columbia, and the Commonwealth of Puerto Rico'' for ''and the District of Columbia''.

REPEALS

The directory language of, but not the amendment made by, Pub. L. 95–207, § 16, Dec. 13, 1977, 91 Stat. 1474, cited as a credit to this section, was repealed by Pub. L. 97–35, title V, § 587(a)(4), Aug. 13, 1981, 95 Stat. 480, effective Oct. 1, 1982.

TRANSFER OF FUNCTIONS

''Secretary of Education'' substituted for ''Commissioner of Education'' and ''Commissioner'' in subsecs. (b)(1), (2), and (3)(A) pursuant to sections 301(a)(1) and 507 of Pub. L. 96–88, which are classified to sections 3441(a)(1) and 3507 of this title and which transferred functions of Commissioner of Education to Secretary of Education.

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

§ 2503. Administration by Office of Career Education

The provisions of this subchapter shall be carried out by the Secretary of Education through the Office of Career Education established pursuant to section 2612a(c) of this title.

(Pub. L. 94–482, title III, § 333, Oct. 12, 1976, 90 Stat. 2222; Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692.)

REFERENCES IN TEXT

Section 2612a of this title, referred to in text, has been omitted from the Code.

TRANSFER OF FUNCTIONS

''Secretary of Education'' substituted in text for ''Commissioner'' pursuant to sections 301(a)(1) and 507

[1] See References in Text note below.

of Pub. L. 96–88, which are classified to sections 3441(a)(1) and 3507 of this title and which transferred functions of Commissioner of Education to Secretary of Education.

For authority of Secretary of Education to consolidate, alter, or discontinue the Office of Career Education, or to reallocate any functions vested by statute in the Office, see section 413 of Pub. L. 96–88, which is classified to section 3473 of this title.

§ 2504. Prerequisites for State participation

Any State desiring to receive the amount for which it is eligible for any fiscal year pursuant to this subchapter shall agree to submit to the Secretary of Education by December 31, 1978, a report on any planning undertaken pursuant to this subchapter. Such report shall be in such form as the State may desire, and may include planning proposals for—

(1) extending career education and career development programs and services to all individuals in the State;

(2) extending the concept of the education process beyond the school into the area of employment and community affairs, and relating the subject matter curriculums of schools to the needs of individuals to function in society;

(3) the implementation of new concepts in career education and career development and for the replication of concepts which have demonstrated success;

(4) the development of training programs, including inservice training programs, for teachers, counselors, other educators, and administrators;

(5) fostering cooperative arrangements with such community groups and agencies as the public employment services, vocational rehabilitation service, community mental health agencies, education opportunity centers, and other community resources concerned with vocational development guidance and counseling, in order to avoid unnecessary duplication in the provision of services in the community or area to be served; and

(6) inventories of State, local, and private resources available for the development of career education and career development programs and services.

(Pub. L. 94–482, title III, § 334, Oct. 12, 1976, 90 Stat. 2222; Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692.)

TRANSFER OF FUNCTIONS

''Secretary of Education'' substituted in text for ''Commissioner'' pursuant to sections 301(a)(1) and 507 of Pub. L. 96–88, which are classified to sections 3441(a)(1) and 3507 of this title and which transferred functions of Commissioner of Education to Secretary of Education.

§ 2505. Grants or contracts

(a) Information gathering; analysis of career trends and options; publication of periodic reports and reference works; conduct of seminars, workshops, etc.

The Secretary of Education shall provide, either directly or by grant or contract, for—

(1) the gathering, cataloging, storing, analyzing, and disseminating information related to the availability of, and preparation for, careers in the United States, including information concerning current career options, future career trends, and career education;

(2) the ongoing analysis of career trends and options in the United States, using information from both the public and private sectors, including such sources as the Bureau of Labor Statistics, the Department of Commerce, the United States International Trade Commission, economic analysts, labor unions, and private industry;

(3) the publication of periodic reports and reference works using analysis prepared pursuant to this section and containing exemplary materials from the career education field, including research findings, results, and techniques from successful projects and programs, and highlights of ongoing analyses of career trends in the United States; and

(4) the conduct of seminars, workshops, and career information sessions for the purpose of disseminating to teachers, guidance counselors, other career educators, administrators, other education personnel, and the general public information compiled and analyzed under this section.

(b) Implementation requirements

In carrying out the provisions of this subchapter, and to the extent practicable, the Secretary of Education shall (1) make use of existing offices, centers, clearinghouses, and research capabilities, (2) coordinate among the offices, centers, clearinghouses, and research capabilities in carrying out his career information responsibilities, and (3) use the career information capabilities of the Department of Education.

(Pub. L. 94–482, title III, § 335, Oct. 12, 1976, 90 Stat. 2223; Pub. L. 96–88, title III, § 301(a)(1), (b)(2), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 678, 692.)

CHANGE OF NAME

''United States International Trade Commission'' substituted for ''Unites States Tariff Commission'' in subsec. (a)(2) pursuant to Pub. L. 93–618, § 171(a), Jan. 3, 1975, 88 Stat. 2009, which is classified to section 2231(a) of Title 19, Customs Duties.

TRANSFER OF FUNCTIONS

''Secretary of Education'' substituted for ''Commissioner'' in text, and ''Department of Education'' substituted for ''Education Division'' in subsec. (b)(3), pursuant to sections 301(a)(1), (b)(2) and 507 of Pub. L. 96–88, which are classified to sections 3441(a)(1), (b)(2) and 3507 of this title and which transferred functions of Commissioner of Education to Secretary of Education and transferred Education Division to Department of Education.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2502 of this title.

§ 2506. Functions of National Advisory Council for Career Education

The National Advisory Council for Career Education established pursuant to section 2612a(g) of this title shall, in addition to its duties under that section, advise the Secretary of Education with respect to the implementation of this subchapter.

(Pub. L. 94–482, title III, § 336, Oct. 12, 1976, 90 Stat. 2224; Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692.)

REFERENCES IN TEXT

Section 2612a of this title, referred to in text, has been omitted from the Code.

TRANSFER OF FUNCTIONS

''Secretary of Education'' substituted in text for ''Commissioner'' pursuant to sections 301(a)(1) and 507 of Pub. L. 96–88, which are classified to sections 3441(a)(1) and 3507 of this title and which transferred functions of Commissioner of Education to Secretary of Education.

TERMINATION OF ADVISORY COUNCILS

Advisory councils established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a council established by the President or an officer of the Federal Government, such council is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a council established by the Congress, its duration is otherwise provided for by law. See sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

SUBCHAPTER II—GUIDANCE AND COUNSELING ACTIVITIES AND PROGRAMS

§ 2531. Congressional findings

The Congress finds that—

(1) guidance and counseling activities are an essential component to assure success in achieving the goals of many education programs:

(2) lack of coordination among guidance and counseling activities supported jointly or separately by Federal programs and by State and local programs has resulted in an underutilization of resources available for such activities; and

(3) increased and improved preparation of education professionals is needed in guidance and counseling, including administration of guidance and counseling programs at the State and local levels, with special emphasis on inservice training which takes educational professionals into the workplaces of business and industry, the professions, and other occupational pursuits, and that increased and improved use of individuals employed in such pursuits are needed for effective guidance and counseling programs, including (A) bringing persons employed in such pursuits into schools, and (B) bringing students into such workplaces for observation of, and participation in, such pursuits, in order to acquaint the students with the nature of the work.

(Pub. L. 94–482, title III, § 341, Oct. 12, 1976, 90 Stat. 2224.)

§ 2532. Authorization of appropriations

(a) Fiscal years 1978 through 1983

There are authorized to be appropriated $20,000,000 for each of the fiscal years 1978 through 1983, to carry out the provisions of this subchapter.

(b) Limitations; allotments to States, etc.; reallotments

(1) There are authorized to be appropriated $3,000,000 for fiscal year 1977, for purposes of grants to States made by the Secretary of Education for programs, projects, and leadership activities designed to expand and strengthen counseling and guidance services in elementary and secondary schools.

(2) No sums are authorized to be appropriated under section 401(a)[1] of the Elementary and Secondary Education Act of 1965 for fiscal year 1977, for the purpose of making grants under part B (Libraries and Learning Resources) of title IV of such Act, for such fiscal year which represent the amount authorized to be appropriated under paragraph (1) of this subsection.

(3)(A) The Secretary of Education shall allot the amounts appropriated under this subsection among Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands according to their respective needs for assistance under this subsection. In addition, he shall allot from such amounts to (i) the Secretary of the Interior the amounts necessary for the programs, projects, and activities authorized by this subsection for children and teachers in elementary and secondary schools operated for Indian children by the Department of the Interior; and (ii) the Secretary of Defense the amounts necessary for the programs, projects, and activities authorized by this subsection for children and teachers in the overseas dependents schools of the Department of Defense. The terms upon which payment for such purposes shall be made to the Secretary of the Interior and the Secretary of Defense shall be determined pursuant to such criteria as the Secretary of Education determines will best carry out the purposes of this subsection.

(B) From the amounts appropriated to carry out this subsection, the Secretary of Education shall allot to each State from such amounts an amount which bears the same ratio to such amounts as the number of children aged five to seventeen, inclusive, in the State bears to the number of such children in all the States. For the purposes of this subparagraph, the term ''State'' shall not include Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands. The number of children aged five to seventeen, inclusive, in a State and in all the States shall be determined by the Secretary of Education on the basis of the most recent satisfactory data available to him.

(C) The amount of any State's allotment under subparagraph (A) or subparagraph (B) to carry out this subsection which the Secretary of Education determines will not be required to carry out this subsection shall be available for reallotment from time to time, on such dates as the Secretary of Education may fix, to other States in proportion to the original allotments to such States under subparagraph (A) or subparagraph (B) but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum the Secretary of Education estimates such State needs and will be able to use. The total of such reductions shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Any amounts reallotted to a State under this subparagraph from funds appro-

[1] See References in Text note below.

priated under this subsection shall be deemed a part of its allotment under subparagraph (A) or subparagraph (B).

(Pub. L. 94–482, title III, § 342, Oct. 12, 1976, 90 Stat. 2224; Pub. L. 95–561, title XIII, § 1351, Nov. 1, 1978, 92 Stat. 2364; Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692.)

REFERENCES IN TEXT

Title IV of the Elementary and Secondary Education Act of 1965, referred to in subsec. (b)(2), which was formerly classified to subchapter I (§ 1801 et seq.) of chapter 40 of this title, was amended generally by Pub. L. 95–561, title IV, § 401, Nov. 1, 1978, 92 Stat. 2229, and reclassified to subchapter IV (§ 3081 et seq.) of chapter 47 of this title prior to its repeal by Pub. L. 97–35, title V, § 587(a)(1), Aug. 13, 1981, 95 Stat. 480. Section 401(a) and part B of title IV of the Elementary and Secondary Education Act of 1965 were classified to section 3081(a) and sections 3101 and 3102, respectively, of this title prior to their repeal by section 587(a)(1) of Pub. L. 97–35.

AMENDMENTS

1978—Subsec. (a). Pub. L. 95–561 substituted ''fiscal years 1978 through 1983'' for ''fiscal years 1978 and 1979''.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–561 effective Oct. 1, 1978, see section 1530(a) of Pub. L. 95–561, set out as a note under section 1221e–3 of this title.

TRANSFER OF FUNCTIONS

''Secretary of Education'' substituted for ''Commissioner'' in subsec. (b)(1) and (3) pursuant to sections 301(a)(1) and 507 of Pub. L. 96–88, which are classified to sections 3441(a)(1) and 3507 of this title and which transferred functions of Commissioner of Education to Secretary of Education.

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3489 of this title.

§ 2533. Administration by unit in Department of Education

(a) Establishment; functions

The Secretary of Education shall establish or designate an administrative unit within the Department of Education for purposes of—

(1) carrying out provisions of this subchapter;

(2) providing information regarding guidance and counseling as a profession, guidance and counseling activities of the Federal Government, and, to the extent practicable, activities of State and local programs of guidance and counseling; and

(3) advising the Secretary of Education on coordinating guidance and counseling activities included in all programs which he is authorized to carry out, and, to the extent he deems practicable, how such activities may be coordinated with other programs of the Federal Government and State and local guidance and counseling programs.

(b) Reservation of amount for implementation

The Secretary of Education may reserve an amount not to exceed 5 per centum of the sums appropriated under this subchapter to carry out the provisions of this section.

(Pub. L. 94–482, title III, § 343, Oct. 12, 1976, 90 Stat. 2225; Pub. L. 95–43, § 1(b)(8), June 15, 1977, 91 Stat. 219; Pub. L. 96–88, title III, § 301(a)(1), (b)(2), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 678, 692.)

AMENDMENTS

1977—Subsec. (a)(1). Pub. L. 95–43 substituted ''this subchapter'' for ''this section''.

TRANSFER OF FUNCTIONS

''Secretary of Education'' and ''Department of Education'' substituted in text for ''Commissioner'' and ''Education Division'', respectively, pursuant to sections 301(a)(1), (b)(2) and 507 of Pub. L. 96–88, which are classified to sections 3441(a)(1), (b)(2) and 3507 of this title and which transferred functions of Commissioner of Education to Secretary of Education and transferred Education Division to Department of Education.

For authority of Secretary of Education to consolidate, alter, or discontinue the administrative unit for guidance and counseling programs, or to reallocate any functions vested by statute in the administrative unit, see section 413 of Pub. L. 96–88, which is classified to section 3473 of this title.

§ 2534. Contracts and grants to States, educational agencies, etc.

(a) Implementation of programs

The Secretary of Education is authorized, on a competitive basis, to enter into contracts and make grants to State and local educational agencies, to institutions of higher education, and to private nonprofit organizations to assist them in conducting institutes, work shops, and seminars designed to improve the professional guidance qualifications of teachers and counselors in State and local educational agencies and nonpublic elementary and secondary school systems, including opportunities for teachers and guidance counselors in such agencies and systems to obtain experience in business and industry, the professions, and other occupational pursuits, and including, for the purpose of such improvement, such programs, services, or activities which bring individuals with experience in such pursuits into schools as counselors or advisors for students, and which bring students into the workplaces of such pursuits to acquaint students with the nature of the work and to provide training for supervisory and technical personnel in such agencies and systems having responsibilities for guidance and counseling, and to improve supervisory services in the field of guidance and counseling.

(b) Coordination of programs of guidance and counseling

The Secretary of Education is authorized to make grants to States to assist them in carrying out programs to coordinate new and existing programs of guidance and counseling in the States.

(Pub. L. 94–482, title III, § 344, Oct. 12, 1976, 90 Stat. 2225; Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692.)

TRANSFER OF FUNCTIONS

''Secretary of Education'' substituted in text for ''Commissioner'' pursuant to sections 301(a)(1) and 507 of Pub. L. 96–88, which are classified to sections

3441(a)(1) and 3507 of this title and which transferred functions of Commissioner of Education to Secretary of Education.

SUBCHAPTER III—MISCELLANEOUS PROVISIONS

§§ 2561 to 2563. Omitted

CODIFICATION

Section 2561, Pub. L. 94–482, title V, § 521, Oct. 12, 1976, 90 Stat. 2238, required Secretary of Health, Education, and Welfare, not later than six months after October 12, 1976, to report on purposes, administration, and effectiveness of special programs for students from disadvantaged backgrounds under sections 1070d and 1070d–1 of this title and High School Equivalency Program and College Assistance Migrant Program authorized under section 873 of title 29 and provided funding requirements for fiscal year 1977 for the programs authorized under section 873 of title 29.

Section 2562, Pub. L. 94–482, title V, § 522, Oct. 12, 1976, 90 Stat. 2238, S.Res. 4, 1977, required Secretary of Health, Education, and Welfare to conduct a study of need to reorganize the Education Division and transmit a report to Committee on Human Resources of Senate and Committee on Education and Labor of House of Representatives, no later than June 30, 1977.

Section 2563, Pub. L. 94–482, title V, § 523, Oct. 12, 1976, 90 Stat. 2239; Pub. L. 95–40, § 1(30), (31)(A), June 3, 1977, 91 Stat. 208, required Commissioner of Education to carry out a study of extent to which sex discrimination and sex stereotyping existed in certain vocational rehabilitation programs, and of progress made to reduce or eliminate such discrimination and stereotyping, and report to Congress results of study with recommendations by Oct. 12, 1978. Section also required National Institute of Education to undertake a thorough evaluation and study of vocational education programs, including such programs conducted by States and such programs conducted under specified laws, and made an interim report to President and to Congress not later than Sept. 30, 1980, and a final report to President and to Congress not later than Sept. 30, 1981.

§ 2564. Departmental day care center facilities; establishment; fees and charges; equipment and operation by appropriated funds

Notwithstanding any other provision of law, the Secretary of Health and Human Services is authorized by contract or otherwise to establish, equip, and operate day care center facilities for the purpose of serving children who are members of households of employees of the Department of Health and Human Services. The Secretary is authorized to establish or provide for the establishment of appropriate fees and charges to be chargeable against the Department employees or others who are beneficiaries of services provided by such facilities to pay for the cost of their operation and to accept money, equipment, or other property donated for use in connection with the facilities. No appropriated funds may be used for the equipping or operation of any centers provided under this authority. The prohibition made by the preceding sentence shall not preclude the provision of appropriate donated space nor the purchase of the initial equipment for the centers, except that the cost of such equipment shall be reimbursed over the expected life of such equipment, not to exceed 10 years.

(Pub. L. 94–482, title V, § 524, Oct. 12, 1976, 90 Stat. 2240; Pub. L. 96–88, title V, § 509(b), Oct. 17, 1979, 93 Stat. 695.)

CHANGE OF NAME

''Secretary of Health and Human Services'' and ''Department of Health and Human Services'' substituted in text for ''Secretary of Health, Education, and Welfare'' and ''Department of Health, Education, and Welfare'', respectively, pursuant to section 509(b) of Pub. L. 96–88, which is classified to section 3508(b) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3477 of this title.

§ 2565. Wayne Morse Chair of Law and Politics

(a) Establishment

The Secretary of Education (hereinafter in this section referred to as the ''Secretary'') is authorized to provide financial assistance in accordance with the provisions of this section to assist in establishing the Wayne Morse Chair of Law and Politics at the University of Oregon, of Eugene, Oregon.

(b) Federal share; application for financial assistance

(1) For purposes of this section, the Federal share of the cost of establishing the Wayne Morse Chair of Law and Politics shall not exceed 50 per centum.

(2) No financial assistance under this section may be made except upon an application at such time, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require.

(c) Authorization of appropriations

There are authorized to be appropriated such sums, not to exceed $500,000, as may be necessary to carry out the provisions of this section. Funds appropriated pursuant to this section shall remain available until expended.

(Pub. L. 94–482, title V, § 525, Oct. 12, 1976, 90 Stat. 2241; Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692.)

TRANSFER OF FUNCTIONS

''Secretary'' substituted for ''Commissioner'' in subsecs. (a) and (b) pursuant to sections 301(a)(1) and 507 of Pub. L. 96–88, which are classified to sections 3441(a)(1) and 3507 of this title and which transferred functions of Commissioner of Education to Secretary of Education.

§ 2566. Hubert H. Humphrey Institute of Public Affairs; grants for development

In recognition of the public service of Senator Hubert H. Humphrey, the Secretary of Education (hereafter in sections 2566 to 2569 of this title referred to as the ''Secretary'') is authorized to make grants in accordance with the provisions of sections 2566 to 2569 of this title to assist in the development of the Hubert H. Humphrey Institute of Public Affairs, located at the University of Minnesota, Minneapolis-Saint Paul.

(Pub. L. 95–270, § 2(a), Apr. 27, 1978, 92 Stat. 220; Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692.)

EFFECTIVE DATE

Section 4(d) of Pub. L. 95–270 provided that: ''This Act [enacting this section, section 2569 of this title, and provisions set out as a note below] shall take effect October 1, 1978.''

SHORT TITLE

Section 1 of Pub. L. 95–270 provided: ''That this Act [enacting this section, section 2569 of this title, and provisions set out as a note above] may be cited as the 'Hubert H. Humphrey Institute of Public Affairs and the Everett McKinley Dirksen Congressional Leadership Research Center Assistance Act'.''

TRANSFER OF FUNCTIONS

''Secretary'' substituted in text for ''Commissioner'' pursuant to sections 301(a)(1) and 507 of Pub. L. 96–88, which are classified to sections 3441(a)(1) and 3507 of this title and which transferred functions of Commissioner of Education to Secretary of Education.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2567, 2568, 2569 of this title.

§ 2567. Everett McKinley Dirksen Congressional Leadership Research Center; grants for development

In recognition of the public service of Senator Everett McKinley Dirksen, the Secretary is authorized to make grants in accordance with the provisions of sections 2566 to 2569 of this title to assist in the development of the Everett McKinley Dirksen Congressional Leadership Research Center, located in Pekin, Illinois.

(Pub. L. 95–270, § 2(b), Apr. 27, 1978, 92 Stat. 220; Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692.)

EFFECTIVE DATE

Section effective Oct. 1, 1978, see section 4(d) of Pub. L. 95–270, set out as a note under section 2566 of this title.

TRANSFER OF FUNCTIONS

''Secretary'', meaning the Secretary of Education, substituted in text for ''Commissioner'' pursuant to sections 301(a)(1) and 507 of Pub. L. 96–88, which are classified to sections 3441(a)(1) and 3507 of this title and which transferred functions of Commissioner of Education to Secretary of Education.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2566, 2568, 2569 of this title.

§ 2568. Payments to Humphrey Institute and Dirksen Center; procedures applicable

No payment may be made under sections 2566 to 2569 of this title except upon an application at such time, in such manner, and containing or accompanied by such information as the Secretary may require.

(Pub. L. 95–270, § 3, Apr. 27, 1978, 92 Stat. 220; Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692.)

EFFECTIVE DATE

Section effective Oct. 1, 1978, see section 4(d) of Pub. L. 95–270, set out as a note under section 2566 of this title.

TRANSFER OF FUNCTIONS

''Secretary'', meaning Secretary of Education, substituted in text for ''Commissioner'' pursuant to sections 301(a)(1) and 507 of Pub. L. 96–88, which are classified to sections 3441(a)(1) and 3507 of this title and which transferred functions of Commissioner of Education to Secretary of Education.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2566, 2567, 2569 of this title.

§ 2569. Authorization of appropriations for Humphrey Institute and Dirksen Center

(a) Maximum amount for Institute

There are authorized to be appropriated such sums, not to exceed $5,000,000, as may be necessary to carry out the provisions of section 2566 of this title.

(b) Maximum amount for Center

There are authorized to be appropriated such sums, not to exceed $2,500,000, as may be necessary to carry out the provisions of section 2567 of this title.

(c) Availability of funds

Funds appropriated pursuant to sections 2566 to 2569 of this title shall remain available until expended.

(Pub. L. 95–270, § 4(a)–(c), Apr. 27, 1978, 92 Stat. 220.)

EFFECTIVE DATE

Section effective Oct. 1, 1978, see section 4(d) of Pub. L. 95–270, set out as a note under section 2566 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2566, 2567, 2568 of this title.

CHAPTER 46—CAREER EDUCATION INCENTIVE

Sec.
2601 to 2614. Repealed or Omitted.

§§ 2601 to 2612. Repealed. Pub. L. 97–35, title V, § 587(a)(4), Aug. 13, 1981, 95 Stat. 480

Section 2601, Pub. L. 95–207, § 2, Dec. 13, 1977, 91 Stat. 1464, provided Congressional findings for this chapter.

Section 2602, Pub. L. 95–207, § 3, Dec. 13, 1977, 91 Stat. 1464, set out Congressional declaration of purpose for this chapter.

Section 2603, Pub. L. 95–207, § 4, Dec. 13, 1977, 91 Stat. 1464; Pub. L. 96–46, § 6, Aug. 6, 1979, 93 Stat. 343, authorized appropriations for this chapter.

Section 2604, Pub. L. 95–207, § 5, Dec. 13, 1977, 91 Stat. 1465; Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, related to allotments to States.

Section 2605, Pub. L. 95–207, § 6, Dec. 13, 1977, 91 Stat. 1465; Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, related to submission of applications containing requisite assurances by States in order to receive funds under this chapter.

Section 2606, Pub. L. 95–207, § 7, Dec. 13, 1977, 91 Stat. 1467; Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, related to submission and contents of State plans.

Section 2607, Pub. L. 95–207, § 8, Dec. 13, 1977, 91 Stat. 1467, related to State payments to local educational agencies for comprehensive programs.

Section 2608, Pub. L. 95–207, § 9, Dec. 13, 1977, 91 Stat. 1469; Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, related to payments to States under this chapter.

Section 2609, Pub. L. 95–207, § 10, Dec. 13, 1977, 91 Stat. 1470; Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, related to grants to States for model programs.

Section 2610, Pub. L. 95–207, § 11, Dec. 13, 1977, 91 Stat. 1470; Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct.

17, 1979, 93 Stat. 677, 692, related to postsecondary educational career demonstration projects.

Section 2611, Pub. L. 95–207, §12, Dec. 13, 1977, 91 Stat. 1471; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to career education information.

Section 2612, Pub. L. 95–207, §13(a)–(d), Dec. 13, 1977, 91 Stat. 1471; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to administrative functions of Office of Career Education and National Advisory Council on Career Education.

SHORT TITLE

Section 1 of Pub. L. 95–207 which provided for short title of this chapter as the Career Education Incentive Act, was repealed by Pub. L. 97–35, title V, §587(a)(4), Aug. 13, 1981, 95 Stat. 480.

§2612a. Omitted

CODIFICATION

Section, Pub. L. 93–380, title IV, §406, Aug. 21, 1974, 88 Stat. 551; Pub. L. 94–273, §2(15), Apr. 21, 1976, 90 Stat. 375; Pub. L. 94–482, title V, §501(a)(6), (7), Oct. 12, 1976, 90 Stat. 2235; Pub. L. 95–207, §13(e), Dec. 13, 1977, 91 Stat. 1472; Pub. L. 95–561, title III, §301(b)(1)(E), (3), Nov. 1, 1978, 92 Stat. 2228; Pub. L. 96–88, title III, §301(a)(1), (b)(1), (2), title V, §507, Oct. 17, 1979, 93 Stat. 677, 678, 692, established an Office of Career Education to carry out the Career Education Incentive Act and a National Advisory Council for Career Education to advise on the implementation of the section and other programs pertaining to development and implementation of career education. The Career Education Incentive Act was repealed by Pub. L. 97–35, and section 413 of Pub. L. 96–88 (20 U.S.C. 3473) authorized the Secretary of Education to consolidate, alter, or discontinue the Office of Career Education or to reallocate any functions vested by statute in the Office. The National Advisory Council for Career Education terminated in 1982.

Section was formerly classified to section 1865 of this title.

§§2613, 2614. Repealed. Pub. L. 97–35, title V, §587(a)(4), Aug. 13, 1981, 95 Stat. 480

Section 2613, Pub. L. 95–207, §14, Dec. 13, 1977, 91 Stat. 1472; S. Res. 30, Mar. 7, 1979; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to annual State reports to Secretary, and a review and report to Congress by Secretary.

Section 2614, Pub. L. 95–207, §15, Dec. 13, 1977, 91 Stat. 1473; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, set out definitions for this chapter.

CHAPTER 47—STRENGTHENING AND IMPROVEMENT OF ELEMENTARY AND SECONDARY SCHOOLS

CODIFICATION

The Elementary and Secondary Education Act of 1965 (Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, as amended generally by Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 140, and as further amended), which was classified to this chapter (§2701 et seq.), was amended generally by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519, and transferred to chapter 70 (§6301 et seq.) of this title.

SUBCHAPTER I—BASIC PROGRAMS

Division 1—Financial Assistance To Meet Special Educational Needs of Children

§2701. Omitted

CODIFICATION

Section, Pub. L. 89–10, title I, §1001, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 140, which provided a declaration of policy and statement of purpose, was omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519. See section 6301 of this title.

A prior section 2701, Pub. L. 89–10, title I, §101, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2153, set out Congressional declaration of policy, prior to the general revision of this chapter by Pub. L. 100–297.

A prior section 2702, Pub. L. 89–10, title I, §102, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2153; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, provided for the duration of assistance on entitlements created under this subchapter, prior to the general revision of this chapter by Pub. L. 100–297.

PART A—BASIC PROGRAMS OPERATED BY LOCAL EDUCATIONAL AGENCIES

SUBPART 1—ALLOCATIONS

§§2711 to 2713. Omitted

CODIFICATION

Sections 2711 and 2712 were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519. See section 6311 et seq. of this title.

Section 2711, Pub. L. 89–10, title I, §1005, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 141; amended Pub. L. 102–73, title VIII, §802(a), July 25, 1991, 105 Stat. 360, related to basic grants.

A prior section 2711, Pub. L. 89–10, title I, §111, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2153; amended Pub. L. 96–88, title III, §301(a)(1), title V, §§507, 508(k), Oct. 17, 1979, 93 Stat. 677, 692, 694, related to amount and eligibility for grants, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 2712, Pub. L. 89–10, title I, §1006, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 146, related to grants for local educational agencies in counties with especially high concentrations of children from low-income families.

A prior section 2712, Pub. L. 89–10, title I, §112, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2158, related to treatment of earnings for purposes of aid to families with dependent children, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 2713, Pub. L. 93–380, title I, §101(a)(10), Aug. 21, 1974, 88 Stat. 501; Pub. L. 95–561, title I, §101(d), Nov. 1, 1978, 92 Stat. 2200; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, which was enacted as part of Education Amendments of 1974, and formerly classified to section 241b–1 of this title, related to authorization of appropriations to assist otherwise lower fiscal year allotment levels under former provisions of the Elementary and Secondary Education Act of 1965.

SUBPART 2—BASIC PROGRAM REQUIREMENTS

§§2721 to 2731. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519. See section 6311 et seq. of this title.

Section 2721, Pub. L. 89–10, title I, §1011, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 149, related to use of funds for educationally deprived children.

A prior section 2721, Pub. L. 89–10, title I, §116, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92

Stat. 2158; amended Pub. L. 96–46, §1(1), Aug. 6, 1979, 93 Stat. 338; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to special incentive grants, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 2722, Pub. L. 89–10, title I, §1012, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 150, related to assurances and applications.

A prior section 2722, Pub. L. 89–10, title I, §117, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2159; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to grants for local educational agencies in counties with especially high concentrations of children from low-income families, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 2723, Pub. L. 89–10, title I, §1013, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 151, related to use of funds in eligible school attendance areas.

Section 2724, Pub. L. 89–10, title I, §1014, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 153, related to use of funds for eligible educationally deprived children.

Section 2725, Pub. L. 89–10, title I, §1015, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 154; amended Pub. L. 102–359, §2(c)(1), Aug. 26, 1992, 106 Stat. 962, related to schoolwide projects.

Section 2726, Pub. L. 89–10, title I, §1016, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 156, related to parental involvement.

Section 2727, Pub. L. 89–10, title I, §1017, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 158, related to participation of children enrolled in private schools.

Section 2728, Pub. L. 89–10, title I, §1018, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 160, related to fiscal requirements.

Section 2729, Pub. L. 89–10, title I, §1019, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 163, related to evaluation of programs.

Section 2730, Pub. L. 89–10, title I, §1020, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 164, related to State educational program improvement plan.

Section 2731, Pub. L. 89–10, title I, §1021, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 165, related to improvement of programs.

PRIOR PROVISIONS

Prior sections 2731 to 2740 were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 2731, Pub. L. 89–10, title I, §121, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2161; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to applications by local educational agencies for assistance under this subchapter.

Section 2732, Pub. L. 89–10, title I, §122, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2161; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to designation of school attendance areas.

Section 2733, Pub. L. 89–10, title I, §123, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2163; amended Pub. L. 96–46, §1(2), Aug. 6, 1979, 93 Stat. 338; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to use of funds for educationally deprived children.

Section 2734, Pub. L. 89–10, title I, §124, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2164; amended Pub. L. 96–46, §1(3), Aug. 6, 1979, 93 Stat. 338; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to requirements for design and implementation of programs.

Section 2735, Pub. L. 89–10, title I, §125, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2167; amended Pub. L. 96–46, §1(4), (5), Aug. 6, 1979, 93 Stat. 338; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to parental involvement.

Section 2736, Pub. L. 89–10, title I, §126, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2168; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to allocation of funds.

Section 2737, Pub. L. 89–10, title I, §127, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2170, related to accountability.

Section 2738, Pub. L. 89–10, title I, §128, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2171; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to complaint resolution.

Section 2739, Pub. L. 89–10, title I, §129, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2171, related to individualized plans.

Section 2740, Pub. L. 89–10, title I, §130, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2171; amended Pub. L. 96–46, §1(6), Aug. 6, 1979, 93 Stat. 338; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to participation of children enrolled in private schools.

PART B—EVEN START FAMILY LITERACY PROGRAMS

§§ 2741 to 2749. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519. See section 6361 et seq. of this title.

Section 2741, Pub. L. 89–10, title I, §1051, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 167, provided statement of purpose.

Section 2742, Pub. L. 89–10, title I, §1052, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 167; amended Pub. L. 102–73, title III, §303(b), July 25, 1991, 105 Stat. 350, authorized grants to carry out Even Start programs.

Section 2743, Pub. L. 89–10, title I, §1053, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 167; amended Pub. L. 102–73, title III, §303(c), July 25, 1991, 105 Stat. 351, related to allocation of funds.

Section 2744, Pub. L. 89–10, title I, §1054, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 168; amended Pub. L. 101–476, title IX, §901(a)(2), Oct. 30, 1990, 104 Stat. 1142; Pub. L. 102–73, title III, §303(d), July 25, 1991, 105 Stat. 352, related to uses of funds.

Section 2745, Pub. L. 89–10, title I, §1055, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 169; amended Pub. L. 102–73, title III, §303(e), July 25, 1991, 105 Stat. 352, related to eligible participants.

Section 2746, Pub. L. 89–10, title I, §1056, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 169; amended Pub. L. 102–73, title III, §303(f), July 25, 1991, 105 Stat. 353, related to applications for grants.

Section 2747, Pub. L. 89–10, title I, §1057, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 170; amended Pub. L. 102–73, title III, §303(g), July 25, 1991, 105 Stat. 353, related to award of grants.

Section 2748, Pub. L. 89–10, title I, §1058, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 171, required evaluations of programs.

Section 2749, Pub. L. 89–10, title I, §1059, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 172; amended Pub. L. 102–73, title III, §303(h), July 25, 1991, 105 Stat. 353, authorized appropriations.

PRIOR PROVISIONS

Prior sections 2751 to 2754 were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 2751, Pub. L. 89–10, title I, §131, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2173;

amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to exclusions from excess costs and comparability provisions for certain special State and local programs.

Section 2752, Pub. L. 89–10, title I, §132, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2175, related to limited exemption to supplement, not supplant, requirement where certain special programs for educationally deprived children are fully funded.

Section 2753, Pub. L. 89–10, title I, §133, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2176; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to schoolwide projects.

Section 2754, Pub. L. 89–10, title I, §134, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2177, related to noninstructional duties.

PART C—SECONDARY SCHOOL PROGRAMS FOR BASIC SKILLS IMPROVEMENT AND DROPOUT PREVENTION AND REENTRY

§§ 2761 to 2768. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519. See section 7261 et seq. of this title.

Section 2761, Pub. L. 89–10, title I, §1101, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 172, provided statement of purpose.

A prior section 2761, Pub. L. 89–10, title I, §141, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2177; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to entitlement and amount of grants for migratory children programs, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 2762, Pub. L. 89–10, title I, §1102, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 172; amended Pub. L. 101–600, §3(a), Nov. 16, 1990, 104 Stat. 3042, related to allocation of funds.

A prior section 2762, Pub. L. 89–10, title I, §142, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2178; amended Pub. L. 96–46, §1(7), (8), Aug. 6, 1979, 93 Stat. 338; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692; Pub. L. 97–300, title I, §183, Oct. 13, 1982, 96 Stat. 1357; Pub. L. 98–211, §19(a)(1), Dec. 8, 1983, 97 Stat. 1418, related to requirements for migratory children program, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 2763, Pub. L. 89–10, title I, §1103, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 173; amended Pub. L. 101–600, §3(b), Nov. 16, 1990, 104 Stat. 3042, related to uses of funds.

A prior section 2763, Pub. L. 89–10, title I, §143, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2179; amended Pub. L. 96–46, §1(9), Aug. 6, 1979, 93 Stat. 338; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692; Pub. L. 99–159, title IV, §402, Nov. 22, 1985, 99 Stat. 904, related to coordination of migrant education activities, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 2764, Pub. L. 89–10, title I, §1104, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 174; amended Pub. L. 101–600, §3(c), Nov. 16, 1990, 104 Stat. 3043, related to applications for grants.

Section 2765, Pub. L. 89–10, title I, §1105, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 175; amended Pub. L. 101–600, §3(d), Nov. 16, 1990, 104 Stat. 3044, related to award of grants.

Section 2765a, Pub. L. 89–10, title I, §1106, as added Pub. L. 101–600, §3(e)(2), Nov. 16, 1990, 104 Stat. 3045, related to annual reports and creation of information base.

Section 2765b, Pub. L. 89–10, title I, §1107, as added Pub. L. 101–600, §3(f), Nov. 16, 1990, 104 Stat. 3045, related to identification and dissemination of model programs.

Section 2766, Pub. L. 89–10, title I, §1108, formerly §1106, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 176; renumbered §1108 and amended Pub. L. 101–600, §3(e)(1), (g), Nov. 16, 1990, 104 Stat. 3045, 3046, related to fiscal requirements and coordination and dissemination efforts.

Section 2767, Pub. L. 89–10, title I, §1109, formerly §1107, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 176; renumbered §1109, Pub. L. 101–600, §3(e)(1), Nov. 16, 1990, 104 Stat. 3045, related to evaluation of programs.

Section 2767a, Pub. L. 89–10, title I, §1110, as added Pub. L. 101–600, §3(h), Nov. 16, 1990, 104 Stat. 3046, related to definition of ''secondary school completion rate''.

Section 2768, Pub. L. 89–10, title I, §1111, formerly §1108, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 176; renumbered §1111, Pub. L. 101–600, §3(e)(1), Nov. 16, 1990, 104 Stat. 3045, authorized appropriations.

Prior sections 2771 and 2772 were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 2771, Pub. L. 89–10, title I, §146, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2180; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to grants for programs for handicapped children.

Section 2772, Pub. L. 89–10, title I, §147, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2180; amended Pub. L. 96–46, §1(10), Aug. 6, 1979, 93 Stat. 339; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692; Pub. L. 98–211, §19(a)(2), Dec. 8, 1983, 97 Stat. 1418, related to program requirements for programs for handicapped children.

PART D—PROGRAMS OPERATED BY STATE AGENCIES

SUBPART 1—PROGRAMS FOR MIGRATORY CHILDREN

§§ 2781 to 2783. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519. See section 6391 et seq. of this title.

Section 2781, Pub. L. 89–10, title I, §1201, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 176, related to grants for programs for education of children of migratory workers.

A prior section 2781, Pub. L. 89–10, title I, §151, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2181; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to amount and entitlement for grants for program for neglected and delinquent children, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 2782, Pub. L. 89–10, title I, §1202, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 177; amended Pub. L. 101–476, title IX, §901(a)(2), Oct. 30, 1990, 104 Stat. 1142, related to program requirements.

A prior section 2782, Pub. L. 89–10, title I, §152, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2181; amended Pub. L. 96–46, §1(11), Aug. 6, 1979, 93 Stat. 339; Pub. L. 98–211, §19(a)(2), Dec. 8, 1983, 97 Stat. 1418, related to program requirements for programs for neglected and delinquent children, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 2783, Pub. L. 89–10, title I, §1203, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 178; amended Pub. L. 101–476, title IX, §901(a)(2), Oct. 30, 1990, 104 Stat. 1142, related to coordination of migrant education activities.

A prior section 2783, Pub. L. 89–10, title I, §153, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2182; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to transition services, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

SUBPART 2—PROGRAMS FOR HANDICAPPED CHILDREN

§§ 2791 to 2796. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519. See section 1411 et seq. of this title.

Section 2791, Pub. L. 89–10, title I, §1221, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 179; amended Pub. L. 101–476, title IX, §901(a)(2), Oct. 30, 1990, 104 Stat. 1142; Pub. L. 102–103, title III, §312, Aug. 17, 1991, 105 Stat. 505, related to amount of and eligibility for grants for programs for handicapped children.

A prior section 2791, Pub. L. 89–10, title I, §156, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2182; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to reservation of funds for territories, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 2792, Pub. L. 89–10, title I, §1222, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 181; amended Pub. L. 101–476, title IX, §901(a)(2), Oct. 30, 1990, 104 Stat. 1142, related to program requirements.

A prior section 2792, Pub. L. 89–10, title I, §157, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2182, related to minimum payments for State operated programs, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 2793, Pub. L. 89–10, title I, §1223, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 182, related to uses of funds.

Section 2794, Pub. L. 89–10, title I, §1224, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 182; amended Pub. L. 101–476, title IX, §901(a)(2), Oct. 30, 1990, 104 Stat. 1142, related to service and program applications.

Section 2795, Pub. L. 89–10, title I, §1225, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 183, related to children eligible for services.

Section 2796, Pub. L. 89–10,title I, §1226, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 184; amended Pub. L. 101–476, title IX, §901(a)(2), Oct. 30, 1990, 104 Stat. 1142, related to Federal monitoring requirement.

SUBPART 3—PROGRAMS FOR NEGLECTED AND DELINQUENT CHILDREN

§§ 2801 to 2804. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519. See section 6421 et seq. of this title.

Section 2801, Pub. L. 89–10, title I, §1241, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 184, related to amount of and entitlement to grants for programs for neglected and delinquent children.

A prior section 2801, Pub. L. 89–10, title I, §161, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2183, related to applicability of former sections 2801–2824 of this title, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 2802, Pub. L. 89–10, title I, §1242, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 184, related to program requirements.

A prior section 2802, Pub. L. 89–10, title I, §162, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2183; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to content and submission of State applications, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 2803, Pub. L. 89–10, title I, §1243, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 185, related to transition services.

Section 2804, Pub. L. 89–10, title I, §1244, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 185, defined ''institution for delinquent children'' and ''institution for neglected children''.

SUBPART 4—GENERAL PROVISIONS FOR STATE OPERATED PROGRAMS

§§ 2811, 2812. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519.

Section 2811, Pub. L. 89–10, title I, §1291, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 186, related to reservation of funds for territories.

A prior section 2811, Pub. L. 89–10, title I, §164, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2183; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to approval of applications by State educational agencies, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 2812, Pub. L. 89–10, title I, §1292, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 186, related to dual eligibility for programs.

Prior sections 2812 to 2817 were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 2812, Pub. L. 89–10, title I, §165, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2184; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to State rulemaking.

Section 2813, Pub. L. 89–10, title I, §166, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2184, related to technical assistance and dissemination of information.

Section 2814, Pub. L. 89–10, title I, §167, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2184; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to monitoring.

Section 2815, Pub. L. 89–10, title I, §168, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2185; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to resolution of complaints.

Section 2816, Pub. L. 89–10, title I, §169, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2185; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to withholding of payments.

Section 2817, Pub. L. 89–10, title I, §170, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2186; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to audits and audit resolution.

PART E—PAYMENTS

§§ 2821 to 2826. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965,

Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519.

Section 2821, Pub. L. 89–10, title I, §1401, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 186, related to payment methods.

A prior section 2821, Pub. L. 89–10, title I, §171, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2187; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to State monitoring and enforcement plan, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 2822, Pub. L. 89–10, title I, §1402, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 186, related to amount of payments to local educational agencies.

A prior section 2822, Pub. L. 89–10, title I, §172, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2187; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to reports filed with the Secretary by State educational agencies, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 2823, Pub. L. 89–10, title I, §1403, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 186, related to adjustments where necessitated by appropriations.

A prior section 2823, Pub. L. 89–10, title I, §173, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2188; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to recordkeeping, fiscal control, and fund accounting, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 2824, Pub. L. 89–10, title I, §1404, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 187, related to payments for State administration.

A prior section 2824, Pub. L. 89–10, title I, §174, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2188, related to prohibition of consideration of Federal aid in determining State aid, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 2825, Pub. L. 89–10, title I, §1405, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 188, related to funds for implementation of school improvement programs.

Section 2826, Pub. L. 89–10, title I, §1406, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 188, related to limitation on grants to Commonwealth of Puerto Rico.

PART F—GENERAL PROVISIONS

SUBPART 1—FEDERAL ADMINISTRATION

§§ 2831 to 2839. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519. See section 6511 et seq. of this title.

Section 2831, Pub. L. 89–10, title I, §1431, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 189, related to Federal regulations.

A prior section 2831, Pub. L. 89–10, title I, §181, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2188, related to application of the General Education Provisions Act to programs under this subchapter, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 2832, Pub. L. 89–10, title I, §1432, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 189, related to availability of appropriations.

A prior section 2832, Pub. L. 89–10, title I, §182, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2188; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to approval of applications, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 2833, Pub. L. 89–10, title I, §1433, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 190, related to withholding of payments.

A prior section 2833, Pub. L. 89–10, title I, §183, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2189; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692; Pub. L. 96–470, title II, §204, Oct. 19, 1980, 94 Stat. 2244, related to program evaluation, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 2834, Pub. L. 89–10, title I, §1434, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 190, related to judicial review.

A prior section 2834, Pub. L. 89–10, title I, §184, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2190; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to resolution of complaints, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 2835, Pub. L. 89–10, title I, §1435, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 191, related to standards for evaluation of programs.

A prior section 2835, Pub. L. 89–10, title I, §185, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2190; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692; Pub. L. 95–452, §9(a)(1)(C), as added Pub. L. 96–88, title V, §508(n)(2), Oct. 17, 1979, 93 Stat. 694, related to audits and audit resolution, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 2836, Pub. L. 89–10, title I, §1436, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 191, related to coordination of Federal, State, and local administration.

A prior section 2836, Pub. L. 89–10, title I, §186, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2191; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to withholding of payments, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 2837, Pub. L. 89–10, title I, §1437, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 193, related to authorization of appropriations for evaluation and technical assistance.

A prior section 2837, Pub. L. 89–10, title I, §187, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2192; amended Pub. L. 96–88, title III, §301, title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to policy manual, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 2838, Pub. L. 89–10, title I, §1438, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 193, related to application of General Education Provisions Act.

A prior section 2838, Pub. L. 89–10, title I, §188, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2193; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to enforcement report, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 2839, Pub. L. 89–10, title I, §1439, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 193, related to National Commission on Migrant Education.

Prior sections 2841 to 2844 were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 2841, Pub. L. 89–10, title I, §191, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2195; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507,

Oct. 17, 1979, 93 Stat. 677, 692, related to payment methods.

Section 2842, Pub. L. 89–10, title I, §192, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2195, related to amount of payments to local educational agencies.

Section 2843, Pub. L. 89–10, title I, §193, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2195; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to adjustments where necessitated by appropriations.

Section 2844, Pub. L. 89–10, title I, §194, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2196; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692; Pub. L. 97–35, title V, §554(d), Aug. 13, 1981, 95 Stat. 465, related to payments for State administration.

SUBPART 2—STATE ADMINISTRATION

§§ 2851 to 2854. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519.

Section 2851, Pub. L. 89–10, title I, §1451, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 196, related to State regulations.

A prior section 2851, Pub. L. 89–10, title I, §195, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2196; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to judicial review, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 2852, Pub. L. 89–10, title I, §1452, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 197, related to records and information.

A prior section 2852, Pub. L. 89–10, title I, §196, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2197, related to National Advisory Council on the Education of Disadvantaged Children, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 2853, Pub. L. 89–10, title I, §1453, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 197, related to assignment of personnel.

A prior section 2853, Pub. L. 89–10, title I, §197, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2198, related to limitation on grant to Puerto Rico, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 2854, Pub. L. 89–10, title I, §1454, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 197, related to prohibition regarding State aid.

A prior section 2854, Pub. L. 89–10, title I, §198, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2198; amended Pub. L. 96–88, title III, §301(a)(1), (2)(B), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, defined terms for purposes of this subchapter, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

SUBPART 3—RURAL EDUCATIONAL OPPORTUNITIES

§§ 2861 to 2864. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519.

Section 2861, Pub. L. 89–10, title I, §1456, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 198, authorized rural assistance programs.

Section 2862, Pub. L. 89–10, title I, §1457, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 198, related to application priority requirements.

Section 2863, Pub. L. 89–10, title I, §1458, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 198, related to coordination, dissemination, and report.

Section 2864, Pub. L. 89–10, title I, §1459, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 199, authorized appropriations.

SUBPART 4—STUDIES

§§ 2881 to 2883. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519.

Section 2881, Pub. L. 89–10, title I, §1461, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 199, required report on State and local evaluations.

A prior section 2881, Pub. L. 89–10, title II, §201, as added Pub. L. 95–561, title II, §201, Nov. 1, 1978, 92 Stat. 2201, set out the purpose of this part, prior to repeal by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 2882, Pub. L. 89–10, title I, §1462, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 199, required national study on effect of programs on children.

A prior section 2882, Pub. L. 89–10, title II, §202, as added Pub. L. 95–561, title II, §201, Nov. 1, 1978, 92 Stat. 2202, related to applications for grants and awards under this part, prior to repeal by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 2883, Pub. L. 89–10, title I, §1463, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 199, authorized appropriations.

Prior sections 2883 to 2890 were repealed by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 2883, Pub. L. 89–10, title II, §203, as added Pub. L. 95–561, title II, §201, Nov. 1, 1978, 92 Stat. 2202, related to acceptance of gifts by the Secretary.

Section 2884, Pub. L. 89–10, title II, §204, as added Pub. L. 95–561, title II, §201, Nov. 1, 1978, 92 Stat. 2202, authorized Secretary to make grants and contracts under this part.

Section 2885, Pub. L. 89–10, title II, §205, as added Pub. L. 95–561, title II, §201, Nov. 1, 1978, 92 Stat. 2202, provided for instruction in basic skills.

Section 2886, Pub. L. 89–10, title II, §206, as added Pub. L. 95–561, title II, §201, Nov. 1, 1978, 92 Stat. 2203, related to parental participation in basic skills instruction.

Section 2887, Pub. L. 89–10, title II, §207, as added Pub. L. 95–561, title II, §201, Nov. 1, 1978, 92 Stat. 2203, related to use of technology in basic skills instruction.

Section 2888, Pub. L. 89–10, title II, §208, as added Pub. L. 95–561, title II, §201, Nov. 1, 1978, 92 Stat. 2204, related to involvement of educational agencies and private organizations in improving basic skills.

Section 2889, Pub. L. 89–10, title II, §209, as added Pub. L. 95–561, title II, §201, Nov. 1, 1978, 92 Stat. 2204, related to collection and dissemination of information relating to basic skills programs.

Section 2890, Pub. L. 89–10, title II, §210, as added Pub. L. 95–561, title II, §201, Nov. 1, 1978, 92 Stat. 2204, related to coordination of programs under this part with other Federal programs.

SUBPART 5—DEFINITIONS

§ 2891. Omitted

CODIFICATION

Section, Pub. L. 89–10, title I, §1471, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 200, which defined terms for purposes of this chapter, was omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519. See section 8801 of this title.

SUBPART 6—MISCELLANEOUS PROVISIONS

§ 2901. Omitted

CODIFICATION

Section, Pub. L. 89–10, title I, § 1491, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 202, which contained transition provisions, was omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519.

Prior sections 2901 to 2904 were repealed by Pub. L. 97–35, title V, § 587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 2901, Pub. L. 89–10, title II, § 221, as added Pub. L. 95–561, title II, § 201, Nov. 1, 1978, 92 Stat. 2204, set out statement of purpose for basic skills improvement program.

Section 2902, Pub. L. 89–10, title II, § 222, as added Pub. L. 95–561, title II, § 201, Nov. 1, 1978, 92 Stat. 2205; amended Pub. L. 96–46, § 1(12), Aug. 6, 1979, 93 Stat. 339, related to agreements with State educational agencies.

Section 2903, Pub. L. 89–10, title II, § 223, as added Pub. L. 95–561, title II, § 201, Nov. 1, 1978, 92 Stat. 2207, related to distribution of grants by the Secretary.

Section 2904, Pub. L. 89–10, title II, § 224, as added Pub. L. 95–561, title II, § 201, Nov. 1, 1978, 92 Stat. 2207, provided for a State leadership program.

Division 2—Federal, State, and Local Partnership for Educational Improvement

§§ 2911, 2912. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519. See section 7301 et seq. of this title.

Section 2911, Pub. L. 89–10, title I, § 1501, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 203, provided for findings and statement of purpose.

A prior section 2911, Pub. L. 89–10, title II, § 231, as added Pub. L. 95–561, title II, § 201, Nov. 1, 1978, 92 Stat. 2208; amended Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, related to an inexpensive book distribution program for reading motivation, prior to repeal by Pub. L. 97–35, title V, § 587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 2912, Pub. L. 89–10, title I, § 1502, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 204, authorized appropriations and related to duration of assistance.

A prior section 2912, Pub. L. 89–10, title II, § 232, as added Pub. L. 95–561, title II, § 201, Nov. 1, 1978, 92 Stat. 2209; amended Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, related to authorization of and appropriations for special mathematics programs, prior to repeal by Pub. L. 97–35, title V, § 587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

PART A—STATE AND LOCAL PROGRAMS

SUBPART 1—GENERAL PROVISIONS

§§ 2921, 2922. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519. See section 7311 et seq. of this title.

Section 2921, Pub. L. 89–10, title I, § 1511, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 204, related to allotment to States.

A prior section 2921, Pub. L. 89–10, title II, § 241, as added Pub. L. 95–561, title II, § 201, Nov. 1, 1978, 92 Stat. 2209, authorized appropriations for program for improving basic skills, prior to repeal by Pub. L. 97–35, title V, § 587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 2922, Pub. L. 89–10, title I, § 1512, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 204, related to allocation to local educational agencies.

A prior section 2922, Pub. L. 89–10, title II, § 242, as added Pub. L. 95–561, title II, § 201, Nov. 1, 1978, 92 Stat. 2209, related to apportionment of appropriations, prior to repeal by Pub. L. 97–35, title V, § 587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

SUBPART 2—STATE PROGRAMS

§§ 2931, 2932. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519. See section 7331 et seq. of this title.

Section 2931, Pub. L. 89–10, title I, § 1521, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 206, related to State uses of funds.

Section 2932, Pub. L. 89–10, title I, § 1522, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 206, related to State applications.

SUBPART 3—LOCAL TARGETED ASSISTANCE PROGRAMS

§§ 2941 to 2943. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519. See section 7351 et seq. of this title.

Section 2941, Pub. L. 89–10, title I, § 1531, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 208; amended Pub. L. 102–73, title III, § 302, July 25, 1991, 105 Stat. 350, related to targeted use of funds.

A prior section 2941, Pub. L. 89–10, title III, § 301, as added Pub. L. 95–561, title III, § 301(a), Nov. 1, 1978, 92 Stat. 2210; amended Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, provided the statement of purpose for former subchapter III, prior to repeal by Pub. L. 97–35, title V, § 587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 2942, Pub. L. 89–10, title I, § 1532, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 208, related to authorized activities.

A prior section 2942, Pub. L. 89–10, title III, § 302, as added Pub. L. 95–561, title III, § 301(a), Nov. 1, 1978, 92 Stat. 2210; amended Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 92 Stat. 677, 692, authorized Secretary to make grants and contracts to carry out the purposes of program of special projects, prior to repeal by Pub. L. 97–35, title V, § 587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 2943, Pub. L. 89–10, title I, § 1533, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 208, related to local applications.

A prior section 2943, Pub. L. 89–10, title III, § 303, as added Pub. L. 95–561, title III, § 301(a), Nov. 1, 1978, 92 Stat. 2210; amended Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, authorized discretionary projects of the Secretary, prior to repeal by Pub. L. 97–35, title V, § 587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

SUBPART 4—EFFECTIVE SCHOOLS PROGRAMS

§§ 2951, 2952. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519.

Section 2951, Pub. L. 89–10, title I, § 1541, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 209, related to establishment of effective schools programs.

A prior section 2951, Pub. L. 89–10, title III, §311, as added Pub. L. 95–561, title III, §301(a), Nov. 1, 1978, 92 Stat. 2211, set out the short title and declaration of purpose for program of metric education, prior to repeal by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 2952, Pub. L. 89–10, title I, §1542, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 210, defined ''effective schools programs''. See section 7303 of this title.

Prior sections 2952 to 2954 were repealed by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 2952, Pub. L. 89–10, title III, §312, as added Pub. L. 95–561, title III, §301(a), Nov. 1, 1978, 92 Stat. 2211; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, authorized a program of grants and contracts and provided a definition of ''metric system of measurement''.

Section 2953, Pub. L. 89–10, title III, §313, as added Pub. L. 95–561, title III, §301(a), Nov. 1, 1978, 92 Stat. 2212; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to applications for financial assistance.

Section 2954, Pub. L. 89–10, title III, §314, as added Pub. L. 95–561, title III, §301(a), Nov. 1, 1978, 92 Stat. 2212, authorized appropriations.

PART B—NATIONAL PROGRAMS AND ACTIVITIES

§§ 2961 to 2966. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519.

Section 2961, Pub. L. 89–10, title I, §1561, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 210, provided general authority for national programs and activities.

A prior section 2961, Pub. L. 89–10, title III, §321, as added Pub. L. 95–561, title III, §301(a), Nov. 1, 1978, 92 Stat. 2212, set out short title and statement of findings for program of arts in education, prior to repeal by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 2962, Pub. L. 89–10, title I, §1562, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 211, related to National Diffusion Network activities. See section 8651 et seq. of this title.

A prior section 2962, Pub. L. 89–10, title III, §322, as added Pub. L. 95–561, title III, §301(a), Nov. 1, 1978, 92 Stat. 2212; amended Pub. L. 96–88, title III, §301(a), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, authorized a program of grants and contracts for Arts in Education program, prior to repeal by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 2963, Pub. L. 89–10, title I, §1563, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 212; amended Pub. L. 102–73, title V, §501(a), July 25, 1991, 105 Stat. 355, related to inexpensive book distribution program for reading motivation. See section 8131 of this title.

A prior section 2963, Pub. L. 89–10, title III, §323, as added, Pub. L. 95–561, title III, §301(a), Nov. 1, 1978, 92 Stat. 2213, authorized appropriations for Arts in Education program, prior to repeal by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 2964, Pub. L. 89–10, title I, §1564, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 213, related to Arts in Education program. See section 8091 of this title.

Section 2965, Pub. L. 89–10, title I, §1565, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 213; amended Pub. L. 102–62, title III, §311, June 27, 1991, 105 Stat. 313, related to law-related education program. See section 8142 of this title.

Section 2966, Pub. L. 89–10, title I, §1566, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 214; amended Pub. L. 102–73, title VI, §602(a), July 25, 1991, 105 Stat. 357, related to Blue Ribbon Schools program.

PART C—GENERAL ADMINISTRATIVE PROVISIONS

§§ 2971 to 2976. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519.

Section 2971, Pub. L. 89–10, title I, §1571, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 214, required that States maintain effort and that Federal funds be supplementary. See sections 7371 and 8891 of this title.

A prior section 2971, Pub. L. 89–10, title III, §325, as added Pub. L. 95–561, title III, §301(a), Nov. 1, 1978, 92 Stat. 2213; amended Pub. L. 96–88, title III, §301(a)(1), title V, §§507, 509(b), Oct. 17, 1979, 93 Stat. 677, 692, 695, set forth provisions establishing and implementing preschool partnership programs, prior to repeal by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 2972, Pub. L. 89–10, title I, §1572, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 215, related to participation of children enrolled in private schools. See sections 7372 and 8893 et seq. of this title.

Section 2973, Pub. L. 89–10, title I, §1573, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 217, related to evaluations and reporting.

Section 2974, Pub. L. 89–10, title I, §1574, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 218, related to Federal administration. See section 7373 of this title.

Section 2975, Pub. L. 89–10, title I, §1575, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 218, related to application of General Education Provisions Act.

Section 2976, Pub. L. 89–10, title I, §1576, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 218, contained transition provisions.

SUBCHAPTER II—CRITICAL SKILLS IMPROVEMENT

PART A—DWIGHT D. EISENHOWER MATHEMATICS AND SCIENCE EDUCATION ACT

§§ 2981, 2982. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519. See section 6601 et seq. of this title.

Section 2981, Pub. L. 89–10, title II, §2001, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 219, provided that this part could be cited as the ''Dwight D. Eisenhower Mathematics and Science Education Act''.

A prior section 2981, Pub. L. 89–10, title III, §331, as added Pub. L. 95–561, title III, §301(a), Nov. 1, 1978, 92 Stat. 2214, set out the short title and statement of findings for program of consumer education, prior to repeal by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 2982, Pub. L. 89–10, title II, §2002, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 219, stated purpose of this part.

A prior section 2982, Pub. L. 89–10, title III, §332, as added Pub. L. 95–561, title III, §301(a), Nov. 1, 1978, 92 Stat. 2214; amended Pub. L. 96–88, title III, §301(a)(1), (b)(2), title V, §507, Oct. 17, 1979, 93 Stat. 677, 678, 692, established an Office of Consumers' Education and provided for the appointment of a Director thereof, prior to repeal by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

SUBPART 1—STATE GRANTS AND NATIONAL PROGRAMS

§§ 2983 to 2992. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519. See section 6601 et seq. of this title.

Section 2983, Pub. L. 89–10, title II, §2003, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 219; amended Pub. L. 101–589, title II, §205(b)(1), Nov. 16, 1990, 104 Stat. 2890, authorized grant program for strengthening skills of teachers and improving instruction in mathematics and science.

A prior section 2983, Pub. L. 89–10, title III, §333, as added Pub. L. 95–561, title III, §301(a), Nov. 1, 1978, 92 Stat. 2214; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, authorized a program of grants and contracts and provided for the availability of funds, prior to repeal by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 2984, Pub. L. 89–10, title II, §2004, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 219; amended Pub. L. 101–589, title II, §205(b)(1), Nov. 16, 1990, 104 Stat. 2890, related to allocation of funds.

A prior section 2984, Pub. L. 89–10, title III, §334, as added Pub. L. 95–561, title III, §301(a), Nov. 1, 1978, 92 Stat. 2215; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to applications for financial assistance, prior to repeal by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 2985, Pub. L. 89–10, title II, §2005, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 220; amended Pub. L. 101–589, title II, §§201, 202(b), 205(b)(1), Nov. 16, 1990, 104 Stat. 2883, 2884, 2890, related to in-State apportionment.

A prior section 2985, Pub. L. 89–10, title III, §335, as added Pub. L. 95–561, title III, §301(a), Nov. 1, 1978, 92 Stat. 2215; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to reports and evaluations by recipients of consumer education program, prior to repeal by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 2986, Pub. L. 89–10, title II, §2006, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 221; amended Pub. L. 101–589, title II, §§202(a), 205(b)(1), Nov. 16, 1990, 104 Stat. 2884, 2890, related to elementary and secondary education programs.

A prior section 2986, Pub. L. 89–10, title III, §336, as added Pub. L. 95–561, title III, §301(a), Nov. 1, 1978, 92 Stat. 2215, related to reservation of funds to carry out consumer education program, prior to repeal by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 2987, Pub. L. 89–10, title II, §2007, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 222; amended Pub. L. 101–589, title II, §§203, 205(b)(1), Nov. 16, 1990, 104 Stat. 2884, 2890, related to higher education programs.

Section 2988, Pub. L. 89–10, title II, §2008, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 224; amended Pub. L. 101–589, title II, §205(b)(1), Nov. 16, 1990, 104 Stat. 2890, related to State applications.

Section 2989, Pub. L. 89–10, title II, §2009, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 225; amended Pub. L. 101–589, title II, §205(b)(1), Nov. 16, 1990, 104 Stat. 2890, related to local applications.

Section 2990, Pub. L. 89–10, title II, §2010, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 226; amended Pub. L. 101–589, title II, §205(b)(1), Nov. 16, 1990, 104 Stat. 2890, related to participation of children and teachers from private schools.

Section 2991, Pub. L. 89–10, title II, §2011, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 227; amended Pub. L. 101–589, title II, §205(b)(1), Nov. 16, 1990, 104 Stat. 2890, related to Federal administration.

A prior section 2991, Pub. L. 89–10, title III, §341, as added Pub. L. 95–561, title III, §301(a), Nov. 1, 1978, 92 Stat. 2215; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, authorized a youth employment program and set out activities implementing such program, prior to repeal by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 2992, Pub. L. 89–10, title II, §2012, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 227; amended Pub. L. 101–589, title II, §204, Nov. 16, 1990, 104 Stat. 2884, related to national programs.

A prior section 2992, Pub. L . 89–10, title III, §342, as added Pub. L. 95–561, title III, §301(a), Nov. 1, 1978, 92 Stat. 2216, authorized appropriations, prior to repeal by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

§ 2993. Transferred

CODIFICATION

Section, Pub. L. 89–10, title II, §2013, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 227, which defined terms used in this part, was renumbered §2031 of Pub. L. 89–10 by Pub. L. 101–589, title II, §205(b)(2), Nov. 16, 1990, 104 Stat. 2890, transferred to section 2996 of this title, and subsequently omitted in the general amendment of Pub. L. 89–10 by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519.

SUBPART 2—REGIONAL MATHEMATICS AND SCIENCE EDUCATION CONSORTIUMS

§§ 2994 to 2994g. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519. See section 8671 et seq. of this title.

Section 2994, Pub. L. 89–10, title II, §2016, as added Pub. L. 101–589, title II, §205(a)(2), Nov. 16, 1990, 104 Stat. 2886, authorized award of grants and contracts for establishment and operation of regional mathematics and science education consortia.

Section 2994a, Pub. L. 89–10, title II, §2017, as added Pub. L. 101–589, title II, §205(a)(2), Nov. 16, 1990, 104 Stat. 2887, related to use of funds.

Section 2994b, Pub. L. 89–10, title II, §2018, as added Pub. L. 101–589, title II, §205(a)(2), Nov. 16, 1990, 104 Stat. 2888, related to application and review.

Section 2994c, Pub. L. 89–10, title II, §2019, as added Pub. L. 101–589, title II, §205(a)(2), Nov. 16, 1990, 104 Stat. 2889, related to regional boards.

Section 2994d, Pub. L. 89–10, title II, §2020, as added Pub. L. 101–589, title II, §205(a)(2), Nov. 16, 1990, 104 Stat. 2889, related to payments, Federal share, and non-Federal share.

Section 2994e, Pub. L. 89–10, title II, §2021, as added Pub. L. 101–589, title II, §205(a)(2), Nov. 16, 1990, 104 Stat. 2889, related to evaluations of regional consortia.

Section 2994f, Pub. L. 89–10, title II, §2022, as added Pub. L. 101–589, title II, §205(a)(2), Nov. 16, 1990, 104 Stat. 2890, defined terms used in subpart.

Section 2994g, Pub. L. 89–10, title II, §2023, as added Pub. L. 101–589, title II, §205(a)(2), Nov. 16, 1990, 104 Stat. 2890, authorized appropriations.

SUBPART 3—GENERAL PROVISIONS

§ 2996. Omitted

CODIFICATION

Section, Pub. L. 89–10, title II, §2031, formerly §2013, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 227; renumbered §2031, Pub. L. 101–589, title II, §205(b)(2), Nov. 16, 1990, 104 Stat. 2890, which defined terms used in this part, was omitted in the general amendment of the Elementary and Secondary Edu-

cation Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519. See sections 8677 and 8801 of this title.

PART B—FOREIGN LANGUAGES ASSISTANCE

§§ 3001 to 3006. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519. See section 7511 et seq. of this title.

Section 3001, Pub. L. 89–10, title II, § 2101, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 228, provided that this part could be cited as the ''Foreign Language Assistance Act of 1988''.

A prior section 3001, Pub. L. 89–10, title III, § 346, as added Pub. L. 95–561, title III, § 301(a), Nov. 1, 1978, 92 Stat. 2216, set out short title and a declaration of findings for program of law-related education, prior to repeal by Pub. L. 97–35, title V, § 587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3002, Pub. L. 89–10, title II, § 2102, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 228, stated findings of Congress.

A prior section 3002, Pub. L. 89–10, title III, § 347, as added Pub. L. 95–561, title III, § 301(a), Nov. 1, 1978, 92 Stat. 2216; amended Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, authorized a program of grants and contracts for law related education programs, prior to repeal by Pub. L. 97–35, title V, § 587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3003, Pub. L. 89–10, title II, § 2103, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 228, authorized grants for commencement or improvement and expansion of programs for foreign language study.

A prior section 3003, Pub. L. 89–10, title III, § 348, as added Pub. L. 95–561, title III, § 301(a), Nov. 1, 1978, 92 Stat. 2217, authorized appropriations for program of law-related education, prior to repeal by Pub. L. 97–35, title V, § 587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3004, Pub. L. 89–10, title II, § 2104, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 229, related to allotment of funds.

Section 3005, Pub. L. 89–10, title II, § 2105, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 229, defined terms used in this part.

Section 3006, Pub. L. 89–10, title II, § 2106, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 230, authorized appropriations.

PART C—PRESIDENTIAL AWARDS FOR TEACHING EXCELLENCE IN FOREIGN LANGUAGES

§§ 3011 to 3013. Omitted

CODIFICATION

Sections 3011 and 3012 were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519.

Section 3011, Pub. L. 89–10, title II, § 2201, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 230; amended Pub. L. 100–570, title I, § 117(b)(1), Oct. 31, 1988, 102 Stat. 2872, authorized Presidential Awards for Teaching Excellence in Foreign Languages.

A prior section 3011, Pub. L. 89–10, title III, § 351, as added Pub. L. 95–561, title III, § 301(a), Nov. 1, 1978, 92 Stat. 2217, set out short title and declaration of findings and purpose for program of environmental education, prior to repeal by Pub. L. 97–35, title V, § 587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3012, Pub. L. 89–10, title II, § 2202, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 230; amended Pub. L. 100–570, title I, § 117(b)(1), Oct. 31, 1988, 102 Stat. 2873, contained administrative provisions.

A prior section 3012, Pub. L. 89–10, title III, § 352, as added Pub. L. 95–561, title III, § 301(a), Nov. 1, 1978, 92 Stat. 2218; amended Pub. L. 96–88, title III, § 301(a)(1), (b)(2), title V, §§ 507, 508(*l*)(1), Oct. 17, 1979, 93 Stat. 677, 678, 692, 694, established Office of Environmental Education and provided for appointment of a Director thereof, prior to repeal by Pub. L. 97–35, title V, § 587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3013, Pub. L. 89–10, title II, § 2203, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 230, related to authorization of appropriations, prior to the general amendment of this part by Pub. L. 100–570.

Prior sections 3013 to 3018 were repealed by Pub. L. 97–35, title V, § 587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3013, Pub. L. 89–10, title III, § 353, as added Pub. L. 95–561, title III, § 301(a), Nov. 1, 1978, 92 Stat. 2218; amended Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, authorized a program of grants and contracts relating to environmental education.

Section 3014, Pub. L. 89–10, title III, § 354, as added Pub. L. 95–561, title III, § 301(a), Nov. 1, 1978, 92 Stat. 2219; amended Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, related to submission of applications for financial assistance for environmental education.

Section 3015, Pub. L. 89–10, title III, § 355, as added Pub. L. 95–561, title III, § 301(a), Nov. 1, 1978, 92 Stat. 2220; amended Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, related to technical assistance to local educational agencies, nonprofit organizations and other agencies.

Section 3016, Pub. L. 89–10, title III, § 356, as added Pub. L. 95–561, title III, § 301(a), Nov. 1, 1978, 92 Stat. 2220; amended Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, related to special grants to nonprofit organizations.

Section 3017, Pub. L. 89–10, title III, § 357, as added Pub. L. 95–561, title III, § 301(a), Nov. 1, 1978, 92 Stat. 2220; amended Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, related to administration by the Secretary.

Section 3018, Pub. L. 89–10, title III, § 358, as added Pub. L. 95–561, title III, § 301(a), Nov. 1, 1978, 92 Stat. 2221; amended Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, authorized appropriations.

SUBCHAPTER III—MAGNET SCHOOLS ASSISTANCE

§§ 3021 to 3032. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519. See section 7201 et seq. of this title.

Section 3021, Pub. L. 89–10, title III, § 3001, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 231, authorized appropriations for magnet schools assistance.

A prior section 3021, Pub. L. 89–10, title III, § 361, as added Pub. L. 95–561, title III, § 301(a), Nov. 1, 1978, 92 Stat. 2221, set out short title and declaration of purpose for program of health education, prior to repeal by Pub. L. 97–35, title V, § 587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3022, Pub. L. 89–10, title III, § 3002, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 231, related to eligibility for assistance.

A prior section 3022, Pub. L. 89–10, title III, § 362, as added Pub. L. 95–561, title III, § 301(a), Nov. 1, 1978, 92 Stat. 2221; amended Pub. L. 96–88, title III, § 301(a)(1), title V, §§ 507, 509(b), Oct. 17, 1979, 93 Stat. 677, 692, 695, authorized program of grants to State and local educational agencies, prior to repeal by Pub. L. 97–35, title V, § 587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3023, Pub. L. 89–10, title III, § 3003, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 231, stated purpose of this subchapter.

A prior section 3023, Pub. L. 89–10, title III, § 363, as added Pub. L. 95–561, title III, § 301(a), Nov. 1, 1978, 92 Stat. 2221; amended Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, related to applications for financial assistance for program of health education, prior to repeal by Pub. L. 97–35, title V, § 587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3024, Pub. L. 89–10, title III, § 3004, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 231, authorized grants for use in magnet schools.

A prior section 3024, Pub. L. 89–10, title III, § 364, as added Pub. L. 95–561, title III, § 301(a), Nov. 1, 1978, 92 Stat. 2221, authorized appropriations for a program of health education, prior to repeal by Pub. L. 97–35, title V, § 587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3025, Pub. L. 89–10, title III, § 3005, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 232, defined ''magnet school''.

Section 3026, Pub. L. 89–10, title III, § 3006, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 232, related to uses of funds.

Section 3027, Pub. L. 89–10, title III, § 3007, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 232, related to applications and requirements.

Section 3028, Pub. L. 89–10, title III, § 3008, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 233, related to special considerations in approving applications.

Section 3029, Pub. L. 89–10, title III, § 3009, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 233, related to prohibited uses for grants.

Section 3030, Pub. L. 89–10, title III, § 3010, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 233, related to limitations on payments.

Section 3031, Pub. L. 89–10, title III, § 3011, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 234, related to payments to local educational agencies.

A prior section 3031, Pub. L. 89–10, title III, § 371, as added Pub. L. 95–561, title III, § 301(a), Nov. 1, 1978, 92 Stat. 2222, provided short title for program of correction education, prior to repeal by Pub. L. 97–35, title V, § 587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3032, Pub. L. 89–10, title III, § 3012, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 234, related to withholding and cease and desist orders.

Prior sections 3032 to 3034 were repealed by Pub. L. 97–35, title V, § 587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3032, Pub. L. 89–10, title III, § 372, as added Pub. L. 95–561, title III, § 301(a), Nov. 1, 1978, 92 Stat. 2222; amended Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, authorized a program of grants relating to the academic and vocational education of antisocial, aggressive, or delinquent persons.

Section 3033, Pub. L. 89–10, title III, § 373, as added Pub. L. 95–561, title III, § 301(a), Nov. 1, 1978, 92 Stat. 2222; amended Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, related to technical assistance given to the Secretary.

Section 3034, Pub. L. 89–10, title III, § 374, as added Pub. L. 95–561, title III, § 301(a), Nov. 1, 1978, 92 Stat. 2222, authorized appropriations.

SUBCHAPTER IV—SPECIAL PROGRAMS

PART A—WOMEN'S EDUCATIONAL EQUITY

§§ 3041 to 3047. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519. See section 7231 et seq. of this title.

Section 3041, Pub. L. 89–10, title IV, § 4001, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 234, provided that this part could be cited as the ''Women's Educational Equity Act'' and stated Congressional findings and purpose.

A prior section 3041, Pub. L. 89–10, title III, § 376, as added Pub. L. 95–561, title III, § 301(a), Nov. 1, 1978, 92 Stat. 2222; amended Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, related to allocation of funds for dissemination of information, prior to repeal by Pub. L. 97–35, title V, § 587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3042, Pub. L. 89–10, title IV, § 4002, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 234, authorized grants and contracts for program to achieve educational equity for women.

Section 3043, Pub. L. 89–10, title IV, § 4003, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 235, related to applications and to participation by men and boys.

Section 3044, Pub. L. 89–10, title IV, § 4004, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 236, related to challenge grants.

Section 3045, Pub. L. 89–10, title IV, § 4005, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 236, related to criteria and priorities for grant and contract awards.

Section 3046, Pub. L. 89–10, title IV, § 4006, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 236, related to reports and to evaluation and dissemination of materials and programs.

Section 3047, Pub. L. 89–10, title IV, § 4007, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 237, authorized appropriations.

Sections 3051 to 3057 were repealed by Pub. L. 97–35, title V, § 587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3051, Pub. L. 89–10, title III, § 381, as added Pub. L. 95–561, title III, § 301(a), Nov. 1, 1978, 92 Stat. 2223, set out findings and purpose for program of training in biomedical sciences.

Section 3052, Pub. L. 89–10, title III, § 382, as added Pub. L. 95–561, title III, § 301(a), Nov. 1, 1978, 92 Stat. 2223, set out definitions for program of training in biomedical sciences.

Section 3053, Pub. L. 89–10, title III, § 383, as added Pub. L. 95–561, title III, § 301(a), Nov. 1, 1978, 92 Stat. 2224; amended Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, related to projects for economically disadvantaged students.

Section 3054, Pub. L. 89–10, title III, § 384, as added Pub. L. 95–561, title III, § 301(a), Nov. 1, 1978, 92 Stat. 2224; amended Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, related to project activities and funding requirements.

Section 3055, Pub. L. 89–10, title III, § 385, as added Pub. L. 95–561, title III, § 301(a), Nov. 1, 1978, 92 Stat. 2226; amended Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, related to applications for assistance.

Section 3056, Pub. L. 89–10, title III, § 386, as added Pub. L. 95–561, title III, § 301(a), Nov. 1, 1978, 92 Stat. 2227; amended Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, related to use of funds appropriated.

Section 3057, Pub. L. 89–10, title III, § 387, as added Pub. L. 95–561, title III, § 301(a), Nov. 1, 1978, 92 Stat. 2227, authorized appropriations.

PART B—GIFTED AND TALENTED CHILDREN

§§ 3061 to 3068. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519. See section 8031 et seq. of this title.

Section 3061, Pub. L. 89–10, title IV, § 4101, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 237, provided that this part could be referred to as the ''Jacob K. Javits Gifted and Talented Students Education Act of 1988''.

A prior section 3061, Pub. L. 89–10, title III, § 391, as added Pub. L. 95–561, title III, § 301(a), Nov. 1, 1978, 92

Stat. 2227, set out short title for program of population education, prior to repeal by Pub. L. 97–35, title V, § 587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3062, Pub. L. 89–10, title IV, § 4102, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 237, stated Congressional findings and purposes.

A prior section 3062, Pub. L. 89–10, title III, § 392, as added Pub. L. 95–561, title III, § 301(a), Nov. 1, 1978, 92 Stat. 2227; amended Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, authorized a program of grants and contracts relating to population education in elementary and secondary schools, prior to repeal by Pub. L. 97–35, title V, § 587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3063, Pub. L. 89–10, title IV, § 4103, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 237; amended Pub. L. 102–325, title IV, § 427(b)(2), July 23, 1992, 106 Stat. 549, defined terms used in this part.

A prior section 3063, Pub. L. 89–10, title III, § 393, as added Pub. L. 96–374, title VI, § 601(b), Oct. 3, 1980, 94 Stat. 1471, set out short title and Congressional findings and declaration of purpose for program promoting international understanding, prior to repeal by Pub. L. 97–35, title V, § 587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3064, Pub. L. 89–10, title IV, § 4104, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 238, authorized grants and contracts for programs and projects to meet educational needs of gifted and talented students.

A prior section 3064, Pub. L. 89–10, title III, § 394, as added Pub. L. 96–374, title VI, § 601(b), Oct. 3, 1980, 94 Stat. 1471, authorized a program of grants and contracts to promote international understanding, prior to repeal by Pub. L. 97–35, title V, § 587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3065, Pub. L. 89–10, title IV, § 4105, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 239, related to program priorities.

A prior section 3065, Pub. L. 89–10, title III, § 395, as added Pub. L. 96–374, title VI, § 601(b), Oct. 3, 1980, 94 Stat. 1471, authorized appropriations, prior to repeal by Pub. L. 97–35, title V, § 587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3066, Pub. L. 89–10, title IV, § 4106, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 239, related to participation of private school children and teachers.

Section 3067, Pub. L. 89–10, title IV, § 4107, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 239, related to administration.

Section 3068, Pub. L. 89–10, title IV, § 4108, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 240, authorized appropriations.

PART C—ALLEN J. ELLENDER FELLOWSHIP PROGRAM

§ 3081. Omitted

CODIFICATION

Section, Pub. L. 89–10, title IV, § 4301, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 240, which stated findings of Congress relating to Allen J. Ellender Fellowship Program, was omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519. See section 8161 of this title.

Prior sections 3081 to 3086 were repealed by Pub. L. 97–35, title V, § 587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3081, Pub. L. 89–10, title IV, § 401, as added Pub. L. 95–561, title IV, § 401, Nov. 1, 1978, 92 Stat. 2229, set out purpose of provisions relating to educational improvement, resources, and support.

Section 3082, Pub. L. 89–10, title IV, § 402, as added Pub. L. 95–561, title IV, § 401, Nov. 1, 1978, 92 Stat. 2229; amended Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, authorized appropriations for making of grants.

Section 3083, Pub. L. 89–10, title IV, § 403, as added Pub. L. 95–561, title IV, § 401, Nov. 1, 1978, 92 Stat. 2231; amended Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, related to allotments to States and funding.

Section 3084, Pub. L. 89–10, title IV, § 404, as added Pub. L. 95–561, title IV, § 401, Nov. 1, 1978, 92 Stat. 2232; amended Pub. L. 96–46, § 1(13)–(15), Aug. 6, 1979, 93 Stat. 339; Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, related to submission, form, contents, etc. of State plans.

Section 3085, Pub. L. 89–10, title IV, § 405, as added Pub. L. 95–561, title IV, § 401, Nov. 1, 1978, 92 Stat. 2234; amended Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, related to payments to States.

Section 3086, Pub. L. 89–10, title IV, § 406, as added Pub. L. 95–561, title IV, § 401, Nov. 1, 1978, 92 Stat. 2234; amended Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, related to participation of children enrolled in public schools in the purposes and benefits of program of educational improvement, resources, and support.

SUBPART 1—PROGRAM FOR SECONDARY SCHOOL STUDENTS AND TEACHERS

§§ 3091, 3092. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519. See section 8171 et seq. of this title.

Section 3091, Pub. L. 89–10, title IV, § 4311, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 240, authorized grants to Close Up Foundation for program for secondary school students and teachers.

Section 3092, Pub. L. 89–10, title IV, § 4312, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 240, related to applications.

SUBPART 2—PROGRAMS FOR OLDER AMERICANS AND RECENT IMMIGRANTS

§§ 3101, 3102. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519. See section 8191 et seq. of this title.

Section 3101, Pub. L. 89–10, title IV, § 4321, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 241, authorized grants to Close Up Foundation for program for older Americans and recent immigrants.

A prior section 3101, Pub. L. 89–10, title IV, § 421, as added Pub. L. 95–561, title IV, § 401, Nov. 1, 1978, 92 Stat. 2236, provided that amounts allotted would be used only for the acquisition of school library resources and instructional equipment and materials, prior to repeal by Pub. L. 97–35, title V, § 587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3102, Pub. L. 89–10, title IV, § 4322, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 241, related to applications.

A prior section 3102, Pub. L. 89–10, title IV, § 422, as added Pub. L. 95–561, title IV, § 401, Nov. 1, 1978, 92 Stat. 2237; amended Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, related to program requirements for the receipt of funds available, prior to repeal by Pub. L. 97–35, title V, § 587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

SUBPART 3—GENERAL PROVISIONS

§§ 3111, 3112. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519. See section 8201 et seq. of this title.

Section 3111, Pub. L. 89–10, title IV, § 4331, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 242, contained administrative provisions relating to Allen J. Ellender Fellowship Program.

A prior section 3111, Pub. L. 89–10, title IV, § 431, as added Pub. L. 95–561, title IV, § 401, Nov. 1, 1978, 92 Stat. 2237, related to authorized activities for program to improve local educational practices, prior to repeal by Pub. L. 97–35, title V, § 587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3112, Pub. L. 89–10, title IV, § 4332, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 242, authorized appropriations.

A prior section 3112, Pub. L. 89–10, title IV, § 432, as added Pub. L. 95–561, title IV, § 401, Nov. 1, 1978, 92 Stat. 2238; amended Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, related to program requirements, amount, availability, and allocation of funds, and approval of applications by State educational agencies, prior to repeal by Pub. L. 97–35, title V, § 587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

PART D—IMMIGRANT EDUCATION

§§ 3121 to 3130. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519. See section 7541 et seq. of this title.

Section 3121, Pub. L. 89–10, title IV, § 4401, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 242, provided that this part could be cited as the ''Emergency Immigrant Education Act of 1984''.

A prior section 3121, Pub. L. 89–10, title IV, § 441, as added Pub. L. 95–561, title IV, § 401, Nov. 1, 1978, 92 Stat. 2239; amended Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, related to authorized programs and funding for guidance, counseling, and testing, prior to repeal by Pub. L. 97–35, title V, § 587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3122, Pub. L. 89–10, title IV, § 4402, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 242, defined terms used in this part.

A prior section 3122, Pub. L. 89–10, title IV, § 442, as added Pub. L. 95–561, title IV, § 401, Nov. 1, 1978, 93 Stat. 677, 692, related to program requirements for guidance, counseling, and testing, prior to repeal by Pub. L. 97–35, title V, § 587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3123, Pub. L. 89–10, title IV, § 4403, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 242, related to authorization and allocation of appropriations.

A prior section 3123, Pub. L. 89–10, title IV, § 443, as added Pub. L. 95–561, title IV, § 401, Nov. 1, 1978, 92 Stat. 2240; amended Pub. L. 96–88, title III, § 301(a)(1), (b)(2), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 678, 692, related to establishment by Secretary of an administrative unit to provide information and advice on guidance and counseling activities, prior to repeal by Pub. L. 97–35, title V, § 587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3124, Pub. L. 89–10, title IV, § 4404, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 243, related to State administrative costs.

Section 3125, Pub. L. 89–10, title IV, § 4405, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 243, related to withholding.

Section 3126, Pub. L. 89–10, title IV, § 4406, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 243, related to State entitlements.

Section 3127, Pub. L. 89–10, title IV, § 4407, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 244, related to uses of funds.

Section 3128, Pub. L. 89–10, title IV, § 4408, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 245, related to applications.

Section 3129, Pub. L. 89–10, title IV, § 4409, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 246, related to payments.

Section 3130, Pub. L. 89–10, title IV, § 4410, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 246, related to reports.

PART E—TERRITORIAL ASSISTANCE

§§ 3141, 3142. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519.

Section 3141, Pub. L. 89–10, title IV, § 4501, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 246, related to general assistance for the Virgin Islands. See section 8371 of this title.

A prior section 3141, Pub. L. 89–10, title V, § 501, as added Pub. L. 95–561, title V, § 501, Nov. 1, 1978, 92 Stat. 2240; amended Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, related to submission of a general application containing assurances submitted by each State desiring to participate in various educational programs under this chapter, prior to repeal by Pub. L. 97–35, title V, § 587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3142, Pub. L. 89–10, title IV, § 4502, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 247; amended Pub. L. 102–73, title VIII, § 801(b), July 25, 1991, 105 Stat. 359, related to territorial teacher training assistance.

Prior sections 3142 to 3150 were repealed by Pub. L. 97–35, title V, § 587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3142, Pub. L. 89–10, title V, § 502, as added Pub. L. 95–561, title V, § 501, Nov. 1, 1978, 92 Stat. 2242; amended Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, related to submission of a single local educational agency application.

Section 3143, Pub. L. 89–10, title V, § 503, as added Pub. L. 95–561, title V, § 501, Nov. 1, 1978, 92 Stat. 2243; amended Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, related to State approval of applications of State and local agencies in administration of education programs.

Section 3144, Pub. L. 89–10, title V, § 504, as added Pub. L. 95–561, title V, § 501, Nov. 1, 1978, 92 Stat. 2244; amended Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, related to rulemaking by State educational agencies applicable to programs and projects.

Section 3145, Pub. L. 89–10, title V, § 505, as added Pub. L. 95–561, title V, § 501, Nov. 1, 1978, 92 Stat. 2244, related to technical assistance and dissemination of information by State educational agencies.

Section 3146, Pub. L. 89–10, title V, § 506, as added Pub. L. 95–561, title V, § 501, Nov. 1, 1978, 92 Stat. 2244; amended Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, related to monitoring standards adopted by State educational agencies.

Section 3147, Pub. L. 89–10, title V, § 507, as added Pub. L. 95–561, title V, § 501, Nov. 1, 1978, 92 Stat. 2245; amended Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, related to adoption of written procedures for the receiving and resolution of complaints by State educational agencies.

Section 3148, Pub. L. 89–10, title V, § 508, as added Pub. L. 95–561, title V, § 501, Nov. 1, 1978, 92 Stat. 2245; amend-

ed Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to withholding of payments to local educational agencies by State educational agencies.

Section 3149, Pub. L. 89–10, title V, §509, as added Pub. L. 95–561, title V, §501, Nov. 1, 1978, 92 Stat. 2246; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to audits and audit resolution.

Section 3150, Pub. L. 89–10, title V, §510, as added Pub. L. 95–561, title V, §501, Nov. 1, 1978, 92 Stat. 2247; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to payments by the Secretary to the States.

PART F—SECRETARY'S FUND FOR INNOVATION IN EDUCATION

§§ 3151 to 3157. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519.

Section 3151, Pub. L. 89–10, title IV, §4601, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 247, authorized Secretary to carry out programs and projects to identify and disseminate innovative education approaches.

Section 3152, Pub. L. 89–10, title IV, §4602, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 247, related to optional tests for academic excellence.

Section 3153, Pub. L. 89–10, title IV, §4603, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 248, related to technology education.

Section 3154, Pub. L. 89–10, title IV, §4604, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 249, authorized programs for computer-based instruction.

Section 3155, Pub. L. 89–10, title IV, §4605, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 249; amended Pub. L. 103–227, title IX, §971(a), Mar. 31, 1994, 108 Stat. 263, authorized programs for the improvement of comprehensive school health education.

Section 3156, Pub. L. 89–10, title IV, §4606, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 250, authorized grants related to alternative curriculum schools.

Section 3156–1, Pub. L. 89–10, title IV, §4607, as added Pub. L. 100–690, title III, §3101(2), Nov. 18, 1988, 102 Stat. 4245, related to innovative alcohol abuse education programs.

Section 3156a, Pub. L. 89–10, title IV, §4608, formerly §4607, as added Pub. L. 100–569, title II, §202(3), Oct. 31, 1988, 102 Stat. 2862; renumbered §4608, Pub. L. 100–690, title III, §3101(1), Nov. 18, 1988, 102 Stat. 4245, related to National Geography Studies Centers.

Section 3156b, Pub. L. 89–10, title IV, §4609, as added Pub. L. 102–62, title III, §301(2), June 27, 1991, 105 Stat. 312; amended Pub. L. 102–359, §2(a), Aug. 26, 1992, 106 Stat. 962, related to instruction on history and principles of democracy in United States. See section 8141 of this title.

Section 3157, Pub. L. 89–10, title IV, §4610, formerly §4607, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 252; renumbered §4608 and amended Pub. L. 100–569, title II, §§202(1), (2), 203, Oct. 31, 1988, 102 Stat. 2862, 2863; renumbered §4610, Pub. L. 102–62, title III, §301(1), June 27, 1991, 105 Stat. 312, authorized appropriations.

Prior sections 3161 to 3164 were repealed by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3161, Pub. L. 89–10, title V, §521, as added Pub. L. 95–561, title V, §501, Nov. 1, 1978, 92 Stat. 2248, related to activities to strengthen State educational agency management.

Section 3162, Pub. L. 89–10, title V, §522, as added Pub. L. 95–561, title V, §501, Nov. 1, 1978, 92 Stat. 2248; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to program requirements.

Section 3163, Pub. L. 89–10, title V, §523, as added Pub. L. 95–561, title V, §501, Nov. 1, 1978, 92 Stat. 2249; amended Pub. L. 96–46, §1(16), Aug. 6, 1979, 93 Stat. 339; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to authorization of appropriations.

Section 3164, Pub. L. 89–10, title V, §524, as added Pub. L. 96–46, §1(17), Aug. 6, 1979, 93 Stat. 339; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to allotments to States.

PART G—READY TO LEARN TELEVISION

§§ 3161 to 3161g. Transferred

CODIFICATION

Part G of title IV of the Elementary and Secondary Education Act of 1965, comprising this part, was renumbered part F of title IV of the General Education Provisions Act, by Pub. L. 103–252, title I, §121(a)(1), May 18, 1994, 108 Stat. 649, and is classified to subchapter VI (§1235 et seq.) of chapter 31 of this title.

Section 3161, Pub. L. 89–10, title IV, §4701, as added Pub. L. 102–545, §3, Oct. 27, 1992, 106 Stat. 3586, which authorized Secretary to make contracts, cooperative agreements, or grants to develop, produce, and distribute educational and instructional video programming for preschool and elementary school children, was renumbered section 471 of the General Education Provisions Act by Pub. L. 103–252, title I, §121(a)(1), May 18, 1994, 108 Stat. 649, and is classified to section 1235 of this title.

Section 3161a, Pub. L. 89–10, title IV, §4702, as added Pub. L. 102–545, §3, Oct. 27, 1992, 106 Stat. 3586, which set forth purposes of contracts, cooperative agreements, and grants, eligibility requirements, and requirement that programming reflect cultural diversity and needs and experiences of both boys and girls, was renumbered section 472 of the General Education Provisions Act by Pub. L. 103–252, title I, §121(a)(1), May 18, 1994, 108 Stat. 649, and is classified to section 1235a of this title.

Section 3161b, Pub. L. 89–10, title IV, §4703, as added Pub. L. 102–545, §3, Oct. 27, 1992, 106 Stat. 3587, which related to duties of Secretary, was renumbered section 473 of the General Education Provisions Act by Pub. L. 103–252, title I, §121(a)(1), May 18, 1994, 108 Stat. 649, and is classified to section 1235b of this title.

Section 3161c, Pub. L. 89–10, title IV, §4704, as added Pub. L. 102–545, §3, Oct. 27, 1992, 106 Stat. 3588, which related to applications, was renumbered section 474 of the General Education Provisions Act by Pub. L. 103–252, title I, §121(a)(1), May 18, 1994, 108 Stat. 649, and is classified to section 1235c of this title.

Section 3161d, Pub. L. 89–10, title IV, §4705, as added Pub. L. 102–545, §3, Oct. 27, 1992, 106 Stat. 3588, which related to reports and evaluations, was renumbered section 475 of the General Education Provisions Act by Pub. L. 103–252, title I, §121(a)(1), May 18, 1994, 108 Stat. 649, and is classified to section 1235d of this title.

Section 3161e, Pub. L. 89–10, title IV, §4706, as added Pub. L. 102–545, §3, Oct. 27, 1992, 106 Stat. 3589, which authorized appropriations, was renumbered section 476 of the General Education Provisions Act by Pub. L. 103–252, title I, §121(a)(1), May 18, 1994, 108 Stat. 649, and is classified to section 1235e of this title.

Section 3161f, Pub. L. 89–10, title IV, §4707, as added Pub. L. 102–545, §3, Oct. 27, 1992, 106 Stat. 3589, which related to administrative costs, was renumbered section 477 of the General Education Provisions Act by Pub. L. 103–252, title I, §121(a)(1), May 18, 1994, 108 Stat. 649, and is classified to section 1235f of this title.

Section 3161g, Pub. L. 89–10, title IV, §4708, as added Pub. L. 102–545, §3, Oct. 27, 1992, 106 Stat. 3589, which defined ''distance learning'', was renumbered section 478 of the General Education Provisions Act by Pub. L. 103–252, title I, §121(a)(1), May 18, 1994, 108 Stat. 649, and is classified to section 1235g of this title.

SUBCHAPTER V—DRUG EDUCATION

§§ 3171 to 3173. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519. See section 7101 et seq. of this title.

Section 3171, Pub. L. 89–10, title V, §5101, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 252, provided that this subchapter could be cited as the ''Drug-Free Schools and Communities Act of 1986''.

A prior section 3171, Pub. L. 89–10, title V, §531, as added Pub. L. 95–561, title V, §501, Nov. 1, 1978, 92 Stat. 2249; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to national and State councils on quality in education, prior to repeal by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3172, Pub. L. 89–10, title V, §5102, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 252, stated findings of Congress.

Section 3173, Pub. L. 89–10, title V, §5103, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 252, stated purpose of this subchapter.

PART A—FINANCIAL ASSISTANCE FOR DRUG ABUSE EDUCATION AND PREVENTION PROGRAMS

§§ 3181, 3182. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519. See section 7101 et seq. of this title.

Section 3181, Pub. L. 89–10, title V, §5111, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 253; amended Pub. L. 100–690, title III, §§3301, 3308(b), Nov. 18, 1988, 102 Stat. 4247, 4251; Pub. L. 101–226, §2, Dec. 12, 1989, 103 Stat. 1928; Pub. L. 101–647, title XV, §§1506(b), 1509(a), Nov. 29, 1990, 104 Stat. 4841, 4842, authorized appropriations.

Section 3182, Pub. L. 89–10, title V, §5112, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 253; amended Pub. L. 101–226, §3, Dec. 12, 1989, 103 Stat. 1928; Pub. L. 101–647, title XV, §1509(b), Nov. 29, 1990, 104 Stat. 4842, related to reservations and State allotments of funds.

PART B—STATE AND LOCAL PROGRAMS

§§ 3191 to 3197. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519. See section 7111 et seq. of this title.

Section 3191, Pub. L. 89–10, title V, §5121, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 254; amended Pub. L. 100–690, title III, §3302, Nov. 18, 1988, 102 Stat. 4247; Pub. L. 101–226, §4, Dec. 12, 1989, 103 Stat. 1929, related to use of allotments by States.

A prior section 3191, Pub. L. 89–10, title VI, §601, as added Pub. L. 95–561, title VI, §601(a), Nov. 1, 1978, 92 Stat. 2252, set out short title for program of emergency school aid, prior to repeal by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3192, Pub. L. 89–10, title V, §5122, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 254; amended Pub. L. 100–690, title III, §3303, Nov. 18, 1988, 102 Stat. 4248; Pub. L. 101–226, §5, Dec. 12, 1989, 103 Stat. 1929; Pub. L. 101–647, title XV, §§1503(a), 1504, Nov. 29, 1990, 104 Stat. 4837, related to State programs.

A prior section 3192, Pub. L. 89–10, title VI, §602, as added Pub. L. 95–561, title VI, §601(a), Nov. 1, 1978, 92 Stat. 2252, provided Congressional findings and declaration of purpose for program of emergency school aid, prior to repeal by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3193, Pub. L. 89–10, title V, §5123, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 255; amended Pub. L. 100–690, title III, §3304, Nov. 18, 1988, 102 Stat. 4248; Pub. L. 101–226, §6, Dec. 12, 1989, 103 Stat. 1930, related to State applications.

A prior section 3193, Pub. L. 89–10, title VI, §603, as added Pub. L. 95–561, title VI, §601(a), Nov. 1, 1978, 92 Stat. 2252, related to United States policy with respect to the application of the provisions of the program of emergency school aid and provisions of other Federal law, prior to repeal by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3194, Pub. L. 89–10, title V, §5124, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 256; amended Pub. L. 100–690, title III, §3305, Nov. 18, 1988, 102 Stat. 4249; Pub. L. 101–226, §7, Dec. 12, 1989, 103 Stat. 1930; Pub. L. 101–647, title XV, §1509(c), Nov. 29, 1990, 104 Stat. 4842, related to responsibilities of State educational agencies.

A prior section 3194, Pub. L. 89–10, title VI, §604, as added Pub. L. 95–561, title VI, §601(a), Nov. 1, 1978, 92 Stat. 2252; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to authorization of programs and appropriations, prior to repeal by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3195, Pub. L. 89–10, title V, §5125, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 257; amended Pub. L. 100–690, title III, §3306, Nov. 18, 1988, 102 Stat. 4249; Pub. L. 101–226, §8, Dec. 12, 1989, 103 Stat. 1931; Pub. L. 101–647, title XV, §1505, Nov. 29, 1990, 104 Stat. 4839, related to local drug abuse education and prevention programs.

A prior section 3195, Pub. L. 89–10, title VI, §605, as added Pub. L. 95–561, title VI, §601(a), Nov. 1, 1978, 92 Stat. 2253; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to apportionment and reapportionment among States, prior to repeal by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3196, Pub. L. 89–10, title V, §5126, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 257; amended Pub. L. 101–226, §§9, 22(b)(2), Dec. 12, 1989, 103 Stat. 1932, 1941; Pub. L. 101–647, title XV, §§1507, 1509(f)(2), Nov. 29, 1990, 104 Stat. 4841, 4842, related to local applications.

A prior section 3196, Pub. L. 89–10, title VI, §606, as added Pub. L. 95–561, title VI, §601(a), Nov. 1, 1978, 92 Stat. 2254; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to eligibility of local educational agencies for assistance, prior to repeal by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3197, Pub. L. 89–10, title V, §5127, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 259; amended Pub. L. 100–690, title III, §3307, Nov. 18, 1988, 102 Stat. 4249; Pub. L. 101–226, §10, Dec. 12, 1989, 103 Stat. 1933, related to State and local reports.

Prior sections 3197 to 3200 were repealed by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3197, Pub. L. 89–10, title VI, §607, as added Pub. L. 95–561, title VI, §601(a), Nov. 1, 1978, 92 Stat. 2257; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to authorized activities under the program of emergency school and the preferential hiring of teacher aides.

Section 3198, Pub. L. 89–10, title VI, §608, as added Pub. L. 95–561, title VI, §601(a), Nov. 1, 1978, 92 Stat. 2258; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to special programs and projects.

Section 3199, Pub. L. 89–10, title VI, §609, as added Pub. L. 95–561, title VI, §601(a), Nov. 1, 1978, 92 Stat. 2259; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to grants for metropolitan area projects.

Section 3200, Pub. L. 89–10, title VI, §610, as added Pub. L. 95–561, title VI, §601(a), Nov. 1, 1978, 92 Stat. 2260; amended Pub. L. 96–46, §1(18), Aug. 6, 1979, 93 Stat. 339; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to the submission, form, contents, approval, etc. of applications for assistance.

PART C—TRAINING OF TEACHERS, COUNSELORS, AND SCHOOL PERSONNEL

§§ 3201 to 3203. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519. See section 7101 et seq. of this title.

Section 3201, Pub. L. 89–10, title V, §5128, as added Pub. L. 100–690, title III, §3308(a)(2), Nov. 18, 1988, 102 Stat. 4250; amended Pub. L. 101–226, §11(b), Dec. 12, 1989, 103 Stat. 1934; Pub. L. 101–647, title XV, §1506(a), Nov. 29, 1990, 104 Stat. 4840, authorized grants for teacher training programs.

A prior section 3201, Pub. L. 89–10, title VI, §611, as added Pub. L. 95–561, title VI, §601(a), Nov. 1, 1978, 92 Stat. 2264; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, authorized a program of grants and contracts related to educational television and radio, prior to repeal by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3202, Pub. L. 89–10, title V, §5129, as added Pub. L. 101–647, title XV, §1506(a), Nov. 29, 1990, 104 Stat. 4840, related to grants for training of counselors.

A prior section 3202, Pub. L. 89–10, title VI, §612, as added Pub. L. 95–561, title VI, §601(a), Nov. 1, 1978, 92 Stat. 2264; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to payments by Secretary, prior to repeal by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3203, Pub. L. 89–10, title V, §5130, as added Pub. L. 101–647, title XV, §1506(a), Nov. 29, 1990, 104 Stat. 4840, related to applications.

Prior sections 3203 to 3207 were repealed by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3203, Pub. L. 89–10, title VI, §613, as added Pub. L. 95–561, title VI, §601(a), Nov. 1, 1978, 92 Stat. 2265; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, authorized grants and contracts for the purpose of evaluation of specific assisted programs and projects.

Section 3204, Pub. L. 89–10, title VI, §614, as added Pub. L. 95–561, title VI, §601(a), Nov. 1, 1978, 92 Stat. 2266, authorized joint funding.

Section 3205, Pub. L. 89–10, title VI, §615, as added Pub. L. 95–561, title VI, §601(a), Nov. 1, 1978, 92 Stat. 2266, related to attorney fees in suits against local educational agencies for failure to comply with program of emergency school aid.

Section 3206, Pub. L. 89–10, title VI, §616, as added Pub. L. 95–561, title VI, §601(a), Nov. 1, 1978, 92 Stat. 2266, related to student assignment to neighborhood schools.

Section 3207, Pub. L. 89–10, title VI, §617, as added Pub. L. 95–561, title VI, §601(a), Nov. 1, 1978, 92 Stat. 2266; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to definitions.

PART D—NATIONAL PROGRAMS

§§ 3211 to 3217. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519. See section 7131 et seq. of this title.

Section 3211, Pub. L. 89–10, title V, §5131, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 259; amended Pub. L. 101–226, §12(a), Dec. 12, 1989, 103 Stat. 1934, authorized grants and contracts with institutions of higher education for drug abuse education and prevention programs.

Section 3212, Pub. L. 89–10, title V, §5132, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 260; amended Pub. L. 100–690, title III, §3309, Nov. 18, 1988, 102 Stat. 4251; Pub. L. 101–226, §13, Dec. 12, 1989, 103 Stat. 1934; Pub. L. 101–647, title XV, §1509(d), Nov. 29, 1990, 104 Stat. 4842, related to Federal activities.

Section 3213, Pub. L. 89–10, title V, §5133, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 261, related to programs for Indian youth.

Section 3214, Pub. L. 89–10, title V, §5134, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 261, related to programs for Hawaiian natives.

Section 3215, Pub. L. 89–10, title V, §5135, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 262, related to regional centers.

Section 3216, Pub. L. 89–10, title V, §5136, as added Pub. L. 101–226, §14, Dec. 12, 1989, 103 Stat. 1934; amended Pub. L. 101–647, title XV, §1509(e), Nov. 29, 1990, 104 Stat. 4842, related to emergency grants to eligible local educational agencies.

Section 3217, Pub. L. 89–10, title V, §5137, as added Pub. L. 101–226, §15, Dec. 12, 1989, 103 Stat. 1935; amended Pub. L. 101–647, title XV, §1503(b), Nov. 29, 1990, 104 Stat. 4837, related to drug-free schools demonstration program.

PART E—GENERAL PROVISIONS

§§ 3221 to 3224b. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519. See section 7141 et seq. of this title.

Section 3221, Pub. L. 89–10, title V, §5141, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 262; amended Pub. L. 101–226, §16, Dec. 12, 1989, 103 Stat. 1935, defined terms used in this subchapter.

A prior section 3221, Pub. L. 89–10, title VII, §701, as added Pub. L. 95–561, title VII, §701, Nov. 1, 1978, 92 Stat. 2268; amended Pub. L. 98–511, title II, §201, Oct. 19, 1984, 98 Stat. 2369, provided short title of Bilingual Education Act, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 3222, Pub. L. 89–10, title V, §5142, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 263; amended Pub. L. 100–690, title III, §3310, Nov. 18, 1988, 102 Stat. 4251, related to functions of Secretary of Education.

A prior section 3222, Pub. L. 89–10, title VII, §702, as added Pub. L. 95–561, title VII, §701, Nov. 1, 1978, 92 Stat. 2268; amended Pub. L. 98–511, title II, §201, Oct. 19, 1984, 98 Stat. 2370, related to policy and authorization of appropriations for bilingual education program, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 3223, Pub. L. 89–10, title V, §5143, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 264; amended Pub. L. 101–226, §17, Dec. 12, 1989, 103 Stat. 1935, related to participation of children and teachers from private nonprofit schools.

A prior section 3223, Pub. L. 89–10, title VII, §703, as added Pub. L. 95–561, title VII, §701, Nov. 1, 1978, 92 Stat. 2269; amended Pub. L. 98–511, title II, §201, Oct. 19, 1984, 98 Stat. 2371; Pub. L. 98–524, §4(b), Oct. 19, 1984, 98 Stat. 2488, defined terms and set out general provisions for program of bilingual education, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 3224, Pub. L. 89–10, title V, § 5144, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 264, related to materials produced or distributed under this subchapter.

Section 3224a, Pub. L. 89–10, title V, § 5145, as added Pub. L. 101–226, § 22(b)(1), Dec. 12, 1989, 103 Stat. 1939; amended Pub. L. 101–647, title XV, § 1509(f)(1), Nov. 29, 1990, 104 Stat. 4842, related to certification of drug and alcohol abuse prevention programs.

Section 3224b, Pub. L. 89–10, title V, § 5146, as added Pub. L. 101–226, § 18, Dec. 12, 1989, 103 Stat. 1936; amended Pub. L. 101–647, title XV, § 1509(g), Nov. 29, 1990, 104 Stat. 4842, related to dissemination of information and technical assistance.

§ 3225. Transferred

CODIFICATION

Section, Pub. L. 99–570, title IV, § 4302, Oct. 27, 1986, 100 Stat. 3207–153, which established National Trust for Drug-Free Youth, was transferred to section 7105 of this title.

PART F—DEVELOPMENT OF EARLY CHILDHOOD EDUCATION DRUG ABUSE PREVENTION MATERIALS

§ 3227. Omitted

CODIFICATION

Section, Pub. L. 89–10, title V, § 5151, as added Pub. L. 100–690, title III, § 3311(2), Nov. 18, 1988, 102 Stat. 4252; amended Pub. L. 101–226, § 19(b), Dec. 12, 1989, 103 Stat. 1936; Pub. L. 101–476, title IX, § 901(a)(2), Oct. 30, 1990, 104 Stat. 1142, which related to development of early childhood education drug abuse prevention materials, was omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519.

PART G—MISCELLANEOUS PROVISIONS

§§ 3231 to 3233. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519.

Section 3231, Pub. L. 89–10, title V, § 5191, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 264, related to Indian education programs. See section 7801 et seq. of this title.

A prior section 3231, Pub. L. 89–10, title VII, § 721, as added Pub. L. 95–561, title VII, § 701, Nov. 1, 1978, 92 Stat. 2271; amended Pub. L. 98–511, title II, § 201, Oct. 19, 1984, 98 Stat. 2374, related to financial assistance for bilingual education programs, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 3232, Pub. L. 89–10, title V, § 5192, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 265, related to allotments for fiscal years 1987 and 1988 under section 4124 of the Drug-Free Schools and Communities Act of 1986.

A prior section 3232, Pub. L. 89–10, title VII, § 722, as added Pub. L. 95–561, title VII, § 701, Nov. 1, 1978, 92 Stat. 2276; amended Pub. L. 98–511, title II, § 201, Oct. 19, 1984, 98 Stat. 2379, related to Indian children in schools, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 3233, Pub. L. 89–10, title V, § 5193, as added Pub. L. 101–647, title XV, § 1508, Nov. 29, 1990, 104 Stat. 4841, related to identification of federally assisted programs.

A prior section 3233, Pub. L. 89–10, title VII, § 723, as added Pub. L. 95–561, title VII, § 701, Nov. 1, 1978, 92 Stat. 2276; amended S. Res. 30, Mar. 7, 1979; Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, covered training provisions and defined ''eligible applicants'', prior to the general revision of this subchapter by Pub. L. 98–511.

SUBCHAPTER VI—PROJECTS AND PROGRAMS DESIGNED TO ADDRESS SCHOOL DROPOUT PROBLEMS AND TO STRENGTHEN BASIC SKILLS INSTRUCTION

PART A—ASSISTANCE TO ADDRESS SCHOOL DROPOUT PROBLEMS

§§ 3241 to 3248. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519. See section 7261 et seq. of this title.

Section 3241, Pub. L. 89–10, title VI, § 6001, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 265, provided that this part could be cited as the ''School Dropout Demonstration Assistance Act of 1988''.

A prior section 3241, Pub. L. 89–10, title VII, § 731, as added Pub. L. 95–561, title VII, § 701, Nov. 1, 1978, 92 Stat. 2278; amended Pub. L. 98–511, title II, § 201, Oct. 19, 1984, 98 Stat. 2380, related to use of funds, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 3242, Pub. L. 89–10, title VI, § 6002, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 265, stated purpose of this part.

A prior section 3242, Pub. L. 89–10, title VII, § 732, as added Pub. L. 95–561, title VII, § 701, Nov. 1, 1978, 92 Stat. 2280; amended Pub. L. 98–511, title II, § 201, Oct. 19, 1984, 98 Stat. 2380, related to grants for State programs, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 3243, Pub. L. 89–10, title VI, § 6003, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 265; amended Pub. L. 101–250, § 1, Mar. 6, 1990, 104 Stat. 96; Pub. L. 102–103, title I, § 102, Aug. 17, 1991, 105 Stat. 497, authorized appropriations.

A prior section 3243, Pub. L. 89–10, title VII, § 733, as added Pub. L. 98–511, title II, § 201, Oct. 19, 1984, 98 Stat. 2381, related to program evaluation requirements, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 3244, Pub. L. 89–10, title VI, § 6004, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 266; amended Pub. L. 101–250, §§ 2, 3, Mar. 6, 1990, 104 Stat. 96; Pub. L. 102–103, title I, § 103(a), Aug. 17, 1991, 105 Stat. 497, related to grants to local educational agencies.

A prior section 3244, Pub. L. 89–10, title VII, § 734, as added Pub. L. 98–511, title II, § 201, Oct. 19, 1984, 98 Stat. 2381, related to evaluation assistance centers, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 3245, Pub. L. 89–10, title VI, § 6005, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 267; amended Pub. L. 102–103, title I, § 104, Aug. 17, 1991, 105 Stat. 497, related to applications for grants.

A prior section 3245, Pub. L. 89–10, title VII, § 735, as added Pub. L. 98–511, title II, § 201, Oct. 19, 1984, 98 Stat. 2382, related to bilingual education research and development, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 3246, Pub. L. 89–10, title VI, § 6006, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 269; amended Pub. L. 102–103, title I, § 105, Aug. 17, 1991, 105 Stat. 498, related to authorized activities.

A prior section 3246, Pub. L. 89–10, title VII, § 736, as added Pub. L. 98–511, title II, § 201, Oct. 19, 1984, 98 Stat.

2382, related to coordination of research, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 3247, Pub. L. 89–10, title VI, §6007, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 270, related to distribution of assistance and limitation on costs.

A prior section 3247, Pub. L. 89–10, title VII, §737, as added Pub. L. 98–511, title II, §201, Oct. 19, 1984, 98 Stat. 2383, related to education statistics, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 3248, Pub. L. 89–10, title VI, §6008, as added Pub. L. 102–103, title I, §106, Aug. 17, 1991, 105 Stat. 498, related to annual reports by Secretary.

Prior sections 3251 to 3255 were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 3251, Pub. L. 89–10, title VII, §741, as added Pub. L. 95–561, title VII, §701, Nov. 1, 1978, 92 Stat. 2281; amended Pub. L. 98–511, title II, §201, Oct. 19, 1984, 98 Stat. 2383, related to use of funds under training and technical assistance program.

Section 3252, Pub. L. 89–10, title VII, §742, as added Pub. L. 95–561, title VII, §701, Nov. 1, 1978, 92 Stat. 2281; amended Pub. L. 98–511, title II, §201, Oct. 19, 1984, 98 Stat. 2384, related to multifunctional resource centers.

Section 3253, Pub. L. 89–10, title VII, §743, as added Pub. L. 98–511, title II, §201, Oct. 19, 1984, 98 Stat. 2384, related to fellowships.

Section 3254, Pub. L. 89–10, title VII, §744, as added Pub. L. 98–511, title II, §201, Oct. 19, 1984, 98 Stat. 2385, related to priorities in making grants or contracts.

Section 3255, Pub. L. 89–10, title VII, §745, as added Pub. L. 98–511, title II, §201, Oct. 19, 1984, 98 Stat. 2385, related to stipends.

PART B—ASSISTANCE TO PROVIDE BASIC SKILLS IMPROVEMENT

§§ 3261 to 3266. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519.

Section 3261, Pub. L. 89–10, title VI, §6101, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 270, provided that this part could be cited as the ''Secondary Schools Basic Skills Demonstration Assistance Act of 1988''.

A prior section 3261, Pub. L. 89–10, title VII, §751, as added Pub. L. 95–561, title VII, §701, Nov. 1, 1978, 92 Stat. 2282; amended Pub. L. 98–511, title II, §201, Oct. 19, 1984, 98 Stat. 2385, related to Office of Bilingual Education and Minority Languages Affairs, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 3262, Pub. L. 89–10, title VI, §6102, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 270, stated purpose of this part.

A prior section 3262, Pub. L. 89–10, title VII, §752, as added Pub. L. 98–511, title II, §201, Oct. 19, 1984, 98 Stat. 2386, related to National Advisory and Coordinating Council on Bilingual Education, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 3263, Pub. L. 89–10, title VI, §6103, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 270; amended Pub. L. 101–600, §5, Nov. 16, 1990, 104 Stat. 3046, authorized appropriations.

Section 3264, Pub. L. 89–10, title VI, §6104, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 271, related to grants to local educational agencies.

Section 3265, Pub. L. 89–10, title VI, §6105, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 271, related to authorized activities.

Section 3266, Pub. L. 89–10, title VI, §6106, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 272, related to applications for grants.

PART C—GENERAL PROVISIONS

§§ 3271, 3272. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519.

Section 3271, Pub. L. 89–10, title VI, §6201, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 273; amended Pub. L. 101–250, §4, Mar. 6, 1990, 104 Stat. 97, contained provisions general to this subchapter.

Section 3272, Pub. L. 89–10, title VI, §6202, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 273, defined terms used in this subchapter.

SUBCHAPTER VII—BILINGUAL EDUCATION PROGRAMS

§§ 3281 to 3283. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519. See section 7401 et seq. of this title.

Section 3281, Pub. L. 89–10, title VII, §7001, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 274, provided that this subchapter could be cited as the ''Bilingual Education Act''.

A prior section 3281, Pub. L. 89–10, title VIII, §801, as added Pub. L. 95–561, title VIII, §801(3), Nov. 1, 1978, 92 Stat. 2284, set out short title for program for community schools, prior to repeal by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3282, Pub. L. 89–10, title VII, §7002, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 274, stated policy of Congress and authorized appropriations.

A prior section 3282, Pub. L. 89–10, title VIII, §802, as added Pub. L. 95–561, title VIII, §801(3), Nov. 1, 1978, 92 Stat. 2284, provided Congressional statement of findings and purpose, prior to repeal by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3283, Pub. L. 89–10, title VII, §7003, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 276, defined terms used in this subchapter and contained provisions relating to regulations.

Prior sections 3283 to 3290 were repealed by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3283, Pub. L. 89–10, title VIII, §803, as added Pub. L. 95–561, title VIII, §801(3), Nov. 1, 1978, 92 Stat. 2285, provided a definition of a community education program.

Section 3284, Pub. L. 89–10, title VIII, §804, as added Pub. L. 95–561, title VIII, §801(3), Nov. 1, 1978, 92 Stat. 2285; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, authorized State programs for community education.

Section 3285, Pub. L. 89–10, title VIII, §805, as added Pub. L. 95–561, title VIII, §801(3), Nov. 1, 1978, 92 Stat. 2285; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to allotment and reallotment of funds.

Section 3286, Pub. L. 89–10, title VIII, §806, as added Pub. L. 95–561, title VIII, §801(3), Nov. 1, 1978, 92 Stat. 2286, related to the use of community education programs for non-Federal contribution in certain Federal programs.

Section 3287, Pub. L. 89–10, title VIII, §807, as added Pub. L. 95–561, title VIII, §801(3), Nov. 1, 1978, 92 Stat. 2286; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, authorized the activities for which funds may be used.

Section 3288, Pub. L. 89–10, title VIII, §808, as added Pub. L. 95–561, title VIII, §801(3), Nov. 1, 1978, 92 Stat. 2287; amended Pub. L. 96–88, title III, §301(a)(1), title V,

§ 507, Oct. 17, 1979, 93 Stat. 677, 692, related to the submission of a State plan containing satisfactory assurances.

Section 3289, Pub. L. 89–10, title VIII, § 809, as added Pub. L. 95–561, title VIII, § 801(3), Nov. 1, 1978, 92 Stat. 2289; amended Pub. L. 96–46, § 1(19), Aug. 6, 1979, 93 Stat. 339; Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, related to grants to local educational agencies.

Section 3290, Pub. L. 89–10, title VIII, § 810, as added Pub. L. 95–561, title VIII, § 801(3), Nov. 1, 1978, 92 Stat. 2289; amended Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, provided for grants to public agencies and nonprofit organizations for delivery of community services through community education.

PART A—FINANCIAL ASSISTANCE FOR BILINGUAL EDUCATION PROGRAMS

§§ 3291, 3292. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519. See section 7421 et seq. of this title.

Section 3291, Pub. L. 89–10, title VII, § 7021, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 279; amended Pub. L. 101–476, title IX, § 901(a)(2), Oct. 30, 1990, 104 Stat. 1142, related to assistance for bilingual education programs.

A prior section 3291, Pub. L. 89–10, title VIII, § 811, as added Pub. L. 95–561, title VIII, § 801(3), Nov. 1, 1978, 92 Stat. 2289; amended Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, related to national leadership and planning activities, prior to repeal by Pub. L. 97–35, title V, § 587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3292, Pub. L. 89–10, title VII, § 7022, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 285, related to Indian children in schools.

Prior sections 3292 to 3295 were repealed by Pub. L. 97–35, title V, § 587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3292, Pub. L. 89–10, title VIII, § 812, as added Pub. L. 95–561, title VIII, § 801(3), Nov. 1, 1978, 92 Stat. 2290; amended Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, related to the training of community education personnel.

Section 3293, Pub. L. 89–10, title VIII, § 813, as added Pub. L. 95–561, title VIII, § 801(3), Nov. 1, 1978, 92 Stat. 2290; amended Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, authorized the Director of the National Institute of Education to carry out a program of research on community education programs.

Section 3294, Pub. L. 89–10, title VIII, § 814, as added Pub. L. 95–561, title VIII, § 801(3), Nov. 1, 1978, 92 Stat. 2290; amended Pub. L. 96–88, title III, § 301(a)(1), (b)(1), (2), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 678, 692, contained administrative provisions.

Section 3295, Pub. L. 89–10, title VIII, § 815, as added Pub. L. 95–561, title VIII, § 801(3), Nov. 1, 1978, 92 Stat. 2291, related to the Federal share of the cost of State plans and applications of local educational agencies.

PART B—DATA COLLECTION, EVALUATION, AND RESEARCH

§§ 3301 to 3307. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519. See section 7421 et seq. of this title.

Section 3301, Pub. L. 89–10, title VII, § 7031, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 285, related to use of funds for data collection, evaluation, and research.

Section 3302, Pub. L. 89–10, title VII, § 7032, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 286, related to grants for State programs.

Section 3303, Pub. L. 89–10, title VII, § 7033, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 287, related to program evaluation requirements.

Section 3304, Pub. L. 89–10, title VII, § 7034, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 287, related to evaluation assistance centers.

Section 3305, Pub. L. 89–10, title VII, § 7035, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 287, related to research and development.

Section 3306, Pub. L. 89–10, title VII, § 7036, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 288, related to coordination of research.

Section 3307, Pub. L. 89–10, title VII, § 7037, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 289, related to education statistics.

Prior sections 3311 to 3318 were repealed by Pub. L. 97–35, title V, § 587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3311, Pub. L. 89–10, title IX, § 901, as added Pub. L. 95–561, title VIII, § 802, Nov. 1, 1978, 92 Stat. 2292, set out the short title and the declaration of findings and purpose for program for gifted and talented children.

Section 3312, Pub. L. 89–10, title IX, § 902, as added Pub. L. 95–561, title VIII, § 802, Nov. 1, 1978, 92 Stat. 2292, defined ''gifted and talented children''.

Section 3313, Pub. L. 89–10, title IX, § 903, as added Pub. L. 95–561, title VIII, § 802, Nov. 1, 1978, 92 Stat. 2292; amended Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, authorized appropriations.

Section 3314, Pub. L. 89–10, title IX, § 904, as added Pub. L. 95–561, title VIII, § 802, Nov. 1, 1978, 92 Stat. 2293; amended Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, related to State programs designed to meet the educational needs of gifted and talented children.

Section 3315, Pub. L. 89–10, title IX, § 905, as added Pub. L. 95–561, title VIII, § 802, Nov. 1, 1978, 92 Stat. 2294; amended Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, related to discretionary programs.

Section 3316, Pub. L. 89–10, title IX, § 906, as added Pub. L. 95–561, title VIII, § 802, Nov. 1, 1978, 92 Stat. 2295; amended Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, related to State allotments and reallotments.

Section 3317, Pub. L. 89–10, title IX, § 907, as added Pub. L. 95–561, title VIII, § 802, Nov. 1, 1978, 92 Stat. 2296; amended Pub. L. 96–88, title III, § 301(a)(1), (b)(2), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 678, 692, contained administrative provisions for programs and projects.

Section 3318, Pub. L. 89–10, title IX, § 908, as added Pub. L. 95–561, title VIII, § 802, Nov. 1, 1978, 92 Stat. 2296, related to Federal share.

PART C—TRAINING AND TECHNICAL ASSISTANCE

§§ 3321 to 3325. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519. See section 7471 et seq. of this title.

Section 3321, Pub. L. 89–10, title VII, § 7041, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 289, related to use of funds for training and technical assistance.

Section 3322, Pub. L. 89–10, title VII, § 7042, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 290, related to multifunctional resource centers.

Section 3323, Pub. L. 89–10, title VII, § 7043, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 291, related to fellowships.

Section 3324, Pub. L. 89–10, title VII, § 7044, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 291, related to priorities in making grants and contracts.

Section 3325, Pub. L. 89–10, title VII, §7045, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 291, related to stipends.

PART D—ADMINISTRATION

§§ 3331, 3332. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519.

Section 3331, Pub. L. 89–10, title VII, §7051, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 291, related to Office of Bilingual Education and Minority Languages Affairs. See sections 3420 and 3423d of this title.

A prior section 3331, Pub. L. 89–10, title IX, §921, as added Pub. L. 95–561, title VIII, §802, Nov. 1, 1978, 92 Stat. 2296; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to grants for educational proficiency standards implementation, etc., prior to repeal by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3332, Pub. L. 89–10, title VII, §7052, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 293, related to limitation of authority.

A prior section 3332, Pub. L. 89–10, title IX, §922, as added Pub. L. 95–561, title VIII, §802, Nov. 1, 1978, 92 Stat. 2297; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to achievement testing assistance, prior to repeal by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

PART E—TRANSITION

§ 3341. Omitted

CODIFICATION

Section, Pub. L. 89–10, title VII, §7063, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 293, which related to application of this subchapter to grants and contracts entered into before Oct. 1, 1988, was omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519.

Prior sections 3341 to 3348 were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 3341, Pub. L. 89–10, title IX, §931, as added Pub. L. 95–561, title VIII, §802, Nov. 1, 1978, 92 Stat. 2298; amended Pub. L. 98–511, title IV, §402, Oct. 19, 1984, 98 Stat. 2389, related to general provisions applicable to the Women's Educational Equity Act of 1978.

Section 3342, Pub. L. 89–10, title IX, §932, as added Pub. L. 95–561, title VIII, §802, Nov. 1, 1978, 92 Stat. 2298; amended Pub. L. 98–511, title IV, §§401(b), 403, Oct. 19, 1984, 98 Stat. 2389, related to granting and contracting authority and funding requirements.

Section 3343, Pub. L. 89–10, title IX, §933, as added Pub. L. 95–561, title VIII, §802, Nov. 1, 1978, 92 Stat. 2299; amended Pub. L. 98–511, title IV, §401(b), Oct. 19, 1984, 98 Stat. 2389, related to applications and participation.

Section 3344, Pub. L. 89–10, title IX, §934, as added Pub. L. 95–561, title VIII, §802, Nov. 1, 1978, 92 Stat. 2299; amended Pub. L. 98–511, title IV, §§401(b), 404, Oct. 19, 1984, 98 Stat. 2389, related to challenge grants.

Section 3345, Pub. L. 89–10, title IX, §935, as added Pub. L. 95–561, title VIII, §802, Nov. 1, 1978, 92 Stat. 2299; amended Pub. L. 98–511, title IV, §§401(b), 405, Oct. 19, 1984, 98 Stat. 2389, 2390, related to criteria and priorities.

Section 3346, Pub. L. 89–10, title IX, §936, as added Pub. L. 95–561, title VIII, §802, Nov. 1, 1978, 92 Stat. 2300; amended Pub. L. 96–88, title V, §509(b), Oct. 17, 1979, 93 Stat. 695; Pub. L. 98–511, title IV, §§401(b), 406, Oct. 19, 1984, 98 Stat. 2389, 2390, related to National Advisory Council on Women's Educational Programs.

Section 3347, Pub. L. 89–10, title IX, §937, as added Pub. L. 95–561, title VIII, §802, Nov. 1, 1978, 92 Stat. 2300; amended Pub. L. 98–511, title IV, §§401(b), 407, Oct. 19, 1984, 98 Stat. 2389, 2391, related to reports.

Section 3348, Pub. L. 89–10, title IX, §938, as added Pub. L. 95–561, title VIII, §802, Nov. 1, 1978, 92 Stat. 2301; amended Pub. L. 98–511, title IV, §408, Oct. 19, 1984, 98 Stat. 2391, related to authorization of appropriations.

SUBCHAPTER VIII—GUN-FREE SCHOOLS

§ 3351. Omitted

CODIFICATION

Section, Pub. L. 89–10, title VIII, §8001, as added Pub. L. 103–227, title X, §1032(3), Mar. 31, 1994, 108 Stat. 270, which related to gun-free school requirements, was omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519. See section 8921 of this title.

Prior sections 3351 to 3354 and 3361 to 3367 were repealed by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3351, Pub. L. 89–10, title IX, §941, as added Pub. L. 95–561, title VIII, §802, Nov. 1, 1978, 92 Stat. 2301, set out purpose of program of special grants for safe schools.

Section 3352, Pub. L. 89–10, title IX, §942, as added Pub. L. 95–561, title VIII, §802, Nov. 1, 1978, 92 Stat. 2301, authorized appropriations.

Section 3353, Pub. L. 89–10, title IX, §943, as added Pub. L. 95–561, title VIII, §802, Nov. 1, 1978, 92 Stat. 2301; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to allotments to local educational agencies.

Section 3354, Pub. L. 89–10, title IX, §944, as added Pub. L. 95–561, title VIII, §802, Nov. 1, 1978, 92 Stat. 2302; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to submission of applications by local educational agencies in order to receive grants.

Section 3361, Pub. L. 89–10, title IX, §951, as added Pub. L. 95–561, title VIII, §802, Nov. 1, 1978, 92 Stat. 2303, set out statement of policy for ethnic heritage program.

Section 3362, Pub. L. 89–10, title IX, §952, as added Pub. L. 95–561, title VIII, §802, Nov. 1, 1978, 92 Stat. 2303; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, authorized an ethnic heritage studies program.

Section 3363, Pub. L. 89–10, title IX, §953, as added Pub. L. 95–561, title VIII, §802, Nov. 1, 1978, 92 Stat. 2303, set out authorized activities for program of ethnic heritage.

Section 3364, Pub. L. 89–10, title IX, §954, as added Pub. L. 95–561, title VIII, §802, Nov. 1, 1978, 92 Stat. 2303; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to applications for assistance.

Section 3365, Pub. L. 89–10, title IX, §955, as added Pub. L. 95–561, title VIII, §802, Nov. 1, 1978, 92 Stat. 2304; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to administration by Secretary and to funding.

Section 3366, Pub. L. 89–10, title IX, §956, as added Pub. L. 95–561, title VIII, §802, Nov. 1, 1978, 92 Stat. 2304, related to National Advisory Council on Ethnic Heritage Studies.

Section 3367, Pub. L. 89–10, title IX, §957, as added Pub. L. 95–561, title VIII, §802, Nov. 1, 1978, 92 Stat. 2304, authorized appropriations.

SUBCHAPTER IX—GENERAL PROVISIONS

§§ 3381 to 3384. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965,

Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519.

Section 3381, Pub. L. 89–10, title IX, §9001, formerly title VI, §601, Apr. 11, 1965, 79 Stat. 55; renumbered title VII, §701, Pub. L. 89–750, title I, §161, Nov. 3, 1966, 80 Stat. 1204; renumbered title VIII, §801, and amended Pub. L. 90–247, title I, §§142(b), 152(c), title VII, §§702, 703, Jan. 2, 1968, 81 Stat. 799, 803, 816, 819; Pub. L. 91–230, title I, §162, Apr. 13, 1970, 84 Stat. 152; Pub. L. 94–193, §1(c), Dec. 31, 1975, 89 Stat. 1102; Pub. L. 94–482, title V, §501(*l*), Oct. 12, 1976, 90 Stat. 2237; renumbered title IX, §1001, and amended Pub. L. 95–561, title VIII, §801(1), (2), title IX, §901(a), Nov. 1, 1978, 92 Stat. 2284, 2305; renumbered title X, §1001, Pub. L. 96–46, §2(a)(1), Aug. 6, 1979, 93 Stat. 340; renumbered §8001 and amended Pub. L. 100–297, title I, §1002, Apr. 28, 1988, 102 Stat. 293; renumbered title IX, §9001, Pub. L. 103–227, title X, §1032(1), (2), Mar. 31, 1994, 108 Stat. 270, defined terms used in this chapter. See section 8801 of this title.

Section 3382, Pub. L. 89–10, title IX, §9002, formerly title VI, §603, Apr. 11, 1965, 79 Stat. 57; renumbered title VII, §703, and amended Pub. L. 89–750, title I, §§111(f), 161, Nov. 3, 1966, 80 Stat. 1196, 1204; renumbered title VIII, §803, Pub. L. 90–247, title VII, §702, Jan. 2, 1968, 81 Stat. 816; amended Pub. L. 91–230, title I, §163, title IV, §401(c)(2), Apr. 13, 1970, 84 Stat. 153, 173; renumbered title IX, §1002, Pub. L. 95–561, title VIII, §801(1), (2), Nov. 1, 1978, 92 Stat. 2284; renumbered title X, §1002, Pub. L. 96–46, §2(a)(1), Aug. 6, 1979, 93 Stat. 340; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692; renumbered §8002, Pub. L. 100–297, title I, §1002(a), Apr. 28, 1988, 102 Stat. 293; renumbered title IX, §9002, Pub. L. 103–227, title X, §1032(1), (2), Mar. 31, 1994, 108 Stat. 270, related to Federal administration of Elementary and Secondary Education Act of 1965.

Section 3383, Pub. L. 89–10, title IX, §9003, formerly title VIII, §804, as added Pub. L. 93–380, title I, §106, Aug. 21, 1974, 88 Stat. 512; renumbered title IX, §1003, and amended Pub. L. 95–561, title VIII, §801(1), (2), title IX, §901(b), Nov. 1, 1978, 92 Stat. 2284, 2305; Pub. L. 96–46, §§1(20), 2(a)(3), Aug. 6, 1979, 93 Stat. 339, 340; renumbered title X, §1003, and amended Pub. L. 96–46, §2(a)(1), Aug. 6, 1979, 93 Stat. 340; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692; Pub. L. 98–211, §21(b), Dec. 8, 1983, 97 Stat. 1418; renumbered §8003, Pub. L. 100–297, title I, §1002(a), Apr. 28, 1988, 102 Stat. 293; renumbered title IX, §9003, Pub. L. 103–227, title X, §1032(1), (2), Mar. 31, 1994, 108 Stat. 270, related to waiver of requirements for certain jurisdictions. See section 8881 of this title.

Section 3384, Pub. L. 89–10, title IX, §9004, formerly title VI, §605, Apr. 11, 1965, 79 Stat. 58; renumbered title VII, §705, Pub. L. 89–750, title I, §161, Nov. 3, 1966, 80 Stat. 1204; renumbered title VIII, §805, Pub. L. 90–247, title VII, §702, Jan. 2, 1968, 81 Stat. 816; renumbered title IX, §1004, Pub. L. 95–561, title VIII, §801(1), (2), Nov. 1, 1978, 92 Stat. 2284; renumbered title X, §1004, Pub. L. 96–46, §2(a)(1), Aug. 6, 1979, 93 Stat. 340; renumbered §8004, Pub. L. 100–297, title I, §1002(a), Apr. 28, 1988, 102 Stat. 293; renumbered title IX, §9004, Pub. L. 103–227, title X, §1032(1), (2), Mar. 31, 1994, 108 Stat. 270, related to prohibition against use of funds for religious worship or instruction. See section 8897 of this title.

§ 3385. Repealed. Pub. L. 100–297, title V, § 5352(2), Apr. 28, 1988, 102 Stat. 414

Section, Pub. L. 89–10, title X, §1005, formerly title VIII, §810, as added Pub. L. 92–318, title IV, §421(a), June 23, 1972, 86 Stat. 339; amended Pub. L. 93–380, title VI, §§631(a), 632(a), Aug. 21, 1974, 88 Stat. 585, 586; renumbered title IX, §1005, and amended Pub. L. 95–561, title VIII, §801(1), (2), title XI, §§1141(a), 1150(a)–(e), Nov. 1, 1978, 92 Stat. 2284, 2328, 2331–2333; renumbered title X, §1005, and amended Pub. L. 96–46, §§1(21), 2(a)(1), Aug. 6, 1979, 93 Stat. 339, 340; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692; Pub. L. 98–511, title V, §513(c), Oct. 19, 1984, 98 Stat. 2400, related to improvement of educational opportunities for Indian students.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1988, see section 6303 of Pub. L. 100–297, set out as an Effective Date note under section 1201 of this title.

§§ 3385a, 3385b. Repealed. Pub. L. 100–297, title V, § 5352(4), Apr. 28, 1988, 102 Stat. 414

Section 3385a, Pub. L. 92–318, title IV, §422, as added Pub. L. 93–380, title VI, §632(c), Aug. 21, 1974, 88 Stat. 586; amended Pub. L. 95–561, title XI, §§1141(c)(1), 1152(a), Nov. 1, 1978, 92 Stat. 2329, 2333; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692; Pub. L. 98–511, title V, §513(b)(1), (2), Oct. 19, 1984, 98 Stat. 2400, related to special educational training programs for teachers of Indian people.

Section 3385b, Pub. L. 92–318, title IV, §423, as added Pub. L. 93–380, title VI, §632(c), Aug. 21, 1974, 88 Stat. 586; amended Pub. L. 95–561, title XI, §§1141(c)(2), 1152(b), Nov. 1, 1978, 92 Stat. 2329, 2333; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692; Pub. L. 98–511, title V, §513(b)(3), (4), Oct. 19, 1984, 98 Stat. 2400; Pub. L. 99–570, title IV, §4133(b)(2), Oct. 27, 1986, 100 Stat. 3207–133, related to fellowships for Indian students.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1988, see section 6303 of Pub. L. 100–297, set out as an Effective Date note under section 1201 of this title.

§ 3386. Omitted

CODIFICATION

Section, Pub. L. 89–10, title IX, §9005, formerly title VIII, §812, as added Pub. L. 93–380, title I, §110, Aug. 21, 1974, 88 Stat. 513; renumbered title IX, §1006, Pub. L. 95–561, title VIII, §801 (1), (2), Nov. 1, 1978, 92 Stat. 2284; renumbered title X, §1006, Pub. L. 96–46, §2(a)(1), Aug. 6, 1979, 93 Stat. 340; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692; renumbered §8005, Pub. L. 100–297, title I, §1002(a), Apr. 28, 1988, 102 Stat. 293; renumbered title IX, §9005, Pub. L. 103–227, title X, §1032(1), (2), Mar. 31, 1994, 108 Stat. 270, which related to open meetings of educational agencies, was omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519. See section 8856 of this title.

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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 1221, 5899, 6104 of this title.

SUBCHAPTER I—GENERAL PROVISIONS

§ 3401. Congressional findings

The Congress finds that—

(1) education is fundamental to the development of individual citizens and the progress of the Nation;

(2) there is a continuing need to ensure equal access for all Americans to educational opportunities of a high quality, and such educational opportunities should not be denied because of race, creed, color, national origin, or sex;

(3) parents have the primary responsibility for the education of their children, and States, localities, and private institutions have the primary responsibility for supporting that parental role;

(4) in our Federal system, the primary public responsibility for education is reserved respectively to the States and the local school systems and other instrumentalities of the States;

(5) the American people benefit from a diversity of educational settings, including public and private schools, libraries, museums and other institutions, the workplace, the community, and the home;

(6) the importance of education is increasing as new technologies and alternative approaches to traditional education are considered, as society becomes more complex, and as equal opportunities in education and employment are promoted;

(7) there is a need for improvement in the management and coordination of Federal education programs to support more effectively State, local, and private institutions, students, and parents in carrying out their educational responsibilities;

(8) the dispersion of education programs across a large number of Federal agencies has led to fragmented, duplicative, and often inconsistent Federal policies relating to education;

(9) Presidential and public consideration of issues relating to Federal education programs is hindered by the present organizational position of education programs in the executive branch of the Government; and

(10) there is no single, full-time, Federal education official directly accountable to the President, the Congress, and the people.

(Pub. L. 96–88, title I, § 101, Oct. 17, 1979, 93 Stat. 669.)

EFFECTIVE DATE

Section 601 of Pub. L. 96–88 provided that:

''(a) The provisions of this Act [see Short Title note below] shall take effect one hundred and eighty days after the first Secretary takes office, or on any earlier date on or after October 1, 1979, as the President may prescribe and publish in the Federal Register [prescribed as May 4, 1980, by Ex. Ord. No. 12212, formerly set out below], except that at any time on or after October 1, 1979—

''(1) any of the officers provided for in title II of this Act [subchapter II of this chapter] may be nominated and appointed, as provided in such title; and

''(2) the Secretary may promulgate regulations pursuant to section 505(b)(2) of this Act [section 3505(b)(2) of this title].

''(b) Funds available to any department or agency (or any official or component thereof), the functions or offices of which are transferred to the Secretary or the Department by this Act [see Short Title note below], may, with the approval of the Director of the Office of Management and Budget, be used to pay the compensation and expenses of any officer appointed pursuant to this title [this section and section 602 of Pub. L. 96–88 set out below] and other transitional and planning expenses associated with the establishment of the Department or transfer of functions or offices thereto until such time as funds for such purposes are otherwise available.''

SHORT TITLE OF 1990 AMENDMENT

Pub. L. 101–392, title VI, § 601, Sept. 25, 1990, 104 Stat. 840, provided that: ''This title [enacting section 3423a of

this title, amending section 3424 of this title, repealing sections 1131 and 3423 of this title, and enacting provisions set out as a note under section 2403 of this title] may be cited as the 'Office of Correctional Education Act of 1990'.''

SHORT TITLE

Section 1 of Pub. L. 96–88 provided that: ''This Act [enacting this chapter, amending sections 928, 929, 1102, 2390, 2711, and 3012 of this title, section 19 of Title 3, The President, sections 101, 5312, and 5314 to 5316 of Title 5, Government Organization and Employees, sections 2, 9, and 11 of the Inspector General Act of 1978, set out in the Appendix to Title 5, section 1004 of Title 21, Food and Drugs, and sections 761b, 794c, 821, 829, 873, 879, 882, 914, and 952 of Title 29, Labor, and enacting provisions set out as notes under this section and section 1102 of this title] may be cited as the 'Department of Education Organization Act'.''

INTERIM APPOINTMENTS

Section 602 of Pub. L. 96–88 provided that:

''(a) In the event that one or more officers required by this Act [see Short Title note above] to be appointed by and with the advice and consent of the Senate shall not have entered upon office on the effective date of this Act [May 4, 1980] and notwithstanding any other provisions of law, the President may designate an officer in the executive branch to act in such office for one hundred and twenty days or until the office is filled as provided in this Act, whichever occurs first.

''(b) Any officer acting in an office in the Department pursuant to the provisions of subsection (a) shall receive compensation at the rate prescribed for such office under this Act.''

EXECUTIVE ORDER NO. 12212

Ex. Ord. No. 12212, May 2, 1980, 45 F.R. 29557, which established the effective date for the Department of Education Organization Act, was revoked by Ex. Ord. No. 12553, Feb. 25, 1986, 51 F.R. 7237.

§ 3402. Congressional declaration of purpose

The Congress declares that the establishment of a Department of Education is in the public interest, will promote the general welfare of the United States, will help ensure that education issues receive proper treatment at the Federal level, and will enable the Federal Government to coordinate its education activities more effectively. Therefore, the purposes of this chapter are—

(1) to strengthen the Federal commitment to ensuring access to equal educational opportunity for every individual;

(2) to supplement and complement the efforts of States, the local school systems and other instrumentalities of the States, the private sector, public and private educational institutions, public and private nonprofit educational research institutions, community-based organizations, parents, and students to improve the quality of education;

(3) to encourage the increased involvement of the public, parents, and students in Federal education programs;

(4) to promote improvements in the quality and usefulness of education through federally supported research, evaluation, and sharing of information;

(5) to improve the coordination of Federal education programs;

(6) to improve the management and efficiency of Federal education activities, especially with respect to the process, procedures, and administrative structures for the dispersal of Federal funds, as well as the reduction of unnecessary and duplicative burdens and constraints, including unnecessary paperwork, on the recipients of Federal funds; and

(7) to increase the accountability of Federal education programs to the President, the Congress, and the public.

(Pub. L. 96–88, title I, § 102, Oct. 17, 1979, 93 Stat. 670.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this Act'', meaning Pub. L. 96–88, Oct. 17, 1979, 93 Stat. 668, known as the Department of Education Organization Act, which enacted this chapter, amended sections 928, 929, 1102, 2390, 2711, and 3012 of this title, section 19 of Title 3, The President, sections 101, 5312, and 5314 to 5316 of Title 5, Government Organization and Employees, sections 2, 9, and 11 of the Inspector General Act of 1978, set out in the Appendix to Title 5, section 1004 of Title 21, Food and Drugs, and sections 761b, 794c, 821, 829, 873, 879, 882, 914, and 952 of Title 29, Labor, and enacted provisions set out as notes under sections 1102 and 3401 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3401 of this title and Tables.

§ 3403. Relationship with States

(a) Rights of local governments and educational institutions

It is the intention of the Congress in the establishment of the Department to protect the rights of State and local governments and public and private educational institutions in the areas of educational policies and administration of programs and to strengthen and improve the control of such governments and institutions over their own educational programs and policies. The establishment of the Department of Education shall not increase the authority of the Federal Government over education or diminish the responsibility for education which is reserved to the States and the local school systems and other instrumentalities of the States.

(b) Curriculum, administration, and personnel; library resources

No provision of a program administered by the Secretary or by any other officer of the Department shall be construed to authorize the Secretary or any such officer to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution, school, or school system, over any accrediting agency or association, or over the selection or content of library resources, textbooks, or other instructional materials by any educational institution or school system, except to the extent authorized by law.

(c) Funding under pre-existing programs

The Secretary shall not, during the period within eight months after May 4, 1980, take any action to withhold, suspend, or terminate funds under any program transferred by this chapter by reason of the failure of any State to comply with any applicable law requiring the administration of such a program through a single organizational unit.

(Pub. L. 96–88, title I, § 103, Oct. 17, 1979, 93 Stat. 670.)

CODIFICATION

In subsec. (c), ''May 4, 1980'' substituted for ''the effective date of this chapter'' pursuant to section 601 of Pub. L. 96–88, set out as an Effective Date note under section 3401 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1099c–1, 3224a of this title.

§ 3404. Definitions

As used in this chapter, unless otherwise provided or indicated by the context—

(1) the term ''Department'' means the Department of Education or any component thereof;

(2) the term ''Secretary'' means the Secretary of Education;

(3) the term ''Deputy Secretary'' means the Deputy Secretary of Education;

(4) the term ''function'' includes any duty, obligation, power, authority, responsibility, right, privilege, activity, or program;

(5) the term ''State'' includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands;

(6) the terms ''private'' and ''private educational'' refer to independent, nonpublic, and private institutions of elementary, secondary, and postsecondary education; and

(7) the term ''office'' includes any office, institute, council, unit, organizational entity, or component thereof.

(Pub. L. 96–88, title I, § 104, Oct. 17, 1979, 93 Stat. 671; Pub. L. 101–509, title V, § 529 [title I, § 112(a)(3)(A)], Nov. 5, 1990, 104 Stat. 1427, 1454.)

AMENDMENTS

1990—Par. (3). Pub. L. 101–509 substituted ''Deputy Secretary'' for ''Under Secretary'' in two places.

EFFECTIVE DATE OF 1990 AMENDMENT; CONTINUED SERVICE BY INCUMBENTS

Section 529 [title I, § 112(e)] of Pub. L. 101–509 provided that:

''(1) This section [amending this section, section 3412 of this title, sections 5313 and 5314 of Title 5, Government Organization and Employees, section 472a of Title 25, Indians, section 3533 of Title 42, The Public Health and Welfare, and section 1452 of Title 43, Public Lands and enacting provisions set out as notes under this section and section 3501 of Title 42] shall take effect on the first day of the first pay period that begins on or after the date of enactment of this Act [Nov. 5, 1990].

''(2)(A) The incumbent in the position of Under Secretary of Health and Human Services on the day immediately preceding the date this section takes effect may serve as Deputy Secretary of Health and Human Services at the pleasure of the President after such day.

''(B) The incumbent in the position of Under Secretary of the Interior on the day immediately preceding the date this section takes effect may serve as Deputy Secretary of the Interior at the pleasure of the President after such day.

''(C) The incumbent in the position of Under Secretary of Education on the day immediately preceding the date this section takes effect may serve as Deputy Secretary of Education at the pleasure of the President after such day.

''(D) The incumbent in the position of Under Secretary of Housing and Urban Development on the day immediately preceding the date this section takes effect may serve as Deputy Secretary of Housing and Urban Development at the pleasure of the President after such day.''

CONSTRUCTION OF REFERENCES

Section 529 [title I, § 112(c)] of Pub. L. 101–509 provided that: ''Any reference in any statute, reorganization plan, regulation, executive order, or any document issued pursuant thereto in force on the date this section takes effect [see Effective Date of 1990 Amendment; Continued Service by Incumbents note above] to the Under Secretary of Health and Human Services, the Under Secretary of the Interior, the Under Secretary of Education, or the Under Secretary of Housing and Urban Development shall be deemed to be a reference to the Deputy Secretary of Health and Human Services, the Deputy Secretary of the Interior, the Deputy Secretary of Education, or the Deputy Secretary of Housing and Urban Development, respectively.''

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

SUBCHAPTER II—ESTABLISHMENT OF THE DEPARTMENT

§ 3411. Establishment of Department; appointment of Secretary

There is established an executive department to be known as the Department of Education. The Department shall be administered, in accordance with the provisions of this chapter, under the supervision and direction of a Secretary of Education. The Secretary shall be appointed by the President, by and with the advice and consent of the Senate.

(Pub. L. 96–88, title II, § 201, Oct. 17, 1979, 93 Stat. 671.)

EMERGENCY PREPAREDNESS FUNCTIONS

For assignment of certain emergency preparedness functions to the Secretary of Education, see Parts 1, 2, and 6 of Ex. Ord. No. 12656, Nov. 18, 1988, 53 F.R. 47491, set out under section 5195 of Title 42, The Public Health and Welfare.

EXECUTIVE ORDER NO. 12729

Ex. Ord. No. 12729, Sept. 24, 1990, 55 F.R. 39389, which established the President's Advisory Commission on Educational Excellence for Hispanic Americans, directed Secretary of Education to establish the White House Initiative on Educational Excellence for Hispanic Americans, set forth reporting requirements, and required active involvement of executive departments and agencies, was revoked by Ex. Ord. No. 12900, § 10, Feb. 22, 1994, 59 F.R. 9061, set out below.

EX. ORD. NO. 12900. EDUCATIONAL EXCELLENCE FOR HISPANIC AMERICANS

Ex. Ord. No. 12900, Feb. 22, 1994, 59 F.R. 9061, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to advance the development of human potential, to strengthen the Nation's capacity to provide high-quality education, and to increase opportunities for Hispanic Americans to participate in and benefit from Federal education programs, it is hereby ordered as follows:

SECTION 1. There shall be established in the Department of Education the President's Advisory Commission on Educational Excellence for Hispanic Americans (Commission). The Commission shall consist of not more than 25 members, who shall be appointed by the

President and shall report to the Secretary of Education (Secretary). The Commission shall comprise representatives who: (a) have a history of involvement with the Hispanic community; (b) are from the education, civil rights, and business communities; or (c) are from civic associations representing the diversity within the Hispanic community. In addition, the President may appoint other representatives as he deems appropriate.

SEC. 2. The Commission shall provide advice to the President and the Secretary on: (a) the progress of Hispanic Americans toward achievement of the National Education Goals and other standards of educational accomplishment; (b) the development, monitoring, and coordination of Federal efforts to promote high-quality education for Hispanic Americans; (c) ways to increase State, private sector, and community involvement in improving education; and (d) ways to expand and complement Federal education initiatives. The Commission shall provide advice to the President through the Secretary.

SEC. 3. There shall be established in the Department of Education the White House Initiative on Educational Excellence for Hispanic Americans (Initiative). The Initiative shall be an interagency working group coordinated by the Department of Education and shall be headed by a Director, who shall be a senior level Federal official. It shall provide the staff, resources, and assistance for the Commission and shall serve the Secretary in carrying out his or her responsibilities under this order. The Initiative is authorized to utilize the services, personnel, information, and facilities of other Federal, State, and local agencies with their consent, and with or without reimbursement, consistent with applicable law. To the extent permitted by law and regulations, each Federal agency shall cooperate in providing resources, including personnel detailed to the Initiative, to meet the objectives of this order. The Initiative shall include both career civil service and appointed staff with expertise in the area of education, and shall provide advice to the Secretary on the implementation and coordination of education and related programs across Executive agencies.

SEC. 4. Each Executive department and each agency designated by the Secretary shall appoint a senior official, who is a full-time officer of the Federal Government and responsible for management or program administration, to report directly to the agency head on activity under this Executive order and to serve as liaison to the Commission and the Initiative. To the extent permitted by law and to the extent practicable, each Executive department and designated agency shall provide any appropriate information requested by the Commission or the staff of the Initiative, including data relating to the eligibility for and participation by Hispanic Americans in Federal education programs and the progress of Hispanic Americans in relation to the National Education Goals. Where adequate data is not available, the Commission shall suggest the means of collecting the data.

SEC. 5. The Secretary, in consultation with the Commission, shall submit to the President an Annual Federal Plan to Promote Hispanic American Educational Excellence (Annual Federal Plan, or Plan). All actions described in the Plan shall be designed to help Hispanic Americans attain the educational improvement targets set forth in the National Education Goals and any standards established by the National Education Standards and Improvement Council. The Plan shall include data on eligibility for, and participation by, Hispanic Americans in Federal education programs, and such other aspects of the educational status of Hispanic Americans as the Secretary considers appropriate. This Plan also shall include, as an appendix, the text of the agency plans described in section 6 of this order. The Secretary, in consultation with the Commission and with the assistance of the Initiative staff, shall ensure that superintendents of Hispanic-serving school districts, presidents of Hispanic-serving institutions of higher education, directors of educational programs for Hispanic Americans, and other appropriate individuals are given the opportunity to comment on the proposed Annual Federal Plan. For purposes of this order, a ''Hispanic-serving'' school district or institution of higher education is any local education agency or institution of higher education, respectively, whose student population is more than 25 percent Hispanic.

SEC. 6. As part of the development of the Annual Federal Plan, each Executive department and each designated agency (hereinafter in this section referred to collectively as ''agency'') shall prepare a plan for, and shall document, both that agency's effort to increase Hispanic American participation in Federal education programs where Hispanic Americans currently are underserved, and that agency's effort to improve educational outcomes for Hispanic Americans participating in Federal education programs. This plan shall address, among other relevant issues: (a) the elimination of unintended regulatory barriers to Hispanic American participation in Federal education programs; (b) the adequacy of announcements of program opportunities of interest to Hispanic-serving school districts, institutions of higher education, and agencies; and (c) ways of eliminating educational inequalities and disadvantages faced by Hispanic Americans. It also shall emphasize the facilitation of technical, planning, and development advice to Hispanic-serving school districts and institutions of higher education. Each agency's plan shall provide appropriate measurable objectives for proposed actions aimed at increasing Hispanic American participation in Federal education programs where Hispanic Americans currently are underserved. After the first year, each agency's plan also shall assess that agency's performance on the goals set in the previous year's annual plan. These plans shall be submitted by a date and time to be established by the Secretary.

SEC. 7. The Director of the Office of Personnel Management, in consultation with the Secretary and the Secretary of Labor, to the extent permitted by law, shall develop a program to promote recruitment of Hispanic students for part-time, summer, and permanent positions in the Federal Government.

SEC. 8. I have determined that the Commission shall be established in compliance with the Federal Advisory Committee Act, as amended (5 U.S.C. App.). Notwithstanding any other Executive order, the responsibilities of the President under the Federal Advisory Committee Act, as amended, shall be performed by the Secretary, in accordance with the guidelines and procedures established by the Administrator of General Services.

SEC. 9. *Administration*. (a) Members of the Commission shall serve without compensation, but shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law for persons serving intermittently in the Government service (5 U.S.C. 5701–5707).

(b) The Commission and the Initiative shall obtain funding for their activities from the Department of Education.

(c) The Department of Education shall provide such administrative services for the Commission as may be required.

SEC. 10. Executive Order No. 12729 is revoked.

WILLIAM J. CLINTON.

EXTENSION OF TERM OF PRESIDENT'S ADVISORY COMMISSION ON EDUCATIONAL EXCELLENCE FOR HISPANIC AMERICANS

Term of President's Advisory Commission on Educational Excellence for Hispanic Americans extended until Sept. 30, 1997, by Ex. Ord. No. 12974, Sept. 29, 1995, 60 F.R. 51875, formerly set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5, Government Organization and Employees.

Term of President's Advisory Commission on Educational Excellence for Hispanic Americans extended until Sept. 30, 1999, by Ex. Ord. No. 13062, Sept. 29, 1997, 62 F.R. 51755, set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5.

§ 3412. Principal officers

(a) Deputy Secretary of Education

(1) There shall be in the Department a Deputy Secretary of Education who shall be appointed by the President, by and with the advice and consent of the Senate. During the absence or disability of the Secretary, or in the event of a vacancy in the office of the Secretary, the Deputy Secretary shall act as Secretary. The Secretary shall designate the order in which other officials of the Department shall act for and perform the functions of the Secretary during the absence or disability of both the Secretary and Deputy Secretary or in the event of vacancies in both of those offices.

(2)(A) The Deputy Secretary shall have responsibility for the conduct of intergovernmental relations of the Department, including assuring (i) that the Department carries out its functions in a manner which supplements and complements the education policies, programs, and procedures of the States and the local school systems and other instrumentalities of the States, and (ii) that appropriate officials of the Department consult with individuals responsible for making policy relating to education in the States and the local school systems and other instrumentalities of the States concerning differences over education policies, programs, and procedures and concerning the impact of the rules and regulations of the Department on the States and the local school systems and other instrumentalities of the States.

(B) Local education authorities may inform the Deputy Secretary of any rules or regulations of the Department which are in conflict with another rule or regulation issued by any other Federal department or agency or with any other office of the Department. If the Deputy Secretary determines, after consultation with the appropriate Federal department or agency, that such a conflict does exist, the Deputy Secretary shall report such conflict or conflicts to the appropriate Federal department or agency together with recommendations for the correction of the conflict.

(b) Assistant Secretaries and General Counsel

(1) There shall be in the Department—

(A) an Assistant Secretary for Elementary and Secondary Education;

(B) an Assistant Secretary for Postsecondary Education;

(C) an Assistant Secretary for Vocational and Adult Education;

(D) an Assistant Secretary for Special Education and Rehabilitative Services;

(E) an Assistant Secretary for Civil Rights; and

(F) a General Counsel.

(2) Each of the Assistant Secretaries and the General Counsel shall be appointed by the President, by and with the advice and consent of the Senate.

(3)[1] There shall be in the Department, a Special Assistant for Gender Equity who shall be appointed by the Secretary. The Special Assistant shall promote, coordinate, and evaluate gender equity programs, including the dissemination of information, technical assistance, and coordination of research activities. The Special Assistant shall advise the Secretary and Deputy Secretary on all matters relating to gender equity.

(3)[1] There shall be in the Department an Assistant Secretary for Educational Research and Improvement who shall be—

(A) appointed by the President, by and with the consent of the Senate; and

(B) selected (giving due consideration to recommendations from the National Educational Research Policy and Priorities Board) from among individuals who—

(i) are distinguished educational researchers or practitioners;

(ii) have proven management ability; and

(iii) have substantial knowledge of education within the United States.

(c) Inspector General

There shall be in the Department an Inspector General appointed in accordance with the Inspector General Act of 1978.

(d) Under Secretary of Education

There may be in the Department an Under Secretary of Education who shall perform such functions as the Secretary may prescribe. The Under Secretary shall be appointed by the President, by and with the advice and consent of the Senate.

(e) Additional officers

There shall be in the Department four additional officers who shall be appointed by the President, by and with the advice and consent of the Senate. The officers appointed under this subsection shall perform such functions as the Secretary shall prescribe, including—

(1) congressional relations functions;

(2) public information functions, including the provision, through the use of the latest technologies, of useful information about education and related opportunities to students, parents, and communities;

(3) functions related to monitoring parental and public participation in programs where such participation is required by law, and encouraging the involvement of parents, students, and the public in the development and implementation of departmental programs;

(4) management and budget functions;

(5) planning, evaluation, and policy development functions, including development of policies to promote the efficient and coordinated administration of the Department and its programs and to encourage improvements in education; and

(6) functions related to encouraging and promoting the study of foreign languages and the study of cultures of other countries at the elementary, secondary, and postsecondary levels.

(f) Statements of functions of nominees

Whenever the President submits the name of an individual to the Senate for confirmation as an officer of the Department under this section, the President shall state the particular functions of the Department such individual will exercise upon taking office.

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[1] So in original. Two pars. (3) have been enacted.

(g) Supervision by Secretary

Each officer of the Department established under this section shall report directly to the Secretary and shall, in addition to any functions vested in or required to be delegated to such officer, perform such additional functions as the Secretary may prescribe.

(h) Coordination of literacy related functions by Assistant Secretary for Vocational and Adult Education

The Assistant Secretary for Vocational and Adult Education, in addition to performing such functions as the Secretary may prescribe, shall have responsibility for coordination of all literacy related programs and policy initiatives in the Department. The Assistant Secretary for Vocational and Adult Education shall assist in coordinating the related activities and programs of other Federal departments and agencies.

(i) Liaison for Community and Junior Colleges

(1) There shall be in the Department a Liaison for Community and Junior Colleges, who shall be an officer of the Department appointed by the Secretary.

(2) The Secretary shall appoint, not later than 6 months after July 23, 1992, as the Liaison for Community and Junior Colleges a person who—

(A) has attained an associate degree from a community or junior college; or

(B) has been employed in a community or junior college setting for not less than 5 years.

(3) The Liaison for Community and Junior Colleges shall—

(A) serve as principal advisor to the Secretary on matters affecting community and junior colleges;

(B) provide guidance to programs within the Department dealing with functions affecting community and junior colleges; and

(C) work with the Federal Interagency Committee on Education to improve coordination of—

(i) the outreach programs in the numerous Federal departments and agencies that administer education and job training programs;

(ii) collaborative business education partnerships; and

(iii) education programs located in, and regarding, rural areas.

(Pub. L. 96–88, title II, § 202, Oct. 17, 1979, 93 Stat. 671; Pub. L. 99–145, title XII, § 1204(a)(1), Nov. 8, 1985, 99 Stat. 720; Pub. L. 101–509, title V, § 529 [title I, § 112(a)(3)(B)], Nov. 5, 1990, 104 Stat. 1427, 1454; Pub. L. 102–73, title I, § 101, July 25, 1991, 105 Stat. 334; Pub. L. 102–103, title II, § 201, Aug. 17, 1991, 105 Stat. 498; Pub. L. 102–325, title XV, § 1553(a), July 23, 1992, 106 Stat. 838; Pub. L. 103–227, title IX, § 913, Mar. 31, 1994, 108 Stat. 223; Pub. L. 103–382, title II, § 271(b), Oct. 20, 1994, 108 Stat. 3929.)

REFERENCES IN TEXT

The Inspector General Act of 1978, referred to in subsec. (c), is Pub. L. 95–452, Oct. 12, 1978, 92 Stat. 1101, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

1994—Subsec. (b)(1)(E) to (G). Pub. L. 103–227, § 913(1), redesignated subpars. (F) and (G) as (E) and (F), respectively, and struck out former subpar. (E) which read as follows: ''an Assistant Secretary for Educational Research and Improvement;''.

Subsec. (b)(3). Pub. L. 103–382 added par. (3) relating to Special Assistant for Gender Equity.

Pub. L. 103–227, § 913(2), added par. (3) relating to Assistant Secretary for Educational Research and Improvement.

1992—Subsec. (i). Pub. L. 102–325 added subsec. (i).

1991—Subsecs. (d), (e). Pub. L. 102–103 added subsec. (d) and redesignated former subsec. (d) as (e).

Subsec. (h). Pub. L. 102–73 added subsec. (h).

1990—Subsec. (a). Pub. L. 101–509 substituted ''a Deputy Secretary'' for ''an Under Secretary'' in first sentence of par. (1) and ''Deputy Secretary'' for ''Under Secretary'' wherever appearing elsewhere in pars. (1) and (2).

1985—Subsec. (e). Pub. L. 99–145 struck out subsec. (e) which provided for presence in the Department of Education of an Administrator of Education for Overseas Dependents.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1991 AMENDMENT

Section 203 of title II of Pub. L. 102–103 provided that: ''(a) IN GENERAL.—This Act [probably should be ''this title'', meaning title II of Pub. L. 102–103, amending this section and section 5314 of Title 5, Government Organization and Employees] shall take effect on the first day of the first Department of Education pay period that begins on or after the date of enactment of this Act [Aug. 17, 1991].

''(b) SPECIAL RULE.—An incumbent in a position within the Department of Education on the day preceding the day that this Act takes effect who has been appointed by the President to a position within the Department of Education with the advice and consent of the Senate may serve as the Under Secretary at the pleasure of the President after the day preceding the day that this Act takes effect.''

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–509 effective on first day of first pay period beginning on or after Nov. 5, 1990, with continued service by incumbent Under Secretary of Education, see section 529 [title I, § 112(e)] of Pub. L. 101–509, set out as a note under section 3404 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3413, 3414, 3415, 3416, 3417, 3419, 3421, 3473, 6011, 9001 of this title.

§ 3413. Office for Civil Rights

(a) Establishment; administration; delegation of functions

There shall be in the Department an Office for Civil Rights, to be administered by the Assistant Secretary for Civil Rights appointed under section 3412(b) of this title. Notwithstanding the provisions of section 3472 of this title, the Secretary shall delegate to the Assistant Secretary for Civil Rights all functions, other than administrative and support functions, transferred to the Secretary under section 3441(a)(3) of this title.

(b) Compliance and enforcement reports; copies submitted to Secretary

(1) The Assistant Secretary for Civil Rights shall make an annual report to the Secretary, the President, and the Congress summarizing the compliance and enforcement activities of

the Office for Civil Rights and identifying significant civil rights or compliance problems as to which such Office has made a recommendation for corrective action and as to which, in the judgment of the Assistant Secretary, adequate progress is not being made.

(2) Notwithstanding any other provision of law, the report required by paragraph (1) shall be transmitted to the Secretary, the President, and the Congress by the Assistant Secretary for Civil Rights without further clearance or approval. The Assistant Secretary shall provide copies of the report required by paragraph (1) to the Secretary sufficiently in advance of its submission to the President and the Congress to provide a reasonable opportunity for comments of the Secretary to be appended to the report.

(c) Authority of Assistant Secretary

In addition to the authority otherwise provided under this section, the Assistant Secretary for Civil Rights, in carrying out the provisions of this section, is authorized—

(1) to collect or coordinate the collection of data necessary to ensure compliance with civil rights laws within the jurisdiction of the Office for Civil Rights;

(2) to select, appoint, and employ such officers and employees, including staff attorneys, as may be necessary to carry out the functions of such Office, subject to the provisions of title 5 governing appointments in the competitive service and the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates;

(3) to enter into contracts and other arrangements for audits, studies, analyses, and other services with public agencies and with private organizations and persons, and to make such payments as may be necessary to carry out the compliance and enforcement functions of such Office; and

(4) notwithstanding any other provision of this chapter, to obtain services as authorized by section 3109 of title 5 at a rate not to exceed the equivalent daily rate payable for grade GS–18 of the General Schedule under section 5332 of such title.

(Pub. L. 96–88, title II, § 203, Oct. 17, 1979, 93 Stat. 673.)

REFERENCES IN TEXT

The provisions of title 5 governing appointments in the competitive service, referred to in subsec. (c)(2), are classified to section 3301 et seq. of Title 5, Government Organization and Employees.

REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, § 101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

§ 3414. Office of Elementary and Secondary Education; inclusion of Office of Migrant Education

There shall be in the Department an Office of Elementary and Secondary Education, to be administered by the Assistant Secretary for Elementary and Secondary Education appointed under section 3412(b) of this title. The Assistant Secretary shall administer such functions affecting elementary and secondary education, both public and private, as the Secretary shall delegate. There shall be within the Office of Elementary and Secondary Education and directly under the supervision of the Assistant Secretary for Elementary and Secondary Education, an Office of Migrant Education, which shall be responsible for the administration of programs established by part C of title I of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6391 et seq.] and by subpart 5 of part A of title IV of the Higher Education Act of 1965 [20 U.S.C. 1070d–2].

(Pub. L. 96–88, title II, § 204, Oct. 17, 1979, 93 Stat. 674; Pub. L. 98–511, title VII, § 701(a), Oct. 19, 1984, 98 Stat. 2405; Pub. L. 103–382, title III, § 391(h), Oct. 20, 1994, 108 Stat. 4023.)

REFERENCES IN TEXT

The Elementary and Secondary Education Act of 1965, referred to in text, is Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, which was amended generally by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519. Part C of title I of the Act is classified generally to part C (§ 6391 et seq.) of subchapter I of chapter 70 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

The Higher Education Act of 1965, referred to in text, is Pub. L. 89–329, Nov. 8, 1965, 79 Stat. 1219, as amended. Subpart 5 of part A of title IV of this Act is classified generally to subpart 5 (§ 1070d–2) of part A of subchapter IV of chapter 28 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

AMENDMENTS

1994—Pub. L. 103–382 substituted ''part C'' for ''subpart 1 of part B''.

1984—Pub. L. 98–511 inserted provisions establishing the Office of Migrant Education and specifying its functions.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–511 effective Oct. 19, 1984, see section 711(a) of Pub. L. 98–511, set out as a note under section 1226c of this title.

§ 3415. Office of Postsecondary Education

There shall be in the Department an Office of Postsecondary Education, to be administered by the Assistant Secretary for Postsecondary Education appointed under section 3412(b) of this title. The Assistant Secretary shall administer such functions affecting postsecondary education, both public and private, as the Secretary shall delegate, and shall serve as the principal adviser to the Secretary on matters affecting public and private postsecondary education.

(Pub. L. 96–88, title II, § 205, Oct. 17, 1979, 93 Stat. 674.)

§ 3416. Office of Vocational and Adult Education

There shall be in the Department an Office of Vocational and Adult Education, to be administered by the Assistant Secretary for Vocational and Adult Education appointed under section 3412(b) of this title. The Assistant Secretary

shall administer such functions affecting vocational and adult education as the Secretary shall delegate, and shall serve as principal adviser to the Secretary on matters affecting vocational and adult education. The Secretary, through the Assistant Secretary, shall also provide a unified approach to rural education and rural family education through the coordination of programs within the Department and shall work with the Federal Interagency Committee on Education to coordinate related activities and programs of other Federal departments and agencies.

(Pub. L. 96–88, title II, § 206, Oct. 17, 1979, 93 Stat. 674.)

§ 3417. Office of Special Education and Rehabilitative Services

There shall be in the Department an Office of Special Education and Rehabilitative Services, to be administered by the Assistant Secretary for Special Education and Rehabilitative Services appointed under section 3412(b) of this title. Notwithstanding the provisions of section 3472 of this title, the Secretary shall delegate to the Assistant Secretary all functions, other than administrative and support functions, transferred to the Secretary under sections 3441(a)(1) of this title (with respect to the bureau for the education and training of the handicapped), 3441(a)(2)(H) of this title, and 3441(a)(4) of this title.

(Pub. L. 96–88, title II, § 207, Oct. 17, 1979, 93 Stat. 674.)

§ 3418. Repealed. Pub. L. 99–145, title XII, § 1204(a)(1), Nov. 8, 1985, 99 Stat. 720

Section, Pub. L. 96–88, title II, § 208, Oct. 17, 1979, 93 Stat. 674, provided for an Office of Education for Overseas Dependents in Department of Education.

§ 3419. Office of Educational Research and Improvement

There shall be in the Department an Office of Educational Research and Improvement, to be administered by the Assistant Secretary for Educational Research and Improvement appointed under section 3412(b) of this title. The Assistant Secretary shall administer such functions concerning research, development, demonstration, dissemination, evaluation, and assessment activities as the Secretary shall delegate and such functions as set forth in the Educational Research, Development, Dissemination, and Improvement Act of 1994 [20 U.S.C. 6001 et seq.].

(Pub. L. 96–88, title II, § 208, formerly § 209, Oct. 17, 1979, 93 Stat. 674; Pub. L. 103–227, title IX, § 911(b), Mar. 31, 1994, 108 Stat. 213; renumbered § 208, Pub. L. 103–382, title II, § 271(a)(2), Oct. 20, 1994, 108 Stat. 3929.)

References in Text

The Educational Research, Development, Dissemination, and Improvement Act of 1994, referred to in text, is title IX of Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 212, which is classified principally to subchapter IX (§ 6001 et seq.) of chapter 68 of this title. For complete classification of this Act to the Code, see section 6001 of this title and Tables.

Prior Provisions

A prior section 208 of Pub. L. 96–88 was classified to section 3418 of this title prior to repeal by Pub. L. 99–145.

Amendments

1994—Pub. L. 103–227 inserted before period at end ''and such functions as set forth in the Educational Research, Development, Dissemination, and Improvement Act of 1994''.

Section Referred to in Other Sections

This section is referred to in sections 3461, 6011, 9002 of this title.

§ 3420. Office of Bilingual Education and Minority Languages Affairs

There shall be in the Department an Office of Bilingual Education and Minority Languages Affairs, to be administered by a Director of Bilingual Education and Minority Languages Affairs, who shall be appointed by the Secretary. The Director shall coordinate the administration of bilingual education programs by the Department and shall consult with the Secretary concerning policy decisions affecting bilingual education and minority languages affairs. The Director shall report directly to the Secretary, and shall perform such additional functions as the Secretary may prescribe.

(Pub. L. 96–88, title II, § 209, formerly § 210, Oct. 17, 1979, 93 Stat. 675; renumbered § 209, Pub. L. 103–382, title II, § 271(a)(2), Oct. 20, 1994, 108 Stat. 3929.)

Prior Provisions

A prior section 209 of Pub. L. 96–88 was renumbered section 208 and is classified to section 3419 of this title.

Cross References

For similar provisions relating to Office of Bilingual Education and Minority Languages Affairs, see section 3423d of this title.

Section Referred to in Other Sections

This section is referred to in section 7601 of this title.

§ 3421. Office of General Counsel

There shall be in the Department an Office of General Counsel, to be administered by the General Counsel appointed under section 3412(b) of this title. The General Counsel shall provide legal assistance to the Secretary concerning the programs and policies of the Department.

(Pub. L. 96–88, title II, § 210, formerly § 211, Oct. 17, 1979, 93 Stat. 675; renumbered § 210, Pub. L. 103–382, title II, § 271(a)(2), Oct. 20, 1994, 108 Stat. 3929.)

Prior Provisions

A prior section 210 of Pub. L. 96–88 was renumbered section 209 and is classified to section 3420 of this title.

§ 3422. Office of Inspector General

There shall be in the Department an Office of Inspector General, established in accordance with the Inspector General Act of 1978.

(Pub. L. 96–88, title II, § 211, formerly § 212, Oct. 17, 1979, 93 Stat. 675; renumbered § 211, Pub. L. 103–382, title II, § 271(a)(2), Oct. 20, 1994, 108 Stat. 3929.)

REFERENCES IN TEXT

The Inspector General Act of 1978, referred to in text, is Pub. L. 95–452, Oct. 12, 1978, 92 Stat. 1101, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

PRIOR PROVISIONS

A prior section 211 of Pub. L. 96–88 was renumbered section 210 and is classified to section 3421 of this title.

§ 3423. Repealed. Pub. L. 101–392, title VI, § 602(a)(1), Sept. 25, 1990, 104 Stat. 840

Section, Pub. L. 96–88, title II, § 213, Oct. 17, 1979, 93 Stat. 675, established the Intergovernmental Advisory Council on Education.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1991, see section 702(a) of Pub. L. 101–392, set out as an Effective Date of 1990 Amendment note under section 2301 of this title.

§ 3423a. Office of Correctional Education

(a) Findings

The Congress finds and declares that—

(1) education is important to, and makes a significant contribution to, the readjustment of incarcerated individuals to society; and

(2) there is a growing need for immediate action by the Federal Government to assist State and local educational programs for criminal offenders in correctional institutions.

(b) Statement of purpose

It is the purpose of this subchapter to encourage and support educational programs for criminal offenders in correctional institutions.

(c) Establishment of Office

The Secretary of Education shall establish within the Department of Education an Office of Correctional Education.

(d) Functions of Office

The Secretary, through the Office of Correctional Education established under subsection (c) of this section, shall—

(1) coordinate all correctional education programs within the Department of Education;

(2) provide technical support to State and local educational agencies and schools funded by the Bureau of Indian Affairs on correctional education programs and curricula;

(3) provide an annual report to the Congress on the progress of the Office of Correctional Education and the status of correctional education in the United States;

(4) cooperate with other Federal agencies carrying out correctional education programs to ensure coordination of such programs;

(5) consult with, and provide outreach to, State directors of correctional education and correctional educators; and

(6) collect from States a sample of information on the number of individuals who complete a vocational education sequence, earn a high school degree or general equivalency diploma, or earn a postsecondary degree while incarcerated and the correlation with job placement, job retention, and recidivism.

(e) Definitions

As used in this section—

(1) the term ''criminal offender'' means any individual who is charged with or convicted of any criminal offense, including a youth offender or a juvenile offender;

(2) the term ''correctional institution'' means any—

(A) prison,

(B) jail,

(C) reformatory,

(D) work farm,

(E) detention center, or

(F) halfway house, community-based rehabilitation center, or any other similar institution designed for the confinement or rehabilitation of criminal offenders; and

(3) the term ''State educational agency'' means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law.

(Pub. L. 96–88, title II, § 212, formerly § 214, as added Pub. L. 101–392, title VI, § 602(a)(3), Sept. 25, 1990, 104 Stat. 840; amended Pub. L. 103–322, title II, § 20408(a), Sept. 13, 1994, 108 Stat. 1827; renumbered § 212, Pub. L. 103–382, title II, § 271(a)(2), Oct. 20, 1994, 108 Stat. 3929.)

PRIOR PROVISIONS

A prior section 212 of Pub. L. 96–88 was renumbered section 211 and is classified to section 3422 of this title.

AMENDMENTS

1994—Subsec. (d). Pub. L. 103–322 substituted ''under subsection (c)'' for ''under subsection (a)'' in introductory provisions.

EFFECTIVE DATE

Section effective July 1, 1991, see section 702(a) of Pub. L. 101–392, set out as an Effective Date of 1990 Amendment note under section 2301 of this title.

§ 3423b. Office of Non-Public Education

There shall be in the Department an Office of Non-Public Education to ensure the maximum potential participation of non-public school students in all Federal educational programs for which such students are eligible.

(Pub. L. 96–88, title II, § 214, as added Pub. L. 103–382, title II, § 271(c), Oct. 20, 1994, 108 Stat. 3929.)

PRIOR PROVISIONS

A prior section 214 of Pub. L. 96–88 was renumbered section 212 and is classified to section 3423a of this title.

Another prior section 214 of Pub. L. 96–88 was renumbered section 217 and is classified to section 3424 of this title.

§ 3423c. Office of Indian Education

(a) Office of Indian Education

There shall be an Office of Indian Education (referred to in this section as ''the Office'') in the Department of Education.

(b) Director

(1) Appointment and reporting

The Office shall be under the direction of the Director, who shall be appointed by the Sec-

retary and who shall report directly to the Assistant Secretary for Elementary and Secondary Education.

(2) Duties

The Director shall—

(A) be responsible for administering this title;[1]

(B) be involved in, and be primarily responsible for, the development of all policies affecting Indian children and adults under programs administered by the Office of Elementary and Secondary Education;

(C) coordinate the development of policy and practice for all programs in the Department relating to Indian persons; and

(D) assist the Assistant Secretary of the Office of Educational Research and Improvement in identifying research priorities related to the education of Indian persons.

(c) Indian preference in employment

(1) In general

The Secretary shall give a preference to Indian persons in all personnel actions in the Office.

(2) Implementation

Such preference shall be implemented in the same fashion as the preference given to any veteran under section 45 of title 25.

(Pub. L. 96–88, title II, § 215, as added Pub. L. 103–382, title III, § 372(2), Oct. 20, 1994, 108 Stat. 3977.)

REFERENCES IN TEXT

This title, referred to in subsec. (b)(2)(A), is title II of Pub. L. 96–88, Oct. 17, 1979, 93 Stat. 671, which is classified to this subchapter, but probably should have been a reference to part A of title IX of the Elementary and Secondary Education Act of 1965. Part A of title IX of that Act is classified generally to part A (§ 7801 et seq.) of subchapter IX of chapter 70 of this title. For complete classification of the Elementary and Secondary Education Act of 1965 to the Code, see Short Title note set out under section 6301 of this title and Tables.

PRIOR PROVISIONS

A prior section 215 of Pub. L. 96–88 was renumbered section 217 and is classified to section 3424 of this title.

Provisions similar to those in this section were contained in section 2641 of Title 25, Indians, prior to repeal by Pub. L. 103–382, § 367.

§ 3423d. Office of Bilingual Education and Minority Languages Affairs

(a) Establishment

There shall be, in the Department, an Office of Bilingual Education and Minority Languages Affairs through which the Secretary shall carry out functions relating to bilingual education.

(b) Director

(1) In general

The Office shall be headed by a Director of Bilingual Education and Minority Languages Affairs, appointed by the Secretary, to whom the Secretary shall delegate all delegable functions relating to bilingual education. The Director shall also be assigned responsibility for recommending improvements and providing technical assistance to other Federal programs serving language-minority and limited-English-proficient students and their families and for assisting the Assistant Secretary of the Office of Educational Research and Improvement in identifying research priorities which reflect the needs of language-minority and limited-English language proficient students.

(2) Organization

The Office shall be organized as the Director determines to be appropriate in order to carry out such functions and responsibilities effectively.

(3) Inclusion

The Secretary shall ensure that limited-English-proficient and language-minority students are included in ways that are valid, reliable, and fair under all standards and assessment development conducted or funded by the Department.

(Pub. L. 96–88, title II, § 216, as added Pub. L. 103–382, title III, § 372(2), Oct. 20, 1994, 108 Stat. 3978.)

CODIFICATION

Another section 216 of Pub. L. 96–88 was enacted by Pub. L. 103–227 and is classified to section 3425 of this title.

CROSS REFERENCES

For similar provisions relating to Office of Bilingual Education and Minority Languages Affairs, see section 3420 of this title.

§ 3424. Federal Interagency Committee on Education

(a) Establishment and function

There is established a Federal Interagency Committee on Education (hereafter referred to in this section as the ''Committee''). The Committee shall assist the Secretary in providing a mechanism to assure that the procedures and actions of the Department and other Federal departments and agencies are fully coordinated.

(b) Coordination of Federal programs, policies and practices

The Committee shall study and make recommendations for assuring effective coordination of Federal programs, policies, and administrative practices affecting education, including—

(1) consistent administration and development of policies and practices among Federal agencies in the conduct of related programs;

(2) full and effective communication among Federal agencies to avoid unnecessary duplication of activities and repetitive collection of data;

(3) full and effective cooperation with the Secretary on such studies and analyses as are necessary to carry out the purposes of this chapter;

(4) coordination of related programs to assure that recipients of Federal assistance are efficiently and responsively served; and

(5) full and effective involvement and participation of students and parents in Federal education programs.

[1] See References in Text note below.

(c) Membership

The Committee shall be composed of the Secretary, who shall chair the Committee, and senior policy making officials from those Federal agencies, commissions, and boards that the President may find appropriate.

(d) Designation of additional persons to attend meetings

The Director of the Office of Management and Budget, the Chairman of the Council of Economic Advisers, the Director of the Office of Science and Technology Policy, and the Executive Director of the Domestic Policy Staff may each designate a staff member to attend meetings of the Committee.

(e) Federal vocational education and training programs study; report

The Committee shall conduct a study concerning the progress, effectiveness, and accomplishments of Federal vocational education and training programs, and the need for improved coordination between all federally funded vocational education and training programs. The Committee shall report the findings of such study to the Secretary and the Congress within two years of October 17, 1979.

(f) Required meetings; establishment of subcommittees

The Committee shall meet at least twice each year. The Secretary may establish subcommittees of the Committee to facilitate coordination in important areas of Federal activity.

(g) Support assistance

The Secretary and the head of each agency represented on the Committee under subsection (c) of this section shall furnish necessary assistance to the Committee.

(Pub. L. 96–88, title II, § 217, formerly § 214, Oct. 17, 1979, 93 Stat. 676; renumbered § 215, Pub. L. 101–392, title VI, § 602(a)(2), Sept. 25, 1990, 104 Stat. 840; renumbered § 217, Pub. L. 103–382, title III, § 372(1), Oct. 20, 1994, 108 Stat. 3977.)

TERMINATION OF ADVISORY COMMITTEES

Advisory committees established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided for by law. See section 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 3425. Office of Educational Technology

(a) Establishment

There shall be in the Department of Education an Office of Educational Technology (hereafter in this section referred to as the ''Office''), to be administered by the Director of Educational Technology. The Director of Educational Technology shall report directly to the Secretary and shall perform such additional functions as the Secretary may prescribe.

(b) Director

The Director of the Office of Educational Technology (hereafter in this section referred to as the ''Director''), through the Office, shall—

(1) in support of the overall national technology policy and in consultation with other Federal departments or agencies which the Director determines appropriate, provide leadership to the Nation in the use of technology to promote achievement of the National Education Goals and to increase opportunities for all students to achieve State content and challenging State student performance standards;

(2) review all programs and training functions administered by the Department and recommend policies in order to promote increased use of technology and technology planning throughout all such programs and functions;

(3) review all relevant programs supported by the Department to ensure that such programs are coordinated with and support the national long-range technology plan developed pursuant to section 5862(b)[1] of this title; and

(4) perform such additional functions as the Secretary may require.

(c) Officers and employees

The Director is authorized to select, appoint, and employ such officers and employees as may be necessary to carry out the functions of the Office, subject to the provisions of title 5 (governing appointments in the competitive service), and the provisions of chapter 51 and subchapter III of chapter 53 of such title (relating to classification and General Schedule pay rates).

(d) Experts and consultants

The Secretary may obtain the services of experts and consultants in accordance with section 3109 of title 5.

(Pub. L. 96–88, title II, § 216, as added Pub. L. 103–227, title II, § 233(a), Mar. 31, 1994, 108 Stat. 154.)

REFERENCES IN TEXT

Section 5862 of this title, referred to in subsec. (b)(3), was repealed by Pub. L. 103–382, title III, § 361(a), Oct. 20, 1994, 108 Stat. 3974.

The provisions of title 5 (governing appointments in the competitive service), referred to in subsec. (c), are classified generally to section 3301 et seq. of Title 5, Government Organization and Employees.

CODIFICATION

Another section 216 of Pub. L. 96–88 was enacted by Pub. L. 103–382 and is classified to section 3423d of this title.

TRANSFER OF OFFICE OF TRAINING TECHNOLOGY TRANSFER

Section 236(a)(1) of Pub. L. 103–227 provided that: ''The Office of Training Technology Transfer as established under section 6103 of the Training Technology Transfer Act of 1988 ([former] 20 U.S.C. 5093) is transferred to and established in the Office of Educational Technology.''

[1] See References in Text note below.

SUBCHAPTER III—TRANSFERS OF AGENCIES AND FUNCTIONS

§ 3441. Transfers from Department of Health, Education, and Welfare

(a) Functions transferred to Secretary

There are transferred to the Secretary—

(1) all functions of the Assistant Secretary for Education and of the Commissioner of Education of the Department of Health, Education, and Welfare, and all functions of the Office of such Assistant Secretary and of the Education Division of the Department of Health, Education, and Welfare and of any officer or component of such Office or Division;

(2) all functions of the Secretary of Health, Education, and Welfare and of the Department of Health, Education, and Welfare under—

(A) the General Education Provisions Act [20 U.S.C. 1221 et seq.];

(B) the Elementary and Secondary Education Act of 1965;

(C) the Higher Education Act of 1965 [20 U.S.C. 1001 et seq.];

(D) the Education Amendments of 1978;

(E) the Act of August 30, 1890 (7 U.S.C. 321–328);

(F) the National Defense Education Act of 1958 [20 U.S.C. 401 et seq.];

(G) the International Education Act of 1966 [20 U.S.C. 1171 et seq.];

(H) the Individuals with Disabilities Education Act [20 U.S.C. 1400 et seq.];

(I) part B of title V of the Economic Opportunity Act of 1964 [42 U.S.C. 2929 et seq.];

(J) the National Commission on Libraries and Information Science Act [20 U.S.C. 1501 et seq.];

(K) the Vocational Education Act of 1963;

(L) the Career Education Incentive Act [20 U.S.C. 2601 et seq.];

(M) laws relating to the relationship between (i) Gallaudet College, Howard University, the American Printing House for the Blind, and the National Technical Institute for the Deaf, and (ii) the Department of Health, Education, and Welfare;

(N) the Model Secondary School for the Deaf Act [20 U.S.C. 693 et seq.];

(O) subpart A[C] of part IV of title III of the Communications Act of 1934 [47 U.S.C. 395 et seq.] with respect to the telecommunications demonstration program;

(P) section 203(k) of the Federal Property and Administrative Services Act of 1949 [40 U.S.C. 484(k)] with respect to donations of surplus property for educational purposes; and

(Q) the Alcohol and Drug Abuse Education Act [21 U.S.C. 1001 et seq.];

(3) all functions of the Secretary of Health, Education, and Welfare and of the Department of Health, Education, and Welfare with respect to or being administered by the Office for Civil Rights which relate to functions transferred by this section;

(4)(A) all functions of the Secretary of Health, Education, and Welfare and of the Department of Health, Education, and Welfare under the Rehabilitation Act of 1973 [29 U.S.C. 701 et seq.], except that the provisions of this subparagraph shall not be construed to transfer to the Secretary the functions of the Secretary of Health, Education, and Welfare under sections 222 and 1615 of the Social Security Act [42 U.S.C. 422 and 1382d];

(B) all functions with respect to or being administered by the Secretary of Health, Education, and Welfare through the Commissioner of Rehabilitation Services under the Act of June 20, 1936, commonly referred to as the Randolph-Sheppard Act (20 U.S.C. 107 et seq.);

(C) all functions of the Commissioner of Rehabilitation and the Director of the National Institute of Handicapped Research of the Department of Health, Education, and Welfare under the Rehabilitation Act of 1973 [29 U.S.C. 701 et seq.];

(5) all functions of the Advisory Council on Education Statistics; and

(6) all functions of the Federal Education Data Acquisition Council.

(b) Offices, etc., transferred to Department

There are transferred to the Department—

(1) all offices in the Office of the Assistant Secretary for Education or in the Education Division of the Department of Health, Education, and Welfare;

(2) all offices in the Department of Health, Education, and Welfare established under the provisions of law listed in subparagraphs (A) through (Q) of subsection (a)(2) of this section;

(3) all offices in the Department of Health, Education, and Welfare established under the Rehabilitation Act of 1973 [29 U.S.C. 701 et seq.];

(4) the Advisory Council on Education Statistics;

(5) the Federal Education Data Acquisition Council; and

(6) any advisory committee of the Department of Health, Education, and Welfare giving advice or making recommendations that primarily concern education functions transferred by this section.

(c) Administrative functions transferred to Secretary

There are transferred to the Secretary all functions of the Secretary of Health, Education, and Welfare, the Assistant Secretary for Education, or the Commissioner of Education of the Department of Health, Education, and Welfare, as the case may be, with respect to—

(1) the Education Division of the Department of Health, Education, and Welfare;

(2) the Office of the Assistant Secretary for Education, including the National Center for Education Statistics; and

(3) any advisory committee in the Department of Health, Education, and Welfare giving advice and making recommendations principally concerning education functions transferred by this section.

(d) Reservation of functions relating to Project Head Start

Nothing in the provisions of this section or in the provisions of this chapter shall authorize the transfer of functions under part A of title V of the Economic Opportunity Act of 1964 [42

U.S.C. 2928 et seq.], relating to Project Head Start, from the Secretary of Health, Education, and Welfare to the Secretary.

(Pub. L. 96–88, title III, § 301, Oct. 17, 1979, 93 Stat. 677; Pub. L. 101–476, title IX, § 901(a)(2), Oct. 30, 1990, 104 Stat. 1142; Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 709(b)(2)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–313.)

REFERENCES IN TEXT

The General Education Provisions Act, referred to in subsec. (a)(2)(A), is title IV of Pub. L. 90–247, Jan. 2, 1968, 81 Stat. 814, as amended, which is classified generally to chapter 31 (§ 1221 et seq.) of this title. For complete classification of this Act to the Code, see section 1221 of this title and Tables.

The Elementary and Secondary Education Act of 1965, referred to in subsec. (a)(2)(B), is Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, as amended, which was classified generally to chapter 47 (§ 2701 et seq.) of this title. The Act was amended generally by Pub. L. 100–297, Apr. 28, 1988, 102 Stat. 140, and subsequently by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519, and is classified generally to chapter 70 (§ 6301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

The Higher Education Act of 1965, referred to in subsec. (a)(2)(C), is Pub. L. 89–329, Nov. 8, 1965, 79 Stat. 1219, as amended, which is classified principally to chapter 28 (§ 1001 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

The Education Amendments of 1978, referred to in subsec. (a)(2)(D), is Pub. L. 95–561, Nov. 1, 1978, 92 Stat. 2143, as amended. For complete classification of this Act to the Code, see Short Title of 1978 Amendment note set out under section 6301 of this title and Tables.

Act of August 30, 1890 (7 U.S.C. 321–328), referred to in subsec. (a)(2)(E), is act Aug. 30, 1890, ch. 841, 26 Stat. 417, as amended, popularly known as the Agricultural College Act of 1890 and also as the Second Morrill Act, which is classified generally to subchapter II (§ 321 et seq.) of chapter 13 of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 321 of Title 7 and Tables.

The National Defense Education Act of 1958, referred to in subsec. (a)(2)(F), is Pub. L. 85–864, Sept. 2, 1958, 72 Stat. 1580, as amended, which was classified principally to chapter 17 (§ 401 et seq.) of this title prior to omission from the Code. For complete classification of this Act to the Code, see Tables.

The International Education Act of 1966, referred to in subsec. (a)(2)(G), is Pub. L. 89–698, Oct. 29, 1966, 80 Stat. 1066, as amended, which was classified principally to chapter 29 (§ 1171 et seq.) of this title and was substantially repealed by section 601(c)(2) of Pub. L. 96–374. For complete classification of this Act to the Code, see Tables.

The Individuals with Disabilities Education Act, referred to in subsec. (a)(2)(H), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, as amended, which is classified generally to chapter 33 (§ 1400 et seq.) of this title. For complete classification of this Act to the Code, see section 1400 of this title and Tables.

The Economic Opportunity Act of 1964, referred to in subsecs. (a)(2)(I) and (d), is Pub. L. 88–452, Aug. 20, 1964, 78 Stat. 508, as amended. Parts A and B of title V of the Economic Opportunity Act of 1964 were classified generally to parts A (§ 2928 et seq.) and B (§ 2929 et seq.) of subchapter V of chapter 34 of Title 42, The Public Health and Welfare, prior to repeal by Pub. L. 97–35, title VI, § 683(a), Aug. 13, 1981, 95 Stat. 519. For complete classification of this Act to the Code, see Tables.

The National Commission on Libraries and Information Science Act, referred to in subsec. (a)(2)(J), is Pub. L. 91–345, July 20, 1970, 84 Stat. 440, as amended, which is classified generally to chapter 34 (§ 1501 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1501 of this title and Tables.

The Vocational Education Act of 1963, referred to in subsec. (a)(2)(K), was title I of Pub. L. 88–210, Dec. 18, 1963, 77 Stat. 403, as amended generally by Pub. L. 94–482, title II, § 202(a), Oct. 12, 1976, 90 Stat. 2169, which was classified to chapter 44 (§ 2301 et seq.) of this title, prior to amendment by Pub. L. 98–524, § 1, Oct. 19, 1984, 98 Stat. 2435, striking out all after the enacting clause and inserting in lieu thereof titles I to V, to be cited as the Carl D. Perkins Vocational Education Act. Subsequently, Pub. L. 101–392, Sept. 25, 1990, 104 Stat. 753, amended the Act to be cited as the Carl D. Perkins Vocational and Applied Technology Education Act. For additional details, see the Codification note preceding section 2301 of this title.

The Career Education Incentive Act, referred to in subsec. (a)(2)(L), is Pub. L. 95–207, Dec. 13, 1977, 91 Stat. 1464, as amended, which was classified principally to chapter 46 (§ 2601 et seq.) of this title prior to its repeal by Pub. L. 97–35, title V, § 587(a)(4), Aug. 13, 1981, 95 Stat. 480.

The Model Secondary School for the Deaf Act, referred to in subsec. (a)(2)(N), is Pub. L. 89–694, Oct. 15, 1966, 80 Stat. 1027, which was classified to subchapter II (§ 693 et seq.) of chapter 20B of this title, and was repealed by Pub. L. 99–371, title IV, § 410(c), Aug. 4, 1986, 100 Stat. 794. See section 4321 et seq. of this title.

The Communications Act of 1934, referred to in subsec. (a)(2)(O), is act June 19, 1934, ch. 652, 48 Stat. 1064, as amended. Subpart A of part IV of title III of the Act (which is classified principally to subpart A (§ 390 et seq.) of part IV of subchapter III of chapter 5 of Title 47, Telegraphs, Telephones, and Radiotelegraphs) was amended by section 201 of Pub. L. 95–567, Nov. 2, 1978, 92 Stat. 2409, and, as so amended, the provisions relating to telecommunications demonstrations which had appeared in subpart A were restated in a new subpart B (§ 395 et seq.). Subpart B was subsequently redesignated subpart C by Pub. L. 101–437, title II, § 203(a)(2), Oct. 18, 1990, 104 Stat. 998. For complete classification of the 1934 Act to the Code, see section 609 of Title 47 and Tables.

The Alcohol and Drug Abuse Education Act, referred to in subsec. (a)(2)(Q), is Pub. L. 91–527, Dec. 3, 1970, 84 Stat. 1385, as amended, which was classified generally to chapter 14 (§ 1001 et seq.) of Title 21, Food and Drugs, prior to repeal by Pub. L. 97–35, title V, § 587(a)(3), Aug. 13, 1981, 95 Stat. 480.

The Rehabilitation Act of 1973, referred to in subsecs. (a)(4)(A), (C), and (b)(3), is Pub. L. 93–112, Sept. 26, 1973, 87 Stat. 355, as amended, which is classified generally to chapter 16 (§ 701 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 701 of Title 29 and Tables.

Act of June 20, 1936, commonly referred to as the Randolph-Sheppard Act, referred to in subsec. (a)(4)(B), is act June 20, 1936, ch. 638, 49 Stat. 1559, as amended, which is classified generally to chapter 6A (§ 107 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 107 of this title and Tables.

AMENDMENTS

1996—Subsec. (a)(5) to (7). Pub. L. 104–208, § 101(e) [title VII, § 709(b)(2)(A)], redesignated pars. (6) and (7) as (5) and (6), respectively, and struck out former par. (5) which transferred all functions of the Institute of Museum Services of the Department of Health, Education, and Welfare to the Secretary of Education.

Subsec. (b)(4) to (7). Pub. L. 104–208, § 101(e) [title VII, § 709(b)(2)(B)], redesignated pars. (5) to (7) as (4) to (6), respectively, and struck out former par. (4) which transferred the offices, etc., of the Institute of Museum Services of the Department of Health, Education, and Welfare to the Department of Education.

1990—Subsec. (a)(2)(H). Pub. L. 101–476 substituted ''Individuals with Disabilities Education Act'' for ''Education of the Handicapped Act''.

CHANGE OF NAME

Gallaudet College, referred to in subsec. (a)(2)(M), redesignated Gallaudet University by Pub. L. 99–371, title I, § 101(a), Aug. 4, 1986, 100 Stat. 781, which is classified to section 4301(a) of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101–476, set out as a note under section 1087ee of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3413, 3417 of this title.

§ 3442. Repealed. Pub. L. 99–145, title XII, § 1204(a)(1), Nov. 8, 1985, 99 Stat. 720

Section, Pub. L. 96–88, title III, § 302, Oct. 17, 1979, 93 Stat. 679; Pub. L. 97–252, title XI, § 1118, Sept. 8, 1982, 96 Stat. 753; Pub. L. 98–94, title XII, § 1223, Sept. 24, 1983, 97 Stat. 692, provided for transfers to Department and Secretary of Education from Department and Secretary of Defense of functions relating to operation of overseas schools for and education of dependents and personnel, effectuation of transfers, and operation of overseas institutions of higher education.

§ 3443. Transfers from Department of Labor

(a) Functions relating to programs for the education of migrant and seasonal farmworkers

Notwithstanding the provisions of section 601 of this Act, there shall be transferred to the Secretary, at such time on or after May 4, 1980, as the Secretary certifies that there has been established in the Department a single component responsible for the administration and the coordination of programs relating to the education of migrants, all functions of the Secretary of Labor or the Department of Labor under section 303(c)(2) of the Comprehensive Employment and Training Act [29 U.S.C. 873(c)(2)].

(b) Authorization to conduct functions

The Secretary is authorized to conduct the functions transferred by subsection (a) of this section.

(Pub. L. 96–88, title III, § 302, formerly § 303, Oct. 17, 1979, 93 Stat. 680; renumbered § 302, Pub. L. 103–382, title II, § 271(a)(2), Oct. 20, 1994, 108 Stat. 3929.)

REFERENCES IN TEXT

Section 601 of this Act, referred to in subsec. (a), is section 601 of Pub. L. 96–88, which is set out as an Effective Date note under section 3401 of this title.

The Comprehensive Employment and Training Act, referred to in subsec. (a), was repealed by section 184(a)(1) of the Job Training Partnership Act, Pub. L. 97–300, title I, Oct. 13, 1982, 96 Stat. 1357. The Job Training Partnership Act is classified principally to chapter 19 (§ 1501 et seq.) of Title 29, Labor. Section 183 of Pub. L. 97–300, classified to section 1592 of Title 29, provided in part that references in any other statute to the Comprehensive Employment and Training Act shall be deemed to refer to the Job Training Partnership Act.

PRIOR PROVISIONS

A prior section 302 of Pub. L. 96–88 was classified to section 3442 of this title prior to repeal by Pub. L. 99–145.

§ 3444. Transfer of programs from National Science Foundation

(a) Science education; exceptions

(1) There are transferred to the Secretary all programs relating to science education of the National Science Foundation or the Director of the National Science Foundation established prior to May 4, 1980, pursuant to the National Science Foundation Act of 1950 [42 U.S.C. 1861 et seq.], except the programs or parts of programs, as determined after review by the Director of the Office of Science and Technology Policy and the Director of the National Science Foundation, which relate to—

(A) scientific career development;

(B) the continuing education of scientific personnel;

(C) increasing the participation of women, minorities, and the handicapped in careers in science;

(D) the conduct of basic and applied research and development applied to science learning at all educational levels and the dissemination of results concerning such research and development; and

(E) informing the general public of the nature of science and technology and of attendant values and public policy issues.

(2) Except as provided in paragraph (1), no mission oriented research functions or programs of the National Science Foundation or any other Federal agency shall be transferred by this chapter.

(b) Authority of Secretary; consultation and advice

The Secretary is authorized to conduct the programs transferred by subsection (a) of this section. In conducting such programs the Secretary shall consult, as appropriate, with the Director of the National Science Foundation, and shall establish advisory mechanisms designed to assure that scientists and engineers are fully involved in the development, implementation, and review of science education programs.

(c) Report by Secretary

The annual report to be transmitted by the Secretary pursuant to section 3486 of this title shall include a description of arrangements, developed by the Secretary in consultation with the Director of the National Science Foundation, for coordinated planning and operation of science education programs, including measures to facilitate the implementations of successful innovations.

(d) Reservation of certain Foundation authority

Nothing in this section is intended to repeal or limit the authority of the National Science Foundation or the Director of the National Science Foundation to initiate and conduct programs under the National Science Foundation Act of 1950 [42 U.S.C. 1861 et seq.].

(Pub. L. 96–88, title III, § 303, formerly § 304, Oct. 17, 1979, 93 Stat. 680; renumbered § 303, Pub. L. 103–382, title II, § 271(a)(2), Oct. 20, 1994, 108 Stat. 3929.)

REFERENCES IN TEXT

The National Science Foundation Act of 1950, referred to in subsecs. (a)(1) and (d), is act May 10, 1950, ch. 171,

64 Stat. 149, as amended, which is classified generally to chapter 16 (§ 1861 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1861 of Title 42 and Tables.

CODIFICATION

In subsec. (a)(1), ''May 4, 1980'' substituted for ''the effective date of this chapter'' pursuant to section 601 of Pub. L. 96–88, set out as an Effective Date note under section 3401 of this title.

PRIOR PROVISIONS

A prior section 303 of Pub. L. 96–88 was renumbered section 302 and is classified to section 3443 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1135b of this title.

§ 3445. Transfers from Department of Justice

There are transferred to the Secretary all functions of the Attorney General and of the Law Enforcement Assistance Administration with regard to the student loan and grant programs known as the law enforcement education program and the law enforcement intern program authorized by subsections (b), (c), and (f) of section 406[1] of the Omnibus Crime Control and Safe Streets Act of 1968.

(Pub. L. 96–88, title III, § 304, formerly § 305, Oct. 17, 1979, 93 Stat. 680; renumbered § 304, Pub. L. 103–382, title II, § 271(a)(2), Oct. 20, 1994, 108 Stat. 3929.)

REFERENCES IN TEXT

Section 406 of the Omnibus Crime Control and Safe Streets Act of 1968, referred to in text, is section 406 of title I of Pub. L. 90–351, June 19, 1968, 82 Stat. 204, which was classified to section 3746 of Title 42, The Public Health and Welfare. Title I of the Act was amended generally by Pub. L. 96–157, § 2, Dec. 27, 1979, 93 Stat. 1167, and provisions formerly contained in section 406 of the Act were contained in section 705 of part G of title I of the Act, which was classified to section 3775 of Title 42. Subsequently, part G of title I of the Act was amended generally by Pub. L. 98–473, title II, § 609A(a), Oct. 12, 1984, 98 Stat. 2090, and, as so amended, did not contain a section 705 or similar provisions.

PRIOR PROVISIONS

A prior section 304 of Pub. L. 96–88 was renumbered section 303 and is classified to section 3444 of this title.

§ 3446. Transfers from Department of Housing and Urban Development

There are transferred to the Secretary all functions relating to college housing loans of the Secretary of Housing and Urban Development and of the Department of Housing and Urban Development under title IV of the Housing Act of 1950 [12 U.S.C. 1749 et seq.].

(Pub. L. 96–88, title III, § 305, formerly § 306, Oct. 17, 1979, 93 Stat. 681; renumbered § 305, Pub. L. 103–382, title II, § 271(a)(2), Oct. 20, 1994, 108 Stat. 3929.)

REFERENCES IN TEXT

The Housing Act of 1950, referred to in text, is act Apr. 20, 1950, ch. 94, 64 Stat. 48, as amended. Title IV of the Housing Act of 1950 which was classified generally to subchapter IX (§ 1749 et seq.) of chapter 13 of Title 12, Banks and Banking, was repealed by Pub. L. 99–498, title VII, § 702, Oct. 17, 1986, 100 Stat. 1545. For complete classification of this Act to the Code, see Short Title of 1950 Amendment note set out under section 1701 of Title 12 and Tables.

PRIOR PROVISIONS

A prior section 305 of Pub. L. 96–88 was renumbered section 304 and is classified to section 3445 of this title.

§ 3447. Effect of transfers

The transfer of a function or office from an officer or agency to the Secretary or to the Department includes any aspects of such function or office vested in a subordinate of such officer or in a component of such agency.

(Pub. L. 96–88, title III, § 306, formerly § 307, Oct. 17, 1979, 93 Stat. 681; renumbered § 306, Pub. L. 103–382, title II, § 271(a)(2), Oct. 20, 1994, 108 Stat. 3929.)

PRIOR PROVISIONS

A prior section 306 of Pub. L. 96–88 was renumbered section 305 and is classified to section 3446 of this title.

SUBCHAPTER IV—ADMINISTRATIVE PROVISIONS

PART A—PERSONNEL PROVISIONS

§ 3461. Officers and employees

(a) Appointment and compensation

The Secretary is authorized to appoint and fix the compensation of such officers and employees, including attorneys, as may be necessary to carry out the functions of the Secretary and the Department. Except as otherwise provided by law, such officers and employees shall be appointed in accordance with the civil service laws and their compensation fixed in accordance with title 5.

(b) Applicability of General Schedule; termination of authority; exemption from limitations on executive positions

(1) At the request of the Secretary, the Director of the Office of Personnel Management shall, under section 5108 of title 5, provide for the establishment in each of the grade levels GS–16, GS–17, and GS–18 of a number of positions in the Department equal to the number of positions in that grade level which were used primarily for the performance of functions and offices transferred under this chapter and which were assigned and filled on the day before May 4, 1980.

(2) At the request of the Secretary, the Director of the Office of Personnel Management shall, under section 3104 of title 5, provide for the establishment in the Office created by section 3419 of this title of a number of scientific, professional, and technical positions outside of the General Schedule equal to the number of such positions which were used primarily for the performance of functions and offices transferred under this chapter and which were assigned and filled on the day before May 4, 1980.

(3) Appointments to positions provided for under this subsection may be made without regard to the provisions of section 3324 of title 5, if the individual appointed in such position is an

[1] See References in Text note below.

individual who is transferred in connection with the transfer of functions and offices under this chapter and, on the day preceding May 4, 1980, holds a position and has duties comparable to those of the position to which appointed hereunder.

(4) The authority under this subsection with respect to any position shall terminate when the person first appointed to fill such position ceases to hold such position.

(5) For purposes of section 414(a)(3)(A) of the Civil Service Reform Act of 1978, an individual appointed under this subsection shall be deemed to occupy the same position as the individual occupied on the day preceding May 4, 1980.

(c) Repealed. Pub. L. 99–498, title XIV, § 1401(d), Oct. 17, 1986, 100 Stat. 1597

(d) Senior Executive Service

Notwithstanding any other provision of law, the Director of the Office of Personnel Management shall establish positions within the Senior Executive Service for 15 limited-term appointees. The Secretary shall appoint individuals to such positions as provided by section 3394 of title 5. Such positions shall expire on the later of three years after May 4, 1980, or three years after the initial appointment to each position. Positions in effect under this subsection shall be taken into account in applying the limitations on positions prescribed under section 3134(e) and section 5108 of such title.

(e) Indian preference laws

Nothing in this chapter shall be construed to prevent the application of any Indian preference law in effect on the day before October 17, 1979, to any function or office transferred by this chapter and subject to any such law on the day before October 17, 1979. Any function or office transferred by this chapter and subject to any such law shall continue to be subject to any such law.

(Pub. L. 96–88, title IV, § 401, Oct. 17, 1979, 93 Stat. 681; Pub. L. 99–145, title XII, § 1204(a)(1), Nov. 8, 1985, 99 Stat. 720; Pub. L. 99–498, title XIV, § 1401(d), Oct. 17, 1986, 100 Stat. 1597; Pub. L. 103–382, title II, § 271(a)(3)(A), Oct. 20, 1994, 108 Stat. 3929.)

REFERENCES IN TEXT

The civil service laws, referred to in subsec. (a), are set forth in Title 5, Government Organization and Employees. See, particularly, section 3301 et seq. of Title 5.

Section 414(a)(3)(A) of the Civil Service Reform Act of 1978, referred to in subsec. (b)(5), is section 414(a)(3)(A) of Pub. L. 95–454, title IV, Oct. 13, 1978, 92 Stat. 1178, which is set out as a note under sections 3104 and 5108 of Title 5.

CODIFICATION

In subsecs. (a) and (d), ''May 4, 1980'' substituted for ''the effective date of this chapter'' pursuant to section 601 of Pub. L. 96–88, set out as an Effective Date note under section 3401 of this title.

AMENDMENTS

1994—Subsec. (b)(2). Pub. L. 103–382 made technical amendment to reference to section 3419 of this title to reflect renumbering of corresponding section of original act.

1986—Subsec. (c). Pub. L. 99–498 struck out subsec. (c) which read as follows: ''The Secretary may appoint, without regard to the provisions of title 5 governing appointment in the competitive service, up to 175 scientific, technical, or professional employees of the Office created by section 3419 of this title and may compensate employees so appointed without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5 relating to classification and General Schedule pay rates. The rate of basic compensation for such employees shall not be equal to or in excess of the minimum rate of pay currently paid for GS–16 of the General Schedule under section 5332 of such title.''

1985—Subsec. (f). Pub. L. 99–145 struck out subsec. (f) which deemed any reference to ''civilian component'' as including a reference to overseas personnel of the overseas dependents' education system for purposes of any status of forces agreement between the United States and any other country or any international organization.

REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, § 101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

§ 3462. Experts and consultants

(a) In general

The Secretary may as provided in appropriation Acts obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5 and may compensate such experts and consultants at rates not to exceed the daily rate prescribed for GS–18 of the General Schedule under section 5332 of such title.

(b) Special rule

(1) In general

Notwithstanding any other provision of law, the Secretary may use not more than 1 percent of the funds appropriated for any education program that awards such funds on a competitive basis to pay the expenses and fees of non-Federal experts necessary to review applications and proposals for such funds.

(2) Applicability

The provisions of paragraph (1) shall not apply to any education program under which funds are authorized to be appropriated to pay the fees and expenses of non-Federal experts to review applications and proposals for such funds.

(Pub. L. 96–88, title IV, § 402, Oct. 17, 1979, 93 Stat. 682; Pub. L. 103–227, title IX, § 981, Mar. 31, 1994, 108 Stat. 263.)

AMENDMENTS

1994—Pub. L. 103–227 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, § 101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

§ 3463. Personnel reduction and annual limitations

(a) Work-years limitation; allocations; adjustments

(1) Notwithstanding any other provision of this chapter, there shall be included in each appropriation Act containing appropriations for the administration of the Department for any fiscal year beginning after September 30, 1981 (other than an appropriation Act containing only supplemental appropriations for the Department), an annual limitation on the total number of work-years for the personnel of the Department.

(2) The Secretary shall prescribe the allocation of the work-years available under paragraph (1) among the organizational units and components of the Department.

(3) If the President transmits any reorganization plan under chapter 9 of title 5 which would result in the transfer of functions or offices to the Secretary or the Department, the message transmitting the plan shall include any adjustments which may be necessary in a work-year limitation established under paragraph (1) to reflect changes in the work-years required as a result of such plan.

(b) Full-time equivalent personnel reductions

Not later than the end of the first fiscal year beginning after May 4, 1980, the number of full-time equivalent personnel positions available for performing functions transferred to the Secretary or the Department by this chapter shall be reduced by 500.

(c) Personnel computations

(1) Computations required to be made for purposes of this section shall be made on the basis of all personnel employed by the Department, including experts and consultants employed under section 3109 of title 5 and all other part-time and full-time personnel employed to perform functions of the Secretary or the Department, except personnel employed under special programs for students and disadvantaged youth (including temporary summer employment).

(2) The Director of the Office of Personnel Management shall, by rule, establish a method for computing work-years for personnel of the Department as described in paragraph (1).

(d) Report on effects of reorganization on employees

The Director of the Office of Personnel Management shall, as soon as practicable, but not later than one year after May 4, 1980, prepare and transmit to the Congress a report on the effects on employees of the reorganization under this chapter, which shall include—

(1) an identification of any position within the Department or elsewhere in the executive branch, which it considers unnecessary due to consolidation of functions under this chapter;

(2) a statement of the number of employees entitled to pay savings by reason of the organization under this chapter;

(3) a statement of the number of employees who are voluntarily or involuntarily separated by reason of such reorganization;

(4) an estimate of the personnel costs associated with such reorganization;

(5) the effects of such reorganization on labor management relations; and

(6) such legislative and administrative recommendations for improvements in personnel management within the Department as the Director considers necessary.

(Pub. L. 96–88, title IV, § 403, Oct. 17, 1979, 93 Stat. 682; Pub. L. 104–66, title I, § 1041(a), Dec. 21, 1995, 109 Stat. 714.)

CODIFICATION

In subsecs. (a) and (d), ''May 4, 1980'' substituted for ''the effective date of this chapter'' pursuant to section 601 of Pub. L. 96–88, set out as an Effective Date note under section 3401 of this title.

AMENDMENTS

1995—Subsec. (a)(2). Pub. L. 104–66 struck out before period at end ''and shall, within 120 days after the enactment of an appropriation Act containing a work-year limitation, prepare and transmit to the Congress a report on such allocation. Such report shall include explanations and justifications for the allocations made by the Secretary and shall indicate the necessary personnel actions which will be required as a consequence of such allocation. Not later than 120 days after the conclusion of any fiscal year to which a work-year limitation established under paragraph (1) applies, the Secretary shall prepare and transmit to the Congress a report on compliance with such limitation indicating the total work-years actually expended by the Department and by the organizational units and components to which such work-years were allocated''.

PART B—GENERAL ADMINISTRATIVE PROVISIONS

§ 3471. General authority

(a) Force and effect of actions by Secretary

In carrying out any function transferred by this chapter, the Secretary, or any officer or employee of the Department, may exercise any authority available by law (including appropriation Acts) with respect to such function to the official or agency from which such function is transferred, and the actions of the Secretary in exercising such authority shall have the same force and effect as when exercised by such official or agency.

(b) Reporting requirements

(1) The director of any office continued in the Department the director of which was required, prior to May 4, 1980, to report to the Commissioner of Education or the Assistant Secretary for Education of the Department of Health, Education, and Welfare, shall report to the Secretary.

(2) The Secretary is authorized to delegate reporting requirements vested in the Secretary by paragraph (1) to any officer or employee of the Department.

(Pub. L. 96–88, title IV, § 411, Oct. 17, 1979, 93 Stat. 683.)

CODIFICATION

In subsec. (b)(1), ''May 4, 1980'' substituted for ''the effective date of this chapter'' pursuant to section 601 of Pub. L. 96–88, set out as an Effective Date note under section 3401 of this title.

§ 3472. Delegation of functions

Except as otherwise provided in this chapter, the Secretary may delegate any function to

such officers and employees of the Department as the Secretary may designate, and may authorize such successive redelegations of such functions within the Department as may be necessary or appropriate. No delegation of functions by the Secretary under this section or under any other provision of this chapter shall relieve the Secretary of responsibility for the administration of such functions.

(Pub. L. 96–88, title IV, § 412, Oct. 17, 1979, 93 Stat. 684.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3413, 3417 of this title.

§ 3473. Reorganization of Department

(a) Authorization; limitations

The Secretary is authorized, subject to the requirements of section 3412(f) of this title, to allocate or reallocate functions among the officers of the Department, and to establish, consolidate, alter, or discontinue such organizational entities within the Department as may be necessary or appropriate, but the authority of the Secretary under this subsection does not extend to—

(1) any office, bureau, unit, or other entity transferred to the Department and established by statute or any function vested by statute in such an entity or officer of such an entity, except as provided in subsection (b) of this section;

(2) the abolition of organizational entities established by this chapter; or

(3) the alteration of the delegation of functions to any specific organizational entity required by this chapter.

(b) Alteration, consolidation, or discontinuance of statutory and organizational entities

(1) The Secretary may, in accordance with paragraph (2) of this subsection, consolidate, alter, or discontinue any of the following statutory entities, or reallocate any functions vested by statute in the following statutory entities:

(A) the Office of Bilingual Education;

(B) the Teacher Corps;

(C) the Community College Unit;

(D) the National Center for Education Statistics;

(E) the National Institute of Education;

(F) the Office of Environmental Education;

(G) the Office of Consumers' Education;

(H) the Office of Indian Education;

(I) the Office of Career Education;

(J) the Office of Non-Public Education;

(K) the bureau for the education and training for the handicapped; and

(L) the administrative units for guidance and counseling programs, the veterans' cost of instruction program, and the program for the gifted and talented children.

(2) The Secretary may alter, consolidate, or discontinue any organizational entity continued within the Department and described in paragraph (1) of this subsection or reallocate any function vested by statute in such an entity, upon the expiration of a period of ninety days after the receipt by the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives of notice given by the Secretary containing a full and complete statement of the action proposed to be taken pursuant to this subsection and the facts and circumstances relied upon in support of such proposed action.

(Pub. L. 96–88, title IV, § 413, Oct. 17, 1979, 93 Stat. 684; Pub. L. 96–496, title II, § 202, Dec. 4, 1980, 94 Stat. 2593; Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 709(c)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–313.)

AMENDMENTS

1996—Subsec. (b)(1)(H) to (M). Pub. L. 104–208 redesignated subpars. (I) to (M) as (H) to (L), respectively, and struck out former subpar. (H) which authorized Secretary to consolidate, alter, discontinue, or reallocate any functions vested by statute in Office of Libraries and Learning Resources.

1980—Subsec. (b)(1). Pub. L. 96–496 redesignated subpar. (N) as (M) and struck out former subpar. (M), which authorized the Secretary to reallocate the functions or to alter or discontinue the Institute of Museum Services.

CHANGE OF NAME

Committee on Education and Labor of House of Representatives treated as referring to Committee on Economic and Educational Opportunities of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Economic and Educational Opportunities of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Fifth Congress, Jan. 7, 1997.

NATIONAL INSTITUTE OF EDUCATION

The National Institute of Education was established by section 1221e of this title which as amended generally by Pub. L. 99–498, title XIV, § 1401(a), Oct. 17, 1986, 100 Stat. 1589, provided objectives and duties for the Office of Educational Research and Improvement and established the National Advisory Council on Educational Research and Improvement, and section 1401(b) of Pub. L. 99–498 transferred the property and records of the National Institute of Education to the Office of Educational Research and Improvement.

OFFICE OF MIGRANT EDUCATION

Pub. L. 98–511, title VII, § 701(b), Oct. 19, 1984, 98 Stat. 2405, provided that: ''For the purposes of section 413(a) of the Department of Education Organization Act (20 U.S.C. 3473), the Office of Migrant Education shall be considered to be an organizational entity established by such Act [20 U.S.C. 3401 et seq.] and shall not be subject to the reorganizational authority of the Secretary of Education under that section or any other provision of law.''

§ 3474. Rules and regulations

The Secretary is authorized to prescribe such rules and regulations as the Secretary determines necessary or appropriate to administer and manage the functions of the Secretary or the Department.

(Pub. L. 96–88, title IV, § 414, Oct. 17, 1979, 93 Stat. 685; Pub. L. 99–145, title XII, § 1204(a)(5), Nov. 8, 1985, 99 Stat. 720; Pub. L. 103–382, title II, § 271(d)(1), Oct. 20, 1994, 108 Stat. 3930.)

AMENDMENTS

1994—Pub. L. 103–382 struck out subsec. (a) designation and subsec. (b) which read as follows: ''The Sec-

retary, in promulgating rules and regulations as authorized by statute, shall prescribe such rules and regulations in accordance with chapter 5 of title 5. Section 1232 of this title also shall apply to such rules and regulations to the extent applicable immediately prior to May 4, 1980, and to rules and regulations promulgated with respect to programs transferred under sections 3441(a)(1), (2), and (4), 3443, 3444, 3445, and 3446 of this title.''

1985—Subsec. (b). Pub. L. 99–145 struck out reference to section 3442 of this title.

§ 3475. Contracts

(a) Authorization of Secretary

Subject to the provisions of the Federal Property and Administrative Services Act of 1949 [40 U.S.C. 471 et seq.], the Secretary is authorized to make, enter into, and perform such contracts, grants, leases, cooperative agreements, or other similar transactions with Federal or other public agencies (including State and local governments) and private organizations and persons, and to make such payments, by way of advance or reimbursement, as the Secretary may determine necessary or appropriate to carry out functions of the Secretary or the Department.

(b) Limitations

Notwithstanding any other provision of this chapter, no authority to enter into contracts or to make payments under this subchapter shall be effective except to such extent or in such amounts as are provided in advance under appropriation Acts. This subsection shall not apply with respect to the authority granted under section 3481 of this title.

(Pub. L. 96–88, title IV, § 415, Oct. 17, 1979, 93 Stat. 685.)

REFERENCES IN TEXT

The Federal Property and Administrative Services Act of 1949, referred to in subsec. (a), is act June 30, 1949, ch. 288, 63 Stat. 377, as amended. Provisions of that act relating to contracts are classified to subchapter IV (§ 251 et seq.) of chapter 4 of Title 41, Public Contracts. For complete classification of this Act to the Code, see Short Title note set out under section 471 of Title 40, Public Buildings, Property, and Works, and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3486 of this title.

§ 3476. Regional and field offices

The Secretary is authorized to establish, alter, discontinue, or maintain such regional or other field offices as the Secretary may find necessary or appropriate to perform functions of the Secretary or the Department.

(Pub. L. 96–88, title IV, § 416, Oct. 17, 1979, 93 Stat. 685.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2466a of this title.

§ 3477. Acquisition and maintenance of property

(a) Authorized properties; establishment of necessary facilities

The Secretary is authorized—

(1) to acquire (by purchase, lease, condemnation, or otherwise), construct, improve, repair, operate, and maintain—

(A) schools and related facilities (but only to the extent that operation of schools and related facilities by the Department is authorized by this chapter);

(B) laboratories;

(C) research and testing sites and facilities;

(D) quarters and related accommodations for employees and dependents of employees of the Department; and

(E) personal property (including patents), or any interest therein,

as may be necessary; and

(2) to provide by contract or otherwise for the establishment of eating facilities and other necessary facilities for the health and welfare of employees of the Department at its installations, and purchase and maintain equipment therefor.

(b) Day care center facilities

The authority available to the Secretary of Health, Education, and Welfare under section 2564 of this title, shall also be available to the Secretary.

(c) Special purpose facilities

The authority granted by subsection (a) of this section shall be available only with respect to facilities of a special purpose nature that cannot readily be reassigned from similar Federal activities and are not otherwise available for assignment to the Department by the Administrator of General Services.

(Pub. L. 96–88, title IV, § 417, Oct. 17, 1979, 93 Stat. 685.)

§ 3478. Facilities at remote locations

(a) Authorized services, supplies and facilities

The Secretary is authorized to provide, construct, or maintain for employees and their dependents stationed at remote locations as necessary and when not otherwise available at such remote locations—

(1) emergency medical services and supplies;

(2) food and other subsistence supplies;

(3) dining facilities;

(4) audiovisual equipment, accessories, and supplies for recreation and training;

(5) reimbursement for food, clothing, medicine, and other supplies furnished by such employees in emergencies for the temporary relief of distressed persons;

(6) living and working quarters and facilities; and

(7) transportation for dependents of employees of the Department to the nearest appropriate educational facilities.

(b) Reimbursements

The furnishing of medical treatment under paragraph (1) of subsection (a) of this section and the furnishing of services and supplies under paragraphs (2), (3), and (4) of subsection (a) of this section shall be at prices reflecting reasonable value as determined by the Secretary.

(c) Appropriation credits and refunds

Proceeds from reimbursements under this section may be credited to the appropriation of funds that bear or will bear all or part of the

cost of such work or services or used to refund excess sums when necessary.

(Pub. L. 96–88, title IV, § 418, Oct. 17, 1979, 93 Stat. 686.)

§ 3479. Use of facilities

(a) Federal, State, local and foreign government facilities

With their consent, the Secretary may, with or without reimbursement, use the research, equipment, services, and facilities of any agency or instrumentality of the United States, of any State or political subdivision thereof, or of any foreign government, in carrying out any function of the Secretary or the Department.

(b) Public and private permittees

The Secretary is authorized to permit public and private agencies, corporations, associations, organizations, or individuals to use any real property, or any facilities, structures, or other improvements thereon, under the custody and control of the Secretary for Department purposes. The Secretary shall permit the use of such property, facilities, structures, or improvements under such terms and rates and for such period as may be in the public interest, except that the periods of such uses may not exceed five years. The Secretary may require permittees under this section to recondition and maintain, at their own expense, the real property, facilities, structures, and improvements used by such permittees to a standard satisfactory to the Secretary. This subsection shall not apply to excess property as defined in section 472(e) of title 40.

(c) Appropriation credits and refunds

Proceeds from reimbursements under this section may be credited to the appropriation of funds that bear or will bear all or part of the cost of such equipment or facilities provided or to refund excess sums when necessary.

(d) Interests in real property

Any interest in real property acquired pursuant to this chapter shall be acquired in the name of the United States Government.

(Pub. L. 96–88, title IV, § 419, Oct. 17, 1979, 93 Stat. 686; Pub. L. 99–145, title XII, § 1204(a)(2), Nov. 8, 1985, 99 Stat. 720.)

AMENDMENTS

1985—Subsec. (a). Pub. L. 99–145 struck out par. (1) designation and par. (2) which provided for treatment of personnel, upon transfer of functions and personnel from the Secretary of Defense to the Secretary of Education, as employees of the Department of Defense for the purpose of access to services and facilities provided by the Department of Defense.

§ 3480. Copyrights and patents

The Secretary is authorized to acquire any of the following described rights if the property acquired thereby is for use by or for, or useful to, the Department:

(1) copyrights, patents, and applications for patents, designs, processes, and manufacturing data;

(2) licenses under copyrights, patents, and applications for patents; and

(3) releases, before suit is brought, for past infringement of patents or copyrights.

(Pub. L. 96–88, title IV, § 420, Oct. 17, 1979, 93 Stat. 687.)

§ 3481. Gifts and bequests

The Secretary is authorized to accept, hold, administer, and utilize gifts, bequests and devises of property, both real and personal, and to accept donations of services, for the purpose of aiding or facilitating the work of the Department. Gifts, bequests, and devises of money and proceeds from sales of other property received as gifts, bequests, or devises shall be deposited in the Treasury and shall be available for disbursement upon the order of the Secretary.

(Pub. L. 96–88, title IV, § 421, Oct. 17, 1979, 93 Stat. 687; Pub. L. 103–382, title II, § 271(d)(2), Oct. 20, 1994, 108 Stat. 3930.)

AMENDMENTS

1994—Pub. L. 103–382 inserted ''and to accept donations of services,'' after ''personal,''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3475 of this title.

§ 3482. Technical advice

(a) Authorization

The Secretary is authorized, upon request, to provide advice, counsel, and technical assistance to applicants or potential applicants for grants and contracts and other interested persons with respect to any functions of the Secretary or the Department.

(b) Consolidation of applications for grants and contracts

The Secretary may permit the consolidation of applications for grants or contracts with respect to two or more functions of the Secretary or the Department, but such consolidation shall not alter the statutory criteria for approval of applications for funding with respect to such functions.

(Pub. L. 96–88, title IV, § 422, Oct. 17, 1979, 93 Stat. 687.)

§ 3483. Working capital fund

(a) Establishment; administrative services included

The Secretary, with the approval of the Director of the Office of Management and Budget, is authorized to establish for the Department a working capital fund, to be available without fiscal year limitation, for expenses necessary for the maintenance and operation of such common administrative services as the Secretary shall find to be desirable in the interests of economy and efficiency, including such services as—

(1) a central supply service for stationery and other supplies and equipment for which adequate stocks may be maintained to meet in whole or in part the requirements of the Department and its components;

(2) central messenger, mail, telephone, and other communications services;

(3) office space, central services for document reproduction, and for graphics and visual aids; and

(4) a central library service.

(b) Capital; reimbursement of funds; credit; miscellaneous receipts; transfers

The capital of the fund shall consist of any appropriations made for the purpose of providing working capital and the fair and reasonable value of such stocks of supplies, equipment, and other assets and inventories on order as the Secretary may transfer to the fund, less the related liabilities and unpaid obligations. Such funds shall be reimbursed in advance from available funds of agencies and offices in the Department, or from other sources, for supplies and services at rates that will approximate the expense of operation, including the accrual of annual leave and the depreciation of equipment. The fund shall also be credited with receipts from sale or exchange of property and receipts in payment for loss or damage to property owned by the fund. There shall be covered into the Treasury as miscellaneous receipts any surplus of the fund (all assets, liabilities, and prior losses considered) above the amounts transferred or appropriated to establish and maintain such fund. There shall be transferred to the fund the stocks of supplies, equipment, other assets, liabilities, and unpaid obligations relating to the services which the Secretary determines, with the approval of the Director of the Office of Management and Budget, will be performed.

(Pub. L. 96–88, title IV, § 423, Oct. 17, 1979, 93 Stat. 687.)

§ 3484. Funds transfer

The Secretary may, when authorized in an appropriation Act in any fiscal year, transfer funds from one appropriation to another within the Department, except that no appropriation for any fiscal year shall be either increased or decreased pursuant to this section by more than 5 percent and no such transfer shall result in increasing any such appropriation above the amount authorized to be appropriated therefor.

(Pub. L. 96–88, title IV, § 424, Oct. 17, 1979, 93 Stat. 688.)

§ 3485. Seal of Department

The Secretary shall cause a seal of office to be made for the Department of such design as the Secretary shall approve. Judicial notice shall be taken of such seal.

(Pub. L. 96–88, title IV, § 425, Oct. 17, 1979, 93 Stat. 688.)

§ 3486. Annual report

(a) Contents

The Secretary shall, as soon as practicable after the close of each fiscal year, make a single, comprehensive report to the President for transmission to the Congress on the activities of the Department during such fiscal year. The report shall include a statement of goals, priorities, and plans for the Department together with an assessment of the progress made toward—

(1) the attainment of such goals, priorities, and plans;

(2) the more effective and efficient management of the Department and the coordination of its functions; and

(3) the reduction of excessive or burdensome regulation and of unnecessary duplication and fragmentation in Federal education programs,

accompanied where necessary by recommendations for proposed legislation for the achievement of such objectives.

(b) Estimate on non-Federal personnel employed

The report required by subsection (a) of this section shall also include an estimate of the extent of the non-Federal personnel employed pursuant to contracts entered into by the Department under section 3475 of this title or under any other authority (including any subcontract thereunder), the number of such contracts and subcontracts pursuant to which non-Federal personnel are employed, and the total cost of those contracts and subcontracts.

(Pub. L. 96–88, title IV, § 426, Oct. 17, 1979, 93 Stat. 688.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3444, 4355 of this title.

§ 3487. Repealed. Pub. L. 103–382, title II, § 271(a)(1), Oct. 20, 1994, 108 Stat. 3929

Section, Pub. L. 96–88, title IV, § 427, Oct. 17, 1979, 93 Stat. 689, related to application of General Education Provisions Act, 20 U.S.C. 1221 et seq., to functions transferred by this chapter.

§ 3488. Authorization of appropriations

Subject to any limitation on appropriations applicable with respect to any function or office transferred to the Secretary or the Department, there are authorized to be appropriated for fiscal year 1980 and each succeeding fiscal year such sums as may be necessary to carry out the provisions of this chapter and to enable the Secretary to administer and manage the Department. Funds appropriated in accordance with this section shall remain available until expended.

(Pub. L. 96–88, title IV, § 427, formerly § 428, Oct. 17, 1979, 93 Stat. 689; renumbered § 427, Pub. L. 103–382, title II, § 271(a)(2), Oct. 20, 1994, 108 Stat. 3929.)

PRIOR PROVISIONS

A prior section 427 of Pub. L. 96–88 was classified to section 3487 of this title prior to repeal by Pub. L. 103–382.

§ 3489. General extension of authorizations

Subject to the limitations contained in subtitle A of this title, there are authorized to be appropriated for fiscal years 1982, 1983, and 1984 such sums as may be necessary to carry out each of the following provisions of law:

(1) the Act of September 30, 1950[1] (Public Law 874, 81st Congress);

(2) the Act of September 23, 1950[1] (Public Law 815, 81st Congress);

(3) the General Education Provisions Act [20 U.S.C. 1221 et seq.];

(4) the Indian Education Act;

(5) titles XI [25 U.S.C. 2001 et seq.], XIV [20 U.S.C. 921 et seq.], and XV of the Education

[1] See References in Text note below.

Amendments of 1978 and part H of title XIII of the Education Amendments of 1980;

(6) the Adult Education Act [20 U.S.C. 1201 et seq.];

(7) section 342 of the Education Amendments of 1976 [20 U.S.C. 2532];

(8) the Asbestos School Hazards Detection and Control Act [20 U.S.C. 3601 et seq.];

(9) the Joint Resolution of October 19, 1972 (86 Stat. 907);

(10) the Vocational Education Act of 1963;[1]

(11) title IV of the Civil Rights Act of 1964 [42 U.S.C. 2000c et seq.];

(12) the Navajo Community College Act [25 U.S.C. 640a et seq.] and the Tribally Controlled Community College Assistance Act of 1978 [25 U.S.C. 1801 et seq.];

(13) part C of title IX of the Elementary and Secondary Education Act of 1965,[1] relating to Women's Educational Equity; and

(14) title VII of the Elementary and Secondary Education Act of 1965.[1]

(Pub. L. 97–35, title V, § 528, Aug. 13, 1981, 95 Stat. 450; Pub. L. 98–211, § 20, Dec. 8, 1983, 97 Stat. 1418; Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 709(a)(2)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–312.)

REFERENCES IN TEXT

Subtitle A of this title, referred to in text, is subtitle A (§§ 502 to 528) of title V, of Pub. L. 97–35, Aug. 13, 1981, 95 Stat. 441. For complete classification of subtitle A to the Code, see Tables.

Act of September 30, 1950 (Public Law 874, 81st Congress), referred to in par. (1), is act Sept. 30, 1950, ch. 1124, 64 Stat. 1100, as amended, which was classified generally to chapter 13 (§ 236 et seq.) of this title, prior to repeal by Pub. L. 103–382, title III, § 331(b), Oct. 20, 1994, 108 Stat. 3965. For complete classification of this Act to the Code, see Tables.

Act of September 23, 1950 (Public Law 815, 81st Congress), referred to in par. (2), is act Sept. 23, 1950, ch. 995, as amended generally by Aug. 12, 1958, Pub. L. 85–620, title I, 72 Stat. 548, which was classified generally to chapter 19 (§ 631 et seq.) of this title, prior to repeal by Pub. L. 103–382, title III, § 331(a), Oct. 20, 1994, 108 Stat. 3965. For complete classification of this Act to the Code, see Tables.

The General Education Provisions Act, referred to in par. (3), is title IV of Pub. L. 90–247, Jan. 2, 1968, 81 Stat. 814, as amended, which is classified generally to chapter 31 (§ 1221 et seq.) of this title. For complete classification of this Act to the Code, see section 1221 of this title and Tables.

The Indian Education Act, referred to in par. (4), is Pub. L. 92–318, title IV, June 23, 1972, 86 Stat. 334, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 241aa of this title and Tables.

The Education Amendments of 1978, referred to in par. (5), is Pub. L. 95–561, Nov. 1, 1978, 92 Stat. 2143, as amended. Title XI of the Education Amendments of 1978 is classified principally to chapter 22 (§ 2001 et seq.) of Title 25, Indians. Title XIV of the Education Amendments of 1978 is known as the Defense Dependents Education Act of 1978 and is classified principally to chapter 25A (§ 921 et seq.) of this title. Title XV of the Education Amendments of 1978 enacted sections 1221j and 1226c–1 of this title, repealed sections 1901, 1921, 1941 to 1944, 1961 to 1966, and 1981 to 1983 of this title, and enacted provisions set out as a note under section 1231a of this title, provisions formerly set out as notes under sections 1123 and 2711 of this title, and provisions set out as a note under section 287 of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title of 1978 Amendment note set out under section 6301 of this title and Tables.

The Education Amendments of 1980, referred to in par. (5), is Pub. L. 96–374, Oct. 3, 1980, 94 Stat. 1367, as amended. Part H of title XIII of the Education Amendments of 1980, Pub. L. 96–374, title XIII, §§ 1371–1373, 1376, 1377, 1381–1383, Oct. 3, 1980, 94 Stat. 1502, 1503, is not classified to the Code. For complete classification of this Act to the Code, see Short Title of 1980 Amendment note set out under section 1001 of this title and Tables.

The Adult Education Act, referred to in par. (6), is title III of Pub. L. 89–750, Nov. 3, 1966, 80 Stat. 1216, as amended, which is classified generally to chapter 30 (§ 1201 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1201 of this title and Tables.

The Asbestos School Hazards Detection and Control Act, referred to in par. (8), is Pub. L. 96–270, June 14, 1980, 94 Stat. 487, which is classified generally to chapter 49 (§ 3601 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3601 of this title and Tables.

The Joint Resolution of October 19, 1972 (86 Stat. 907), referred to in par. (9), is Pub. L. 92–506, Oct. 19, 1972, 86 Stat. 907, which is not classified to the Code.

The Vocational Education Act of 1963, referred to in par. (10), was title I of Pub. L. 88–210, Dec. 18, 1963, 77 Stat. 403, as amended generally by Pub. L. 94–482, title II, § 202(a), Oct. 12, 1976, 90 Stat. 2169, which was classified to chapter 44 (§ 2301 et seq.) of this title, prior to amendment by Pub. L. 98–524, § 1, Oct. 19, 1984, 98 Stat. 2435, striking out all after the enacting clause and inserting in lieu thereof titles I to V, to be cited as the Carl D. Perkins Vocational Education Act. Subsequently, Pub. L. 101–392, Sept. 25, 1990, 104 Stat. 753, amended the Act to be cited as the Carl D. Perkins Vocational and Applied Technology Education Act. For additional details, see the Codification note preceding section 2301 of this title.

The Civil Rights Act of 1964, referred to in par. (11), is Pub. L. 88–352, July 2, 1964, 78 Stat. 241, as amended. Title IV of the Civil Rights Act of 1964 is classified generally to subchapter IV (§ 2000c et seq.) of chapter 21 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of Title 42 and Tables.

The Navajo Community College Act, referred to in par. (12), is Pub. L. 92–189, Dec. 15, 1971, 85 Stat. 646, as amended, which is classified to section 640a et seq. of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 640a of Title 25 and Tables.

The Tribally Controlled Community College Assistance Act of 1978, referred to in par. (12), is Pub. L. 95–471, Oct. 17, 1978, 92 Stat. 1325, as amended, which is classified principally to chapter 20 (§ 1801 et seq.) of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of Title 25 and Tables.

The Elementary and Secondary Education Act of 1965, referred to in pars. (13) and (14), is Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, as amended. Prior to the general amendment of that Act by Pub. L. 100–297, Apr. 28, 1988, 102 Stat. 140, part C of title IX of the Act was classified generally to part C (§ 3341 et seq.) of subchapter IX of chapter 47 of this title, and title VII of the Act, known as the Bilingual Education Act, was classified generally to subchapter VII (§ 3281 et seq.) of chapter 47 of this title.

CODIFICATION

Section was enacted as part of the Omnibus Education Reconciliation Act of 1981 and also as part of the Omnibus Budget Reconciliation Act of 1981, and not as part of the Department of Education Organization Act which comprises this chapter.

AMENDMENTS

1996—Pars. (12) to (15). Pub. L. 104–208 redesignated pars. (13) to (15) as (12) to (14), respectively, and struck

out former par. (12) which listed the Library Services and Construction Act as one of the laws for which funds were authorized to be appropriated under this section.

1983—Par. (15). Pub. L. 98–211 added par. (15).

SHORT TITLE

Section 501 of title V of Pub. L. 97–35 provided that: ''This title [see Tables for classification of sections 501 to 596 of Pub. L. 97–35] may be cited as the 'Omnibus Education Reconciliation Act of 1981'.''

APPLICABILITY TO OTHER LAWS; GENERAL RESTRICTIONS

Section 502 of subtitle A of title V of Pub. L. 97–35 provided that:

''(a) Any provision of law which is not consistent with the provisions of this subtitle [see Tables for classification of sections 502 to 528 of Pub. L. 97–35] is hereby superseded and shall have only such force and effect during each of the fiscal years 1982, 1983, and 1984 which is consistent with this subtitle.

''(b) Notwithstanding any authorization of appropriations for fiscal year 1982, 1983, or 1984 contained in any provision of law which is specified in this subtitle (including any authorization of appropriations contained in section 528 of this title [this section]), no funds are authorized to be appropriated in excess of the limitations imposed upon appropriations by the provisions of this subtitle.

''(c) No funds are authorized to be appropriated for the fiscal year 1982, 1983, or 1984 to pay for the expenses of any advisory council which provides advice to a program for which there are no authorizations of appropriations made under this subtitle or made by an amendment made by this subtitle.''

SUBCHAPTER V—TRANSITIONAL, SAVINGS, AND CONFORMING PROVISIONS

§ 3501. Transfer and allocation of appropriations and personnel

(a) Personnel and appropriations in connection with functions and offices transferred by this chapter; use of unexpended funds

Except as otherwise provided in this chapter, the personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available in connection with the functions and offices, or portions thereof transferred by this chapter, subject to section 1531 of title 31, shall be transferred to the Secretary for appropriate allocation. Unexpended funds transferred pursuant to this subsection shall be used only for the purposes for which the funds were originally authorized and appropriated.

(b) Positions specified to carry out functions or offices transferred by this chapter

Positions expressly specified by statute or reorganization plan to carry out functions or offices transferred by this chapter, personnel occupying those positions on the effective date of this chapter, and personnel authorized to receive compensation in such positions at the rate prescribed for offices and positions at level IV or V of the Executive Schedule (5 U.S.C. 5315–5316) on May 4, 1980, shall be subject to the provisions of section 3503 of this title.

(Pub. L. 96–88, title V, § 501, Oct. 17, 1979, 93 Stat. 689.)

CODIFICATION

In subsec. (a), ''section 1531 of title 31'' substituted for ''section 202 of the Budget and Accounting Procedures Act of 1950 [31 U.S.C. 581c]'' on authority of Pub. L. 97–258, § 4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

In subsec. (b), ''May 4, 1980'' substituted for ''the effective date of this chapter'' pursuant to section 601 of Pub. L. 96–88, set out as an Effective Date note under section 3401 of this title.

§ 3502. Effect on personnel

(a) Non-separation or non-reduction in grade or compensation of full-time personnel and part-time personnel holding permanent positions

Except as otherwise provided in this chapter, the transfer pursuant to this subchapter of full-time personnel (except special Government employees) and part-time personnel holding permanent positions shall not cause any such employee to be separated or reduced in grade or compensation for one year after the date of transfer to the Department.

(b) Positions compensated in accordance with Executive Schedule

Any person who, on the day preceding May 4, 1980, held a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5 and who, without a break in service, is appointed in the Department to a position having duties comparable to the duties performed immediately preceding such appointment shall continue to be compensated in such new position at not less than the rate provided for such previous position, for the duration of the service of such person in such new position.

(Pub. L. 96–88, title V, § 502, Oct. 17, 1979, 93 Stat. 690.)

CODIFICATION

In subsec. (b), ''May 4, 1980'' substituted for ''the effective date of this chapter'' pursuant to section 601 of Pub. L. 96–88, set out as an Effective Date note under section 3401 of this title.

ABOLISHED POSITIONS DEEMED TRANSFERRED

Section 508(*l*)(4) of Pub. L. 96–88 provided that: ''Positions abolished as a consequence of the amendments made by this subsection [amending sections 1102, 2390, and 3012 of this title] shall, for purposes of section 502(a) [subsec. (a) of this section], be deemed to be permanent positions transferred pursuant to title V of this Act [this subchapter].''

§ 3503. Agency terminations

(a) Specific terminations

On May 4, 1980, the following entities shall terminate:

(A) the Education Division of the Department of Health, Education, and Welfare, including the Office of Education;

(B) the Office of the Assistant Secretary for Education of the Department of Health, Education, and Welfare;

(C) the Bureau of Occupational and Adult Education of the Department of Health, Education, and Welfare.

(b) Positions authorized to be compensated at rate prescribed for level IV or V of the Executive Schedule

Each position which was expressly authorized by law, or the incumbent of which was authorized to receive compensation at the rate prescribed for level IV or V of the Executive Schedule (5 U.S.C. 5315–5316), in an office terminated pursuant to this chapter shall also terminate.

(Pub. L. 96–88, title V, § 503, Oct. 17, 1979, 93 Stat. 690; Pub. L. 99–145, title XII, § 1204(a)(3), Nov. 8, 1985, 99 Stat. 720.)

CODIFICATION

In subsec. (a), ''May 4, 1980'' substituted for ''the effective date of this chapter'' pursuant to section 601 of Pub. L. 96–88, set out as an Effective Date note under section 3401 of this title.

AMENDMENTS

1985—Subsec. (a). Pub. L. 99–145 struck out par. (1) designation and par. (2) which provided for termination of Office of Dependents' Education of Department of Defense whenever President exercises authority under section 3442(a) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3501 of this title.

§ 3504. Incidental transfers

(a) Authorization of Director of Office of Management and Budget; termination of affairs

The Director of the Office of Management and Budget, at such time or times as the Director shall provide, is authorized and directed to make such determinations as may be necessary with regard to the functions, offices, or portions thereof transferred by this chapter, and to make such additional incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with such functions, offices, or portions thereof, as may be necessary to carry out the provisions of this chapter. The Director shall provide for the termination of the affairs of all entities terminated by this chapter and for such further measures and dispositions as may be necessary to effectuate the purposes of this chapter.

(b) Transfer of positions within Senior Executive Service

After consultation with the Director of the Office of Personnel Management, the Director of the Office of Management and Budget is authorized, at such time as the Director of the Office of Management and Budget provides, to make such determinations as may be necessary with regard to the transfer of positions within the Senior Executive Service in connection with functions and offices transferred by this chapter.

(Pub. L. 96–88, title V, § 504, Oct. 17, 1979, 93 Stat. 690.)

§ 3505. Savings provisions

(a) Orders, determinations, etc.

All orders, determinations, rules, regulations, permits, grants, contracts, certificates, licenses, and privileges—

(1) which have been issued, made, granted, or allowed to become effective by the President, any Federal department or agency or official thereof, or by a court of competent jurisdiction, in the performance of functions which are transferred under this chapter to the Secretary or the Department, and

(2) which are in effect on May 4, 1980,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with the law by the President, the Secretary, or other authorized official, a court of competent jurisdiction, or by operation of law.

(b) Proceedings and applications; transfer

(1) The provisions of this chapter shall not affect any proceedings, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pending on May 4, 1980, before any department, agency, commission, or component thereof, functions of which are transferred by this chapter; but such proceedings and applications, to the extent that they relate to functions so transferred, shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this chapter had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by the Secretary, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this chapter had not been enacted.

(2) The Secretary is authorized to promulgate regulations providing for the orderly transfer of proceedings continued under paragraph (1) to the Department.

(c) Actions

Except as provided in subsection (e) of this section—

(1) the provisions of this chapter shall not affect suits commenced prior to May 4, 1980, and

(2) in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and effect as if this chapter had not been enacted.

(d) Liabilities incurred

No suit, action, or other proceeding commenced by or against any officer in the official capacity of such individual as an officer of any department or agency, functions of which are transferred by this chapter, shall abate by reason of the enactment of this chapter. No cause of action by or against any department or agency, functions of which are transferred by this chapter, or by or against any officer thereof in the official capacity of such officer shall abate by reason of the enactment of this chapter.

(e) Parties

If, before May 4, 1980, any department or agency, or officer thereof in the official capacity of

such officer, is a party to a suit, and under this chapter any function of such department, agency, or officer is transferred to the Secretary or any other official of the Department, then such suit shall be continued with the Secretary or other appropriate official of the Department substituted or added as a party.

(f) Review

Orders and actions of the Secretary in the exercise of functions transferred under this chapter shall be subject to judicial review to the same extent and in the same manner as if such orders and actions had been by the agency or office, or part thereof, exercising such functions immediately preceding their transfer. Any statutory requirements relating to notice, hearings, action upon the record, or administrative review that apply to any function transferred by this chapter shall apply to the exercise of such function by the Secretary.

(Pub. L. 96–88, title V, § 505, Oct. 17, 1979, 93 Stat. 691.)

CODIFICATION

In subsecs. (a)(2), (b)(1), (c)(1), and (e), ''May 4, 1980'' substituted for ''the effective date of this chapter'' pursuant to section 601 of Pub. L. 96–88, set out as an Effective Date note under section 3401 of this title.

§ 3506. Separability

If any provision of this chapter or the application thereof to any person or circumstance is held invalid, neither the remainder of this chapter nor the application of such provision to other persons or circumstances shall be affected thereby.

(Pub. L. 96–88, title V, § 506, Oct. 17, 1979, 93 Stat. 692.)

§ 3507. Existing references to transferor officials or bodies deemed references to transferee officials or bodies

With respect to any function transferred by this chapter and exercised on or after May 4, 1980, reference in any other Federal law to any department, commission, or agency or any officer or office the functions of which are so transferred shall be deemed to refer to the Secretary, other official, or component of the Department to which this chapter transfers such functions.

(Pub. L. 96–88, title V, § 507, Oct. 17, 1979, 93 Stat. 692.)

CODIFICATION

''May 4, 1980'' substituted in text for ''the effective date of this chapter'' pursuant to section 601 of Pub. L. 96–88, set out as an Effective Date note under section 3401 of this title.

§ 3508. Department of Health and Human Services

(a) Redesignation of Department of Health, Education, and Welfare

The Department of Health, Education, and Welfare is hereby redesignated the Department of Health and Human Services, and the Secretary of Health, Education, and Welfare or any other official of the Department of Health, Education, and Welfare is hereby redesignated the Secretary or official, as appropriate, of Health and Human Services.

(b) Reference to Department, Secretary, etc., of Health, Education, and Welfare deemed reference to Department, Secretary, etc., of Health and Human Services

Any reference to the Department of Health, Education, and Welfare, the Secretary of Health, Education, and Welfare, or any other official of the Department of Health, Education, and Welfare in any law, rule, regulation, certificate, directive, instruction, or other official paper in force on May 4, 1980, shall be deemed to refer and apply to the Department of Health and Human Services or the Secretary of Health and Human Services, respectively, except to the extent such reference is to a function or office transferred to the Secretary or the Department under this chapter.

(Pub. L. 96–88, title V, § 509, Oct. 17, 1979, 93 Stat. 695.)

CODIFICATION

In subsec. (b), ''May 4, 1980'' substituted for ''the effective date of this chapter'' pursuant to section 601 of Pub. L. 96–88, set out as an Effective Date note under section 3401 of this title.

§ 3509. Coordination of programs for handicapped

The Secretary of Health and Human Services shall identify, assess, coordinate, and eliminate conflict, duplication, and inconsistencies among programs significantly affecting handicapped individuals carried out by or under the Department of Health and Human Services, shall promote efficiency among such programs, and shall seek to coordinate, to the maximum extent feasible, such programs with programs significantly affecting handicapped individuals carried out by or under the Department of Education.

(Pub. L. 96–88, title V, § 510, Oct. 17, 1979, 93 Stat. 695.)

§ 3510. Transitional provisions

With the consent of the appropriate department or agency head concerned, the Secretary is authorized to utilize the services of such officers, employees, and other personnel of the departments and agencies from which functions or offices have been transferred to the Secretary or the Department, and funds appropriated to such functions or offices for such period of time as may reasonably be needed to facilitate the orderly implementation of this chapter.

(Pub. L. 96–88, title V, § 511, Oct. 17, 1979, 93 Stat. 695.)

CHAPTER 49—ASBESTOS SCHOOL HAZARD DETECTION AND CONTROL

Sec.

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CROSS REFERENCES

Abatement of asbestos hazards in schools, see section 4011 et seq. of this title.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 3489 of this title.

§ 3601. Congressional statement of findings and purposes

(a) The Congress finds that—

(1) exposure to asbestos fibers has been identified over a long period of time and by reputable medical and scientific evidence as significantly increasing the incidence of cancer and other severe or fatal diseases, such as asbestosis;

(2) medical evidence has suggested that children may be particularly vulnerable to environmentally induced cancers;

(3) medical science has not established any minimum level of exposure to asbestos fibers which is considered to be safe to individuals exposed to the fibers;

(4) substantial amounts of asbestos, particularly in sprayed form, have been used in school buildings, especially during the period 1946 through 1972;

(5) partial surveys in some States have indicated that (A) in a number of school buildings materials containing asbestos fibers have become damaged or friable, causing asbestos fibers to be dislodged into the air, and (B) asbestos concentrations far exceeding normal ambient air levels have been found in school buildings containing such damaged materials;

(6) the presence in school buildings of friable or easily damaged asbestos creates an unwarranted hazard to the health of the school children and school employees who are exposed to such materials;

(7) the Department of Health and Human Services and the Environmental Protection Agency, as well as several States, have attempted to publicize the potential hazards to school children and employees from exposure to asbestos fibers, but there is no systematic program for identifying hazardous conditions in schools or for remedying those conditions;

(8) because there is no Federal health standard regulating the concentration of asbestos fibers in noncommercial workplace environments such as schools, school employees and students may be exposed to hazardous concentrations of asbestos fibers in the school buildings which they use each day;

(9) without an improved program of information distribution, technical and scientific assistance, and financial support, many local educational agencies and States will not be able to mitigate the potential asbestos hazards in their schools; and

(10) the effective regulation of interstate commerce for the protection of the public health requires the establishment of programs under this chapter to identify and mitigate hazards from exposure to asbestos fibers and materials emitting such fibers.

(b) It is the purpose of this chapter to—

(1) direct the Secretary of Education to establish a task force to assist States and local educational agencies to ascertain the extent of the danger to the health of school children and employees from asbestos materials in schools;

(2) require States receiving administrative funds for any applicable program (as defined under section 1221(c)(1)(A)[1] of this title) to

[1] See References in Text note below.

prepare a plan describing the manner in which information relating to programs established under this chapter shall be distributed to local educational agencies;

(3) provide scientific, technical, and financial assistance to State educational agencies and local educational agencies to enable them to conduct an asbestos detection program to identify asbestos hazards in schools;

(4) provide loans to local educational agencies for the mitigation of asbestos hazards which constitute an imminent hazard to the health and safety of school children and employees; and

(5) assure that no employee of any local educational agency suffers any disciplinary action as a result of calling attention to potential asbestos hazards which may exist in schools.

(Pub. L. 96–270, § 2, June 14, 1980, 94 Stat. 487.)

REFERENCES IN TEXT

Section 1221 of this title, referred to in subsec. (b)(2), was amended generally by Pub. L. 103–382, title II, § 211, Oct. 20, 1994, 108 Stat. 3912, and, as so amended, no longer contains a subsec. (c)(1)(A). However, the term ''applicable program'' is defined in subsec. (c)(1) of that section.

SHORT TITLE

Section 1 of Pub. L. 96–270 provided that: ''This Act [enacting this chapter and amending section 1411 of this title] may be cited as the 'Asbestos School Hazard Detection and Control Act of 1980'.''

§ 3602. Asbestos Hazards School Safety Task Force

(a) Establishment; composition; membership; chairman; appointment; vacancies

(1) There is established a task force to be known as the Asbestos Hazards School Safety Task Force (hereinafter in this chapter referred to as ''Task Force''). The Task Force shall be composed of ten members, who shall be appointed by the Secretary within 30 days after June 14, 1980, as follows:

(A) One representative of the Department of Education, recommended by the Secretary of Education.

(B) One representative of the Department of Health and Human Services.

(C) One representative of the National Cancer Institute.

(D) One representative of the Environmental Protection Agency, recommended by the Administrator of such agency.

(E) One representative of the National Institute of Environmental Health Sciences.

(F) One representative of the Occupational Safety and Health Administration, recommended by the Secretary of Labor.

(G) Four representatives from among organizations concerned with education and health.

Members of the Task Force shall be individuals who have knowledge of the medical problems associated with exposure to asbestos, or individuals who are familiar with procedures for the following activities: the containment or removal of asbestos from buildings; the replacement of asbestos materials removed from school buildings with other appropriate building materials; and the restoration of such buildings to conditions comparable to those existing before such containment or removal was carried out.

(2) The Secretary shall designate a chairman of the Task Force from among its members.

(3) Members shall be appointed for the life of the Task Force. Any vacancy in the Task Force shall be filled in the same manner in which the original appointment was made.

(b) Meetings; quorum; hearings

(1) The Task Force shall meet, no later than 30 days after the appointment of its members, at the call of the chairman of the Task Force.

(2) Five members of the Task Force shall constitute a quorum for purposes of conducting the business of the Task Force, but a lesser number may hold hearings.

(c) Compensation; travel expenses

(1) Members of the Task Force who are not full-time officers or employees of the Federal Government shall receive compensation at a rate determined by the Secretary, but not to exceed the daily equivalent of the maximum annual rate of pay in effect for grade GS–16 of the General Schedule, for each day (including traveltime) during which they are engaged in the performance of the duties of the Task Force.

(2) While away from their homes or regular places of business in the performance of the duties of the Task Force, all members of the Task Force shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5.

(d) Availability of Department of Education personnel; use of mails

(1) Upon request of the Task Force, the Secretary shall make available to the Task Force personnel of the Department of Education to assist the Task Force in carrying out its duties.

(2) The Task Force may use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States.

(e) Duties

The duties of the Task Force shall include—

(1) the compilation of medical, scientific, and technical information explaining—

(A) the health and safety hazards associated with asbestos materials; and

(B) the means of identifying, sampling, and testing materials suspected of emitting asbestos fibers;

(2) the distribution of the information described in paragraph (1) (in any appropriate form such as pamphlets, reports, or instructions) to State educational agencies and to local educational agencies for the purpose of assisting such agencies in carrying out activities described in this chapter;

(3) the review of applications for grants and loans under sections 3604 and 3605 of this title, and the submission to the Secretary of recommendations respecting the approval or disapproval of such applications;

(4) the review of any guidelines established by the Environmental Protection Agency for identifying those schools in which exposure to

asbestos fibers constitutes a health problem and for taking appropriate corrective actions at such schools, in order to determine whether any modifications of such guidelines should be recommended to the Secretary under paragraph (5); and

(5) providing the Secretary with assistance in formulating standards and procedures under section 3606 of this title by—

(A) submitting to the Secretary relevant information concerning the results of the review made under paragraph (4) of this subsection; and

(B) recommending such modifications to the guidelines referred to in such paragraph as the Task Force considers appropriate.

In carrying out its duties under this subsection, the Task Force shall avoid, to the maximum extent practicable, duplicating similar activities undertaken by the Environmental Protection Agency.

(f) Termination

The Task Force shall cease to exist at the end of the 180-day period beginning on the date that the authority of the Secretary to make loans under section 3605 of this title has expired.

(Pub. L. 96–270, § 3, June 14, 1980, 94 Stat. 488.)

REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, § 101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3606 of this title.

§ 3603. State plan

(a) Submission by State educational agency receiving administrative funds for programs; contents

Not later than six months after June 14, 1980, the State educational agency of any State which receives administrative funds for any applicable program (as defined under section 1221(c)(1)(A)[1] of this title) shall submit to the Secretary a plan which—

(1) describes the manner in which the State, not later than nine months after June 14, 1980, shall distribute to local educational agencies within that State's jurisdiction information describing—

(A) the programs established under this chapter;

(B) the health hazards associated with exposure to asbestos fibers; and

(C) the procedures established by the Secretary under section 3606 of this title for carrying out activities under programs under this chapter, and such other relevant information regarding such activities as the State considers desirable;

(2) contains a general description of the content of the information to be distributed in accordance with paragraph (1) and provides assurances that the State shall continually revise such information and distribute such revised material to local educational agencies to ensure that such agencies have available to them the most recent material available with regard to the matters referred to in paragraph (1);

(3) describes the procedures to be used by the State for maintaining records on—

(A) the presence of asbestos materials in school buildings of local educational agencies;

(B) the asbestos detection, containment, or removal activities conducted by local educational agencies (including activities relating to the replacement of the asbestos materials removed from school buildings with other appropriate building materials); and

(C) repairs made to restore school buildings to conditions comparable to those existing before the containment or removal activities referred to in subparagraph (B) were undertaken; and

(4) designates a State agency or other administrative unit with the responsibility for submitting to the Secretary the reports described in subsection (b) of this section and provides assurances that such agency or unit shall carry out the duties specified under subsection (b) of this section.

(b) Reporting requirements respecting plan implementation

Not later than six months after the submission of the plan described in subsection (a) of this section, and each six months thereafter during the two-year period beginning on June 14, 1980, the State agency or unit designated under paragraph (4) of subsection (a) of this section shall submit to the Secretary a report which describes the actions taken by the State in accordance with its plan under such subsection.

(Pub. L. 96–270, § 4, June 14, 1980, 94 Stat. 490.)

REFERENCES IN TEXT

Section 1221 of this title, referred to in subsec. (a), was amended generally by Pub. L. 103–382, title II, § 211, Oct. 20, 1994, 108 Stat. 3912, and, as so amended, no longer contains a subsec. (c)(1)(A). However, the term ''applicable program'' is defined in subsec. (c)(1) of that section.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3606 of this title.

§ 3604. Asbestos hazards detection program

(a) Grants to local and State educational agencies for Federal share; duration of granting authority; amount of Federal share

(1)(A) The Secretary may make grants to local educational agencies for the Federal share of the costs of carrying out an asbestos detection program meeting the standards established by the Secretary under section 3606(a)(1) of this title. Grants may be made under this section only during the two-year period beginning on June 14, 1980.

(B) The Secretary may make grants to State educational agencies for the Federal share of the

[1] See References in Text note below.

costs of carrying out any asbestos detection program if—

(i) the State, through the State educational agency or some other appropriate State agency, is making grants to local educational agencies for asbestos hazard detection programs, and

(ii) such programs meet the standards established by the Secretary under section 3606(a)(1) of this title.

(C) Grants may be made under this section only during the two-year period beginning after June 14, 1980.

(2) Subject to the second sentence of this paragraph, the Federal share of the costs referred to in paragraph (1) shall be 50 percent. Upon a determination by the Secretary that an applicant has limited fiscal resources and would be unable to participate in the program under this section without receiving from the Federal Government, as its Federal share of such costs, an amount greater than the amount permitted under the first sentence of this paragraph, the Secretary may increase the Federal share which may be paid to such applicant by such amount as the Secretary considers appropriate to permit the applicant to participate in the program.

(b) Application for grants; procedures applicable for approval; programs completed before January 1, 1976; determinations respecting amount of grant

(1) No grant may be made under this section unless an application has been submitted to and approved by the Secretary, after consultation with the Task Force. The Secretary may not approve an application unless the application—

(A) contains a description of the methods to be used by the local educational agency, or in the case of an application by the State educational agency the methods to be used by the local educational agencies receiving grants from the State, to determine whether hazardous concentrations of asbestos fibers or materials emitting such fibers exist in school buildings under the jurisdiction of such agency;

(B) contains an estimate of the total cost of the detection program, including such detailed descriptions of the costs of each component of the program as the Secretary may require;

(C) designates the party which shall conduct the testing for the detection program and describes such party's qualifications for conducting such testing;

(D) contains assurances that the program shall be carried out in accordance with standards established by the Secretary under section 3606(a)(1) of this title and that any party employed to conduct such testing shall satisfy the competency standards established under such section; and

(E) contains such other information or assurances as the Secretary may require.

(2) The Secretary shall provide the Task Force with a copy of any application submitted to the Secretary under paragraph (1).

(3) No grant may be awarded by the Secretary under this section for asbestos hazards detection programs conducted before June 14, 1980, unless the applicant has submitted an application to the Secretary—

(A) containing the information required under paragraph (1); and

(B) providing assurances that any program for which a grant is sought was carried out in a manner which substantially conforms to the requirements established by the Secretary under section 3606(a)(1) of this title.

No grant may be awarded under this section for any asbestos hazards detection program completed before January 1, 1976.

(4) After reviewing the application submitted under this section, together with any recommendations made by the Task Force, the Secretary shall determine the amount of any grant to be awarded under this section. Funds may be awarded by the Secretary for the administrative costs incurred in the preparation and supervision of the asbestos detection program and for the following activities:

(A) Visual inspections of school buildings.

(B) The sampling of building and insulation materials.

(C) Appropriate tests to determine the level of asbestos content in suspected materials, and tests determined to be essential to detect the likelihood of imminent danger to persons within school buildings.

(c) Reporting requirements for recipients

Local and State educational agencies receiving grants under this section shall file a report with the Secretary, not later than 120 days after the award of such grant, describing the detection activities which were undertaken, the results of the asbestos detection program, and plans for mitigating any imminent hazards which were detected by the testing. The report shall include a detailed accounting of the funds used to carry out the detection program.

(d) Availability of appropriated funds for education and technical assistance programs

During the period in which grants may be made under this section, not more than 20 percent of the funds appropriated to carry out this section may be made available by the Secretary to the Task Force to conduct education and technical assistance programs related to the detection of asbestos hazards in school buildings and the implementation of appropriate actions to mitigate such hazards.

(Pub. L. 96–270, § 5, June 14, 1980, 94 Stat. 491.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3602, 3607, 3611 of this title.

§ 3605. Asbestos Hazards Control Loan Program

(a) Establishment; administration; loans to local educational agencies for share of project costs; project criteria; increase in amount of loans

(1) There is established within the Department of Education an Asbestos Hazards Control Loan Program (hereinafter in this chapter referred to as the ''Loan Program''), which shall be administered by the Secretary in accordance with this section.

(2) The Secretary may make loans under this section to local educational agencies in an

amount equal to 50 percent of the costs of carrying out projects for—

(A) the containment or removal of any materials containing asbestos in school buildings in which such materials pose an imminent hazard to the health and safety of children or employees;

(B) the replacement of the asbestos materials removed from school buildings with other appropriate building materials; and

(C) making repairs which the Secretary determines to be necessary to restore school buildings to conditions comparable to those existing before containment or removal activities were undertaken under subparagraph (A).

Loans may be made under this section only for projects affecting more than 2,500 square feet of surface and in which the asbestos material to be contained or removed consists of a minimum asbestos level, as determined by the Secretary under section 3606(a)(2) of this title.

(3) If the Secretary determines that an applicant has limited fiscal resources and would be unable to carry out the projects described in paragraph (2) without receiving a loan under this section for an amount greater than the amount permitted under such paragraph, the Secretary may increase the amount of the loan payable to such applicant to an amount the Secretary considers appropriate to enable the applicant to carry out such projects.

(b) Loan agreements; required terms; additional terms and conditions

Loans under this section shall be made pursuant to loan agreements which shall provide for the following terms:

(1) The loan shall not bear any interest except as otherwise provided under paragraph (5).

(2) The loan shall have a maturity period of not more than 20 years (as determined by the Secretary) and shall be repayable during such period at such times and in such amounts as the Secretary may specify in the loan agreement.

(3) Repayment of the loan shall be made to the Secretary of the Treasury for deposit in the general fund of the Treasury.

Such loans shall be subject to such other terms and conditions as the Secretary may establish for the protection of the financial interest of the United States and in furtherance of the purposes of this chapter.

(c) Application for loans; procedures applicable for approval; projects completed before January 1, 1976

(1) No loan may be made under this section unless an application has been submitted to and approved by the Secretary, after consultation with the Task Force, within the two-year period beginning on June 14, 1980. The Secretary may not approve an application unless—

(A) the application contains such information as the Secretary may require, including information describing—

(i) the nature of the asbestos problem for which the loan is sought;

(ii) the asbestos content of the material to be contained or removed by the local educational agency, as determined under preliminary testing which was conducted in accordance with the standards established by the Secretary under section 3606(a)(1) of this title, or, in the case of testing conducted before June 14, 1980, was conducted in a manner which substantially conforms to such standards; and

(iii) the methods which will be used to contain or remove the asbestos materials, in accordance with section 3606(b) of this title, and any other pertinent details relating to the project or projects to be conducted by the applicant (as described in subsection (a)(2) of this section); and

(B) the application contains assurances that—

(i) any employee engaged in any activity to carry out programs under this section shall be notified in writing by the local educational agency conducting the program of the hazards of working with asbestos, and shall be required to utilize all appropriate safety procedures to minimize health risks;

(ii) no child or school employee shall be permitted in the vicinity of any asbestos containment or removal activity; and

(iii) the local educational agency shall pay employees engaged in containment, removal, or replacement activities to carry out programs under this section at reasonable rates of pay, as established by the Secretary on the basis of prevailing wage rates in the location of such work.

(2) The Secretary shall provide the Task Force with a copy of any application submitted to the Secretary under paragraph (1).

(3) No loans may be made by the Secretary under this section for projects described in subsection (a)(2) of this section which commenced before the availability of loans under the Loan Program unless the local educational agency submits to the Secretary an application which—

(A) meets the requirements of paragraph (1); and

(B) contains assurances that any work already completed by the applicant has been carried out in substantial conformity with section 3606(b) of this title.

No loan may be awarded under this section for any project described in subsection (a)(2) of this section which was completed before January 1, 1976.

(d) Reporting requirements for Secretary

During each of the three calendar years after 1980, the Secretary shall submit before February 1 of such year a report to the appropriate committees of the House of Representatives and the Senate, which shall—

(1) describe the number of loans made in the preceding calendar year and specify each applicant for and recipient of a loan;

(2) describe the nature of the asbestos problem of each applicant;

(3) describe the types of programs for which loans were made;

(4) specify the estimated total costs of such programs to the recipients of loans and specify the amount of loans made under the Loan Program; and

(5) specify the number of loan applications which were disapproved during the preceding calendar year and describe the reasons for such disapprovals.

(Pub. L. 96–270, § 6, June 14, 1980, 94 Stat. 492.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3602, 3606, 3607, 3610, 3611 of this title.

§ 3606. Standards and safety procedures

(a) Establishment and distribution to designated State agency or unit; establishment of criteria for loan program eligibility

(1) Within 120 days after the first meeting of the Task Force, and after consultation with the Task Force, the Secretary shall establish and distribute to the State agency or unit designated under section 3603(a)(4) of this title—

(A) procedures for testing the level of asbestos fibers in schools, including safety measures to be followed in conducting such tests;

(B) standards for evaluating (on the basis of such tests) the likelihood of the leakage of asbestos fibers into the school environment; and

(C) standards for determining which contractors are qualified to carry out the testing and evaluation described in this paragraph.

(2) After consulting with the Task Force, the Secretary shall establish criteria to be used for determining eligibility for loans under section 3605 of this title. The criteria shall be based on the assessment of the extent of the health hazards posed by the presence of asbestos fibers in schools, as determined in accordance with standards under paragraph (1)(B) of this subsection.

(b) Establishment of regulations

After reviewing recommendations submitted to the Secretary by the Task Force under section 3602(e)(5) of this title, the Secretary, with the concurrence of the Task Force, shall by regulation establish—

(1) procedures to be used by local educational agencies, in programs for which loans are made under section 3605 of this title, for—

(A) containing and removing asbestos materials in school buildings;

(B) replacing the asbestos materials removed from school buildings with other appropriate building materials; and

(C) restoring such school buildings to conditions comparable to those existing before asbestos containment or removal activities were undertaken; and

(2) standards for determining which contractors are qualified to carry out the activities referred to in paragraph (1).

(c) Avoidance of duplication of similar activities of Environmental Protection Agency

In carrying out his duties under this section, the Secretary shall avoid, to the maximum extent practicable, duplicating similar activities undertaken by the Environmental Protection Agency.

(Pub. L. 96–270, § 7, June 14, 1980, 94 Stat. 494.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3602, 3603, 3604, 3605 of this title.

§ 3607. Recovery of costs by United States

(a) Suit by United States on behalf of grant or loan recipient for recovery of costs of activities of recipient; proceeds of judgment

(1) As a condition of the award of any grant under section 3604 of this title or loan under section 3605 of this title, the recipient of any such grant or loan shall permit the United States to sue on behalf of such recipient any person determined by the Attorney General to be liable to the recipient for the costs of any activities undertaken by the recipient under such sections.

(2) The proceeds from any judgment recovered in any suit brought by the United States under paragraph (1) (or, if the recipient files a similar suit on its own behalf, the proceeds from any judgment recovered by the recipient in such suit) shall be used to repay to the United States, to the extent that the proceeds are sufficient to provide for such repayment, an amount equal to the sum of—

(A) the amount of any grant made to the recipient under section 3604 of this title;

(B) the amount outstanding on any loan made to the recipient under section 3605 of this title; and

(C) an amount equal to the interest which would have been charged on such loan were the loan made by a commercial lender at prevailing interest rates (as determined by the Secretary).

(b) Investigation and report by Attorney General respecting feasibility of recovery of costs from any person determined by Attorney General to be liable

The Attorney General shall conduct an investigation to determine whether, by using all available means, the United States should or could recover, from any person determined by the Attorney General to be liable for such costs, the amounts expended by the United States to carry out this chapter. Within one year after June 14, 1980, the Attorney General shall submit to the Congress a report containing the results of the study, together with any appropriate recommendations.

(c) Expeditious proceedings by Attorney General

If the Attorney General determines in the report under subsection (b) of this section that the United States should seek to recover the amounts expended by the United States to carry out this chapter, the Attorney General shall proceed in an expeditious manner to recover such amounts from the persons referred to in subsection (b) of this section.

(Pub. L. 96–270, § 8, June 14, 1980, 94 Stat. 495.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3609 of this title.

§ 3608. Employee protection

No State or local educational agency receiving assistance under this chapter may discharge any employee or otherwise discriminate against any employee with respect to the employee's compensation, terms, conditions, or privileges of employment because the employee has brought

to the attention of the public information concerning any asbestos problem in the school buildings within the jurisdiction of such agency.

(Pub. L. 96–270, § 9, June 14, 1980, 94 Stat. 496.)

§ 3609. Retained rights

Except as otherwise provided in section 3607 of this title, nothing in this chapter shall—

(1) affect the right of any party to seek legal redress in connection with the purchase or installation of asbestos materials in schools or any claim of disability or death related to exposure to asbestos in a school setting; or

(2) affect the rights of any party under any other law.

(Pub. L. 96–270, § 10, June 14, 1980, 94 Stat. 496.)

§ 3610. Definitions

For purposes of this chapter—

(1) the term ''asbestos'' means—

(A) chrysotile, amosite, or crocidolite; or

(B) in fibrous form, tremolite, anthophyllite, or actinolite;

(2) the term ''Attorney General'' means the Attorney General of the United States;

(3) the term ''imminent hazard to the health and safety'' means, for purposes of section 3605 of this title, that an asbestos material is, according to standards established by the Secretary, friable or easily damaged, or within easy reach of students or otherwise susceptible to damage (including damage from water or air circulation) which could result in the dispersal of asbestos fibers into the school environment;

(4) the term ''local educational agency'' means—

(A) any local educational agency as defined in section 198(a)(10)[1] of the Elementary and Secondary Education Act of 1965;

(B) the governing authority of any nonprofit elementary or secondary school;

(5) the term ''nonprofit elementary or secondary school'' means—

(A) any elementary or secondary school (as defined in section 198(a)(7)[1] of the Elementary and Secondary Education Act of 1965) owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual, and

(B) any school of any agency of the United States;

(6) the term ''school buildings'' means—

(A) structures suitable for use as classrooms, laboratories, libraries, school eating facilities, or facilities used for the preparation of food;

(B) any gymnasium or other facility which is specially designed for athletic or recreational activities for an academic course in physical education;

(C) other facilities used for the instruction of students, for research, or for the administration of educational or research programs; and

(D) maintenance, storage, or utility facilities essential to the operation of the facilities described in subparagraphs (A) through (C) of this paragraph;

(7) the term ''Secretary'' means the Secretary of Education, or his designee;

(8) the term ''State'' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, the Bureau of Indian Affairs, and the Office of Overseas Schools of the Department of Defense; and

(9) the term ''State educational agency'' has the same meaning given such term by section 198(a)(17)[1] of the Elementary and Secondary Education Act of 1965.

(Pub. L. 96–270, § 11, June 14, 1980, 94 Stat. 496.)

REFERENCES IN TEXT

Section 198 of the Elementary and Secondary Education Act of 1965, referred to in pars. (4)(A), (5)(A), and (9), is section 198 of Pub. L. 89–10, title I, as added by Pub. L. 95–561, title I, § 101(a), Nov. 1, 1978, 92 Stat. 2198, which was classified to section 2854 of this title prior to the general amendment of Pub. L. 89–10 by Pub. L. 100–297, Apr. 28, 1988, 102 Stat. 140. For definitions, see section 8801 of this title.

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

§ 3611. Authorization of appropriations

(a) Sums available during obligation period for asbestos detection and asbestos hazards control loan programs

(1) There are authorized to be appropriated—

(A) for the asbestos detection program under section 3604 of this title, for the fiscal year ending September 30, 1981, and for the succeeding fiscal year, a total of not more than $22,500,000; and

(B) for the asbestos hazards control loan program under section 3605 of this title, not more than $75,000,000 for the fiscal year ending September 30, 1981, and $75,000,000 for the fiscal year ending September 30, 1982.

(2) Sums appropriated under paragraph (1) of this subsection shall remain available for obligation until September 30, 1983.

(b) Programs automatically eligible for contingent extension

Programs under this chapter shall be considered automatically eligible for the one-year contingent extension under section 1226a[1] of this title.

(c) Greatest financial need as basis for approval of applications in case of insufficient funds

If funds appropriated to carry out this chapter are insufficient to pay the total amount required to make all the grants and loans authorized under this chapter, the Secretary shall establish criteria to be used in determining which

[1] See References in Text note below.

[1] See References in Text note below.

applicants for grants or loans under this chapter have the greatest financial need for receiving funds under this chapter and shall make determinations regarding the approval of applications for such grants or loans in accordance with such criteria.

(d) Authority of Secretary dependent on specific appropriations

Notwithstanding any other provision of this chapter, the authority of the Secretary to enter into agreements, or to make payments, under this chapter shall be effective for any fiscal year only to the extent or in such amounts as are provided in appropriation Acts.

(Pub. L. 96–270, § 12, June 14, 1980, 94 Stat. 497.)

REFERENCES IN TEXT

Section 1226a of this title, referred to in subsec. (b), was in the original a reference to section 414 of the General Education Provisions Act. Section 414 of that Act was renumbered as section 422 by Pub. L. 103–382, title II, § 212(b)(1), Oct. 20, 1994, 108 Stat. 3913, and is classified to section 1226a of this title.

CHAPTER 50—NATIONAL CENTER FOR THE STUDY OF AFRO-AMERICAN HISTORY AND CULTURE

Sec.
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§ 3701. National Afro-American History and Culture Commission

(a) Establishment and membership

There is established a commission to be known as the National Afro-American History and Culture Commission (hereinafter in this chapter referred to as the ''Commission'') which shall be composed of fifteen members, as specified in section 3702 of this title.

(b) Duties

The Commission shall have the following duties:

(1) The Commission shall be responsible for the development of a definitive plan for the construction and operation of the National Center for the Study of Afro-American History and Culture and shall submit the plan, together with any recommendations for additional legislation, to the President of the United States and the Congress not later than twenty-four months after October 10, 1980. The plan shall include, but not be limited to, identification of—

(A) the main objectives to be achieved by the establishment, development, and operation of the National Center for the Study of Afro-American History and Culture;

(B) the types of uses, both public and private, to be accommodated by such a center;

(C) the criteria and recommendations for the design and appearance of such a center;

(D) the proposed ownership and operation of the center;

(E) the criteria and recommendations for interpretive, cultural, and educational programs and uses of the center;

(F) the areas where cooperative agreements might be developed between the center and Afro-American institutions, organizations, and universities to enhance their programs and projects relating to the knowledge, preservation, and presentation of the history and culture of Afro-Americans;

(G) the estimates of costs, both public and private, for implementing the plan; and

(H) the procedures to be used in implementing the plan.

(2)(A) The Commission shall solicit subscriptions of funds from private and public sources to help meet the costs of carrying out its duties under this section; the costs of the construction, furnishing, and operation of the center; the costs of research programs and research staff positions, and reasonable administrative costs which may include, subject to the availability of funds, payment to members of the Commission of travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5. Any funds so received by the Commission shall be placed in a special deposit account with the Treasurer of the United States, and may be expended by the Commission only to meet the costs specified in this subparagraph.

(B) The General Services Administration, the Smithsonian Institution, and other agencies of the Government may donate or loan to the Commission for the purposes of the center any works of art, artifacts, or other materials under their control.

(c) Acquisition and disposal of property

For the purpose of carrying out this chapter, the Commission may—

(1) acquire by gift, purchase with appropriated or donated funds (including funds from State or local sources), transfer from any Federal or State agency, exchange, or otherwise, suitable land (together with any buildings or other improvements thereon) and interest in land in the vicinity of Wilberforce, Ohio, for the location of the headquarters of the center;

(2) borrow or acquire by gift, purchase with appropriated or donated funds (including funds from State or local sources), or otherwise, any other real or personal property necessary for the establishment and operation of the center; and

(3) sell, exchange, or otherwise dispose of any property acquired under this subsection and designate any proceeds from such disposal for the benefit of the center.

(Pub. L. 96–430, title II, § 202, Oct. 10, 1980, 94 Stat. 1846.)

SHORT TITLE

Section 201 of title II of Pub. L. 96–430 provided that: ''This title [enacting this chapter] may be cited as the 'National Center for the Study of Afro-American History and Culture Act'.''

§ 3702. Organization of Commission

(a) Membership

The Commission shall be composed of fifteen members as follows:

(1) The Secretary of the Interior (or his designee).

(2) The Secretary of Education (or his designee).

(3) The Librarian of Congress (or his designee).

(4) The President of the Association for the Study of Afro-American Life and History.

(5) The presidents of Wilberforce University and Central State University in Ohio.

(6) Nine members appointed by the President, who are especially qualified to serve on the Commission by reason of their background and experience. No more than two members appointed under this paragraph shall be from any one State.

(b) Terms of office

Subject to subsection (c) of this section, the members of the Commission specified in paragraphs (1) through (5) of subsection (a) of this section shall serve for the life of the Commission. The members of the Commission appointed under paragraph (6) of such subsection shall serve for terms of four years, except that of the members first appointed—

(1) three shall be appointed for terms of one year;

(2) three shall be appointed for terms of two years; and

(3) three shall be appointed for terms of four years;

as designated by the President at the time of appointment.

(c) Membership continuation

If any member of the Commission who was appointed to the Commission under paragraphs (1) through (5)[1] as an officer designated under such paragraphs leaves such office, such member may continue as a member of the Commission for not longer than the thirty-day period beginning on the date he leaves that office.

(d) Vacancies

(1) Any vacancy in the Commission shall be filled in the same manner in which the original appointment was made.

(2) Any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term. Members may be reappointed.

(e) Quorum

Six members of the Commission shall constitute a quorum.

[1] So in original. Probably should be followed by ''of subsection (a) of this section''.

(f) Voting

The Commission shall act by affirmative majority vote.

(g) Officers

The Commission shall elect a chairman and other officers from among its members to serve for terms established by the Commission.

(h) Meetings

The Commission shall meet at the call of the chairman or a majority of its members, but not less than two times each year. The headquarters of the Commission shall be at Wilberforce, Ohio, and the Commission shall conduct its meetings in such city unless circumstances otherwise require.

(i) Seal; bylaws; rules and regulations

The Commission may adopt an official seal which shall be judicially noticed and may make such bylaws, rules, and regulations as it considers necessary to carry out its functions under this chapter.

(j) Compensation

Members of the Commission shall serve without pay.

(k) Temporary services

The Commission may procure, subject to the availability of funds, temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5.

***(l)* Personnel details**

Upon request of the Commission, and subject to the availability of funds, the head of any Federal agency may detail to the Commission on a reimbursable basis any of the personnel of such agency to assist the Commission in carrying out its duties under this chapter.

(m) Administrative support services

The Administrator of the General Services Administration shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request to carry out its duties under this chapter.

(Pub. L. 96–430, title II, § 203, Oct. 10, 1980, 94 Stat. 1847.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3701 of this title.

§ 3703. Report to Congress

On the first January 1 occurring after October 10, 1980, and on each subsequent January 1, the Commission shall submit to appropriate committees of the Congress a report which contains a detailed statement of the financial transactions of the Commission and the activities undertaken by the Commission during the previous year. The report shall contain such other appropriate information as the committees to whom the report is submitted may from time to time request.

(Pub. L. 96–430, title II, § 204, Oct. 10, 1980, 94 Stat. 1848.)

CHAPTER 51—ELEMENTARY AND SECONDARY EDUCATION BLOCK GRANT

SUBCHAPTER I—FINANCIAL ASSISTANCE TO MEET SPECIAL EDUCATIONAL NEEDS OF DISADVANTAGED CHILDREN

§§ 3801 to 3808. Repealed. Pub. L. 100–297, title I, § 1003(a), Apr. 28, 1988, 102 Stat. 293

Section 3801, Pub. L. 97–35, title V, § 552, Aug. 13, 1981, 95 Stat. 464, set out declaration of policy for program of financial assistance to meet the special educational needs of disadvantaged children.

Section 3802, Pub. L. 97–35, title V, § 553, Aug. 13, 1981, 95 Stat. 464, related to duration of assistance.

Section 3803, Pub. L. 97–35, title V, § 554(a)–(c), Aug. 13, 1981, 95 Stat. 464, related to applicability of title I of the Elementary and Secondary Education Act of 1965.

Section 3804, Pub. L. 97–35, title V, § 555, Aug. 13, 1981, 95 Stat. 465; Pub. L. 98–211, § 1, Dec. 8, 1983, 97 Stat. 1412; Pub. L. 98–312, § 5, June 12, 1984, 98 Stat. 234, related to programs authorized for assistance.

Section 3805, Pub. L. 97–35, title V, § 556, Aug. 13, 1981, 95 Stat. 465; Pub. L. 98–211, §§ 2–4, Dec. 8, 1983, 97 Stat. 1412–1414, related to approval of applications.

Section 3806, Pub. L. 97–35, title V, § 557, Aug. 13, 1981, 95 Stat. 466; Pub. L. 98–211, § 5, Dec. 8, 1983, 97 Stat. 1415, related to participation of children in private schools.

Section 3807, Pub. L. 97–35, title V, § 558, Aug. 13, 1981, 95 Stat. 468; Pub. L. 98–211, §§ 6–8, Dec. 8, 1983, 97 Stat. 1415, related to general provisions for program of financial assistance to meet the special educational needs of disadvantaged children.

Section 3808, Pub. L. 97–35, title V, § 559, as added Pub. L. 98–211, § 22, Dec. 8, 1983, 97 Stat. 1418, related to national assessment of compensatory education assistance.

SHORT TITLE

Pub. L. 97–35, title V, § 551, Aug. 13, 1981, 95 Stat. 464, provided that subtitle D [§§ 551 to 596] of title V of Pub. L. 97–35 was to be cited as the ''Education Consolidation and Improvement Act of 1981'', prior to repeal by Pub. L. 100–297, title I, § 1003(a), Apr. 28, 1988, 102 Stat. 293.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1988, see section 6303 of Pub. L. 100–297, set out as an Effective Date note under section 1201 of this title.

SUBCHAPTER II—CONSOLIDATION OF FEDERAL PROGRAMS FOR ELEMENTARY AND SECONDARY EDUCATION

§§ 3811 to 3816. Repealed. Pub. L. 100–297, title I, § 1003(a), Apr. 28, 1988, 102 Stat. 293

Section 3811, Pub. L. 97–35, title V, § 561, Aug. 13, 1981, 95 Stat. 469; Pub. L. 98–211, § 9(a), Dec. 8, 1983, 97 Stat. 1415, related to statement of purpose of program of consolidating various Federal programs for elementary and secondary education.

Section 3812, Pub. L. 97–35, title V, § 562, Aug. 13, 1981, 95 Stat. 469; Pub. L. 98–211, § 10, Dec. 8, 1983, 97 Stat. 1416, related to authorization of appropriations.

Section 3813, Pub. L. 97–35, title V, § 563, Aug. 13, 1981, 95 Stat. 470; Pub. L. 98–211, § 11, Dec. 8, 1983, 97 Stat. 1416, related to allotment of funds to States.

Section 3814, Pub. L. 97–35, title V, § 564, Aug. 13, 1981, 95 Stat. 470; Pub. L. 98–211, §§ 9(b), 12, Dec. 8, 1983, 97 Stat. 1415, 1416, related to State applications.

Section 3815, Pub. L. 97–35, title V, § 565, Aug. 13, 1981, 95 Stat. 471; Pub. L. 98–211, § 21(a), Dec. 8, 1983, 97 Stat. 1418, related to allocation of funds to local educational agencies.

Section 3816, Pub. L. 97–35, title V, § 566, Aug. 13, 1981, 95 Stat. 471; Pub. L. 98–211, §§ 9(c), 13, Dec. 8, 1983, 97 Stat. 1416, related to local applications.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1988, see section 6303 of Pub. L. 100–297, set out as an Effective Date note under section 1201 of this title.

PART A—BASIC SKILLS DEVELOPMENT

§§ 3821 to 3823. Repealed. Pub. L. 100–297, title I, § 1003(a), Apr. 28, 1988, 102 Stat. 293

Section 3821, Pub. L. 97–35, title V, § 571, Aug. 13, 1981, 95 Stat. 472, related to use of funds for program of basic skills development.

Section 3822, Pub. L. 97–35, title V, § 572, Aug. 13, 1981, 95 Stat. 472, related to State leadership and support services.

Section 3823, Pub. L. 97–35, title V, § 573, Aug. 13, 1981, 95 Stat. 473; Pub. L. 98–211, § 14, Dec. 8, 1983, 97 Stat. 1416, related to school level programs.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1988, see section 6303 of Pub. L. 100–297, set out as an Effective Date note under section 1201 of this title.

PART B—EDUCATIONAL IMPROVEMENT AND SUPPORT SERVICES

§§ 3831, 3832. Repealed. Pub. L. 100–297, title I, § 1003(a), Apr. 28, 1988, 102 Stat. 293

Section 3831, Pub. L. 97–35, title V, § 576, Aug. 13, 1981, 95 Stat. 473, related to statement of purpose for program of educational improvement and support services.

Section 3832, Pub. L. 97–35, title V, § 577, Aug. 13, 1981, 95 Stat. 474, related to authorized activities.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1988, see section 6303 of Pub. L. 100–297, set out as an Effective Date note under section 1201 of this title.

PART C—SPECIAL PROJECTS

§§ 3841, 3842. Repealed. Pub. L. 100–297, title I, § 1003(a), Apr. 28, 1988, 102 Stat. 293

Section 3841, Pub. L. 97–35, title V, § 581, Aug. 13, 1981, 95 Stat. 475, related to statement of purpose for program of special projects.

Section 3842, Pub. L. 97–35, title V, § 582, Aug. 13, 1981, 95 Stat. 475; Pub. L. 97–300, title I, § 183, Oct. 13, 1982, 96 Stat. 1357; Pub. L. 97–313, Oct. 14, 1982, 96 Stat. 1462, related to authorized activities.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1988, see section 6303 of Pub. L. 100–297, set out as an Effective Date note under section 1201 of this title.

PART D—SECRETARY'S DISCRETIONARY FUNDS

§ 3851. Repealed. Pub. L. 100–297, title I, § 1003(a), Apr. 28, 1988, 102 Stat. 293

Section, Pub. L. 97–35, title V, § 583, Aug. 13, 1981, 95 Stat. 476; Pub. L. 98–312, § 4(b), June 12, 1984, 98 Stat. 234; Pub. L. 99–498, title XIV, § 1404, Oct. 17, 1986, 100 Stat. 1599, related to authorization of discretionary program.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1988, see section 6303 of Pub. L. 100–297, set out as an Effective Date note under section 1201 of this title.

PART E—GENERAL PROVISIONS

§§ 3861 to 3863. Repealed. Pub. L. 100–297, title I, § 1003(a), Apr. 28, 1988, 102 Stat. 293

Section 3861, Pub. L. 97–35, title V, § 585, Aug. 13, 1981, 95 Stat. 477, related to funding requirements for pro-

gram of consolidating Federal programs for elementary and secondary education.

Section 3862, Pub. L. 97–35, title V, § 586, Aug. 13, 1981, 95 Stat. 477, related to participation of children enrolled in private schools.

Section 3863, Pub. L. 97–35, title V, § 587, Aug. 13, 1981, 95 Stat. 480, related to repeal of various programs included in consolidation of Federal programs for elementary and secondary education.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1988, see section 6303 of Pub. L. 100–297, set out as an Effective Date note under section 1201 of this title.

SUBCHAPTER III—GENERAL PROVISIONS

§§ 3871 to 3876. Repealed. Pub. L. 100–297, title I, § 1003(a), Apr. 28, 1988, 102 Stat. 293

Section 3871, Pub. L. 97–35, title V, § 591, Aug. 13, 1981, 95 Stat. 480; Pub. L. 98–211, § 15, Dec. 8, 1983, 97 Stat. 1416, related to Federal regulations.

Section 3872, Pub. L. 97–35, title V, § 592, Aug. 13, 1981, 95 Stat. 480; Pub. L. 98–211, § 16, Dec. 8, 1983, 97 Stat. 1417, related to withholding of payments.

Section 3873, Pub. L. 97–35, title V, § 593, Aug. 13, 1981, 95 Stat. 481; Pub. L. 98–211, § 17, Dec. 8, 1983, 97 Stat. 1417, related to judicial review.

Section 3874, Pub. L. 97–35, title V, § 594, Aug. 13, 1981, 95 Stat. 481, related to availability of appropriations.

Section 3875, Pub. L. 97–35, title V, § 595, Aug. 13, 1981, 95 Stat. 481, related to definitions.

Section 3876, Pub. L. 97–35, title V, § 596, Aug. 13, 1981, 95 Stat. 482; Pub. L. 98–211, § 18(a), Dec. 8, 1983, 97 Stat. 1417, related to application of other laws.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1988, see section 6303 of Pub. L. 100–297, set out as an Effective Date note under section 1201 of this title.

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§ 3901. Statement of purpose

It is the purpose of this chapter to improve the quality of mathematics and science teaching and instruction in the United States.

(Pub. L. 98–377, § 2, Aug. 11, 1984, 98 Stat. 1267.)

SHORT TITLE OF 1985 AMENDMENT

Pub. L. 99–159, § 1, Nov. 22, 1985, 99 Stat. 887, provided: ''That this Act [enacting sections 366, 1221e–1c, and 3911 to 3922 of this title, and section 1886 of Title 42, The Public Health and Welfare, amending sections 351a, 351c, 351d, 353, 1134h, 1221e–1b, 1411, 2007, 2311, 2312, 2322, 2323, 2333, 2361 to 2363, 2383, 2392, 2417, 2462, 2464, 2471, 2763, 3902, 3963 to 3973, 3982, 3983, 3985 to 3988, 4003, 4033, 4051, 4053, 4056, and 4059 of this title, sections 1503 and 1753 of Title 29, Labor, and sections 1862 to 1864, 1868 to 1872, 1873, 1874, 1881a, 1882, and 1885 to 1885d of Title 42, omitting sections 3911 to 3915, 3921 to 3923, 3931 to 3933, 3941, and 3951 to 3954 of this title, repealing sections 1873a and 1884 of Title 42, enacting provisions set out as notes under sections 351f, 1087bb, 1411, and 2311 of this title and section 1861 of Title 42, and amending provisions set out as notes under sections 1087bb and 2301 of this title and sections 1861 and 1882 of Title 42] may be cited as the 'National Science, Engineering, and Mathematics Authorization Act of 1986'.''

SHORT TITLE

Section 1 of Pub. L. 98–377 provided: ''That this Act [enacting this chapter] may be cited as the 'Education for Economic Security Act'.''

Part A of title III of Pub. L. 98–377, as amended, which enacted part A of subchapter III of this chapter, is known as ''Partnerships in Education for Mathematics, Science, and Engineering Act'', see note set out under section 3981 of this title.

Title V of Pub. L. 98–377, which enacted subchapter V of this chapter, is known as ''Asbestos School Hazard Abatement Act of 1984'', see note set out under section 4011 of this title.

Title VI of Pub. L. 98–377, which enacted subchapter VI of this chapter, is known as ''Excellence in Education Act'', see note set out under section 4031 of this title.

Title VIII of Pub. L. 98–377, which enacted subchapter VIII of this chapter, is known as ''The Equal Access Act'', see note set out under section 4071 of this title.

Title IX of Pub. L. 98–377, which enacted subchapter IX of this chapter, is known as the ''Star Schools Program Assistance Act'', see note set out under section 4081 of this title.

§ 3902. Definitions

For the purpose of this chapter—

(1) The term ''area vocational education school'' has the same meaning given that term under section 2471(3)[1] of this title..[2]

(2) The term ''Director'' means the Director of the National Science Foundation.

(3) The term ''elementary school'' has the same meaning given that term under section 198(a)(7)[1] of the Elementary and Secondary Education Act of 1965.

(4) The term ''Governor'' means the chief executive of a State.

(5) The term ''Foundation'' means the National Science Foundation.

(6) The term ''institution of higher education'' has the same meaning given that term by section 1141(a) of this title.

(7) The term ''local educational agency'' has the same meaning given that term under section 198(a)(10)[1] of the Elementary and Secondary Education Act of 1965.

(8) The term ''secondary school'' has the same meaning given that term under section 198(a)(7)[1] of the Elementary and Secondary Education Act of 1965.

(9) The term ''Secretary'' means the Secretary of Education.

(10) The term ''State'' means each of the several States, the District of Columbia, the

[1] See References in Text note below.

[2] So in original.

Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands.

(11) The term ''State agency for higher education'' means the State board of higher education or other agency or officer primarily responsible for the State supervision of higher education, or, if there is no such officer or agency, an officer or agency designated for the purpose of this chapter[1] by the Governor or by State law.

(12) The term ''State educational agency'' has the meaning given that term under section 198(a)(17)[1] of the Elementary and Secondary Education Act of 1965.

(Pub. L. 98–377, §3, Aug. 11, 1984, 98 Stat. 1267; Pub. L. 99–159, title II, §221, Nov. 22, 1985, 99 Stat. 897.)

REFERENCES IN TEXT

Section 2471(3) of this title, referred to in par. (1), was redesignated section 2471(4) of this title by Pub. L. 101–392, title V, §502, Sept. 25, 1990, 104 Stat. 834.

Section 198 of the Elementary and Secondary Education Act of 1965, referred to in pars. (3), (7), (8), and (12), is section 198 of Pub. L. 89–10, title I, as added by Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2198, which was classified to section 2854 of this title prior to the general amendment of Pub. L. 89–10 by Pub. L. 100–297, Apr. 28, 1988, 102 Stat. 140. For definitions, see section 8801 of this title.

This chapter, referred to in par. (11), was in the original ''this title'' and has been translated as if the reference was to ''this Act'' to reflect the probable intent of Congress inasmuch as this section is not part of a title of Pub. L. 98–377.

AMENDMENTS

1985—Par. (1). Pub. L. 99–159 substituted reference to section 2471(3) of this title for reference to section 195(2) of the Vocational Education Act of 1965.

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

SUBCHAPTER I—NATIONAL SCIENCE FOUNDATION SCIENCE AND ENGINEERING EDUCATION

§ 3911. Congressional declaration of policy

(a) The Congress declares that the science and engineering education responsibilities of the National Science Foundation are—

(1) to improve the quality of instruction in the fields of mathematics, science, and engineering;

(2) to support research, fellowships, teacher-faculty-business exchange programs in mathematics, science, and engineering;

(3) to improve the quality and availability of instrumentation for mathematics, science, and engineering instruction;

(4) to encourage partnerships in education between local and State education agencies, business and industry, colleges and universities, and cultural and professional institutions and societies; and

(5) to improve the quality of education at all levels in the fields of mathematics, science, and engineering.

(b) In exercising its responsibilities to strengthen scientific and engineering research potential and science and engineering education programs at all levels, the Foundation shall avoid undue concentration of support for research and education activities.

(Pub. L. 98–377, title I, §101, as added Pub. L. 99–159, title II, §201, Nov. 22, 1985, 99 Stat. 893.)

PRIOR PROVISIONS

A prior section 3911, Pub. L. 98–377, title I, §101, Aug. 11, 1984, 98 Stat. 1268, related to grants for teacher institutes, prior to the general revision of this subchapter by section 201 of Pub. L. 99–159. See section 3913 of this title.

UNDERGRADUATE SCIENCE IMPROVEMENT

Pub. L. 100–570, title I, §112, Oct. 31, 1988, 102 Stat. 2870, provided that:

''(a) The Congress finds that the support of undergraduate science and engineering education is a critical component in a comprehensive national policy intended to ensure the Nation's future supply of scientists and engineers.

''(b) In accordance with the provisions of this Act [see Tables for classification], the Foundation shall support undergraduate science and engineering activities in instrumentation and laboratory improvement, undergraduate faculty enhancement, undergraduate research opportunities, undergraduate curriculum development, and efforts to encourage the participation of women, minorities, and the disabled in such fields.

''(c) In carrying out the provisions of this section, the Foundation shall take into account the special needs of two-year and four-year colleges and universities.''

§ 3912. Functional objectives; uses of funds

(a) In carrying out its science and engineering education responsibilities, the Foundation shall have the following functional objectives: public understanding of science and technology, faculty enhancement, student education and training, instructional development and instrumentation, and materials development and dissemination.

(b) Funds under this subchapter shall, consistent with such functional objectives, be used for—

(1) enhancement of public understanding of science and engineering through informal education activities using a variety of mediums such as broadcasting, museums, clubs, and amateur science societies;

(2) development of new science and engineering faculty resources and talents;

(3) enhancement of the quality of science and engineering instruction in colleges of teacher education;

(4) development of four-year college faculty and instructors in high technology fields;

(5) development of two-year community college faculty and instructors especially in high technology fields;

(6) development of precollege mathematics, science and engineering education and training;

(7) encouragement of potential students, including underrepresented and underserved populations, to pursue careers in mathematics, science, engineering, and critical foreign languages;

(8) development of instructional instrumentation and systems for postsecondary tech-

nical, engineering, and scientific education; and

(9) development of science, engineering, and education networks to aid in the development and dissemination of successful curricula, methods, and materials.

(Pub. L. 98–377, title I, § 102, as added Pub. L. 99–159, title II, § 201, Nov. 22, 1985, 99 Stat. 894.)

PRIOR PROVISIONS

A prior section 3912, Pub. L. 98–377, title I, § 102, Aug. 11, 1984, 98 Stat. 1268, related to submission, contents, etc., of applications, prior to the general revision of this subchapter by section 201 of Pub. L. 99–159.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3916 of this title.

§ 3913. Teacher institutes

(a) Authorization to make competitive grants; covered institutions, businesses, etc.; purpose

The Foundation shall, in accordance with the provisions of this subchapter, make competitive grants to institutions of higher education, businesses, nonprofit private organizations (including schools), local education agencies, professional engineering and scientific associations, museums, libraries, public broadcasting entities (as defined in section 397(11) of title 47), and appropriate State agencies to support institutes and workshops for supervisors and teachers in public and private elementary and secondary schools for the purpose of improving the subject knowledge and teaching skills of such teachers in the areas of mathematics and science.

(b) Equitable distribution of grants; awards in each State

In making grants under this section, the Foundation shall assure that there is an equitable distribution among States of institutes established and operated with funds made available under this section. The Foundation shall award not less than one institute in each State, except that the Foundation may waive this requirement if there is no proposal from a State which meets the requirements of this subchapter. Proposals which exceed $300,000 in any fiscal year incorporating the services or resources of more than two entities in the design and operation of the institute, may be funded at the discretion of the Director of the Foundation.

(c) Cooperation of advanced technology businesses and other businesses

Institutes assisted under this subchapter may, to the extent possible, involve the cooperation of advanced technology businesses and other businesses which are able to supply assistance in the teaching of mathematics and science.

(d) Requirement of involvement in planning and development

In making grants under this subchapter, the Foundation shall require assurances that local education agencies will be involved in the planning and development of the institute in the case of applications submitted by other eligible applicants described in subsection (a) of this section, or that one or more such applicants will be involved in the planning and development of the institute in the case of applications submitted by State or local education agencies.

(Pub. L. 98–377, title I, § 103, as added Pub. L. 99–159, title II, § 201, Nov. 22, 1985, 99 Stat. 894.)

PRIOR PROVISIONS

A prior section 3913, Pub. L. 98–377, title I, § 113, Aug., 11, 1984, 98 Stat. 1269, related to distribution of assistance and limitation on grants, prior to the general revision of this subchapter by section 201 of Pub. L. 99–159. See subsec. (b) of this section.

§ 3914. Materials development and methods research for mathematics, science, and engineering

(a) Authorization to award competitive grants; covered institutions, businesses, etc.; purposes

The Foundation is authorized, in accordance with the provisions of this subchapter, to award competitive grants to institutions of higher education, businesses, nonprofit private organizations, local education agencies, professional engineering and scientific associations, museums, libraries, public broadcasting entities (as defined in section 397(11) of title 47), and appropriate State agencies—

(1) for instructional curriculum improvement and faculty development in mathematics, science, and engineering;

(2) for programs designed to enhance public understanding of mathematics, science, and engineering, including the use of public broadcasting entities; and

(3) for research on methods of instruction and educational programs in mathematics, science, engineering, and critical foreign languages.

(b) Scope of studies

Studies conducted under subsection (a)(3) of this section may include—

(1) teaching and learning research and its application to local and private sector instructional materials development and to improved teacher training programs;

(2) research on the use of local and informal science education activities;

(3) research on recruitment, retention, and improvement of mathematics, science, engineering, and critical languages faculties; and

(4) analysis of materials and methods for mathematics, science, and engineering education used in other countries and their potential application in the United States.

(c) Matching grant requirements

Funds awarded for such competitive grants shall be expended through a system requiring matching of the grant. The minimum amount required as a match shall be equal to a percentage of the grant that is determined by the Foundation. Funds made available for matching purposes may include in-kind services or other resources.

(d) Materials or methods research application requirements

In making grant applications for materials or methods research for the purposes described in

subsections (a)(1) and (a)(3) of this section, the Foundation shall assure the involvement of appropriate State or local education agencies in the case of applications submitted by other entities described in subsection (a) of this section, or that one or more of such other entities will be consulted in the case of applications submitted by State or local education agencies.

(Pub. L. 98–377, title I, § 104, as added Pub. L. 99–159, title II, § 201, Nov. 22, 1985, 99 Stat. 895.)

PRIOR PROVISIONS

A prior section 3914, Pub. L. 98–377, title I, § 114, Aug. 11, 1984, 98 Stat. 1269, related to cooperation with business concerns, prior to the general revision of this subchapter by section 201 of Pub. L. 99–159. See section 3913(c) of this title.

§ 3915. Graduate fellowships

The Foundation is authorized, in accordance with the provisions of this subchapter, to establish and carry out a program of graduate fellowships for the purpose of encouraging and assisting promising students to continue their education and research in mathematics, science, and engineering.

(Pub. L. 98–377, title I, § 105, as added Pub. L. 99–159, title II, § 201, Nov. 22, 1985, 99 Stat. 896.)

PRIOR PROVISIONS

A prior section 3915, Pub. L. 98–377, title I, § 115, Aug. 11, 1984, 98 Stat. 1269, related to special consideration for applications meeting the needs of underrepresented and underserved populations, prior to the general revision of this subchapter by section 201 of Pub. L. 99–159. See section 3919 of this title.

§ 3916. Other functional activities

(a) The Foundation is authorized to expend up to 15 per centum of the funds available for science and engineering education for applications which the Foundation determines will meet one or more of the functional objectives described in section 3912(b) of this title.

(b) Such programs may include a program for the exchange of mathematics, science, or engineering faculty between institutions of higher education (particularly institutions having nationally recognized research facilities) and eligible institutions. For the purposes of this section, the term ''eligible institution'' means an institution of higher education which—

(1) has an enrollment which includes a substantial percentage of students who are members of a minority group, or who are economically or educationally disadvantaged; or

(2) is located in a community that is not within commuting distance of a major institution of higher education; and

(3) demonstrates a commitment to meet the special educational needs of students who are members of a minority group or are economically or educationally disadvantaged.

(Pub. L. 98–377, title I, § 106, as added Pub. L. 99–159, title II, § 201, Nov. 22, 1985, 99 Stat. 896.)

§ 3917. Repealed. Pub. L. 104–66, title II, § 2141(a), Dec. 21, 1995, 109 Stat. 731

Section, Pub. L. 98–377, title I, § 107, as added Pub. L. 99–159, title II, § 201, Nov. 22, 1985, 99 Stat. 896; amended Pub. L. 103–437, § 7(c), Nov. 2, 1994, 108 Stat. 4588, related to developing and annual update of a strategic plan for science and engineering education.

§ 3918. Approval of proposals

The Foundation shall adopt approval procedures designed to assure that awards are made on the basis of the scientific and educational merit as determined by the peer review process. To the maximum extent possible, the Foundation shall assure that there is an equitable distribution of resources with respect to institutions and geographical areas.

(Pub. L. 98–377, title I, § 108, as added Pub. L. 99–159, title II, § 201, Nov. 22, 1985, 99 Stat. 896.)

§ 3919. Special consideration of underrepresented and underserved population

In providing financial assistance under this subchapter, the Foundation shall make every effort to ensure that consideration is given to proposals which contain provisions designed to meet the needs of underrepresented and underserved populations.

(Pub. L. 98–377, title I, § 109, as added Pub. L. 99–159, title II, § 201, Nov. 22, 1985, 99 Stat. 897.)

§ 3920. Availability of funds

Funds to carry out this subchapter for any fiscal year shall be made available from amounts appropriated pursuant to annual authorizations of appropriations for the National Science Foundation for Science and Engineering Education. For fiscal year 1986, funds to carry out this subchapter shall be available from amounts authorized by section 102(a)(8) of the National Science Foundation Authorization Act for fiscal year 1986.

(Pub. L. 98–377, title I, § 110, as added Pub. L. 99–159, title II, § 201, Nov. 22, 1985, 99 Stat. 897.)

REFERENCES IN TEXT

Section 102(a)(8) of the National Science Foundation Authorization Act for fiscal year 1986, referred to in text, is section 102(a)(8) of Pub. L. 99–159, title I, Nov. 22, 1985, 99 Stat. 887, which is not classified to the Code.

§ 3921. Prohibition against the Federal control of education

The provisions of section 1232a[1] of this title, relating to prohibition against Federal control of education, shall apply to each program and award authorized by this subchapter.

(Pub. L. 98–377, title I, § 111, as added Pub. L. 99–159, title II, § 201, Nov. 22, 1985, 99 Stat. 897.)

REFERENCES IN TEXT

Section 1232a of this title, referred to in text, was in the original a reference to section 432 of the General Education Provisions Act. Sections 425 and 432 of that Act were renumbered as sections 432 and 438, respectively, by Pub. L. 103–382, title II, § 212(b)(1), Oct. 20, 1994, 108 Stat. 3913, and are classified to sections 1231b–2 and 1232a, respectively, of this title.

PRIOR PROVISIONS

A prior section 3921, Pub. L. 98–377, title I, § 121, Aug. 11, 1984, 98 Stat. 1269, related to programs authorized

[1] See References in Text note below.

for mathematics and science education development, prior to the general revision of this subchapter by section 201 of Pub. L. 99–159. See section 3914 of this title.

§ 3922. Participation of teachers from private schools

The Foundation shall, after consultation with appropriate private school representatives, make provision for the benefit of teachers in private elementary and secondary schools in the programs authorized by this subchapter, in order to assure equitable participation of such teachers.

(Pub. L. 98–377, title I, § 112, as added Pub. L. 99–159, title II, § 201, Nov. 22, 1985, 99 Stat. 897.)

PRIOR PROVISIONS

Prior sections 3922 to 3954 were omitted in the general revision of this subchapter by section 201 of Pub. L. 99–159.

Prior section 3922, Pub. L. 98–377, title I, § 122, Aug. 11, 1984, 98 Stat. 1269, related to requirements, contents, etc., for applications and defined ''eligible applicant''.

Prior section 3923, Pub. L. 98–377, title I, § 123, Aug. 11, 1984, 98 Stat. 1270, related to special consideration for applications meeting the needs of underrepresented and underserved populations. See section 3919 of this title.

Prior section 3931, Pub. L. 98–377, title I, § 132, Aug. 11, 1984, 98 Stat. 1270, related to establishment, etc., of the merit scholarship program.

Prior section 3932, Pub. L. 98–377, title I, § 133, Aug. 11, 1984, 98 Stat. 1271, related to criteria, etc., for selection of merit scholars.

Prior section 3933, Pub. L. 98–377, title I, § 134, Aug. 11, 1984, 98 Stat. 1271, related to amount of stipends and conditions for scholarships.

Prior section 3941, Pub. L. 98–377, title I, § 141, Aug. 11, 1984, 98 Stat. 1272, related to authority, etc., of the Director to make grants, to enter into contracts, and to conduct programs from discretionary funds. See section 3916 of this title.

Prior section 3951, Pub. L. 98–377, title I, § 161, Aug. 11, 1984, 98 Stat. 1272, related to the administrative authorities of the Foundation and reporting requirements.

Prior section 3952, Pub. L. 98–377, title I, § 162, Aug. 11, 1984, 98 Stat. 1273, related to participation of teachers from private schools. See section 3922 of this title.

Prior section 3953, Pub. L. 98–377, title I, § 163, Aug. 11, 1984, 98 Stat. 1273, related to prohibition against Federal control of education. See section 3921 of this title.

Prior section 3954, Pub. L. 98–377, title I, § 164, Aug. 11, 1984, 98 Stat. 1273, related to authorization of appropriations for purposes of former provisions. See section 3920 of this title.

SUBCHAPTER II—EDUCATION FOR ECONOMIC SECURITY

§§ 3961 to 3973. Repealed. Pub. L. 100–297, title II, § 2303, Apr. 28, 1988, 102 Stat. 324

Section 3961, Pub. L. 98–377, title II, § 201, Aug. 11, 1984, 98 Stat. 1273, related to purpose of subchapter.

Section 3962, Pub. L. 98–377, title II, § 202, Aug. 11, 1984, 98 Stat. 1274, defined ''junior or community college''.

Section 3963, Pub. L. 98–377, title II, § 203, Aug. 11, 1984, 98 Stat. 1274; Pub. L. 99–159, title II, § 222(a), Nov. 22, 1985, 99 Stat. 897; Pub. L. 100–418, title VI, § 6005, Aug. 23, 1988, 102 Stat. 1471, related to program authorized.

Section 3964, Pub. L. 98–377, title II, § 204, Aug. 11, 1984, 98 Stat. 1274; Pub. L. 99–159, title II, § 223, Nov. 22, 1985, 99 Stat. 897, related to allotment to States.

Section 3965, Pub. L. 98–377, title II, § 205, Aug. 11, 1984, 98 Stat. 1275; Pub. L. 99–159, title II, § 222(b), Nov. 22, 1985, 99 Stat. 897, related to in-State apportionment.

Section 3966, Pub. L. 98–377, title II, § 206, Aug. 11, 1984, 98 Stat. 1275; Pub. L. 99–159, title II, § 224, Nov. 22, 1985, 99 Stat. 898, related to elementary and secondary education programs.

Section 3967, Pub. L. 98–377, title II, § 207, Aug. 11, 1984, 98 Stat. 1277; Pub. L. 99–159, title II, § 225, Nov. 22, 1985, 99 Stat. 899, related to higher education programs.

Section 3968, Pub. L. 98–377, title II, § 208, Aug. 11, 1984, 98 Stat. 1278; Pub. L. 99–159, title II, § 226, Nov. 22, 1985, 99 Stat. 899, related to State assessments of mathematics, science, foreign languages, and computer learning.

Section 3969, Pub. L. 98–377, title II, § 209, Aug. 11, 1984, 98 Stat. 1279; Pub. L. 99–159, title II, § 227, Nov. 22, 1985, 99 Stat. 899, related to State applications.

Section 3970, Pub. L. 98–377, title II, § 210, Aug. 11, 1984, 98 Stat. 1280; Pub. L. 99–159, title II, § 228, Nov. 22, 1985, 99 Stat. 900, related to local educational agency assessments.

Section 3971, Pub. L. 98–377, title II, § 211, Aug. 11, 1984, 98 Stat. 1281; Pub. L. 99–159, title II, § 228A, Nov. 22, 1985, 99 Stat. 900, related to participation of children and teachers from private nonprofit schools.

Section 3972, Pub. L. 98–377, title II, § 212, Aug. 11, 1984, 98 Stat. 1281; Pub. L. 99–159, title II, § 229, Nov. 22, 1985, 99 Stat. 900, related to Secretary's discretionary fund for programs of national significance.

Section 3973, Pub. L. 98–377, title II, § 213, Aug. 11, 1984, 98 Stat. 1282; Pub. L. 99–159, title II, § 230, Nov. 22, 1985, 99 Stat. 900, related to payments.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1988, see section 6303 of Pub. L. 100–297, set out as an Effective Date note under section 1201 of this title.

SUBCHAPTER III—PARTNERSHIPS IN EDUCATION FOR MATHEMATICS, SCIENCE, AND ENGINEERING

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 8001 of this title.

PART A—HIGHER EDUCATION PARTNERSHIPS

§ 3981. Statement of purpose

It is the purpose of this part to supplement State and local resources to—

(1) improve the quality of instruction in the fields of mathematics, science, and engineering in the State;

(2) furnish additional resources and support for research, student scholarships, and faculty exchange programs in the fields of mathematics, science, and engineering; and

(3) encourage partnerships in education between the business community, institutions of higher education, and elementary and secondary schools in the community.

(Pub. L. 98–377, title III, § 302, Aug. 11, 1984, 98 Stat. 1283; Pub. L. 100–418, title VI, § 6031(b)(2), Aug. 23, 1988, 102 Stat. 1483.)

AMENDMENTS

1988—Pub. L. 100–418 substituted ''part'' for ''subchapter'' in introductory text.

SHORT TITLE

Section 301 of Pub. L. 98–377, as amended by Pub. L. 100–418, title VI, § 6031(b)(2), Aug. 23, 1988, 102 Stat. 1483, provided that: ''This part [part A (§§ 301–309) of title III of Pub. L. 100–418 enacting this part] may be cited as the 'Partnerships in Education for Mathematics, Science, and Engineering Act'.''

§ 3982. Definitions

As used in this part—

(1) the term ''applicant'' means with respect to activities described in section 3984(a) of this title an institution of higher education and the other participants described in paragraph (3) of section 3984(a) of this title, and with respect to activities described in section 3984(b) of this title a local educational agency and the other participants described in paragraph (3) of section 3984(b) of this title;

(2) the term ''equipment'' includes machinery, utilities, and built-in equipment and any necessary enclosures or structures to house them, and includes all other items necessary for the functioning of a particular facility as a facility for the provision of educational services, including items such as instructional equipment and necessary furniture, printed, published, and audio-visual instructional materials, and books, periodicals, documents, and other related materials; and

(3) the term ''State agency for higher education'' means the State board of higher education or other agency or officer primarily responsible for the State supervision of higher education, or if there is no such officer or agency, an officer or agency designated by the Governor or by State law.

(Pub. L. 98–377, title III, § 303, Aug. 11, 1984, 98 Stat. 1283; Pub. L. 99–159, title II, § 232, Nov. 22, 1985, 99 Stat. 900; Pub. L. 100–418, title VI, § 6031(b)(2), Aug. 23, 1988, 102 Stat. 1483.)

AMENDMENTS

1988—Pub. L. 100–418 substituted ''part'' for ''subchapter'' in introductory text.

1985—Pub. L. 99–159 struck out pars. (3), (4), and (5) which defined ''Foundation'', ''institution of higher education'', and ''States'', respectively, and redesignated par. (6) as (3).

§ 3983. Program authorized

(a) Authority of Secretary

The Secretary is authorized, in accordance with the provisions of this part, to make grants to applicants to pay the Federal share of the costs of the activities described in section 3984 of this title.

(b) Authorization of appropriations

There are authorized to be appropriated $50,000,000 for each of the fiscal years 1986 and 1987. There are authorized to be appropriated to carry out the provisions of this part $15,000,000 for fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990, 1991, 1992, and 1993.

(Pub. L. 98–377, title III, § 304, Aug. 11, 1984, 98 Stat. 1284; Pub. L. 99–159, title II, §§ 231, 233, Nov. 22, 1985, 99 Stat. 900, 901; Pub. L. 100–297, title II, § 2301, Apr. 28, 1988, 102 Stat. 319; Pub. L. 100–418, title VI, § 6031(b)(2), Aug. 23, 1988, 102 Stat. 1483.)

AMENDMENTS

1988—Pub. L. 100–418 substituted ''part'' for ''subchapter'' wherever appearing.

Subsec. (b). Pub. L. 100–297 substituted ''1986 and 1987'' for ''1986, 1987, and 1988, to carry out the provisions of this subchapter'' and inserted provision authorizing appropriations to carry out provisions of this part of $15,000,000 for fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990, 1991, 1992, and 1993.

1985—Subsec. (a). Pub. L. 99–159, § 231, substituted ''Secretary'' for ''Foundation''.

Subsec. (b). Pub. L. 99–159, § 233, amended subsec. (b) generally, substituting authorizations of $50,000,000 for each of the fiscal years 1986, 1987, and 1988, for authorizations of $30,000,000 for fiscal year 1984 and $60,000,000 for fiscal year 1985.

EFFECTIVE DATE OF 1988 AMENDMENT

For effective date and applicability of amendment by Pub. L. 100–297, see section 6303 of Pub. L. 100–297, set out as an Effective Date note under section 1201 of this title.

§ 3984. Authorized activities

(a) Higher education partnership in education programs and activities; eligible applicants

(1) An applicant may use payments received under this part in any fiscal year for higher education programs and activities described in this subsection.

(2) Grants under this subsection may be used for partnership in education programs—

(A) for the improvement of instruction in mathematics, science, computer science, and engineering education at the postsecondary level;

(B) for awarding scholarships to students at institutions of higher education in the fields of mathematics, science, computer science, and engineering;

(C) for the operation of faculty exchange programs by the institutions of higher education and business concerns within the State;

(D) for research in the fields of mathematics, science, computer science, and engineering;

(E) for the acquisition, rehabilitation, and renovation of equipment and instrumentation for use in instruction in the fields of mathematics, science, computer science, and engineering; and

(F) to promote public understanding of science, mathematics, and computer science.

(3) Education partnerships under this subsection may include institutions of higher education, business concerns, nonprofit private organizations, local educational agencies, professional mathematic and scientific associations, museums, libraries, educational television stations, and if the State so desires, appropriate State agencies.

(b) Elementary and secondary partnership in education programs and activities; eligible applicants

(1) An applicant may use payments received under this part in any fiscal year for programs and activities described in this subsection.

(2) A local educational agency may carry out an elementary and secondary school partnership in education program under which—

(A) elementary and secondary school teachers in the schools of local educational agencies who teach mathematics, science, or computer science are made available to local business concerns and business concerns with establishments located in the community to serve in such concerns or establishments;

(B) personnel of local business concerns and business concerns with establishments located in the community serve as consultants, lecturers, teaching assistants, or teachers of mathematics, science, or computer science in the elementary and secondary schools within the State;

(C) training and retraining is furnished to elementary and secondary school teachers of mathematics, science, and computer science under a cooperative arrangement between the State or local educational agency and appropriate business concerns;

(D) secondary school students observe, participate, and work in local business concerns and business concerns with establishments located in the community; and

(E) computer clubs and extracurricular activities involving modern technologies are established in elementary and secondary schools.

(3) Partnerships under this subsection may include local educational agencies, business concerns, nonprofit private organizations, institutions of higher education, professional mathematic and scientific associations, museums, libraries, educational television stations, and, if the State so desires, appropriate State agencies.

(Pub. L. 98–377, title III, § 305, Aug. 11, 1984, 98 Stat. 1284; Pub. L. 100–418, title VI, § 6031(b)(2), Aug. 23, 1988, 102 Stat. 1483.)

AMENDMENTS

1988—Subsecs. (a)(1), (b)(1). Pub. L. 100–418 substituted ''part'' for ''subchapter'' wherever appearing.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3982, 3983, 3986 of this title.

§ 3985. Application

(a) Requirements; terms, assurances, and conditions

Any applicant which desires to receive a grant under this part shall submit an application approved under section 3986 of this title to the Secretary, at such time, in such manner, and accompanied by such additional information as the Secretary may reasonably require. Each such application shall—

(1) describe the activities for which assistance under this part is sought;

(2) provide assurances that not more than 5 per centum of the amount received by the applicant in any fiscal year may be expended on administrative expenses;

(3) with respect to each program for which assistance is sought, provide assurances that—

(A) 30 per centum of the funds for each such project will be furnished by business concerns within the community;

(B) 20 per centum of the funds will be supplied by—

(i) the State,

(ii) the institution of higher education or the local educational agency, as the case may be, participating in the program; and

(iii) the other parties participating in the program;

(C) no stipend will be paid directly to employees of a profitmaking business concern; and

(D) teachers participating in the exchange program may not be employed by the participating business concern with which the teacher served within three years after the end of the exchange program unless the teacher repays the full cost of the exchange program to the State and local educational agency, as the case may be; and

(4) provide assurances that whenever the program for which assistance is sought includes scholarships, the scholarships be awarded to undergraduate students at institutions of higher education within the State who wish to pursue a course of study in mathematics or science, engineering or computer science, and that each student awarded a scholarship under this part will receive a stipend which shall not exceed the cost of tuition at the institution of higher education plus a stipend of not to exceed $750 for each academic year of study for which the scholarship is awarded;

(5) set forth policies and procedures to assure that whenever the application includes a local educational agency, to the extent consistent with the number and location of children in the school district of such agency who are enrolled in private elementary and secondary schools, provision is made for the participation of such children in the program assisted under this part;

(6) provide assurances that consideration is given to programs and activities designed to meet the needs of underrepresented and underserved populations;

(7) provide assurances that in the consideration of applications submitted under section 3986(a) of this title that equitable consideration is given to applications submitted by private and public institutions of higher education; and

(8) provide such additional assurances as the Secretary determines essential to ensure compliance with the requirements of this part.

(b) Regional joint application

A regional consortium of applicants in two or more States may file a joint application under the provisions of subsection (a) of this section.

(Pub. L. 98–377, title III, § 306, Aug. 11, 1984, 98 Stat. 1285; Pub. L. 99–159, title II, § 231, Nov. 22, 1985, 99 Stat. 900; Pub. L. 100–418, title VI, § 6031(b)(2), Aug. 23, 1988, 102 Stat. 1483.)

AMENDMENTS

1988—Subsec. (a). Pub. L. 100–418 substituted ''part'' for ''subchapter'' wherever appearing.

1985—Subsec. (a). Pub. L. 99–159 substituted ''Secretary'' for ''Foundation'' in two places in provisions preceding par. (1) and in par. (8).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3986 of this title.

§ 3986. Submission of applications

Each applicant within a State which desires to receive a grant under this part shall submit the application prepared in accordance with section 3985 of this title to the State agency on[1] higher education or the State educational agency, as

[1] So in original. Probably should be ''for''.

the case may be, for approval and shall submit the approved application to the Secretary under section 3985 of this title. Each such application shall be submitted jointly by the local educational agency in the case of activities described in section 3984(a) of this title, or an institution of higher education in the case of activities described in section 3984(b) of this title, and each business concern or other party that is to participate in the program for which assistance is sought.

(Pub. L. 98–377, title III, § 307, Aug. 11, 1984, 98 Stat. 1286; Pub. L. 99–159, title II, § 231, Nov. 22, 1985, 99 Stat. 900; Pub. L. 100–418, title VI, § 6031(b)(2), Aug. 23, 1988, 102 Stat. 1483.)

AMENDMENTS

1988—Pub. L. 100–418 substituted ''part'' for ''subchapter''.

1985—Pub. L. 99–159 substituted ''Secretary'' for ''Foundation''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3985 of this title.

§ 3987. Approval of applications

(a) Criteria; consistency of applications with State plans

(1) The Secretary shall establish criteria for approval of applications under this part.

(2) No application may be approved by the Secretary unless the State educational agency or the State agency for higher education, as the case may be, determines that the application is consistent with State plans for elementary and secondary education or State plans for higher education, as the case may be, in the State.

(b) Procedures for equitable distribution of grants among States

The Secretary shall adopt approval procedures designed to assure that there is equitable distribution of grants among the States.

(Pub. L. 98–377, title III, § 308, Aug. 11, 1984, 98 Stat. 1286; Pub. L. 99–159, title II, § 231, Nov. 22, 1985, 99 Stat. 900; Pub. L. 100–418, title VI, § 6031(b)(2), Aug. 23, 1988, 102 Stat. 1483.)

AMENDMENTS

1988—Subsec. (a)(1). Pub. L. 100–418 substituted ''part'' for ''subchapter''.

1985—Pub. L. 99–159 substituted ''Secretary'' for ''Foundation'' in pars. (1) and (2) of subsec. (a) and in subsec. (b).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3988 of this title.

§ 3988. Payments; Federal share; limitation

(a) Federal and non-Federal shares

(1) The Secretary shall pay, to each applicant having an application approved under section 3987 of this title, the Federal share of the cost of the program described in the application.

(2) The Federal share for each fiscal year shall be 50 per centum.

(3) The non-Federal share of payments under this part may be in cash or in kind, fairly evaluated, including plant, equipment, or services.

(b) Fiscal year State limitation

Not more than 15 per centum of the funds appropriated under this part in any fiscal year may be paid to applicants in any single State.

(Pub. L. 98–377, title III, § 309, Aug. 11, 1984, 98 Stat. 1286; Pub. L. 99–159, title II, § 231, Nov. 22, 1985, 99 Stat. 900; Pub. L. 100–418, title VI, § 6031(b)(2), Aug. 23, 1988, 102 Stat. 1483.)

AMENDMENTS

1988—Subsecs. (a)(3), (b). Pub. L. 100–418 substituted ''part'' for ''subchapter''.

1985—Subsec. (a)(1). Pub. L. 99–159 substituted ''Secretary'' for ''Foundation''.

PART B—ELEMENTARY AND SECONDARY EDUCATION PARTNERSHIPS

§ 3991. Purpose

It is the purpose of this part to supplement State and local resources to—

(1) improve the quality of instruction in the fields of mathematics and science in elementary and secondary schools;

(2) furnish additional resources and support for the acquisition of equipment, and instructional and reference materials and improvement of laboratory facilities in elementary and secondary schools; and

(3) encourage partnerships in science and mathematics education between the business community, museums, libraries, professional mathematics and scientific associations, private nonprofit organizations, appropriate State agencies and elementary and secondary schools.

(Pub. L. 98–377, title III, § 321, as added Pub. L. 100–418, title VI, § 6031(a)(2), Aug. 23, 1988, 102 Stat. 1479.)

§ 3992. Programs authorized

(a) Grants

The Secretary may make grants to States to pay the Federal share of the cost of the programs described in section 3994 of this title.

(b) Authorization of appropriations

There are authorized to be appropriated for purposes of carrying out this part[1] $20,000,000 for fiscal year 1988.

(Pub. L. 98–377, title III, § 322, as added Pub. L. 100–418, title VI, § 6031(a)(2), Aug. 23, 1988, 102 Stat. 1480.)

REFERENCES IN TEXT

This part, referred to in subsec. (b), was in the original ''this chapter'' and was translated as reading ''this part'' to reflect the probable intent of Congress because title III of Pub. L. 98–377, which comprises this subchapter, does not contain chapters.

§ 3993. Amendment to State application

(a) Application

A State shall be eligible to receive a grant under this part if—

(1) the State submits to the Secretary as part of its application under section 209[1] such information and assurances as the Secretary may require at such time as the Secretary shall establish; and

(2) the Secretary approves such application.

[1] See References in Text note below.

[1] See References in Text note below.

(b) Application requirements

The Secretary shall require each application to include—

(1) a description of the State's procedures relating to the use of funds from grants received under this part, including the approval process for local applications;

(2) an assurance that not more than 1 percent of the amount received shall be used for administrative expenses; and

(3) an assurance that the State will, to the extent possible, assist local school districts in economically depressed areas to obtain matching funds from business concerns.

(Pub. L. 98–377, title III, § 323, as added Pub. L. 100–418, title VI, § 6031(a)(2), Aug. 23, 1988, 102 Stat. 1480.)

REFERENCES IN TEXT

Section 209, referred to in subsec. (a)(1), is section 209 of Pub. L. 98–377, title II, Aug. 11, 1984, 98 Stat. 1279, as amended, which was classified to section 3969 of this title prior to repeal by Pub. L. 100–297, title II, § 2303, Apr. 28, 1988, 102 Stat. 324.

§ 3994. Eligible programs

(a) In general

A State may use funds from grants received in any fiscal year under this part for elementary and secondary programs described in this section. The State educational agency shall administer such funds, which shall be awarded to such programs on a competitive basis.

(b) Use of funds

Funds from grants received under this part may be used for the following:

(1) Improvement of elementary and secondary resources

Such funds may be used for acquisition of equipment, instructional and reference materials, and partnership in education programs designed to—

(A) improve instruction in mathematics and science education at the elementary and secondary level;

(B) improve laboratory facilities, classroom and library resources in elementary and secondary mathematics and science education; and

(C) attract matching dollars and in kind contributions of equipment, learning resources or shared time from business concerns, libraries, museums, nonprofit private organizations, professional mathematics and scientific associations, and appropriate State agencies.

(2) Advanced placement programs

(A) Such funds may be used for advanced placement programs operated by local educational agencies that are designed to allow qualified secondary students to attend college preparatory schools, colleges, or universities on a part-time or full-time basis with respect to science and mathematics instruction.

(B) A local educational agency that receives funds from a grant under this part for an advanced placement program described in subparagraph (A) shall allocate to such program a percentage of funds received from the State on a per student basis according to—

(i) the number of students participating in the program; and

(ii) the instruction time such students receive under the program.

(Pub. L. 98–377, title III, § 324, as added Pub. L. 100–418, title VI, § 6031(a)(2), Aug. 23, 1988, 102 Stat. 1480.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3992, 3996 of this title.

§ 3995. Local applications

(a) Eligibility

An applicant that desires to receive a grant under this part shall submit an application to the State educational agency, at such time, and in such manner, as the State may require. Such application may take the form of an amendment to an assessment submitted by the local educational agency under section 210,[1] if appropriate.

(b) Requirements for application

The State shall require each application to include—

(1) a description of the activities for which assistance under this part is sought;

(2) assurances that not more than 5 percent of the amount received by the applicant in any fiscal year shall be expended on administrative expenses;

(3) if the funds are to be used for improvement of elementary and secondary resources as described in subsection (b)(1) of this section—

(A) an estimate of the amount to be spent on equipment, facilities improvement, library resources, and classroom instructional material;

(B) an estimate of the number of elementary and secondary students who will be aided by activities and expenditures under the grant;

(C) assurances that—

(i) except as provided in subsection (c) of this section, a minimum of 25 percent of the funds for each project will be supplied by business concerns within the community;

(ii) no stipend shall be paid directly to employees of a profitmaking business concern;

(iii) provision shall be made for the equitable participation in the project of children who are enrolled in private elementary and secondary schools; and

(iv) consideration will be given to programs and activities designed to meet the needs of educationally disadvantaged and other traditionally underserved populations; and

(4) if the funds are to be used for advanced placement programs as described in subsection (b)(2) of this section, a commitment as to the percentage of funds received from the State on

[1] See References in Text note below.

a per student basis that shall be used by the local educational agency to defray costs of the advanced placement program.

(c) Waiver

The State may waive or reduce the amount of matching funds required under subsection (b)(3)(C)(i) of this section if the State determines that—

(1) substantial need exists in the area served by the applicant for a grant under this part; and

(2) the required amount of matching funds cannot be made available.

(d) Joint applications

A regional consortium of applicants in 2 or more local school districts may file a joint application under subsection (a) of this section.

(Pub. L. 98–377, title III, § 325, as added Pub. L. 100–418, title VI, § 6031(a)(2), Aug. 23, 1988, 102 Stat. 1481.)

REFERENCES IN TEXT

Section 210, referred to in subsec. (a), is section 210 of Pub. L. 98–377, title II, Aug. 11, 1984, 98 Stat. 1280, as amended, which was classified to section 3970 of this title prior to repeal by Pub. L. 100–297, title II, § 2303, Apr. 28, 1988, 102 Stat. 324.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3996, 3998 of this title.

§ 3996. Submission of applications

An applicant within a State that desires to receive a grant under this part[1] shall submit an application prepared in accordance with section 3995 of this title to the State educational agency for approval. Each application with respect to funds for improvement of elementary and secondary resources under section 3994(b)(1) of this title shall be submitted jointly by the local educational agency and each business concern or other party that is to participate in the activities for which assistance is sought.

(Pub. L. 98–377, title III, § 326, as added Pub. L. 100–418, title VI, § 6031(a)(2), Aug. 23, 1988, 102 Stat. 1482.)

REFERENCES IN TEXT

This part, referred to in text, was in the original ''this chapter'' and was translated as reading ''this part'' to reflect the probable intent of Congress because title III of Pub. L. 98–377, which comprises this subchapter, does not contain chapters.

§ 3997. Approval of applications

(a) Criteria

The State shall establish criteria for approval of applications under this section. Such criteria shall include—

(1) consideration of the local district's need for, and inability to locally provide for, the activities, equipment, library and instructional materials requested;

(2) the number and nature of elementary and secondary students who will benefit from the planned program; and

(3) the expressed level of financial and in-kind commitment from other parties to the program.

(b) Approval procedures

The State shall adopt approval procedures designed to ensure that grants are equitably distributed among—

(1) rural, urban, and suburban areas; and

(2) small, medium, and large local educational agencies.

(Pub. L. 98–377, title III, § 327, as added Pub. L. 100–418, title VI, § 6031(a)(2), Aug. 23, 1988, 102 Stat. 1482.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3998 of this title.

§ 3998. Computation of grant amounts

(a) Payments to grantees

(1) Payment by State

The State shall pay to the extent of amounts received by it from the Secretary under this part, to each applicant having an application approved under section 3997 of this title, the Federal share of the cost of the program described in the application.

(2) Amount

(A) Except as provided in subparagraph (B), the Federal share for each fiscal year shall be 75 percent.

(B) In the case of an applicant that receives a waiver under section 3995(c) of this title, the Federal share for each fiscal year may be as much as 100 percent.

(3) Non-Federal share

The non-Federal share of payments under this part may be in cash or in kind, fairly evaluated, including plant, equipment, or services.

(b) Payments to States

Except as provided in subsection (c) of this section, each State shall receive under this part the greater of—

(1) an amount equal to its share of funds appropriated under chapter 1 of the Education Consolidation and Improvement Act; or

(2) $225,000.

(c) Reduction for insufficient funding

If sums appropriated to carry out this part are not sufficient to permit the Secretary to pay in full the grants which States may receive under subsection (b) of this section, the amount of such grants shall be ratably reduced.

(Pub. L. 98–377, title III, § 328, as added Pub. L. 100–418, title VI, § 6031(a)(2), Aug. 23, 1988, 102 Stat. 1482.)

REFERENCES IN TEXT

The Education Consolidation and Improvement Act, referred to in subsec. (b)(1), probably means the Education Consolidation and Improvement Act of 1981, which is subtitle D [§§ 551 to 596] of title V of Pub. L. 97–35, Aug. 13, 1981, 95 Stat. 463, as amended. Chapter 1 of the Act was classified generally to subchapter I (§ 3801 et seq.) of chapter 51 of this title, prior to repeal by Pub. L. 100–297, title I, § 1003(a), Apr. 28, 1988, 102 Stat. 293. For complete classification of this Act to the Code, see Tables.

[1] See References in Text note below.

SUBCHAPTER IV—PRESIDENTIAL AWARDS FOR TEACHING EXCELLENCE IN MATHEMATICS AND SCIENCE

§§ 4001 to 4003. Repealed. Pub. L. 100–297, title II, § 2303, Apr. 28, 1988, 102 Stat. 324

Section 4001, Pub. L. 98–377, title IV, § 401, Aug. 11, 1984, 98 Stat. 1287, related to Presidential awards.

Section 4002, Pub. L. 98–377, title IV, § 402, Aug. 11, 1984, 98 Stat. 1287, related to administrative provisions.

Section 4003, Pub. L. 98–377, title IV, § 403, Aug. 11, 1984, 98 Stat. 1287; Pub. L. 99–159, title II, § 241, Nov. 22, 1985, 99 Stat. 901, related to authorization of appropriations.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1988, see section 6303 of Pub. L. 100–297, set out as an Effective Date note under section 1201 of this title.

SUBCHAPTER V—ASBESTOS SCHOOL HAZARD ABATEMENT

CROSS REFERENCES

Detection and control of asbestos hazards in schools, see section 3601 et seq. of this title.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in title 15 section 2646.

§ 4011. Findings and purpose

(a) Findings

The Congress finds that—

(1) exposure to asbestos fibers has been identified over a long period of time and by reputable medical and scientific evidence as significantly increasing the incidence of cancer and other severe or fatal diseases, such as asbestosis;

(2) medical evidence has suggested that children may be particularly vulnerable to environmentally induced cancers;

(3) medical science has not established any minimum level of exposure to asbestos fibers which is considered to be safe to individuals exposed to the fibers;

(4) substantial amounts of asbestos, particularly in sprayed form, have been used in school buildings, especially during the period 1946 through 1972;

(5) partial surveys in some States have indicated that (A) in a number of school buildings materials containing asbestos fibers have become damaged or friable, causing asbestos fibers to be dislodged into the air, and (B) asbestos concentration far exceeding normal ambient air levels have been found in school buildings containing such damaged materials;

(6) the presence in school buildings of friable or easily damaged asbestos creates an unwarranted hazard to the health of the school children and school employees who are exposed to such materials;

(7) the Department of Health and Human Services and the Environmental Protection Agency, as well as several States, have attempted to publicize the potential hazards to school children and employees from exposure to asbestos fibers, but there is no systematic program for remedying hazardous conditions in schools;

(8) because there is no Federal health standard regulating the concentration of asbestos fibers in noncommercial workplace environments such as schools, school employees and students may be exposed to hazardous concentrations of asbestos fibers in the school buildings which they use each day;

(9) without a program of information distribution, technical and scientific assistance, and financial support, many local educational agencies and States will not be able to mitigate the potential asbestos hazards in their schools; and

(10) the effective regulation of interstate commerce for the protection of the public health requires the establishment of programs under this subchapter to mitigate hazards from exposure to asbestos fibers and materials emitting such fibers.

(b) Purpose

It is the purpose of this subchapter to—

(1) direct the Administrator of the Environmental Protection Agency to establish a program to assist States and local educational agencies to ascertain the extent of the danger to the health of school children and employees from asbestos materials in schools;

(2) provide continuing scientific and technical assistance to State and local agencies to enable them to identify and abate asbestos hazards in schools;

(3) provide financial assistance for the abatement of asbestos threats to the health and safety of school children or employees; and

(4) assure that no employee of any local educational agency suffers any disciplinary action as a result of calling attention to potential asbestos hazards which may exist in schools.

(Pub. L. 98–377, title V, § 502, Aug. 11, 1984, 98 Stat. 1287; Pub. L. 101–637, § 14(a)(2), (b)(1), (2), Nov. 28, 1990, 104 Stat. 4594, 4595.)

AMENDMENTS

1990—Pub. L. 101–637, § 14(a)(2), made technical amendment to section catchline.

Subsecs. (a), (b). Pub. L. 101–637, § 14(b)(1), (2), inserted headings.

SHORT TITLE OF 1990 AMENDMENT

Section 1 of Pub. L. 101–637 provided that: ''This Act [enacting section 2656 of Title 15, Commerce and Trade, amending this section, sections 4012 to 4022 of this title, and sections 2643, 2646, and 2647 of Title 15, enacting provisions set out as notes under this section and sections 2646 and 2656 of Title 15, and amending provisions set out as a note under this section] may be cited as the 'Asbestos School Hazard Abatement Reauthorization Act of 1990'.''

SHORT TITLE

Section 501 of title V of Pub. L. 98–377, as amended by Pub. L. 101–637, § 14(a)(1), Nov. 28, 1990, 104 Stat. 4594, provided that: ''This title [enacting this subchapter] may be cited as the 'Asbestos School Hazard Abatement Act of 1984'.''

FINDINGS AND PURPOSES

Section 2 of Pub. L. 101–637 provided that:

''(a) FINDINGS.—Congress finds the following:

''(1) The Environmental Protection Agency has estimated that more than forty-four thousand school buildings contain friable asbestos, exposing more than fifteen million school children and one million five hundred thousand school employees to unwarranted health hazards.

''(2) All elementary and secondary schools are required by the Asbestos Hazard Emergency Response Act [of 1986, see Short Title of 1986 Amendment note set out under section 2601 of Title 15, Commerce and Trade] to inspect for asbestos, develop an asbestos management plan, and implement such plan.

''(3) The Environmental Protection Agency has estimated it will cost local education agencies more than $3,000,000,000 to comply with the Asbestos Hazard Emergency Response Act.

''(4) Without a continuing program of information assistance, technical and scientific assistance, training, and financial support, many local educational agencies will be unable to carry out sufficient response actions to prevent the release of asbestos fibers into the air.

''(5) Without the provisions of sufficient financial support, the cost to local educational agencies of implementing asbestos response actions may have an adverse impact in their educational mission.

''(6) The effective regulation of interstate commerce for the protection of human health and the environment requires the continuation of programs to mitigate hazards of asbestos fibers and materials emitting such fibers.

''(b) PURPOSES.—The purposes of this Act [see Short Title of 1990 Amendment note above] are the following:

''(1) To direct the Environmental Protection Agency to maintain a program to assist local schools in carrying out their responsibilities under the Asbestos Hazard Emergency Response Act.

''(2) To provide continuing scientific and technical assistance to State and local agencies to enable them to identify and abate asbestos health hazards.

''(3) To provide financial assistance to State and local agencies for training of persons involved with inspections and abatement of asbestos, for conducting necessary reinspections of school buildings, and for the actual abatement of asbestos threats to the health and safety of school children or employees.

''(4) To assure that no employee of a local educational agency suffers any disciplinary action as a result of calling attention to potential asbestos hazards which may exist in schools.''

§ 4012. Asbestos hazard abatement program

(a) Abatement program

There is hereby established a program within the Environmental Protection Agency to be known as the Asbestos Hazards Abatement Program (hereinafter in this subchapter referred to as ''Program'').

(b) Duties

The duties of the Administrator in implementing and effectuating the Program shall include—

(1) the compilation of medical, scientific, and technical information including, but not limited to—

(A) the health and safety hazards associated with asbestos materials;

(B) the means of identifying, sampling, and testing materials suspected of emitting asbestos fibers; and

(C) the means of abating the threat posed by asbestos and asbestos containing materials;

(2) the distribution of the information described in paragraph (1) (in any appropriate form such as pamphlets, reports, or instructions) to State and local educational agencies and to other institutions, including parent and employee organizations, for the purpose of carrying out activities described in this subchapter;

(3) not later than November 15 of each year for which this subchapter is authorized, the development and distribution of applications, or notifications to all local educational agencies of the availability of application forms including information for obtaining such forms; and

(4) the review of applications for financial assistance, and the approval or disapproval of such applications, in accordance with the provisions of section 4014 of this title.

(Pub. L. 98–377, title V, § 503, Aug. 11, 1984, 98 Stat. 1288; Pub. L. 101–637, §§ 4, 14(a)(3), (b)(3), (4), Nov. 28, 1990, 104 Stat. 4590, 4594, 4595.)

AMENDMENTS

1990—Pub. L. 101–637, § 14(a)(3), made technical amendment to section catchline.

Subsec. (a). Pub. L. 101–637, § 14(b)(3), inserted heading and struck out par. (1) designation before ''There is hereby established''.

Subsec. (b). Pub. L. 101–637, § 14(b)(4), inserted heading.

Subsec. (b)(2). Pub. L. 101–637, § 4(1), (2), substituted ''educational agencies'' for ''agencies'' and ''institutions, including parent and employee organizations,'' for ''institutions''.

Subsec. (b)(3). Pub. L. 101–637, § 4(3), amended par. (3) generally. Prior to amendment, par. (3) read as follows: ''the development within forty-five days of August 11, 1984, of an interim or final application form, which shall be distributed promptly to local educational agencies; and''.

§ 4013. State records and priority lists

(a) Records

The Governor of each State shall maintain records on—

(1) the presence of asbestos materials in school buildings of local educational agencies;

(2) the asbestos detection and abatement activities and other response actions conducted by local educational agencies (including activities relating to the replacement of the asbestos materials removed from school buildings with other appropriate building materials); and

(3) repairs made to restore school buildings to conditions comparable to those which existed before the abatement activities referred to in paragraph (2) were undertaken.

(b) Priority list

(1) Each year, in accordance with procedures established by the Administrator, the Governor of each State shall:

(A) submit to the Administrator a priority list of all schools under the authority of a local educational agency within the State, without regard to the public or private nature of the school involved, that are candidates for abatement activities and other response actions; and

(B) forward to the Administrator for each candidate for abatement activities and other response actions all applications for financial assistance prepared by the local educational agencies in accordance with the provisions of section 4014 of this title; and[1]

[1] So in original. Probably should end with a period instead of ''; and''.

(2) The priority list shall rank the potential candidates for abatement action based on the nature and magnitude of the existing and potential exposure presented by the asbestos materials.

(3) For each school listed, the Governor shall certify that the statement of need contained in the application for assistance accurately reflects the financial resources available to the local educational agency for the asbestos abatement program.

(4) For the purpose of determining the adequacy of the financial resources available to a local educational agency for the abatement of asbestos threats the Governor shall, to the extent practicable, consider the following:

(A) A measure of financial need used by the State in which the local educational agency is located.

(B) The estimated per capita income of the locality of such agency or of those directly or indirectly providing financial support for such agency.

(C) The extent to which the local school millage rate falls above or below (i) the millage rate average of the State and (ii) the millage rate of other local educational agencies with comparable enrollment, per capita income, and resource base.

(D) The ratio, expressed as a percentage, of the estimated cost of the project to the total budget of the local educational agency.

(E) The borrowing capacity of the local educational agency.

(F) Any additional costs to the local educational agency of meeting the special needs of disadvantaged students.

(G) Any other factor that demonstrates that the local educational agency has limited financial resources.

(Pub. L. 98–377, title V, § 504, Aug. 11, 1984, 98 Stat. 1289; Pub. L. 101–637, §§ 5, 14(a)(4), (b)(5), (6), Nov. 28, 1990, 104 Stat. 4590, 4594, 4595.)

AMENDMENTS

1990—Pub. L. 101–637, § 14(a)(4), substituted ''State records and priority lists'' for ''State plans'' in section catchline.

Subsec. (a). Pub. L. 101–637, §§ 5(a)(1), 14(b)(5), inserted heading and substituted ''The Governor of each State shall maintain records on'' for ''Not later than three months after August 11, 1984, the Governor of each State shall submit to the Administrator a plan which describes the procedures to be used by the State for maintaining records on'' in introductory provisions.

Subsec. (a)(2). Pub. L. 101–637, § 5(a)(2), (3), inserted ''and other response actions'' after ''abatement activities'' and inserted ''and'' after semicolon at end.

Subsec. (a)(3). Pub. L. 101–637, § 5(a)(4), substituted ''paragraph (2)'' for ''subparagraph (B)''.

Subsec. (b). Pub. L. 101–637, § 14(b)(6)(A), inserted heading.

Subsec. (b)(1). Pub. L. 101–637, § 5(b)(1), substituted ''Each year, in accordance with procedures established by the Administrator,'' for ''Not later than six months after August 11, 1984, and annually thereafter,'' in introductory provisions.

Subsec. (b)(1)(A). Pub. L. 101–637, §§ 5(b)(2), (3), 14(b)(6)(B), substituted ''abatement activities and other response actions'' for ''abatement'', struck out ''and the Secretary of the Department of Education'' after ''submit to the Administrator'', and inserted ''and'' after semicolon at end.

Subsec. (b)(1)(B). Pub. L. 101–637, §§ 5(b)(2), 14(b)(6)(B), (C), substituted ''abatement activities and other response actions'' for ''abatement'', struck out ''section 4012(b)(3) of this title and'' before ''section 4014'', and struck out ''and the Secretary of the Department of Education'' after ''forward to the Administrator''.

Subsec. (b)(1)(C). Pub. L. 101–637, § 5(b)(4), struck out subpar. (C) which read as follows: ''forward to the Secretary of the Department of Education a copy of all information submitted to the Administrator in accordance with subsection (b)(3) of this section.''

Subsec. (b)(4)(C). Pub. L. 101–637, § 14(b)(6)(D), inserted a comma after ''per capita income''.

Subsec. (b)(4)(F), (G). Pub. L. 101–637, § 5(c), added subpar. (F) and redesignated former subpar. (F) as (G).

Subsec. (c). Pub. L. 101–637, § 5(d), struck out subsec. (c) which read as follows: ''Not later than nine months after the submission of the plan described in subsection (a) of this section, and each twelve months thereafter, the Governor shall submit to the Administrator a report which describes the actions taken by the State in accordance with its plan under such subsection.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4014 of this title.

§ 4014. Financial assistance

(a) Assistance Program

There is hereby established within the Environmental Protection Agency an Asbestos Hazards Abatement Assistance Program (hereinafter in this chapter referred to as the ''Assistance Program''), which shall be administered in accordance with this section.

(b) Application submission

(1) Applications for financial assistance shall be submitted by a local educational agency to the Governor, or the Governor's designee, who shall establish a priority list based on the criteria of section 4013(b)(2) of this title.

(2) Pursuant to section 4013 of this title, the Governor shall submit applications, together with the Governor's report and priority list, to the Administrator who shall review and rank such applications pursuant to subsection (c)(2) of this section and propose financing pursuant to the criteria of section 4013(b)(4) of this title. The Administrator shall approve or disapprove applications for financial assistance no later than April 30 of each year.

(c) Review of application

(1) The Administrator shall provide financial assistance on a school-by-school basis to local educational agencies in accordance with other provisions of this section to carry out projects for—

(A) abating the threat posed by materials containing asbestos to the health and safety of children or employees;

(B) replacing the asbestos materials removed from school buildings with other appropriate building materials; and

(C) restoring school buildings to conditions comparable to those existing before abatement activities were undertaken pursuant to this section.

(2) The Administrator shall review and list in priority order applications for financial assistance. In ranking applications, the Administrator shall consider—

(A) the priority assigned to the abatement program by the Governor pursuant to section 4013(b)(2) of this title; and

(B)(i) the likelihood of release of asbestos fibers into a school environment;

(ii) any other evidence of the risk caused by the presence of asbestos including, but not limited to, situations in which there is a substantial quantity of dry loose asbestos-containing material on horizontal surfaces or asbestos-containing material is substantially deteriorated or damaged, and there is asbestos-containing material in an air plenum or in a high traffic area, confined space, or within easy reach of a passerby;

(iii) the extent to which the corrective action proposed by the applicant will reduce the exposure of school children and school employees; and

(iv) the extent to which the corrective action proposed by the applicant uses the least burdensome methods which protect human health and the environment.

(3) In determining whether an applicant is eligible for assistance, and the nature and amount of financial assistance, the Administrator shall consider the financial resources available to the applicant as certified by the Governor pursuant to section 4013(b)(4) of this title.

(d) Limitation

In no event shall financial assistance be provided under this subchapter to an applicant if—

(1) the Administrator determines that such applicant has resources adequate to support an appropriate asbestos materials abatement program; or

(2) the applicant is not in compliance with title II of the Toxic Substances Control Act (15 U.S.C. 2641 et seq.).

(e) Amount of loan or grant

(1) An applicant for financial assistance may be granted a loan of up to 100 percent of the costs of an abatement program or, if the Administrator determines the applicant is unable to undertake and complete an asbestos materials abatement program with a loan, such applicant may also receive a grant (alone or in combination with a loan) not to exceed 50 percent of the total costs of abatement, in the amount which the Administrator deems necessary.

(2) In approving any grant, the Administrator shall state with particularity the reasons why the applicant is unable to undertake and complete the abatement program with loan funds.

(f) Loan agreement

Loans under this section shall be made pursuant to agreements which shall provide for the following:

(1) the loan shall not bear interest;

(2) the loan shall have a maturity period of not more than twenty years (as determined by the Administrator) and shall be repayable during such period at such times and in such amounts as the Administrator may specify in the loan agreement;

(3) repayment shall be made to the Secretary of the Treasury for deposit in the Asbestos Trust Fund established by section 4022 of this title; and

(4) such other terms and conditions that the Administrator determines necessary to protect the financial interest of the United States.

(g) Application requirements

(1) No financial assistance may be provided under this section unless an application has been submitted to the Administrator in accordance with such procedures as may be developed by the Administrator.

(2) The Administrator shall not approve an application unless—

(A) the application contains such information as the Administrator may require, including but not limited to information describing—

(i) the nature and extent of the asbestos problem for which the assistance is sought;

(ii) the asbestos content of the material to be abated;

(iii) the methods which will be used to abate the asbestos materials;

(iv) the amount and type of financial assistance requested;

(v) a description of the financial resources of the local educational agency; and

(vi) a justification for the type and amount of the financial assistance requested.

(B) the application contains a certification that—

(i) the local educational agency has prepared and is implementing an asbestos management plan, as required under title II of the Toxic Substances Control Act (15 U.S.C. 2641 et seq.); and

(ii) all activities to be conducted with the financial assistance will be performed by individuals trained and accredited in conformance with title II of the Toxic Substances Control Act (15 U.S.C. 2641 et seq.) and regulations promulgated under that title;

(C) the application contains assurances that the local educational agency will furnish such information as is necessary for the Administrator to make the report required by section 4016 of this title.

(3) No financial assistance may be provided by the Administrator under this section for projects described in subsection (a)(2) of this section on which abatement action was completed prior to January 1, 1984.

(4) Except as provided in section 4021(b)(1) of this title, in approving applications the Administrator shall provide assistance to the local educational agencies having the highest priority among applications being considered in order of ranking until the appropriated funds are expended.

(Pub. L. 98–377, title V, §505, Aug. 11, 1984, 98 Stat. 1290; Pub. L. 99–519, §3(a), Oct. 22, 1986, 100 Stat. 2988; Pub. L. 100–368, §6(b), July 18, 1988, 102 Stat. 833; Pub. L. 101–637, §§6, 14(a)(5), (b)(7), (c)(1)–(4), Nov. 28, 1990, 104 Stat. 4591, 4594–4596.)

REFERENCES IN TEXT

The Toxic Substances Control Act, referred to in subsecs. (d)(2) and (g)(2)(B), is Pub. L. 94–469, Oct. 11, 1976, 90 Stat. 2003, as amended. Title II of the Act, as added by Pub. L. 99–519, §2, Oct. 22, 1986, 100 Stat. 2970, is classified generally to subchapter II (§2641 et seq.) of chapter 53 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 2601 of Title 15 and Tables.

AMENDMENTS

1990—Pub. L. 101–637, §14(a)(5), made technical amendment to section catchline.

Subsec. (a). Pub. L. 101–637, §14(b)(7)(A), inserted heading.

Subsec. (b). Pub. L. 101–637, §14(b)(7)(B), inserted heading.

Subsec. (b)(1). Pub. L. 101–637, §14(c)(1), struck out comma after ''educational agency''.

Subsec. (b)(2). Pub. L. 101–637, §6(a)(1), (2), substituted ''the Governor shall submit applications,'' for ''applications shall be submitted,'' and inserted ''The Administrator shall approve or disapprove applications for financial assistance no later than April 30 of each year.''

Subsec. (b)(3). Pub. L. 101–637, §6(a)(3), struck out par. (3) which read as follows: ''Within sixty days of receipt of the information described in section 4013(b)(1) of this title, the Secretary of the Department of Education shall review such information and, in the Secretary's discretion, provide to the Administrator comments and recommendations based upon the needs of local educational agencies for financial assistance. Within sixty days of receipt of the Secretary's report, or expiration of the time allowed for such report, the Administrator shall approve or disapprove applications for financial assistance.''

Subsec. (c). Pub. L. 101–637, §14(b)(7)(C), inserted heading.

Subsec. (c)(2)(A). Pub. L. 101–637, §14(c)(2)(A), inserted ''and'' after semicolon at end.

Subsec. (c)(2)(B)(ii). Pub. L. 101–637, §14(c)(2)(B), inserted a comma after ''confined space''.

Subsec. (c)(2)(B)(iv). Pub. L. 101–637, §14(c)(2)(B), which directed the insertion of a comma after ''techniques'', could not be executed because of the intervening amendment by Pub. L. 101–637, §6(b). See below.

Pub. L. 101–637, §6(b), substituted ''uses the least burdensome methods which protect human health and the environment'' for ''is cost-effective compared to other techniques including management of material containing asbestos''.

Subsec. (c)(3). Pub. L. 101–637, §6(c), substituted ''shall consider the financial resources available to the applicant as certified by the Governor pursuant to section 4013(b)(4) of this title.'' for ''shall consider—

''(A) the financial resources available to the applicant as certified by the Governor pursuant to section 4013(b)(4) of this title; and

''(B) the report, if any, of the Secretary of Education pursuant to section 4013(b)(5) of this title.''

Subsec. (d). Pub. L. 101–637, §6(d), inserted heading and amended text generally. Prior to amendment, text read as follows: ''In no event shall financial assistance be provided under this subchapter to an applicant if the Administrator determines that such applicant has resources adequate to support an appropriate asbestos materials abatement program. In making such a determination, the Administrator may consult with the Secretary of Education.''

Subsec. (e). Pub. L. 101–637, §14(b)(7)(D), inserted heading.

Subsec. (e)(1). Pub. L. 101–637, §14(c)(3), substituted ''percent'' for ''per centum'' in two places.

Subsec. (f). Pub. L. 101–637, §14(b)(7)(E), inserted heading.

Subsec. (f)(3). Pub. L. 101–637, §6(e), substituted ''for deposit in the Asbestos Trust Fund established by section 4022 of this title'' for ''for deposit in the general fund''.

Subsec. (g). Pub. L. 101–637, §14(b)(7)(F), inserted heading.

Subsec. (g)(1). Pub. L. 101–637, §6(f)(1), substituted ''in accordance with such procedures as may be developed by the Administrator'' for ''within the five-year period beginning on August 11, 1984''.

Subsec. (g)(2)(B)(i), (ii). Pub. L. 101–637, §6(f)(2), amended cls. (i) and (ii) generally. Prior to amendment, cls. (i) and (ii) read as follows:

''(i) any employee engaged in an asbestos material abatement program will be trained and equipped pursuant to section 4015(b)(2)(B) of this title; and

''(ii) no child or inadequately informed or protected school employee will be permitted in the vicinity of any asbestos abatement activity;''.

Subsec. (g)(3), (4). Pub. L. 101–637, §§6(f)(3), 14(c)(4), redesignated subpar. (B) appearing after par. (3) as par. (4), inserted a comma after ''section 4021(b)(1) of this title'', and struck out former par. (4) which read as follows:

''(A) No financial assistance may be provided under this section to any school—

''(i) which uses any person who has not been accredited pursuant to section 2646(b) or (c) of title 15, to carry out activities described in section 2646(a) of title 15, or

''(ii) which uses any laboratory which has not been accredited pursuant to section 2646(d) of title 15, to carry out activities described in such section.

''(B) This paragraph shall apply to any financial assistance provided under this section after October 22, 1986, for activities performed after the following dates:

''(i) In the case of activities performed by persons, after the date which is one year after October 22, 1986.

''(ii) In the case of activities performed by laboratories, after the date which is 180 days after the date on which a laboratory accreditation program is completed under section 2646(d) of title 15.''

1988—Subsec. (g)(4)(B)(i). Pub. L. 100–368, §6(b)(1), substituted reference to October 22, 1986, for reference to August 11, 1984.

Subsec. (g)(4)(B)(ii). Pub. L. 100–368, §6(b)(2), substituted ''section 2646(d) of title 15'' for ''subsection (d)''.

1986—Subsec. (g)(4). Pub. L. 99–519 added par. (4).

FINANCIAL ASSISTANCE TO CARRY OUT INSPECTIONS FOR ASBESTOS-CONTAINING MATERIAL

Section 4(b) of Pub. L. 99–519 provided that:

''(1) Notwithstanding section 505(c) of the Asbestos School Hazard Abatement Act of 1984 [20 U.S.C. 4014(c)], for fiscal years 1988 and 1989 the Administrator shall provide financial assistance under section 505 of such Act in the form of grants to States or local educational agencies to carry out inspections for asbestos-containing material in school buildings and preparation of management plans for school buildings under this title [probably means title II of the Toxic Substances Control Act, 15 U.S.C. 2641 et seq.].

''(2) Not more than 2 percent of any grant awarded to a State pursuant to paragraph (1) may be used by the State for administrative purposes. For purposes of the preceding sentence, administrative purposes do not include salaries of persons who inspect for asbestos-containing material or assist in the preparation of management plans.

''(3) In determining which local educational agencies to approve grants for, the Administrator shall take into account the financial need of the agency. Of the amount available under the Asbestos School Hazard Abatement Act of 1984 [20 U.S.C. 4011 et seq.] for fiscal years 1988 and 1989, not more than 10 percent may be obligated for the purposes described in this subsection.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4012, 4013, 4015, 4016, 4017, 4022 of this title; title 15 sections 2646, 2655.

§ 4015. Administrative provisions

(a) Regulations

The Administrator shall promulgate rules and regulations as necessary to implement the authorities and requirements of this subchapter.

(b) Procedures

The Administrator also shall establish procedures to be used by local educational agencies, in programs for which financial assistance is made available under section 4014 of this title, for—

(1) abating asbestos materials in school buildings;

(2) replacing the asbestos materials removed from school buildings with other appropriate building materials; and

(3) restoring such school buildings to conditions comparable to those existing before asbestos containment or removal activities were undertaken.

(c) Relationship to other laws

Nothing contained in this subchapter shall be construed, interpreted, or applied to diminish in any way the level of protection required under any other State or Federal worker protection or other applicable laws.

(d) Other authority

In order to effectuate the purposes of this subchapter, the Administrator may also adopt such other procedures, standards, and regulations as the Administrator deems necessary, including—

(1) procedures for testing the level of asbestos fibers in schools, including safety measures to be followed in conducting such tests;

(2) standards for evaluating (on the basis of such tests) the likelihood of the leakage of asbestos fibers into the school environment; and

(3) periodic reporting with respect to the activities that have taken place using funds loaned or granted under this subchapter.

(Pub. L. 98–377, title V, § 506, Aug. 11, 1984, 98 Stat. 1292; Pub. L. 101–637, §§ 7, 14(a)(6), (b)(8), (9), Nov. 28, 1990, 104 Stat. 4592, 4594, 4595.)

AMENDMENTS

1990—Pub. L. 101–637 inserted section catchline.

Subsec. (a). Pub. L. 101–637, § 14(b)(8), inserted heading.

Subsec. (b). Pub. L. 101–637, § 7(2), added subsec. (b) and struck out former subsec. (b) which read as follows: ''The Administrator shall also establish—

''(1) procedures to be used by local educational agencies, in programs for which financial assistance is made available under section 4014 of this title for—

''(A) abating asbestos materials in school buildings;

''(B) replacing the asbestos materials removed from school buildings with other appropriate building materials; and

''(C) restoring such school buildings to conditions comparable to those existing before asbestos containment or removal activities were undertaken; and

''(2) within ninety days, standards for determining—

''(A) which contractors are qualified to carry out the activities referred to in paragraph (1), and

''(B) what training, equipment, protective clothing and other information and material must be supplied to adequately advise and protect school employees utilized to carry out the activities in paragraph (1).

''(3) nothing contained in this subchapter shall be construed, interpreted or applied to diminish in any way the level of protection required under State or Federal worker protection laws.''

Subsec. (c). Pub. L. 101–637, § 7(2), added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 101–637, §§ 7(1), 14(b)(9), redesignated subsec. (c) as (d), inserted heading, and inserted a comma after ''standards'' in introductory provisions.

§ 4016. Annual report

During each calendar year until 1999, the Administrator shall prepare and submit, not later than June 1 of each year, to the Committee on Environment and Public Works of the Senate and to the Committee on Energy and Commerce of the House of Representatives a report on the loan and grant program authorized by section 4014 of this title.

(1) describe the number of applications received;

(2) describe the number of loans and grants made in the preceding calendar year and specify each applicant for and recipient of a loan or grant;

(3) specify the number of loan or grant applications which were disapproved during the preceding calendar year and describe the reasons for such disapprovals;

(4) describe the types of programs for which loans or grants were made;

(5) specify the estimated total costs of such programs to the recipients of loans or grants and specify the amount of loans or grants made under the program authorized by this section; and

(6) estimate the number of schools still in need of assistance and the amount of resources needed by such schools, categorized by State, to abate all remaining asbestos hazards.

(Pub. L. 98–377, title V, § 507, Aug. 11, 1984, 98 Stat. 1293; Pub. L. 101–637, §§ 8, 14(a)(7), Nov. 28, 1990, 104 Stat. 4592, 4594.)

AMENDMENTS

1990—Pub. L. 101–637, § 14(a)(7), made technical amendment to section catchline.

Pub. L. 101–637, § 8(a), amended first sentence generally. Prior to amendment, first sentence read as follows: ''During each of the ten calendar years after 1984, the Administrator shall prepare and submit not later than February 1 of each year a report to the Committee on Environment and Public Works of the United States Senate and the Committee on Energy and Commerce of the United States House of Representatives on the loan and grant program authorized by section 4014 of this title.''

Par. (6). Pub. L. 101–637, § 8(b), inserted before period at end ''and the amount of resources needed by such schools, categorized by State, to abate all remaining asbestos hazards''.

CHANGE OF NAME

Committee on Energy and Commerce of House of Representatives treated as referring to Committee on Commerce of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4014 of this title.

§ 4017. Recovery of costs

(a) Loan condition

(1) As a condition of the award of any financial assistance under section 4014 of this title, the recipient of any such loan or grant shall permit the United States to sue on behalf of such recipient any person determined by the Attorney General to be liable to the recipient for the costs of any activities undertaken by the recipient under such section.

(2) The proceeds from any judgment recovered in any suit brought by the United States under paragraph (1) (or, if the recipient files a similar

suit on its own behalf, the proceeds from a judgment recovered by the recipient in such suit) shall be used to repay to the United States, by deposit in the Asbestos Trust Fund established by section 4022 of this title, to the extent that the proceeds are sufficient to provide for such repayment, an amount equal to the sum of—

(A) the amount (i) outstanding on any loan and (ii) of any grant made to the recipient; and

(B) an amount equal to the interest which would have been charged on such loan were the loan made by a commercial lender at prevailing interest rates (as determined by the Administrator).

(b) Expeditious recovery

The Attorney General shall, where appropriate, proceed in an expeditious manner to recover the amounts expended by the United States to carry out this subchapter from the persons identified by the Attorney General as being liable for such costs.

(Pub. L. 98–377, title V, § 508, Aug. 11, 1984, 98 Stat. 1293; Pub. L. 101–637, §§ 9, 14(a)(8), (b)(10), (11), (c)(5), Nov. 28, 1990, 104 Stat. 4592, 4594–4596.)

AMENDMENTS

1990—Pub. L. 101–637, § 14(a)(8), inserted section catchline.

Subsec. (a). Pub. L. 101–637, § 14(b)(10), inserted heading.

Subsec. (a)(1). Pub. L. 101–637, § 14(c)(5), substituted ''section'' for ''sections'' after ''such''.

Subsec. (a)(2). Pub. L. 101–637, § 9, inserted ''by deposit in the Asbestos Trust Fund established by section 4022 of this title,'' after ''repay to the United States,''.

Subsec. (b). Pub. L. 101–637, § 14(b)(11), inserted heading.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4019, 4022 of this title.

§ 4018. Employee protection

No State or local educational agency receiving assistance under this subchapter may discharge any employee or otherwise discriminate against any employee with respect to the employee's compensation, terms, conditions, or privileges of employment because the employee has brought to the attention of the public information concerning any asbestos problem in the school buildings within the jurisdiction of such agency.

(Pub. L. 98–377, title V, § 509, Aug. 11, 1984, 98 Stat. 1294; Pub. L. 101–637, § 14(a)(9), Nov. 28, 1990, 104 Stat. 4594.)

AMENDMENTS

1990—Pub. L. 101–637 inserted section catchline.

§ 4019. Affect on rights under other laws

Except as otherwise provided in section 4017 of this title, nothing in this subchapter shall—

(1) affect the right of any party to seek legal redress in connection with the purchase or installation of asbestos materials in schools or any claim of disability or death related to exposure to asbestos in a school setting; or

(2) affect the rights of any party under any other law.

(Pub. L. 98–377, title V, § 510, Aug. 11, 1984, 98 Stat. 1294; Pub. L. 101–637, § 14(a)(10), Nov. 28, 1990, 104 Stat. 4594.)

AMENDMENTS

1990—Pub. L. 101–637 inserted section catchline.

§ 4020. Definitions

For purposes of this subchapter:

(1) The term ''asbestos'' means—

(A) chrysotile, amosite, or crocidolite; or

(B) in fibrous form, tremolite, anthophyllite, or actinolite.

(2) The term ''Attorney General'' means the Attorney General of the United States.

(3) The term ''threat'' or ''hazard'' means that an asbestos material is friable or easily damaged, or within reach of students or employees or otherwise susceptible to damage (including damage from water, vibration, or air circulation) which could result in the dispersal of asbestos fibers into the school environment.

(4) The term ''local educational agency'' means—

(A) any local educational agency as defined in section 8801 of this title; and

(B) the governing authority of any nonprofit elementary or secondary school.

(5) The term ''nonprofit elementary or secondary school'' means—

(A) any elementary or secondary school as defined in section 8801 of this title owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual; and

(B) any school of any agency of the United States.

(6) The term ''school buildings'' means—

(A) structures suitable for use as classrooms, laboratories, libraries, school eating facilities, or facilities used for the preparation of food;

(B) any gymnasium or other facility which is specially designed for athletic or recreational activities for an academic course in physical education;

(C) other facilities used for the instruction of students, for research, or for the administration of educational or research programs; and

(D) maintenance, storage, or utility facilities essential to the operation of the facilities described in subparagraphs (A) through (C) of this paragraph.

(7) The term ''Administrator'' means the Administrator of the Environmental Protection Agency, or the Administrator's designee.

(8) The term ''State'' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the Bureau of Indian Affairs.

(9) The term ''response action'' has the meaning given such term by section 2642(11) of title 15.

(Pub. L. 98–377, title V, §511, Aug. 11, 1984, 98 Stat. 1294; Pub. L. 101–637, §§10, 14(a)(11), (c)(6), Nov. 28, 1990, 104 Stat. 4592, 4594, 4596; Pub. L. 103–382, title III, §394(c), Oct. 20, 1994, 108 Stat. 4027.)

AMENDMENTS

1994—Par. (4)(A). Pub. L. 103–382, §394(c)(1), substituted ''section 8801 of this title'' for ''section 198(a)(10) of the Elementary and Secondary Education Act of 1965''.

Par. (5)(A). Pub. L. 103–382, §394(c)(2), substituted ''section 8801 of this title'' for ''section 198(a)(7) of the Elementary and Secondary Education Act of 1965''.

1990—Pub. L. 101–637, §14(a)(11), (c)(6)(A), inserted section catchline and substituted ''this subchapter:'' for ''this subchapter—''.

Pars. (1), (2). Pub. L. 101–637, §14(c)(6)(B), (C), substituted ''The'' for ''the'' at beginning and a period for semicolon at end.

Par. (3). Pub. L. 101–637, §§10(1), 14(c)(6)(B)–(D), substituted ''The'' for ''the'' at beginning and a period for semicolon at end, struck out ''each'' before ''reach of students'', and inserted '', vibration,'' after ''damage from water''.

Par. (4). Pub. L. 101–637, §14(c)(6)(B), (C), substituted ''The'' for ''the'' at beginning and a period for semicolon at end.

Par. (5). Pub. L. 101–637, §14(c)(6)(E), which directed the insertion of ''secondary'' before ''school'', was executed by making the insertion in the introductory provisions to reflect the probable intent of Congress.

Pub. L. 101–637, §14(c)(6)(B), (C), substituted ''The'' for ''the'' at beginning and a period for semicolon at end.

Pars. (6), (7). Pub. L. 101–637, §14(c)(6)(B), (C), substituted ''The'' for ''the'' at beginning and a period for semicolon at end.

Par. (8). Pub. L. 101–637, §14(c)(6)(B), substituted ''The'' for ''the'' at beginning.

Par. (9). Pub. L. 101–637, §10(2), added par. (9).

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

§ 4021. Authorization

(a) Amount; availability until expended

(1) There are hereby authorized to be appropriated for the asbestos abatement program not more than $200,000,000 for each of fiscal years 1991, 1992, 1993, 1994, and 1995. In addition, for such purposes and for each of such fiscal years there are authorized to be appropriated out of the Asbestos Trust Fund established by section 4022 of this title such sums as are contained in such trust fund in each of such fiscal years.

(2) The sums appropriated under this subchapter shall remain available until expended.

(b) Minimum State amount; fiscal year obligation requirement; reserved funds for administration and asbestos abatement oriented program expenditures; appropriations out of Asbestos Trust Fund

(1) A State with qualified applicants shall receive no less than one-half of 1 per centum of the sums appropriated under this subchapter or the total of the amounts requested by such applicants, whichever is less. Those amounts available in each fiscal year under this paragraph shall be obligated before the end of that fiscal year. For the purposes of this paragraph the term ''State'' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Bureau of Indian Affairs and, taken together, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(2) Of those sums appropriated for the implementation of this subchapter, not more than 5 percent may be reserved during each fiscal year for the administration of this subchapter and for programs including (but not limited to) the following:

(A) The establishment of training centers for contractors, engineers, school employees, parents, and other personnel to provide instruction, in accordance with title II of the Toxic Substances Control Act (15 U.S.C. 2641 et seq.), on asbestos assessment and abatement.

(B) The development and dissemination of abatement guidance documents to assist in evaluation of potential hazards and the determination of proper abatement programs.

(C) The development of rules and regulations regarding inspection, reporting, and recordkeeping.

(D) The development of a comprehensive testing and technical assistance program.

(3) Of those sums appropriated for any fiscal year for the implementation of this subchapter, the Administrator may use not more than 5 percent to provide grants to States for the following purposes:

(A) Assisting local educational agencies in performing the periodic reinspections and training activities required under title II of the Toxic Substances Control Act (15 U.S.C. 2641 et seq.).

(B) Establishing and maintaining programs to accredit personnel performing asbestos inspections and response actions.

(Pub. L. 98–377, title V, §512, Aug. 11, 1984, 98 Stat. 1295; Pub. L. 99–519, §4(a), Oct. 22, 1986, 100 Stat. 2989; Pub. L. 100–368, §6(a), July 18, 1988, 102 Stat. 833; Pub. L. 101–637, §§11, 14(a)(12), Nov. 28, 1990, 104 Stat. 4592, 4595.)

REFERENCES IN TEXT

The Toxic Substances Control Act, referred to in subsec. (b)(2)(A), (3)(A), is Pub. L. 94–469, Oct. 11, 1976, 90 Stat. 2003, as amended. Title II of the Act, as added by Pub. L. 99–519, §2, Oct. 22, 1986, 100 Stat. 2970, is classified generally to subchapter II (§2641 et seq.) of chapter 53 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 2601 of Title 15 and Tables.

AMENDMENTS

1990—Pub. L. 101–637, §14(a)(12), inserted section catchline.

Subsec. (a)(1). Pub. L. 101–637, §11(a), amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''There are hereby authorized to be appropriated for the asbestos abatement program not more than $50,000,000 for the fiscal year ending on September 30, 1984, $50,000,000 for the fiscal year ending on September 30, 1985, and $100,000,000 for each of the five succeeding fiscal years. In addition, for such purposes there are authorized to be appropriated out of the Asbestos Trust Fund established by section 4022 of this title $25,000,000 for each of fiscal years 1987, 1988, 1989, and 1990.''

Subsec. (b)(2). Pub. L. 101–637, §11(b), added par. (2) and struck out former par. (2) which read as follows: ''Of those sums appropriated for the implementation of this subchapter, up to 10 per centum shall be reserved

during the fiscal year ending September 30, 1984, and up to 5 per centum for the fiscal year ending September 30, 1985, for the administration of this subchapter and for programs including, but not limited to, the following:

''(A) the establishment of a training center for contractors, engineers, school employees, parents and other personnel to provide instruction on asbestos assessment and abatement;

''(B) the development and dissemination of abatement guidance documents to assist in evaluation of potential hazards, and the determination of proper abatement programs;

''(C) the development of rules and regulations regarding inspection, reporting and record-keeping; and

''(D) the development of a comprehensive testing and technical assistance program.''

Subsec. (b)(3). Pub. L. 101–637, § 11(b), added par. (3).

1988—Pub. L. 100–368 moved last sentence (as added by Pub. L. 98–377) to end of subsec. (a)(1).

1986—Pub. L. 99–519 inserted sentence at end authorizing appropriations out of the Asbestos Trust Fund for years 1987, 1988, 1989, and 1990.

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4014 of this title; title 15 section 2656.

§ 4022. Asbestos Trust Fund

(a) Creation of Trust Fund

There is established in the Treasury of the United States a trust fund to be known as the ''Asbestos Trust Fund'', consisting of such amounts as may be transferred or credited to such Trust Fund as provided in this section.

(b) Transfers to Trust Fund

(1) Transfer

There are hereby transferred to the Asbestos Trust Fund amounts equivalent to—

(A) amounts received in the Treasury on or after January 1, 1987, as repayments of loans made under section 4014 of this title,

(B) amounts received as deposits from local educational agencies under section 2647(a) of title 15, and

(C) amounts received as proceeds from any judgment recovered in any suit brought pursuant to section 4017(a)(1) of this title.

(2) Monthly transfers

The amounts transferred by paragraph (1) shall be transferred at least monthly from the general fund of the Treasury to the Asbestos Trust Fund on the basis of estimates made by the Secretary of the Treasury of the amounts referred to in such paragraph. Adjustments shall be made in the amounts subsequently transferred to the extent prior estimates were more or less than the amounts required to be transferred.

(c) Management of Trust Fund

(1) Investment

(A) In general

The Secretary of the Treasury shall invest such portion of the Asbestos Trust Fund as is not, in his judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States and may be acquired—

(i) on original issue at the issue price, or

(ii) by purchase of outstanding obligations at the market price.

(B) Sale of obligations

Any obligation acquired by the Asbestos Trust Fund may be sold by the Secretary of the Treasury at the market price.

(C) Interest on certain proceeds

The interest on, and the proceeds from the sale or redemption of, any obligations held in the Asbestos Trust Fund shall be credited to and form a part of the Trust Fund.

(2) Repealed. Pub. L. 104–66, title I, § 1131(c), Dec. 21, 1995, 109 Stat. 725

(d) Expenditures from Asbestos Trust Fund

Amounts in the Asbestos Trust Fund shall be available, as provided by appropriation Acts, only for purposes of carrying out the Asbestos Hazards Abatement Assistance Program under section 4014 of this title.

(e) Authority to borrow

(1) In general

There are authorized to be appropriated to the Asbestos Trust Fund, as repayable advances, $25,000,000 for each of fiscal years 1987, 1988, 1989, and 1990.

(2) Repayment of advances

(A) In general

Advances made under this subsection shall be repaid, and interest on such advances shall be paid, to the general fund of the Treasury when the Secretary determines that moneys are available for such purposes in the Asbestos Trust Fund.

(B) Rate of interest

Interest on advances made under this subsection shall be at a rate determined by the Secretary (as of the close of the calendar month preceding the month in which the advance is made) to be equal to the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the anticipated period during which the advance will be outstanding and shall be compounded annually.

(f) Effective date

The amendments made by this section shall take effect on January 1, 1986.

(Pub. L. 99–519, § 5, Oct. 22, 1986, 100 Stat. 2990; Pub. L. 101–637, § 12, Nov. 28, 1990, 104 Stat. 4593; Pub. L. 104–66, title I, § 1131(c), Dec. 21, 1995, 109 Stat. 725.)

CODIFICATION

Section was enacted as part of the Asbestos Hazard Emergency Response Act of 1986, and not as part of the Asbestos School Hazard Abatement Act of 1984 which comprises this subchapter nor as part of the Education for Economic Security Act which comprises this chapter.

AMENDMENTS

1995—Subsec. (c)(2). Pub. L. 104–66 struck out heading and text of par. (2). Text read as follows: ''It shall be

the duty of the Secretary of the Treasury to hold the Asbestos Trust Fund and to report to the Congress each year on the financial condition and the results of the operations of the Trust Fund during the preceding fiscal year and on its expected condition and operations during the next 5 fiscal years.''

1990—Subsec. (b)(1). Pub. L. 101–637, §12(a), substituted a comma for ''as in effect on October 22, 1986, and'' in subpar. (A) and '', and'' for period at end of subpar. (B), and added subpar. (C).

Subsec. (d). Pub. L. 101–637, §12(b), struck out before period at end ''as in effect on October 22, 1986''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4014, 4017, 4021 of this title; title 15 section 2647.

SUBCHAPTER VI—EXCELLENCE IN EDUCATION PROGRAM

§§ 4031 to 4037. Repealed. Pub. L. 100–297, title II, § 2303, Apr. 28, 1988, 102 Stat. 324

Section 4031, Pub. L. 98–377, title VI, §602, Aug. 11, 1984, 98 Stat. 1295, related to statement of purpose.

Section 4032, Pub. L. 98–377, title VI, §603, Aug. 11, 1984, 98 Stat. 1296, related to definitions.

Section 4033, Pub. L. 98–377, title VI, §604, Aug. 11, 1984, 98 Stat. 1296; Pub. L. 99–159, title II, §251, Nov. 22, 1985, 99 Stat. 901; Pub. L. 99–425, title VII, §701, Sept. 30, 1986, 100 Stat. 977, related to school excellence awards.

Section 4034, Pub. L. 98–377, title VI, §605, Aug. 11, 1984, 98 Stat. 1296, related to selection of schools for awards.

Section 4035, Pub. L. 98–377, title VI, §606, Aug. 11, 1984, 98 Stat. 1298, related to amount and conditions of awards.

Section 4036, Pub. L. 98–377, title VI, §607, Aug. 11, 1984, 98 Stat. 1298, related to special school awards.

Section 4037, Pub. L. 98–377, title VI, §608, Aug. 11, 1984, 98 Stat. 1298, related to research, evaluation, dissemination, and monitoring activities.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1988, see section 6303 of Pub. L. 100–297, set out as an Effective Date note under section 1201 of this title.

SHORT TITLE

Pub. L. 98–377, title VI, §601, Aug. 11, 1984, 98 Stat. 1295, which provided that title VI of Pub. L. 98–377 was to be cited as the ''Excellence in Education Act'', was repealed by Pub. L. 100–297, title II, §2303, Apr. 28, 1988, 102 Stat. 324.

SUBCHAPTER VII—MAGNET SCHOOLS ASSISTANCE

§§ 4051 to 4062. Repealed. Pub. L. 100–297, title II, § 2303, Apr. 28, 1988, 102 Stat. 324

Section 4051, Pub. L. 98–377, title VII, §701, Aug. 11, 1984, 98 Stat. 1299; Pub. L. 99–159, title II, §261, Nov. 22, 1985, 99 Stat. 901, related to authorization of appropriations.

Section 4052, Pub. L. 98–377, title VII, §702, Aug. 11, 1984, 98 Stat. 1299, related to eligibility requirements.

Section 4053, Pub. L. 98–377, title VII, §703, Aug. 11, 1984, 98 Stat. 1299; Pub. L. 99–159, title II, §262, Nov. 22, 1985, 99 Stat. 901, related to statement of purpose.

Section 4054, Pub. L. 98–377, title VII, §704, Aug. 11, 1984, 98 Stat. 1299, related to program authorization.

Section 4055, Pub. L. 98–377, title VII, §705, Aug. 11, 1984, 98 Stat. 1300, defined term ''magnet school''.

Section 4056, Pub. L. 98–377, title VII, §706, Aug. 11, 1984, 98 Stat. 1300; Pub. L. 99–159, title II, §263, Nov. 22, 1985, 99 Stat. 902, related to uses of funds.

Section 4057, Pub. L. 98–377, title VII, §707, Aug. 11, 1984, 98 Stat. 1300, related to applications and requirements.

Section 4058, Pub. L. 98–377, title VII, §708, Aug. 11, 1984, 98 Stat. 1301, related to special considerations in approving applications.

Section 4059, Pub. L. 98–377, title VII, §709, Aug. 11, 1984, 98 Stat. 1301; Pub. L. 99–159, title II, §264, Nov. 22, 1985, 99 Stat. 902, related to prohibitions on use of grants.

Section 4060, Pub. L. 98–377, title VII, §710, Aug. 11, 1984, 98 Stat. 1301, related to limitation on payments.

Section 4061, Pub. L. 98–377, title VII, §711, Aug. 11, 1984, 98 Stat. 1301; Pub. L. 98–558, title VII, §702, Oct. 30, 1984, 98 Stat. 2900, related to payments.

Section 4062, Pub. L. 98–377, title VII, §712, Aug. 11, 1984, 98 Stat. 1302, related to withholding.

For similar provisions, see section 7201 et seq. of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1988, see section 6303 of Pub. L. 100–297, set out as an Effective Date note under section 1201 of this title.

SUBCHAPTER VIII—EQUAL ACCESS

§ 4071. Denial of equal access prohibited

(a) Restriction of limited open forum on basis of religious, political, philosophical, or other speech content prohibited

It shall be unlawful for any public secondary school which receives Federal financial assistance and which has a limited open forum to deny equal access or a fair opportunity to, or discriminate against, any students who wish to conduct a meeting within that limited open forum on the basis of the religious, political, philosophical, or other content of the speech at such meetings.

(b) "Limited open forum" defined

A public secondary school has a limited open forum whenever such school grants an offering to or opportunity for one or more noncurriculum related student groups to meet on school premises during noninstructional time.

(c) Fair opportunity criteria

Schools shall be deemed to offer a fair opportunity to students who wish to conduct a meeting within its limited open forum if such school uniformly provides that—

(1) the meeting is voluntary and student-initiated;

(2) there is no sponsorship of the meeting by the school, the government, or its agents or employees;

(3) employees or agents of the school or government are present at religious meetings only in a nonparticipatory capacity;

(4) the meeting does not materially and substantially interfere with the orderly conduct of educational activities within the school; and

(5) nonschool persons may not direct, conduct, control, or regularly attend activities of student groups.

(d) Construction of subchapter with respect to certain rights

Nothing in this subchapter shall be construed to authorize the United States or any State or political subdivision thereof—

(1) to influence the form or content of any prayer or other religious activity;

(2) to require any person to participate in prayer or other religious activity;

(3) to expend public funds beyond the incidental cost of providing the space for student-initiated meetings;

(4) to compel any school agent or employee to attend a school meeting if the content of the speech at the meeting is contrary to the beliefs of the agent or employee;

(5) to sanction meetings that are otherwise unlawful;

(6) to limit the rights of groups of students which are not of a specified numerical size; or

(7) to abridge the constitutional rights of any person.

(e) Federal financial assistance to schools unaffected

Notwithstanding the availability of any other remedy under the Constitution or the laws of the United States, nothing in this subchapter shall be construed to authorize the United States to deny or withhold Federal financial assistance to any school.

(f) Authority of schools with respect to order, discipline, well-being, and attendance concerns

Nothing in this subchapter shall be construed to limit the authority of the school, its agents or employees, to maintain order and discipline on school premises, to protect the well-being of students and faculty, and to assure that attendance of students at meetings is voluntary.

(Pub. L. 98–377, title VIII, § 802, Aug. 11, 1984, 98 Stat. 1302.)

SHORT TITLE

Section 801 of title VIII of Pub. L. 98–377 provided that: ''This title [enacting this subchapter] may be cited as 'The Equal Access Act'.''

§ 4072. Definitions

As used in this subchapter—

(1) The term ''secondary school'' means a public school which provides secondary education as determined by State law.

(2) The term ''sponsorship'' includes the act of promoting, leading, or participating in a meeting. The assignment of a teacher, administrator, or other school employee to a meeting for custodial purposes does not constitute sponsorship of the meeting.

(3) The term ''meeting'' includes those activities of student groups which are permitted under a school's limited open forum and are not directly related to the school curriculum.

(4) The term ''noninstructional time'' means time set aside by the school before actual classroom instruction begins or after actual classroom instruction ends.

(Pub. L. 98–377, title VIII, § 803, Aug. 11, 1984, 98 Stat. 1303.)

§ 4073. Severability

If any provision of this subchapter or the application thereof to any person or circumstances is judicially determined to be invalid, the provisions of the remainder of the subchapter and the application to other persons or circumstances shall not be affected thereby.

(Pub. L. 98–377, title VIII, § 804, Aug. 11, 1984, 98 Stat. 1304.)

§ 4074. Construction

The provisions of this subchapter shall supersede all other provisions of Federal law that are inconsistent with the provisions of this subchapter.

(Pub. L. 98–377, title VIII, § 805, Aug. 11, 1984, 98 Stat. 1304.)

SUBCHAPTER IX—STAR SCHOOLS PROGRAM

§§ 4081 to 4086. Repealed. Pub. L. 103–382, title III, § 364, Oct. 20, 1994, 108 Stat. 3975

Section 4081, Pub. L. 98–377, title IX, § 902, as added Pub. L. 100–297, title II, § 2302, Apr. 28, 1988, 102 Stat. 320; amended Pub. L. 102–103, title III, § 301, Aug. 17, 1991, 105 Stat. 499, related to purpose of star schools program.

Section 4082, Pub. L. 98–377, title IX, § 903, as added Pub. L. 100–297, title II, § 2302, Apr. 28, 1988, 102 Stat. 320; amended Pub. L. 102–103, title III, § 302, Aug. 17, 1991, 105 Stat. 499, authorized grants for telecommunications facilities and equipment, instructional programming, and technical assistance.

Section 4083, Pub. L. 98–377, title IX, § 904, as added Pub. L. 100–297, title II, § 2302, Apr. 28, 1988, 102 Stat. 321; amended Pub. L. 102–103, title III, § 303, Aug. 17, 1991, 105 Stat. 500, related to eligibility of telecommunications partnerships for grants.

Section 4084, Pub. L. 98–377, title IX, § 905, as added Pub. L. 100–297, title II, § 2302, Apr. 28, 1988, 102 Stat. 321; amended Pub. L. 102–103, title III, § 304, Aug. 17, 1991, 105 Stat. 501, related to applications for grants.

Section 4085, Pub. L. 98–377, title IX, § 906, as added Pub. L. 100–297, title II, § 2302, Apr. 28, 1988, 102 Stat. 323, related to dissemination of courses and materials under star schools program.

Section 4085a, Pub. L. 98–377, title IX, § 907, as added Pub. L. 102–103, title III, § 305(2), Aug. 17, 1991, 105 Stat. 502, related to continuing eligibility for grants.

Section 4085b, Pub. L. 98–377, title IX, § 908, as added Pub. L. 102–103, title III, § 305(2), Aug. 17, 1991, 105 Stat. 503; amended Pub. L. 103–227, title IX, § 961, Mar. 31, 1994, 108 Stat. 263, required independent evaluation of the star schools program.

Section 4085c, Pub. L. 98–377, title IX, § 909, as added Pub. L. 102–103, title III, § 305(2), Aug. 17, 1991, 105 Stat. 504, authorized assistance for acquiring satellite time.

Section 4085d, Pub. L. 98–377, title IX, § 910, as added Pub. L. 102–103, title III, § 305(2), Aug. 17, 1991, 105 Stat. 504, authorized grants for dissemination and technical assistance to State and local educational agencies.

Section 4086, Pub. L. 98–377, title IX, § 911, formerly § 907, as added Pub. L. 100–297, title II, § 2302, Apr. 28, 1988, 102 Stat. 324; amended Pub. L. 102–73, title VIII, § 802(c), July 25, 1991, 105 Stat. 361; renumbered § 911, Pub. L. 102–103, title III, § 305(1), Aug. 17, 1991, 105 Stat. 502, defined terms used in this subchapter.

For similar provisions, see section 6891 et seq. of this title.

SHORT TITLE

Section 901 of title IX of Pub. L. 98–377, as added by Pub. L. 100–297, title II, § 2302, Apr. 28, 1988, 102 Stat. 320, provided that title IX of Pub. L. 98–377 [enacting this subchapter] could be cited as the ''Star Schools Program Assistance Act'', prior to repeal by Pub. L. 103–382, title III, § 364, Oct. 20, 1994, 108 Stat. 3975.

CHAPTER 53—EMERGENCY IMMIGRANT EDUCATION ASSISTANCE

§§ 4101 to 4108. Repealed. Pub. L. 100–297, title I, § 1003(c), Apr. 28, 1988, 102 Stat. 293

Section 4101, Pub. L. 98–511, title VI, § 602, Oct. 19, 1984, 98 Stat. 2401; Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, related to definitions for chapter.

Section 4102, Pub. L. 98–511, title VI, §603, Oct. 19, 1984, 98 Stat. 2401, related to authorization and allocation of appropriations.

Section 4103, Pub. L. 98–511, title VI, §604, Oct. 19, 1984, 98 Stat. 2402, related to State administrative costs.

Section 4104, Pub. L. 98–511, title VI, §605, Oct. 19, 1984, 98 Stat. 2402, related to withholding.

Section 4105, Pub. L. 98–511, title VI, §606, Oct. 19, 1984, 98 Stat. 2402, related to State entitlements.

Section 4106, Pub. L. 98–511, title VI, §607, Oct. 19, 1984, 98 Stat. 2403, related to uses of funds.

Section 4107, Pub. L. 98–511, title VI, §608, Oct. 19, 1984, 98 Stat. 2404, related to applications.

Section 4108, Pub. L. 98–511, title VI, §609, Oct. 19, 1984, 98 Stat. 2405, related to payments.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1988, see section 6303 of Pub. L. 100–297, set out as an Effective Date note under section 1201 of this title.

SHORT TITLE

Pub. L. 98–511, title VI, §601, Oct. 19, 1984, 98 Stat. 2401, provided that title VI of Pub. L. 98–511 was to be cited as the ''Emergency Immigrant Education Act of 1984'', prior to repeal by Pub. L. 100–297, title I, §1003(c), Apr. 28, 1988, 102 Stat. 293.

CHAPTER 54—LEADERSHIP IN EDUCATIONAL ADMINISTRATION

§§ 4201 to 4206. Repealed. Pub. L. 99–498, title V, § 501(b), Oct. 17, 1986, 100 Stat. 1514

Section 4201, Pub. L. 98–558, title IX, §901, Oct. 30, 1984, 98 Stat. 2902, provided for citation of chapter as ''Leadership on Educational Administration Development Act of 1984'' and contained statement of purpose and declaration of Congressional intent in enacting chapter.

Section 4202, Pub. L. 98–558, title IX, §902, Oct. 30, 1984, 98 Stat. 2903, authorized appropriations for fiscal years 1985 to 1990 to carry out chapter.

Section 4203, Pub. L. 98–558, title IX, §903, Oct. 30, 1984, 98 Stat. 2903, provided for establishment of technical assistance centers.

Section 4204, Pub. L. 98–558, title IX, §904, Oct. 30, 1984, 98 Stat. 2904, set out general criteria for contracts to establish and operate technical assistance centers.

Section 4205, Pub. L. 98–558, title IX, §905, Oct. 30, 1984, 98 Stat. 2904, authorized Secretary to prescribe regulations to carry out chapter.

Section 4206, Pub. L. 98–558, title IX, §906, Oct. 30, 1984, 98 Stat. 2904; Pub. L. 99–500, §101(d) [title I, §134(a)], Oct. 18, 1986, 100 Stat. 1783–180, 1783–192, and Pub. L. 99–591, §101(d) [title I, §134(a)], Oct. 30, 1986, 100 Stat. 3341–180, 3341–192, defined terms used in chapter.

CHAPTER 55—EDUCATION OF THE DEAF

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SUBCHAPTER I—GALLAUDET UNIVERSITY; NATIONAL TECHNICAL INSTITUTE FOR THE DEAF

PART A—GALLAUDET UNIVERSITY

§ 4301. Continuation of Gallaudet College as Gallaudet University

(a) Gallaudet University

The Gallaudet College created by an Act entitled ''An Act to amend the charter of the Co-

lumbia Institution for the Deaf, change its name, define its corporate powers, and provide for its organization and administration, and for other purposes'', approved June 18, 1954, is continued as a body corporate under the name of Gallaudet University. On and after August 4, 1986, Gallaudet College shall be known as Gallaudet University and have perpetual succession and shall have the powers and be subject to the limitations contained in this chapter.

(b) Purpose

The purpose of Gallaudet University shall be to provide education and training to individuals who are deaf and otherwise to further the education of individuals who are deaf.

(Pub. L. 99–371, title I, § 101, Aug. 4, 1986, 100 Stat. 781; Pub. L. 102–421, title I, § 151(a)(1), (4), Oct. 16, 1992, 106 Stat. 2163, 2164; Pub. L. 103–73, title II, § 203(a), Aug. 11, 1993, 107 Stat. 732.)

REFERENCES IN TEXT

An Act to amend the charter of the Columbia Institution for the Deaf, change its name, define its corporate powers, and provide for its organization and administration, and for other purposes, referred to in subsec. (a), is act June 18, 1954, ch. 324, 68 Stat. 265, as amended, which was classified generally to subchapter I (§ 691 et seq.) of chapter 20B of this title, and was repealed by Pub. L. 99–371, title IV, § 410(a), Aug. 4, 1986, 100 Stat. 794.

This chapter, referred to in subsec. (a), was in the original ''this Act'', meaning Pub. L. 99–371, Aug. 4, 1986, 100 Stat. 781, known as the Education of the Deaf Act of 1986, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note below and Tables.

CODIFICATION

Section is also set out in D.C. Code, § 31–1841.1.

PRIOR PROVISIONS

Provisions similar to this section were contained in sections 691 and 691a of this title prior to repeal by Pub. L. 99–371.

AMENDMENTS

1993—Subsec. (a). Pub. L. 103–73 inserted comma after ''Hereafter'' in original, which for purposes of codification had been translated as ''On or after August 4, 1986,'', requiring no change in text.

1992—Subsec. (b). Pub. L. 102–421 substituted ''individuals who are deaf'' for ''deaf individuals'' after ''training to'' and for ''the deaf'' after ''education of''.

EFFECTIVE DATE OF 1992 AMENDMENT

Section 161 of title I of Pub. L. 102–421 provided that: ''The amendments described in this title [enacting sections 4304, 4305, 4357, 4358, and 4359a of this title, amending this section and sections 4303, 4331, 4332, 4351 to 4356, and 4360 of this title, and repealing sections 4311, 4321, 4322, 4341 to 4344, 4357, and 4358 of this title] are made upon October 1, 1992, and take effect upon such date.''

SHORT TITLE OF 1993 AMENDMENT

Section 201(a) of title II of Pub. L. 103–73 provided that: ''This title [amending this section and sections 4302 to 4305, 4331, 4332, 4351, 4353 to 4357, 4359, 4359a, and 4360 of this title] may be cited as the 'Education of the Deaf Act Amendments of 1993'.''

SHORT TITLE OF 1992 AMENDMENT

Section 1 of Pub. L. 102–421 provided that: ''This Act [enacting sections 4304, 4305, 4357, 4358, and 4359a of this title, amending this section and sections 1424a, 1431, 1441, 4303, 4331, 4332, 4351 to 4356, and 4360 of this title, repealing sections 4311, 4321, 4322, 4341 to 4344, 4357, and 4358 of this title, and enacting provisions set out as notes under this section and section 1424a of this title] may be cited as the 'Education of the Deaf Act Amendments of 1992'.''

SHORT TITLE

Section 1 of Pub. L. 99–371 provided: ''That this Act [enacting this chapter, repealing sections 681 to 685, 691 to 691g, 693 to 693b, and 695 to 695c of this title, and repealing provisions set out as notes under sections 681 and 693 of this title] may be cited as the 'Education of the Deaf Act of 1986'.''

§ 4302. Property rights

(a) Property rights described

Gallaudet University is vested with all the property and the rights of property, and shall have and be entitled to use all authority, privileges, and possessions and all legal rights which it has, or which it had or exercised under any former name, including the right to sue and be sued and to own, acquire, sell, mortgage, or otherwise dispose of property it may own now or hereafter acquire. Gallaudet University shall also be subject to all liabilities and obligations now outstanding against the corporation under any former name.

(b) Disposal of real property

(1) With the approval of the Secretary, the Board of Trustees of Gallaudet University may convey fee simple title by deed, convey by quitclaim deed, mortgage, or otherwise dispose of any or all real property title to which is vested in Gallaudet University, Gallaudet College, the Columbia Institution for the Deaf, or any predecessor corporation.

(2) The proceeds of any such disposition shall be considered a part of the capital structure of the corporation, and may be used solely for the acquisition of real estate for the use of the corporation, for the construction, equipment, or improvement of buildings for such use, or for investment purposes, but, if invested, only the income from the investment may be used for current expenses of the corporation.

(Pub. L. 99–371, title I, § 102, Aug. 4, 1986, 100 Stat. 781; Pub. L. 103–73, title II, § 203(b), Aug. 11, 1993, 107 Stat. 733.)

CODIFICATION

Section is also set out in D.C. Code, § 31–1841.2.

PRIOR PROVISIONS

Provisions similar to this section were contained in section 691b of this title, prior to repeal by Pub. L. 99–371.

AMENDMENTS

1993—Subsec. (b)(1). Pub. L. 103–73, § 203(b)(1), substituted ''Secretary'' for ''Secretary of Education''.

Subsec. (b)(2). Pub. L. 103–73, § 203(b)(2), substituted ''but, if invested,'' for ''but if invested''.

REAL PROPERTY PROVISIONS

The following acts contained provisions relating to acquisition, exchange, and adjustment of boundaries of properties of Gallaudet University and its predecessors, Gallaudet College and Columbia Institution for the Deaf:

July 1, 1916, ch. 209, 39 Stat. 310.

Aug. 3, 1939, ch. 414, 53 Stat. 1179.
Sept. 13, 1960, Pub. L. 86–776, §§1, 2, 74 Stat. 916, 917.
Nov. 20, 1981, Pub. L. 97–80, title II, §202(a)(1), 95 Stat. 1082.

§ 4303. Board of Trustees

(a) Composition of Board

(1) Gallaudet University shall be under the direction and control of a Board of Trustees, composed of twenty-one members who shall include—

(A) three public members of whom (i) one shall be a United States Senator appointed by the President of the Senate, and (ii) two shall be Representatives appointed by the Speaker of the House of Representatives; and

(B) eighteen other members, all of whom shall be elected by the Board of Trustees and of whom one shall be elected pursuant to regulations of the Board of Trustees, on nomination by the Gallaudet University Alumni Association, for a term of three years.

(2) The members appointed from the Senate and House of Representatives shall be appointed for a term of two years at the beginning of each Congress, shall be eligible for reappointment, and shall serve until their successors are appointed.

(3) The Board of Trustees shall have the power to fill any vacancy in the membership of the Board except for public members. Nine trustees shall constitute a quorum to transact business. The Board of Trustees, by vote of a majority of its membership, is authorized to remove any member of their body (except the public members) who may refuse or neglect to discharge the duties of a trustee, or whose removal would, in the judgment of said majority, be to the interest and welfare of said corporation.

(b) Powers of Board

The Board of Trustees is authorized to—

(1) make such rules, policies, regulations, and bylaws, not inconsistent with the Constitution and laws of the United States, as may be necessary for the good government of Gallaudet University, for the management of the property and funds of such corporation (including the construction of buildings and other facilities), and for the admission, instruction, care, and discharge of students;

(2) provide for the adoption of a corporate seal and for its use;

(3) fix the date of holding their annual and other meetings;

(4) appoint a president and establish policies, guidelines, and procedures related to the appointments, the salaries, and the dismissals of professors, instructors, and other employees of Gallaudet University, including the adoption of a policy of outreach and recruitment to employ and advance in employment qualified individuals with disabilities, particularly individuals who are deaf or hard of hearing;

(5) elect a chairperson and other officers and prescribe their duties and terms of office, and appoint an executive committee to consist of five members, and vest the committee with such of its powers during periods between meetings of the Board as the Board deems necessary;

(6) establish such schools, departments, and other units as the Board of Trustees deems necessary to carry out the purpose of Gallaudet University;

(7) confer such degrees and marks of honor as are conferred by colleges and universities generally, and issue such diplomas and certificates of graduation as, in its opinion, may be deemed advisable, and consistent with academic standards;

(8) subject to section 4353 of this title, control expenditures of all moneys appropriated by Congress for the benefit of Gallaudet University; and

(9) control the expenditure and investment of any moneys or funds or property which Gallaudet University may have or may receive from sources other than appropriations by Congress.

(Pub. L. 99–371, title I, §103, Aug. 4, 1986, 100 Stat. 782; Pub. L. 102–421, title I, §§101(c), 111, Oct. 16, 1992, 106 Stat. 2152; Pub. L. 103–73, title II, §203(c), Aug. 11, 1993, 107 Stat. 733.)

CODIFICATION

Section is also set out in D.C. Code, §31–1841.3.

PRIOR PROVISIONS

Provisions similar to this section were contained in sections 691d and 691e of this title prior to repeal by Pub. L. 99–371.

AMENDMENTS

1993—Subsec. (a). Pub. L. 103–73, §203(c)(1), in par. (1) substituted ''members who shall include—'' for ''members selected as follows:'' in introductory provisions and inserted comma after ''Association'' in subpar. (B), redesignated second sentence of par. (1) as par. (2), and redesignated former par. (2) as (3).

Subsec. (b). Pub. L. 103–73, §203(c)(2), inserted comma after ''facilities)'' in par. (1), substituted ''or hard of hearing;'' for ''or individuals who are hard of hearing.'' in par. (4), and struck out ''the provisions of'' before ''section 4353'' in par. (8).

1992—Subsec. (a)(1)(B). Pub. L. 102–421, §111(1), struck out '', who on August 4, 1986, shall include those individuals serving as nonpublic members of the Board of Trustees of Gallaudet College immediately prior to August 4, 1986,'' after ''elected by the Board of Trustees''.

Subsec. (b)(1). Pub. L. 102–421, §111(2)(A), inserted ''(including the construction of buildings and other facilities)'' after ''corporation''.

Subsec. (b)(4), (6). Pub. L. 102–421, §111(2)(B), (C), amended pars. (4) and (6) generally. Prior to amendment, pars. (4) and (6) read as follows:

''(4) appoint a president, professors, instructors, and other necessary employees for Gallaudet University, delegate to them such duties as it may deem advisable, fix their compensation, and remove them when, in their judgment, the interest of Gallaudet University shall require it;

''(6) establish such departments and other units, including a department of higher learning for the deaf, a department of elementary education for the instruction of deaf children, a graduate department, and a research department, as the Board deems necessary to carry out the purpose of Gallaudet University;''.

Subsec. (b)(8). Pub. L. 102–421, §101(c), made technical amendment to reference to section 4353 of this title to reflect change in reference to corresponding section of original act.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–421 effective Oct. 1, 1992, see section 161 of Pub. L. 102–421, set out as a note under section 4301 of this title.

§ 4304. Elementary and secondary education programs

(a) General authority

(1)(A) The Board of Trustees of Gallaudet University is authorized, in accordance with the agreement under section 4305 of this title, to maintain and operate exemplary elementary and secondary education programs, projects, and activities for the primary purpose of developing, evaluating, and disseminating innovative curricula, instructional techniques and strategies, and materials that can be used in various educational environments serving individuals who are deaf or hard of hearing throughout the Nation.

(B) The elementary and secondary education programs described in subparagraph (A) shall serve students with a broad spectrum of needs, including students who are lower achieving academically, who come from non-English-speaking homes, who have secondary disabilities, who are members of minority groups, or who are from rural areas.

(C) The elementary and secondary education programs described in subparagraph (A) shall include—

(i) the Kendall Demonstration Elementary School, to provide day facilities for elementary education for students who are deaf from the age of onset of deafness to age fifteen, inclusive, but not beyond the eighth grade or its equivalent, to provide such students with the vocational, transitional, independent living, and related services they need to function independently, and to prepare such students for high school and other secondary study; and

(ii) the Model Secondary School for the Deaf, to provide day and residential facilities for secondary education for students who are deaf from grades nine through twelve, inclusive, to provide such students with the vocational, transitional, independent living, and related services they need to function independently, and to prepare such students for college, other postsecondary opportunities, or the workplace.

(2) The Model Secondary School for the Deaf may provide residential facilities for students enrolled in the school—

(A) who live beyond a reasonable commuting distance from the school; or

(B) for whom such residency is necessary for them to receive a free appropriate public education within the meaning of part B of the Individuals with Disabilities Education Act [20 U.S.C. 1411 et seq.].

(b) Administrative requirements

(1) The elementary and secondary education programs shall—

(A) provide technical assistance and outreach throughout the Nation to meet the training and information needs of parents of infants, children, and youth who are deaf or hard of hearing;

(B) provide technical assistance and training to personnel for use in teaching (i) students who are deaf or hard of hearing, in various educational environments, and (ii) students who are deaf or hard of hearing with a broad spectrum of needs as described in subsection (a) of this section; and

(C) establish and publish priorities for research, development, and demonstration through a process that allows for public input.

(2) To the extent possible, the elementary and secondary education programs shall provide the services required under paragraph (1) in an equitable manner, based on the national distribution of students who are deaf or hard of hearing in educational environments as determined by the Secretary for purposes of section 618(b)[1] of the Individuals with Disabilities Education Act. Such educational environments shall include—

(A) regular classes;

(B) resource rooms;

(C) separate classes;

(D) separate, public or private, nonresidential schools; and

(E) separate, public or private, residential schools and homebound or hospital environments.

(3) If a local educational agency, intermediate educational unit, or State educational agency refers a child to, or places a child in, one of the elementary or secondary education programs to meet its obligation to make available a free appropriate public education under part B of the Individuals with Disabilities Education Act [20 U.S.C. 1411 et seq.], the agency or unit shall be responsible for ensuring that the special education and related services provided to the child by the education program are in accordance with part B of that Act and that the child is provided the rights and procedural safeguards under section 615 of that Act [20 U.S.C. 1415].

(4) If the parents or guardian places a child in one of the elementary or secondary education programs, the University shall—

(A) notify the appropriate local educational agency, intermediate educational unit, or State educational agency of that child's attendance in the program;

(B) work with local educational agencies, intermediate educational units, and State educational agencies, where appropriate, to ensure a smooth transfer of the child to and from that program; and

(C) provide the child a free appropriate public education in accordance with part B of the Individuals with Disabilities Education Act [20 U.S.C. 1411 et seq.] and procedural safeguards in accordance with the following provisions of section 615 of such Act [20 U.S.C. 1415]:

(i) Subparagraphs (A), (C), (D), and (E) of paragraph (1) of subsection (b), and paragraph (2) of such subsection.

(ii) Subsection (d), except the portion of paragraph (4) requiring that findings and decisions be transmitted to a State advisory panel.

(iii) Paragraphs (1) through (3) of subsection (e). Paragraph (3) of such subsection is not applicable to a decision by the University to refuse to admit or to dismiss a child, except that, before dismissing any child, the University shall give at least 60 days notice to the child's parents and to the local educational agency in which the child resides.

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[1] See References in Text note below.

(iv) Subsection (f).

(Pub. L. 99–371, title I, §104, as added Pub. L. 102–421, title I, §112, Oct. 16, 1992, 106 Stat. 2152; amended Pub. L. 103–73, title II, §203(d), Aug. 11, 1993, 107 Stat. 733.)

REFERENCES IN TEXT

The Individuals with Disabilities Education Act, referred to in subsecs. (a)(2)(B) and (b)(3), (4)(C), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, as amended. Part B of the Act is classified generally to subchapter II (§1411 et seq.) of chapter 33 of this title. Section 618 of the Act was classified to section 1418 of this title and was omitted in the general amendment of subchapter II of chapter 33 of this title by Pub. L. 105–17, title I, §101, June 4, 1997, 111 Stat. 37. Pub. L. 105–17 enacted a new section 618 of the Act, which is classified to section 1418 of this title. Provisions similar to those formerly appearing in subsec. (b) of that section are now contained in subsec. (a). For complete classification of this Act to the Code, see section 1400 of this title and Tables.

CODIFICATION

Section is also set out in D.C. Code, §31–1841.3a.

AMENDMENTS

1993—Pub. L. 103–73, §203(d)(1), substituted ''education'' for ''educational'' in section catchline.

Subsec. (a)(1). Pub. L. 103–73, §203(d)(2), in subpar. (A) substituted ''deaf or hard'' for ''deaf and individuals who are hard'', in subpar. (B) inserted ''education'' after ''elementary and secondary'' and substituted ''non-English-speaking'' for ''non-English speaking'', and in subpar. (C), in introductory provisions, inserted ''education'' after ''elementary and secondary'', in cl. (i) substituted ''students'' for ''individuals'' wherever appearing and ''deaf from the age of onset of deafness to age fifteen, inclusive, but not beyond the eighth grade or its equivalent,'' for ''deaf,'', and in cl. (ii) substituted ''students'' for ''individuals'' wherever appearing and ''deaf from grades nine through twelve, inclusive,'' for ''deaf,''.

Subsec. (b)(1). Pub. L. 103–73, §203(d)(3), substituted ''infants, children, and youth'' for ''infants and children'' in subpar. (A) and a period for the semicolon at end of subpar. (C).

Subsec. (b)(4). Pub. L. 103–73, §203(d)(4), substituted ''program'' for ''programs'' in subpar. (A), ''the child to and from that program'' for ''students to and from those programs'' in subpar. (B), and ''a decision'' for ''decisions'' in subpar. (C)(iii).

EFFECTIVE DATE

Section effective Oct. 1, 1992, see section 161 of Pub. L. 102–421, set out as an Effective Date of 1992 Amendment note under section 4301 of this title.

§4305. Agreement with Gallaudet University

(a) General authority

The Secretary and Gallaudet University shall establish, within 1 year after October 16, 1992, a new agreement governing the operation and national mission activities, including construction and provision of equipment, of the elementary and secondary education programs at the University. The Secretary and the University shall periodically update the agreement as determined to be necessary by the Secretary or the University.

(b) Provisions of agreement

The agreement shall—

(1) provide that Federal funds appropriated for the benefit of the Kendall Demonstration Elementary School and the Model Secondary School for the Deaf will be used only for the purposes for which appropriated and in accordance with the applicable provisions of this chapter and such agreement;

(2) provide that the University will make an annual report, to be part of the report required under section 4354 of this title, to the Secretary on the operations and national mission activities of the elementary and secondary education programs, including such other information as the Secretary may consider necessary;

(3) provide that in the design and construction of any facilities, maximum attention will be given to innovative auditory and visual devices and installations appropriate for the educational functions of such facilities;

(4) provide that any laborer or mechanic employed by any contractor or subcontractor in the performance of work on any construction aided by Federal funds appropriated for the benefit of the Kendall Demonstration Elementary School or the Model Secondary School for the Deaf will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (40 U.S.C. 276a—276a–5) commonly referred to as the Davis-Bacon Act; except that the Secretary of Labor shall have, with respect to the labor standards specified in this paragraph, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (5 U.S.C. App.) and section 276c of title 40; and

(5) include such other conditions as the Secretary or the University considers necessary to carry out the purposes of this part.

(Pub. L. 99–371, title I, §105, as added Pub. L. 102–421, title I, §113, Oct. 16, 1992, 106 Stat. 2154; amended Pub. L. 103–73, title II, §203(e), Aug. 11, 1993, 107 Stat. 734.)

REFERENCES IN TEXT

Act of March 3, 1931 (40 U.S.C. 276a—276a–5) commonly referred to as the Davis-Bacon Act, referred to in subsec. (b)(4), is act Mar. 3, 1931, ch. 411, 46 Stat. 1494, as amended, which is classified generally to sections 276a to 276a–5 of Title 40, Public Buildings, Property, and Works. For complete classification of this Act to the Code, see Short Title note set out under section 276a of Title 40 and Tables.

Reorganization Plan Numbered 14 of 1950, referred to in subsec. (b)(4), is set out in the Appendix to Title 5, Government Organization and Employees.

CODIFICATION

Section is also set out in D.C. Code, §31–1841.3b.

AMENDMENTS

1993—Subsec. (b)(2). Pub. L. 103–73, §203(e)(1), substituted ''will'' for ''shall''.

Subsec. (b)(4). Pub. L. 103–73, §203(e)(2), substituted ''Elementary School or the Model'' for ''Elementary School and the Model'' and ''except that the Secretary'' for ''and the Secretary''.

EFFECTIVE DATE

Section effective Oct. 1, 1992, see section 161 of Pub. L. 102–421, set out as an Effective Date of 1992 Amendment note under section 4301 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4304 of this title.

§§ 4311, 4321, 4322. Repealed. Pub. L. 102–421, title I, § 101(a)(1), Oct. 16, 1992, 106 Stat. 2151

Section 4311, Pub. L. 99–371, title I, § 111, Aug. 4, 1986, 100 Stat. 783; Pub. L. 101–476, title IX, § 901(a)(2), Oct. 30, 1990, 104 Stat. 1142, related to authority of Gallaudet University to maintain and operate the Kendall Demonstration Elementary School.

Section 4321, Pub. L. 99–371, title I, § 121, Aug. 4, 1986, 100 Stat. 783; Pub. L. 101–476, title IX, § 901(a)(2), Oct. 30, 1990, 104 Stat. 1142, related to authority of Gallaudet University to maintain and operate a model secondary school for the deaf.

Section 4322, Pub. L. 99–371, title I, § 122, Aug. 4, 1986, 100 Stat. 784, authorized continuation of agreement with Gallaudet University for model secondary school.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1992, see section 161 of Pub. L. 102–421, set out as an Effective Date of 1992 Amendment note under section 4301 of this title.

PART B—NATIONAL TECHNICAL INSTITUTE FOR THE DEAF

PRIOR PROVISIONS

A prior part B of subchapter I of this chapter, consisted of section 4311 of this title, prior to repeal by Pub. L. 102–421, title I, §§ 101(a)(1), Oct. 16, 1992, 106 Stat. 2151.

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 4359 of this title.

§ 4331. Authority

For the purpose of providing a residential facility for postsecondary technical training and education for individuals who are deaf in order to prepare them for successful employment, the institution of higher education with which the Secretary has an agreement under this part is authorized to operate and maintain a National Technical Institute for the Deaf.

(Pub. L. 99–371, title I, § 111, formerly title II, § 201, Aug. 4, 1986, 100 Stat. 784; renumbered title I, § 111, Pub. L. 102–421, title I, § 101(b)(3), (4), Oct. 16, 1992, 106 Stat. 2151; Pub. L. 103–73, title II, § 203(f), Aug. 11, 1993, 107 Stat. 734.)

CODIFICATION

Section is also set out in D.C. Code, § 31–1841.4a.

AMENDMENTS

1993—Pub. L. 103–73 substituted ''part'' for ''subchapter''.

PRIOR PROVISIONS

A prior section 111 of Pub. L. 99–371, title I, Aug. 4, 1986, 100 Stat. 783, as amended, authorized Gallaudet University to operate Kendall Demonstration Elementary School and was classified to section 4311 of this title, prior to repeal by Pub. L. 102–421.

Provisions similar to this section were contained in section 681 of this title prior to repeal by Pub. L. 99–371.

§ 4332. Agreement for National Technical Institute for the Deaf

(a) General authority

(1) The Secretary is authorized to establish or continue an agreement with an institution of higher education for the establishment and operation, including construction and equipment, of a National Technical Institute for the Deaf. The Secretary, in considering proposals from institutions of higher education to enter into an agreement under this part, shall give preference to institutions which are located in metropolitan industrial areas.

(2) The Secretary and the institution of higher education with which the Secretary has an agreement under this section shall, within 1 year after October 16, 1992, assess the need for modification of the agreement. The Secretary and the institution of higher education with which the Secretary has an agreement under this section shall also periodically update the agreement as determined to be necessary by the Secretary or the institution.

(b) Provisions of agreement

The agreement shall—

(1) provide that Federal funds appropriated for the benefit of NTID will be used only for the purposes for which appropriated and in accordance with the applicable provisions of this chapter and the agreement made pursuant thereto;

(2) provide that the Board of Trustees or other governing body of the institution, subject to the approval of the Secretary, will appoint an advisory group to advise the Director of NTID in formulating and carrying out the basic policies governing its establishment and operation, which group shall include individuals who are professionally concerned with education and technical training at the postsecondary school level, persons who are professionally concerned with activities relating to education and training of individuals who are deaf, and members of the public familiar with the need for services provided by NTID;

(3) provide that the Board of Trustees or other governing body of the institution will prepare and submit to the Secretary, not later than June 1 following the fiscal year for which the report is submitted, an annual report containing an accounting of all indirect costs paid to the institution of higher education under the agreement with the Secretary, which accounting the Secretary shall transmit to the Committee on Education and Labor of the House of Representatives and to the Committee on Labor and Human Resources of the Senate, with such comments and recommendations as the Secretary may deem appropriate;

(4) include such other conditions as the Secretary deems necessary to carry out the purposes of this part;

(5) provide that any laborer or mechanic employed by any contractor or subcontractor in the performance of work on any construction aided by Federal funds appropriated for the benefit of NTID will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (40 U.S.C. 276a—276a–5) commonly referred to as the Davis-Bacon Act; except that the Secretary of Labor shall have, with respect to the labor standards specified in this paragraph, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (5 U.S.C. App.) and section 276c of title 40; and

(6) establish a policy of outreach and recruitment to employ and advance in employ-

ment qualified individuals with disabilities, particularly individuals who are deaf or hard of hearing.

(c) Limitation

If, within twenty years after the completion of any construction (except minor remodeling or alteration) for which such funds have been paid—

(1) the facility ceases to be used for the purposes for which it was constructed or the agreement is terminated, unless the Secretary determines that there is good cause for releasing the institution from its obligation, or

(2) the institution ceases to be the owner of the facility,

the United States shall be entitled to recover from the applicant or other owner of the facility an amount which has the same ratio with respect to the current market value of the facility as the amount of Federal funds expended for construction of such facility bears to the total cost of construction of the facility. The current market value of the facility shall be determined by agreement of the parties or by action brought in the United States district court for the district in which the facility is situated.

(Pub. L. 99–371, title I, §112, formerly title II, §202, Aug. 4, 1986, 100 Stat. 785; renumbered title I, §112, and amended Pub. L. 102–421, title I, §§101(b)(3), (4), 121, 151(a)(4), Oct. 16, 1992, 106 Stat. 2151, 2155, 2164; Pub. L. 103–73, title II, §§202, 203(g), Aug. 11, 1993, 107 Stat. 732, 734.)

REFERENCES IN TEXT

Act of March 3, 1931 (40 U.S.C. 276a—276a–5) commonly referred to as the Davis-Bacon Act, referred to in subsec. (b)(5), is act Mar. 3, 1931, ch. 411, 46 Stat. 1494, as amended, which is classified generally to sections 276a to 276a–5 of Title 40, Public Buildings, Property, and Works. For complete classification of this Act to the Code, see Short Title note set out under section 276a of Title 40 and Tables.

Reorganization Plan Numbered 14 of 1950, referred to in subsec. (b)(5), is set out in the Appendix to Title 5, Government Organization and Employees.

CODIFICATION

Section is also set out in D.C. Code, §31–1841.4b.

PRIOR PROVISIONS

Provisions similar to this section were contained in section 684 of this title prior to repeal by Pub. L. 99–371.

AMENDMENTS

1993—Pub. L. 103–73, §203(g)(1), substituted ''National Technical Institute for the Deaf'' for ''Institute'' in section catchline.

Subsec. (a)(1). Pub. L. 103–73, §203(g)(2)(A), substituted ''part'' for ''chapter''.

Subsec. (a)(2). Pub. L. 103–73, §203(g)(2)(B), in first sentence struck out comma after ''The Secretary'' and after ''this section''.

Subsec. (b)(1), (2). Pub. L. 103–73, §202, substituted ''NTID'' for ''the Institute'' wherever appearing.

Subsec. (b)(3). Pub. L. 103–73, §203(g)(3)(A), substituted ''Secretary, not later than June 1 following the fiscal year for which the report is submitted, an annual report containing'' for ''Secretary an annual report, including'', ''which accounting'' for ''which report'', and ''Representatives'' for ''Representatives,''.

Subsec. (b)(4). Pub. L. 103–73, §203(g)(3)(B), struck out ''and'' at end of par. (4).

Subsec. (b)(5). Pub. L. 103–73, §203(g)(3)(C), substituted ''except that the Secretary'' for ''and the Secretary'' and ''title 40; and'' for ''title 40.''

Pub. L. 103–73, §202, substituted ''NTID'' for ''the Institute''.

Subsec. (b)(6). Pub. L. 103–73, §203(g)(3)(D), substituted ''or hard of hearing'' for ''or individuals who are hard of hearing''.

Subsec. (c). Pub. L. 103–73, §203(g)(4), inserted a comma after ''If''.

1992—Subsec. (a). Pub. L. 102–421, §121(1), designated existing provisions as par. (1) and added par. (2).

Subsec. (b)(2). Pub. L. 102–421, §151(a)(4), substituted ''individuals who are deaf'' for ''the deaf''.

Subsec. (b)(3). Pub. L. 102–421, §121(2), substituted ''will prepare and submit to the Secretary an annual report, including an accounting of all indirect costs paid to the institution of higher education under the agreement with the Secretary, which report the Secretary shall transmit to the Committee on Education and Labor of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate,'' for ''will make an annual report together with an accounting of all indirect costs paid to the institution of higher education under the agreement to the Secretary, which the Secretary shall transmit to the Congress''.

Subsec. (b)(6). Pub. L. 102–421, §121(3), added par. (6).

CHANGE OF NAME

Committee on Education and Labor of House of Representatives treated as referring to Committee on Economic and Educational Opportunities of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Economic and Educational Opportunities of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Fifth Congress, Jan. 7, 1997.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–421 effective Oct. 1, 1992, see section 161 of Pub. L. 102–421, set out as a note under section 4301 of this title.

ESTABLISHMENT OF INSTITUTE

Pursuant to an agreement entered into between the Secretary and the Rochester Institute of Technology on Dec. 20, 1966, the National Technical Institute for the Deaf (N.T.I.D.) was established and located at Rochester, New York.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4353, 4354, 4357 of this title.

§§ 4341 to 4344. Repealed. Pub. L. 102–421, title I, §101(a)(2), Oct. 16, 1992, 106 Stat. 2151

Section 4341, Pub. L. 99–371, title III, §301, Aug. 4, 1986, 100 Stat. 786, established Commission on Education of the Deaf.

Section 4342, Pub. L. 99–371, title III, §302, Aug. 4, 1986, 100 Stat. 786; Pub. L. 101–476, title IX, §901(a)(2), Oct. 30, 1990, 104 Stat. 1142, outlined duties of Commission and provided for reports to Congress.

Section 4343, Pub. L. 99–371, title III, §303, Aug. 4, 1986, 100 Stat. 787, related to personnel of Commission, hearings, quorums, consultation with other entities, information and statistics, and agency cooperation.

Section 4344, Pub. L. 99–371, title III, §304, Aug. 4, 1986, 100 Stat. 788, provided for compensation of members of Commission.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1992, see section 161 of Pub. L. 102–421, set out as an Effective Date of 1992 Amendment note under section 4301 of this title.

SUBCHAPTER II—GENERAL PROVISIONS

PRIOR PROVISIONS

A prior subchapter II of this chapter, consisting of sections 4331 and 4332 of this title, was redesignated

part B of subchapter I of this chapter by Pub. L. 102–421, title I, § 101(b)(3), Oct. 16, 1992, 106 Stat. 2151.

§ 4351. Definitions

As used in this chapter—

(1) The term ''international student'' means an individual who—

(A) is not a citizen or national of, or lawfully admitted for permanent residence in, the United States;

(B) does not provide evidence from the Immigration and Naturalization Service that he or she is in the United States for other than temporary purposes with the intention of becoming a citizen of, or lawfully admitted for permanent residence in, the United States; and

(C) is not lawfully admitted for permanent residence in American Samoa, Guam, Palau (but only until the Compact of Free Association with Palau takes effect), the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, or the Virgin Islands.

(2) The term ''construction'' includes construction and initial equipment of new buildings, and expansion, remodeling, and alteration of existing buildings and equipment therein, including architect's services, but excluding off-site improvements.

(3) The term ''institution of higher education'' means an educational institution in any State which (A) admits as regular students only individuals having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate; (B) is legally authorized within such State to provide a program of education beyond secondary education; (C) provides an educational program for which it awards a bachelor's degree; (D) includes one or more professional or graduate schools; (E) is a public or nonprofit private institution; and (F) is accredited by a nationally recognized accrediting agency or association. For the purpose of subparagraph (F), the Secretary shall publish a list of nationally recognized accrediting agencies or associations which the Secretary determines to be reliable authority as to the quality of training offered.

(4) The term ''Secretary'' means the Secretary of Education.

(5) The term ''State'' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, and Palau (but only until the Compact of Free Association with Palau takes effect).

(6) The term ''NTID'' means the National Technical Institute for the Deaf.

(7) The term ''University'' means Gallaudet University.

(Pub. L. 99–371, title II, § 201, formerly title IV, § 401, Aug. 4, 1986, 100 Stat. 789; renumbered title II, § 201, and amended Pub. L. 102–421, title I, §§ 101(b)(5), (6), 131, 151(a)(3), (b), Oct. 16, 1992, 106 Stat. 2151, 2155, 2164; Pub. L. 103–73, title II, § 204(a), Aug. 11, 1993, 107 Stat. 734.)

REFERENCES IN TEXT

For Oct. 1, 1994, as the date the Compact of Free Association with Palau takes effect, referred to in pars. (1)(C) and (5), see Proc. No. 6726, Sept. 27, 1994, 59 F.R. 49777, set out as a note under section 1931 of Title 48, Territories and Insular Possessions.

CODIFICATION

Section is also set out in D.C. Code, § 31–1842.2a.

PRIOR PROVISIONS

A prior section 201 of Pub. L. 99–371 was renumbered section 111 and is classified to section 4331 of this title.

Provisions similar to this section were contained in sections 682, 693a, and 695a of this title prior to repeal by Pub. L. 99–371.

AMENDMENTS

1993—Pub. L. 103–73 substituted ''and'' for ''or'' at end of par. (1)(B), redesignated pars. (4) and (6) to (9) as (3) to (7), respectively, and struck out former pars. (3) and (5) which defined ''elementary school'' and ''secondary school'', respectively.

1992—Par. (1). Pub. L. 102–421, § 131(1), added par. (1) and struck out former par. (1) which read as follows: ''The term 'Board of Trustees' means (unless the context requires otherwise) the Board of Trustees of Gallaudet University established under section 4303 of this title.''

Par. (2). Pub. L. 102–421, § 151(b)(1), substituted ''therein'' for ''thereof''.

Par. (3). Pub. L. 102–421, § 151(a)(3), (b)(2), substituted ''children who are deaf or hard-of-hearing'' for ''deaf children''.

Par. (4). Pub. L. 102–421, § 151(b)(3), substituted a semicolon for last comma in subpars. (A) to (E) of first sentence and ''subparagraph'' for ''clause'' in second sentence.

Pub. L. 102–421, § 131(2), redesignated par. (5) as (4) and struck out former par. (4) which read as follows: ''The term 'Institute' means the National Technical Institute for the Deaf.''

Pars. (5), (6). Pub. L. 102–421, § 131(2)(B), redesignated pars. (6) and (7) as (5) and (6), respectively. Former par. (5) redesignated (4).

Par. (7). Pub. L. 102–421, § 131(2)(B), (3), redesignated par. (8) as (7) and substituted ''the Commonwealth of the Northern Mariana Islands, and Palau (but only until the Compact of Free Association with Palau takes effect).'' for ''the Northern Mariana Islands and the Trust Territory of the Pacific Islands.''. Former par. (7) redesignated (6).

Pars. (8), (9). Pub. L. 102–421, § 131(2)(B), (4), added pars. (8) and (9) and redesignated former par. (8) as (7).

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–421 effective Oct. 1, 1992, see section 161 of Pub. L. 102–421, set out as a note under section 4301 of this title.

§ 4352. Gifts

The University and NTID are authorized to receive by gift, devise, bequest, purchase, or otherwise, property, both real and personal, for the use of the University or NTID, or for the use, as appropriate, for any programs, departments, or other units as may be designated in the conveyance or will, and to hold, invest, use, or dispose of such property for the purpose stated in the conveyance or will.

(Pub. L. 99–371, title II, § 202, formerly title IV, § 402, Aug. 4, 1986, 100 Stat. 789; renumbered title II, § 202, and amended Pub. L. 102–421, title I, §§ 101(b)(5), (6), 132, Oct. 16, 1992, 106 Stat. 2151, 2156.)

CODIFICATION

Section is also set out in D.C. Code, § 31–1842.2b.

PRIOR PROVISIONS

A prior section 202 of Pub. L. 99–371 was renumbered section 112 and is classified to section 4332 of this title.

Provisions similar to subsec. (a) of this section were contained in section 691c of this title prior to repeal by Pub. L. 99–371.

AMENDMENTS

1992—Pub. L. 102–421, § 132, amended section generally. Prior to amendment, section read as follows:

''(a) GALLAUDET UNIVERSITY.—Gallaudet University is authorized to receive by gift, devise, bequest, purchase, or otherwise, property, both real and personal, for the use of Gallaudet University, or for the use of any of its departments or other units as may be designated in the conveyance or will, and to hold, invest, use, or dispose of such property for the purpose stated in the conveyance or will.

''(b) NATIONAL TECHNICAL INSTITUTE FOR THE DEAF.—The National Technical Institute for the Deaf is authorized to receive by gift, devise, bequest, purchase, or otherwise, property, both real and personal, for the use of the Institute, or for the use of any of its programs as may be designated in the conveyance or will, and to hold, invest, use, or dispose of such property for the purpose stated in the conveyance or will.''

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–421 effective Oct. 1, 1992, see section 161 of Pub. L. 102–421, set out as a note under section 4301 of this title.

§ 4353. Audit

(a) General Accounting Office authority

All financial transactions and accounts of the corporation or institution of higher education, as the case may be, in connection with the expenditure of any moneys appropriated by any law of the United States—

(1) for the benefit of Gallaudet University or for the construction of facilities for its use; or

(2) for the benefit of the National Technical Institute for the Deaf or for the construction of facilities for its use,

shall be settled and adjusted in the General Accounting Office.

(b) Independent audit

Gallaudet University shall have an annual independent financial audit made of the programs and activities of the University. The institution of higher education with which the Secretary has an agreement under section 4332 of this title shall have an annual independent financial audit made of the programs and activities of such institution of higher education, including NTID, and containing specific schedules and analyses for all NTID funds, as determined by the Secretary.

(c) Limitations regarding expenditure of funds

(1) In general

No funds appropriated under this chapter for Gallaudet University, including the Kendall Demonstration Elementary School and the Model Secondary School for the Deaf, or for the National Technical Institute for the Deaf may be expended on the following:

(A) Alcoholic beverages.

(B) Goods or services for personal use.

(C) Housing and personal living expenses (but only to the extent such expenses are not required by written employment agreement).

(D) Lobbying, except that nothing in this subparagraph shall be construed to prohibit the University and NTID from educating the Congress, the Secretary, and others regarding programs, projects, and activities conducted at those institutions.

(E) Membership in country clubs and social or dining clubs and organizations.

(2) Policies

(A) Not later than 180 days after October 16, 1992, the University and NTID shall develop policies, to be applied uniformly, for the allowability of expenditures for each institution. These policies should reflect the unique nature of these institutions. The principles established by the Office of Management and Budget for costs of educational institutions may be used as guidance in developing these policies. General principles relating to allowability and reasonableness of all costs associated with the operations of the institutions shall be addressed. These policies shall be submitted to the Secretary for review and comments, and to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate.

(B) Policies under subparagraph (A) shall include the following:

(i) Noninstitutional professional activities.

(ii) Fringe benefits.

(iii) Interest on loans.

(iv) Rental cost of buildings and equipment.

(v) Sabbatical leave.

(vi) Severance pay.

(vii) Travel.

(viii) Royalties and other costs for uses of patents.

(C) The Secretary is not authorized to add items to those specified in subparagraph (B).

(Pub. L. 99–371, title II, § 203, formerly title IV, § 403, Aug. 4, 1986, 100 Stat. 790; renumbered title II, § 203, and amended Pub. L. 102–421, title I, §§ 101(b)(5), (6), 133, Oct. 16, 1992, 106 Stat. 2151, 2156; Pub. L. 103–73, title II, §§ 202, 204(b), Aug. 11, 1993, 107 Stat. 732, 734.)

CODIFICATION

Section is also set out in D.C. Code, § 31–1842.3.

PRIOR PROVISIONS

Provisions similar to this section were contained in section 691f of this title prior to repeal by Pub. L. 99–371.

AMENDMENTS

1993—Subsec. (b). Pub. L. 103–73, § 204(b), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: ''Gallaudet University and the institution of higher education operating the National Technical Institute for the Deaf shall have an annual independent audit made of the programs and activities of the University and of NTID, respectively.''

Pub. L. 103–73, § 202, substituted ''NTID'' for ''the Institute''.

1992—Subsec. (c). Pub. L. 102–421, § 133, added subsec. (c).

CHANGE OF NAME

Committee on Education and Labor of House of Representatives treated as referring to Committee on Economic and Educational Opportunities of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Economic and Educational Opportunities of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Fifth Congress, Jan. 7, 1997.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–421 effective Oct. 1, 1992, see section 161 of Pub. L. 102–421, set out as a note under section 4301 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4303, 4354 of this title.

§ 4354. Reports

The Board of Trustees of Gallaudet University and the Board of Trustees or other governing body of the institution of higher education with which the Secretary has an agreement under section 4332 of this title shall prepare and submit an annual report to the Secretary, and to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate, not later than 100 days after the end of each fiscal year, which shall include the following:

(1) The number of students during the preceding academic year who enrolled and whether these were first-time enrollments, who graduated, who found employment, or who left without completing a program of study, reported under each of the programs of the University (elementary, secondary, preparatory, undergraduate, and graduate) and of NTID.

(2) For the preceding academic year, and to the extent possible, the following data on individuals who are deaf and from minority backgrounds and who are students (at all educational levels) or employees:

(A) The number of students enrolled full- and part-time.

(B) The number of these students who completed or graduated from each of the educational programs.

(C) The disposition of these students upon graduation/completion of programs at NTID and at the University and its elementary and secondary schools in comparison to students from non-minority backgrounds.

(D) The number of students needing and receiving support services (such as tutoring and counseling) at all educational levels.

(E) The number of recruitment activities by type and location for all educational levels.

(F) Employment openings/vacancies and grade level/type of job and number of these individuals that applied and that were hired.

(G) Strategies (such as parent groups and training classes in the development of individualized education programs) used by the elementary and secondary programs and the extension centers to reach and actively involve minority parents in the educational programs of their children who are deaf or hard of hearing and the number of parents who have been served as a result of these activities.

(3)(A) The annual audited financial statements and auditor's report of the University, as required under section 4353 of this title, and (B) the annual audited financial statements and auditor's report of the institution of higher education with which the Secretary has an agreement under section 4332 of this title, including specific schedules and analyses for all NTID funds, as required under section 4353 of this title, and such supplementary schedules presenting financial information for NTID for the end of the Federal fiscal year as determined by the Secretary.

(4) For the preceding fiscal year, a statement showing the receipts of the University and NTID and from what Federal sources, and a statement showing the expenditures of each institution by function, activity, and administrative and academic unit.

(5) A statement showing the use of funds (both corpus and income) provided by the Federal Endowment Program under section 4357 of this title.

(6) A statement showing how such Endowment Program funds are invested, what the gains or losses (both realized and unrealized) on such investments were for the most recent fiscal year, and what changes were made in investments during that year.

(7) Such additional information as the Secretary may consider necessary.

(Pub. L. 99–371, title II, § 204, formerly title IV, § 404, Aug. 4, 1986, 100 Stat. 790; renumbered title II, § 204, and amended Pub. L. 102–421, title I, §§ 101(b)(5), (6), 134, Oct. 16, 1992, 106 Stat. 2151, 2157; Pub. L. 103–73, title II, § 204(c), Aug. 11, 1993, 107 Stat. 735.)

CODIFICATION

Section is also set out in D.C. Code, § 31–1842.4.

PRIOR PROVISIONS

Provisions similar to this section were contained in section 691f of this title prior to repeal by Pub. L. 99–371.

AMENDMENTS

1993—Par. (1). Pub. L. 103–73, § 204(c)(1), substituted ''first-time'' for ''first time''.

Par. (2)(G). Pub. L. 103–73, § 204(c)(2), substituted ''individualized education programs'' for ''Individualized Education Programs'' and ''children who are deaf or hard of hearing'' for ''children who are deaf''.

Par. (3). Pub. L. 103–73, § 204(c)(3), amended par. (3) generally. Prior to amendment, par. (3) read as follows: ''The annual audited financial statements of the University and NTID, respectively, together with the auditor's report.''

Par. (6). Pub. L. 103–73, § 204(c)(4), substituted ''Program funds are'' for ''Program is''.

1992—Pub. L. 102–421, § 134, amended section generally, substituting present provisions for provisions requiring annual reports from Board of Trustees of Gallaudet University and National Technical Institute for the Deaf and providing for an annual monitoring and evaluation report.

CHANGE OF NAME

Committee on Education and Labor of House of Representatives treated as referring to Committee on Eco-

nomic and Educational Opportunities of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Economic and Educational Opportunities of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Fifth Congress, Jan. 7, 1997.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–421 effective Oct. 1, 1992, see section 161 of Pub. L. 102–421, set out as a note under section 4301 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4305 of this title.

§ 4355. Monitoring, evaluation, and reporting

(a) Activities

The Secretary shall conduct monitoring and evaluation activities of the education programs and activities and the administrative operations of the University (including the elementary, secondary, preparatory, undergraduate, and graduate programs) and of NTID. The Secretary may also conduct studies related to the provision of preschool, elementary, secondary, and postsecondary education and other related services to individuals who are deaf or hard of hearing. In carrying out the responsibilities described in this section, the Secretary is authorized to employ such consultants as may be necessary pursuant to section 3109 of title 5.

(b) Report

The Secretary, as part of the annual report required under section 3486 of this title, shall include a description of the monitoring and evaluation activities pursuant to subsection (a) of this section, together with such recommendations, including recommendations for legislation, as the Secretary may consider necessary.

(c) Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1993, 1994, 1995, 1996, and 1997 to carry out the monitoring and evaluation activities authorized under this section.

(Pub. L. 99–371, title II, § 205, formerly title IV, § 405, Aug. 4, 1986, 100 Stat. 790; renumbered title II, § 205, and amended Pub. L. 102–421, title I, §§ 101(b)(5), (6), 135(a), Oct. 16, 1992, 106 Stat. 2151, 2158; Pub. L. 103–73, title II, § 204(d), Aug. 11, 1993, 107 Stat. 735.)

CODIFICATION

Section is also set out in D.C. Code, § 31–1842.5.

AMENDMENTS

1993—Subsec. (a). Pub. L. 103–73 substituted ''individuals who are deaf or hard of hearing'' for ''individuals who are deaf'' and struck out ''the provisions of'' after ''pursuant to''.

1992—Pub. L. 102–421, § 135(a), amended section generally. Prior to amendment, section read as follows: ''The Secretary shall conduct monitoring and evaluation activities of the education programs and activities and the administrative operations of Gallaudet University and of the National Technical Institute for the Deaf. In carrying out the responsibilities described in this section, the Secretary is authorized to employ such consultants as may be necessary pursuant to the provisions of section 3109 of title 5.''

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–421 effective Oct. 1, 1992, see section 161 of Pub. L. 102–421, set out as a note under section 4301 of this title.

§ 4356. Liaison for educational programs

(a) Designation of liaison

Not later than 30 days after August 4, 1986, the Secretary shall designate an individual in the Office of Special Education and Rehabilitative Services of the Department of Education from among individuals who have experience in the education of individuals who are deaf to serve as liaison between the Department and Gallaudet University, the National Technical Institute for the Deaf, and other postsecondary educational programs for individuals who are deaf under the Individuals with Disabilities Education Act [20 U.S.C. 1400 et seq.], the Rehabilitation Act of 1973 [29 U.S.C. 701 et seq.], and other Federal or non-Federal agencies, institutions, or organizations involved with the education or rehabilitation of individuals who are deaf or hard of hearing.

(b) Duties of liaison

The individual serving as liaison for educational programs for individuals who are deaf or hard of hearing shall:

(1) provide information to institutions regarding the Department's efforts directly affecting the operation of such programs by such institutions;

(2) review research and other activities carried out by the University, NTID, and other Federal or non-Federal agencies, institutions, or organizations involved with the education or rehabilitation of individuals who are deaf or hard of hearing for the purpose of determining overlap and opportunities for coordination among such entities; and

(3) provide such support and assistance as such institutions may request and the Secretary considers appropriate.

(c) Authority of Secretary

Nothing in this section may be construed to affect the authority of the Secretary under this chapter or any other Act with respect to Gallaudet University or the National Technical Institute for the Deaf.

(Pub. L. 99–371, title II, § 206, formerly title IV, § 406, Aug. 4, 1986, 100 Stat. 790; Pub. L. 101–476, title IX, § 901(a)(2), Oct. 30, 1990, 104 Stat. 1142; renumbered title II, § 206, and amended Pub. L. 102–421, title I, §§ 101(b)(5), (6), 136, 151(a)(4), (5), Oct. 16, 1992, 106 Stat. 2151, 2159, 2164; Pub. L. 103–73, title II, § 204(e), Aug. 11, 1993, 107 Stat. 735.)

REFERENCES IN TEXT

The Individuals with Disabilities Education Act, referred to in subsec. (a), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, as amended, which is classified generally to chapter 33 (§ 1400 et seq.) of this title. For complete classification of this Act to the Code, see section 1400 of this title and Tables.

The Rehabilitation Act of 1973, referred to in subsec. (a), is Pub. L. 93–112, Sept. 26, 1973, 87 Stat. 355, as amended, which is classified generally to chapter 16 (§ 701 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 701 of Title 29 and Tables.

CODIFICATION

Section is also set out in D.C. Code, § 31–1842.6.

AMENDMENTS

1993—Subsec. (b). Pub. L. 103–73, which directed amendment of subsec. (b) by inserting ''or hard of hearing'' after ''individuals who are deaf'', was executed by making the insertion in introductory provisions but not in par. (2) to reflect the probable intent of Congress.

1992—Pub. L. 102–421, § 151(a)(5), struck out ''for the deaf'' after ''educational programs'' in section catchline.

Subsec. (a). Pub. L. 102–421, § 151(a)(4), substituted ''individuals who are deaf'' for ''the deaf'' in two places.

Pub. L. 102–421, § 136(1), substituted '', the Rehabilitation Act of 1973, and other Federal or non-Federal agencies, institutions, or organizations involved with the education or rehabilitation of individuals who are deaf or hard of hearing.'' for ''and the Rehabilitation Act of 1973.''

Subsec. (b). Pub. L. 102–421, § 151(a)(4), substituted ''individuals who are deaf'' for ''the deaf'' in introductory provisions.

Subsec. (b)(1) to (3). Pub. L. 102–421, § 136(2), struck out ''and'' at end of par. (1), added par. (2), and redesignated former par. (2) as (3).

1990—Subsec. (a). Pub. L. 101–476 substituted ''Individuals with Disabilities Education Act'' for ''Education of the Handicapped Act''.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–421 effective Oct. 1, 1992, see section 161 of Pub. L. 102–421, set out as a note under section 4301 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101–476, set out as a note under section 1087ee of this title.

§ 4357. Federal endowment programs for Gallaudet University and the National Technical Institute for the Deaf

(a) Establishment of programs

(1) The Secretary and the Board of Trustees of Gallaudet University are authorized to establish the Gallaudet University Federal Endowment Fund as a permanent endowment fund, in accordance with this section, for the purpose of promoting the financial independence of the University. The Secretary and the Board of Trustees may enter into such agreements as may be necessary to carry out the purposes of this section with respect to the University.

(2) The Secretary and the Board of Trustees or other governing body of the institution of higher education with which the Secretary has an agreement under section 4332 of this title are authorized to establish the National Technical Institute for the Deaf Federal Endowment Fund as a permanent endowment fund, in accordance with this section, for the purpose of promoting the financial independence of NTID. The Secretary and the Board or other governing body may enter into such agreements as may be necessary to carry out the purposes of this section with respect to NTID.

(b) Federal payments

(1) The Secretary shall, consistent with this section, make payments to the Federal endowment funds established under subsection (a) of this section from amounts appropriated under subsection (h) of this section for the fund involved.

(2) Subject to the availability of appropriations and the non-Federal matching requirements of paragraph (3), the Secretary shall make payments to each Federal endowment fund in amounts equal to sums contributed to the fund from non-Federal sources (excluding transfers from other endowment funds of the institution involved).

(3) Effective for fiscal year 1993 and each succeeding fiscal year, for any fiscal year in which the sums contributed to the Federal endowment fund of the institution involved from non-Federal sources exceed $1,000,000, the non-Federal contribution to the Federal endowment fund shall be $2 for each Federal dollar provided in excess of $1,000,000 (excluding transfers from other endowment funds of the institution involved).

(c) Investments

(1) Except as provided in subsection (e) of this section, the University and NTID, respectively, shall invest its Federal endowment fund corpus and income in instruments and securities offered through one or more cooperative service organizations of operating educational organizations under section 501(f) of title 26, or in low-risk instruments and securities in which a regulated insurance company may invest under the laws of the State in which the institution involved is located.

(2) In managing the investment of its Federal endowment fund, the University or NTID shall exercise the judgment and care, under the prevailing circumstances, that a person of prudence, discretion, and intelligence would exercise in the management of that person's own business affairs.

(3) Neither the University nor NTID may invest its Federal endowment fund corpus or income in real estate, or in instruments or securities issued by an organization in which an executive officer, a member of the Board of Trustees of the University or of the host institution, or a member of the advisory group established under section 4332 of this title is a controlling shareholder, director, or owner within the meaning of Federal securities laws and other applicable laws. Neither the University nor NTID may assign, hypothocate,[1] encumber, or create a lien on the Federal endowment fund corpus without specific written authorization of the Secretary.

(d) Withdrawals and expenditures

(1) Except as provided in paragraph (3)(B), neither the University nor NTID may withdraw or expend any of the corpus of its Federal endowment fund.

(2)(A) The University and NTID, respectively, may withdraw or expend the income of its Federal endowment fund only for expenses necessary to the operation of that institution, including expenses of operations and maintenance, administration, academic and support personnel, construction and renovation, community and student services programs, technical assistance, and research.

[1] So in original. Probably should be ''hypothecate,''

(B) Neither the University nor NTID may withdraw or expend the income of its Federal endowment fund for any commercial purpose.

(C) Beginning on October 1, 1992, the University and NTID shall maintain records of the income generated from its respective Federal endowment fund for the prior fiscal year.

(3)(A) Except as provided in subparagraph (B), the University and NTID, respectively, may, on an annual basis, withdraw or expend not more than 50 percent of the income generated from its Federal endowment fund from the prior fiscal year.

(B) The Secretary may permit the University or NTID to withdraw or expend a portion of its Federal endowment fund corpus or more than 50 percent of the income generated from its Federal endowment fund from the prior fiscal year if the institution involved demonstrates, to the Secretary's satisfaction, that such withdrawal or expenditure is necessary because of—

(i) a financial emergency, such as a pending insolvency or temporary liquidity problem;

(ii) a life-threatening situation occasioned by natural disaster or arson; or

(iii) another unusual occurrence or exigent circumstance.

(e) Investment and expenditure flexibility

The corpus associated with a Federal payment (and its non-Federal match) made to the Federal endowment fund of the University or NTID shall not be subject to the investment limitations of subsection (c)(1) of this section after 10 fiscal years following the fiscal year in which the funds are matched, and the income generated from such corpus after the tenth fiscal year described in this subsection shall not be subject to such investment limitations or to the withdrawal and expenditure limitations of subsection (d)(3) of this section.

(f) Recovery of payments

After notice and an opportunity for a hearing, the Secretary is authorized to recover any Federal payments under this section if the University or NTID—

(1) makes a withdrawal or expenditure of the corpus or income of its Federal endowment fund that is not consistent with this section;

(2) fails to comply with the investment standards and limitations under this section; or

(3) fails to account properly to the Secretary concerning the investment of or expenditures from the Federal endowment fund corpus or income.

(g) Definitions

As used in this section:

(1) The term ''corpus'', with respect to a Federal endowment fund under this section, means an amount equal to the Federal payments to such fund, amounts contributed to the fund from non-Federal sources, and appreciation from capital gains and reinvestment of income.

(2) The term ''Federal endowment fund'' means a fund, or a tax-exempt foundation, established and maintained pursuant to this section by the University or NTID, as the case may be, for the purpose of generating income for the support of the institution involved.

(3) The term ''income'', with respect to a Federal endowment fund under this section, means an amount equal to the dividends and interest accruing from investments of the corpus of such fund.

(4) The term ''institution involved'' means the University or NTID, as the case may be.

(h) Authorization of appropriations

(1) In the case of the University, there are authorized to be appropriated for the purposes of this section such sums as may be necessary for each of the fiscal years 1993 through 1997.

(2) In the case of NTID, there are authorized to be appropriated for the purposes of this section such sums as may be necessary for each of the fiscal years 1993 through 1997.

(3) Amounts appropriated under paragraph (1) or (2) shall remain available until expended.

(i) Effective date

The provisions of this section shall take effect as if included in this chapter as enacted on August 4, 1986.

(Pub. L. 99–371, title II, § 207, as added Pub. L. 102–421, title I, § 137(2), Oct. 16, 1992, 106 Stat. 2159; amended Pub. L. 103–73, title II, § 204(f), Aug. 11, 1993, 107 Stat. 735.)

CODIFICATION

Section is also set out in D.C. Code, § 31–1842.7a.

PRIOR PROVISIONS

A prior section 4357, Pub. L. 99–371, title II, § 207, formerly title IV, § 407, Aug. 4, 1986, 100 Stat. 791; renumbered title II, § 207, Pub. L. 102–421, title I, § 101(b)(5), (6), Oct. 16, 1992, 106 Stat. 2151, provided for Gallaudet University Federal endowment program, prior to repeal effective Oct. 1, 1992, by Pub. L. 102–421, title I, §§ 137(1), 161, Oct. 16, 1992, 106 Stat. 2159, 2164.

AMENDMENTS

1993—Subsec. (c)(3). Pub. L. 103–73, § 204(f)(1), substituted ''advisory group established under section 4332 of this title'' for ''Advisory Board of NTID''.

Subsec. (e). Pub. L. 103–73, § 204(f)(2), substituted ''such investment limitations or'' for ''such investment limitations and''.

Subsec. (i). Pub. L. 103–73, § 204(f)(3), substituted ''this chapter as enacted on August 4, 1986'' for ''the provisions of the Education of the Deaf Act of 1986''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4354 of this title.

§ 4358. Scholarship program

(a) In general

The Secretary may make grants to institutions of higher education that have teacher training programs in deaf education or special education for the purpose of providing scholarships to individuals who are deaf for careers in deaf education or special education. Such institutions shall give priority consideration in the selection of qualified recipients of the scholarships to individuals from underrepresented backgrounds, particularly minority individuals who are deaf and who are underrepresented in the teaching profession. Grants may be used by institutions to assist in covering the cost of courses of training or study for such individuals and for establishing and maintaining fellowships or traineeships with stipends and allowances as may be determined by the Secretary.

(b) Authorization of appropriations

For the purpose of making grants under subsection (a) of this section, there are authorized to be appropriated $2,000,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 through 1997.

(Pub. L. 99–371, title II, § 208, as added Pub. L. 102–421, title I, § 138, Oct. 16, 1992, 106 Stat. 2162.)

CODIFICATION

Section is also set out in D.C. Code, § 31–1842.8a.

PRIOR PROVISIONS

A prior section 4358, Pub. L. 99–371, title II, § 208, formerly title IV, § 408, Aug. 4, 1986, 100 Stat. 792; renumbered title II, § 208, Pub. L. 102–421, title I, § 101(b)(5), (6), Oct. 16, 1992, 106 Stat. 2151, provided for a National Technical Institute for the Deaf endowment program, prior to repeal effective Oct. 1, 1992, by Pub. L. 102–421, title I, §§ 137(1), 161, Oct. 16, 1992, 106 Stat. 2159, 2164. See section 4357 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1992, see section 161 of Pub. L. 102–421, set out as an Effective Date of 1992 Amendment note under section 4301 of this title.

§ 4359. Oversight and effect of agreements

(a) Oversight activities

Nothing in this chapter shall be construed to diminish the oversight activities of the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives with respect to any agreement entered into between the Secretary of Education and Gallaudet University, and the institution of higher education with which the Secretary has an agreement under part B of subchapter I of this chapter.

(b) Construction of agreements

The agreements described in subsection (a) of this section shall continue in effect, to the extent that such agreements are not inconsistent with this chapter.

(Pub. L. 99–371, title II, § 209, formerly title IV, § 409, Aug. 4, 1986, 100 Stat. 794; renumbered title II, § 209, Pub. L. 102–421, title I, § 101(b)(5), (6), Oct. 16, 1992, 106 Stat. 2151; amended Pub. L. 103–73, title II, § 204(g), Aug. 11, 1993, 107 Stat. 735.)

CODIFICATION

Section is also set out in D.C. Code, § 31–1842.9.

AMENDMENTS

1993—Subsec. (a). Pub. L. 103–73, § 204(g)(1), substituted ''an agreement under part B of subchapter I of this chapter'' for ''an agreement under title II''.

Subsec. (b). Pub. L. 103–73, § 204(g)(2), struck out ''the provisions of'' after ''inconsistent with''.

CHANGE OF NAME

Committee on Education and Labor of House of Representatives treated as referring to Committee on Economic and Educational Opportunities of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Economic and Educational Opportunities of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Fifth Congress, Jan. 7, 1997.

§ 4359a. International students

(a) Enrollment

Effective with new admissions for academic year 1993–1994 and each succeeding academic year, the University (including preparatory, undergraduate, and graduate students) and NTID shall limit the enrollment of international students to approximately 10 percent of the total postsecondary student population enrolled respectively at the University or NTID.

(b) Tuition surcharge

Effective with new admissions, the tuition for postsecondary international students enrolled in the University (including preparatory, undergraduate, and graduate students) or NTID shall include a surcharge of 75 percent for the academic year 1993–1994 and 90 percent beginning with the academic year 1994–1995.

(c) Reduction of surcharge

Beginning with the academic year 1993–1994, the University or NTID may reduce the surcharge under subsection (b) of this section to 50 percent if—

(1) a student described under subsection (b) of this section is from a developing country;

(2) such student is unable to pay the tuition surcharge under subsection (b) of this section; and

(3) such student has made a good faith effort to secure aid through such student's government or other sources.

(d) "Developing country" defined

For purposes of subsection (c) of this section, the term ''developing country'' means a country that has a 1990 per capita income not in excess of $4,000 in 1990 United States dollars.

(Pub. L. 99–371, title II, § 210, as added Pub. L. 102–421, title I, § 139, Oct. 16, 1992, 106 Stat. 2163; amended Pub. L. 103–73, title II, § 204(h), Aug. 11, 1993, 107 Stat. 735.)

CODIFICATION

Section is also set out in D.C. Code, § 31–1842.10.

PRIOR PROVISIONS

A prior section 210 of title II of Pub. L. 99–371, formerly title IV, § 410, Aug. 4, 1986, 100 Stat. 794; renumbered title II, § 210, Pub. L. 102–241, title I, § 101(b)(5), (6), Oct. 16, 1992, 106 Stat. 2151, repealed sections 681 to 685, 691 to 691g, 693 to 693b, and 695 to 695c of this title and provisions set out as notes under sections 681 and 693 of this title.

AMENDMENTS

1993—Subsec. (b). Pub. L. 103–73, § 204(h)(1), substituted ''75 percent for the academic year 1993–1994 and 90 percent beginning with the academic year 1994–1995'' for ''75 percent beginning the academic year 1993–1994, and 90 percent beginning the academic year 1994–1995''.

Subsec. (c). Pub. L. 103–73, § 204(h)(2), substituted ''Beginning with the academic year 1993–1994'' for ''Beginning the academic year 1993–1994 and thereafter'' in introductory provisions and redesignated subpars. (A) to (C) as pars. (1) to (3), respectively.

EFFECTIVE DATE

Section effective Oct. 1, 1992, see section 161 of Pub. L. 102–421, set out as an Effective Date of 1992 Amendment note under section 4301 of this title.

§ 4360. Authorization of appropriations

(a) Gallaudet University

There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1993 through 1997 to carry out the provisions of this chapter, relating to—

(1) Gallaudet University,

(2) Kendall Demonstration Elementary School, and

(3) the model secondary school for individuals who are deaf.

(b) National Technical Institute for the Deaf

There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1993 through 1997 to carry out the provisions of this chapter relating to the National Technical Institute for the Deaf.

(Pub. L. 99–371, title II, § 211, formerly title IV, § 411, Aug. 4, 1986, 100 Stat. 794; renumbered title II, § 211, and amended Pub. L. 102–421, title I, §§ 101(b)(5), (6), 140, 151(a)(4), Oct. 16, 1992, 106 Stat. 2151, 2163, 2164; Pub. L. 103–73, title II, § 204(i), Aug. 11, 1993, 107 Stat. 735.)

CODIFICATION

Section is also set out in D.C. Code, § 31–1842.11.

PRIOR PROVISIONS

Provisions similar to this section were contained in sections 681, 691g, 693, and 695b of this title prior to repeal by Pub. L. 99–371.

AMENDMENTS

1993—Subsec. (a). Pub. L. 103–73 redesignated subpars. (A) to (C) as pars. (1) to (3), respectively.

1992—Subsec. (a). Pub. L. 102–421, § 140(1)(A), substituted ''fiscal years 1993 through 1997'' for ''fiscal years 1987, 1988, 1989, 1990, and 1991'' in introductory provisions.

Subsec. (a)(B). Pub. L. 102–421, § 140(1)(B), struck out ''part B of subchapter I of this chapter, relating to'' before ''Kendall''.

Subsec. (a)(C). Pub. L. 102–421, § 151(a)(4), substituted ''individuals who are deaf'' for ''the deaf''.

Pub. L. 102–421, § 140(1)(C), struck out ''part C of subchapter I of this chapter, relating to'' before ''the model''.

Subsec. (b). Pub. L. 102–421, § 140(2), substituted ''fiscal years 1993 through 1997 to carry out the provisions of this chapter relating to'' for ''fiscal years 1987, 1988, 1989, 1990, and 1991 to carry out the provisions of subchapter II of this chapter, relating to''.

Subsec. (c). Pub. L. 102–421, § 140(3), struck out subsec. (c) which read as follows: ''(c) COMMISSION ON EDUCATION FOR THE DEAF.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of subchapter III of this chapter, relating to the Commission on Education of the Deaf. Sums appropriated pursuant to this subsection shall remain available until expended or until the termination of the Commission, whichever first occurs.''

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–421 effective Oct. 1, 1992, see section 161 of Pub. L. 102–421, set out as a note under section 4301 of this title.

§ 4361. Supervision of public business of Gallaudet University

The Secretary of Education is charged with the supervision of public business relating to Gallaudet University.

(R.S. § 441; Mar. 4, 1911, ch. 285, § 1, 36 Stat. 1422; 1940 Reorg. Plan No. IV, § 11, eff. June 30, 1940, 5 F.R. 2421, 54 Stat. 1234; 1953 Reorg. Plan No. 1, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; June 18, 1954, ch. 324, § 1, 68 Stat. 265; Oct. 17, 1979, Pub. L. 96–88, title III, § 301(a)(2)(M), title V, § 507, 93 Stat. 677, 692; Aug. 4, 1986, Pub. L. 99–371, title I, § 101(a), 100 Stat. 781.)

CODIFICATION

Section was not enacted as part of the Education of the Deaf Act of 1986, which comprises this chapter.

Section was formerly classified to section 691h of this title.

Section is also set out in D.C. Code, § 31–1803.

CHANGE OF NAME

Pursuant to section 101(a) of Pub. L. 99–371, which is classified to section 4301(a) of this title, ''Gallaudet University'' was substituted in text for ''Gallaudet College'' which had been substituted in text for ''Columbia Institution for the Deaf'' pursuant to section 1 of act June 18, 1954, which was formerly classified to section 691 of this title. Previously, act Mar. 4, 1911, ch. 285, 36 Stat. 1422, had redesignated the ''Columbia Institution for the Deaf and Dumb'' as the ''Columbia Institution for the Deaf''.

TRANSFER OF FUNCTIONS

''Secretary of Education'' substituted in text for ''Secretary of Health, Education, and Welfare'' pursuant to sections 301(a)(2)(M) and 507 of Pub. L. 96–88, which are classified to sections 3441(a)(2)(M) and 3507 of this title and which transferred to Secretary of Education functions of Secretary of Health, Education, and Welfare under laws relating to relationship between Gallaudet College [now Gallaudet University] and Department of Health, Education, and Welfare.

Functions of Federal Security Administrator transferred to Secretary of Health, Education, and Welfare and all agencies of Federal Security Agency transferred to Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1 of 1953, set out in the Appendix to Title 5, Government Organization and Employees. Federal Security Agency and office of Administrator abolished by section 8 of Reorg. Plan No. 1 of 1953.

Functions of Department of the Interior relating to administration of Columbia Institution for the Deaf transferred to Federal Security Agency to be administered under direction and supervision of Federal Security Administrator by § 11(d) of 1940 Reorg. Plan No. IV, set out in the Appendix to Title 5.

§ 4362. Purchases through General Services Administration

On and after September 8, 1978, Gallaudet University and the National Technical Institute for the Deaf are authorized to make purchases through the General Services Administration.

(Pub. L. 95–355, title I, § 100, Sept. 8, 1978, 92 Stat. 531; Pub. L. 99–371, title I, § 101(a), Aug. 4, 1986, 100 Stat. 781.)

CODIFICATION

Section is from the Second Supplemental Appropriations Act, 1978, and not enacted as part of the Education of the Deaf Act of 1986, which comprises this chapter, and contained additional provisions relating to purchases by the American Printing House for the Blind and Howard University which are set out as sections 106 and 130 of this title, respectively.

Section, as it relates to Gallaudet University, was formerly classified to section 691i of this title, and as it relates to the National Technical Institute for the Deaf, was formerly classified to section 686 of this title.

CHANGE OF NAME

''Gallaudet University'' substituted in text for ''Gallaudet College'' pursuant to section 101(a) of Pub. L. 99–371, which is classified to section 4301(a) of this title.

§ 4363. Financial and program audit by Secretary

Funds appropriated in this Act or subsequent Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Acts to the National Technical Institute for the Deaf, and Gallaudet University shall be subject to financial and program audit by the Secretary of Education and the Secretary may withhold all or any portion of these appropriations if he determines that an institution has not cooperated fully in the conduct of such audits.

(Pub. L. 102–394, title III, § 301, Oct. 6, 1992, 106 Stat. 1819.)

CODIFICATION

Section is from the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1993, and was not enacted as part of the Education of the Deaf Act of 1986 which comprises this chapter, and contained additional provisions relating to the American Printing House for the Blind and Howard University, which are set out as sections 106a and 130a of this title, respectively.

CHAPTER 56—AMERICAN INDIAN, ALASKA NATIVE, AND NATIVE HAWAIIAN CULTURE AND ART DEVELOPMENT

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SUBCHAPTER III—AUTHORIZATION OF APPROPRIATIONS

4451. Authorization of appropriations.
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§ 4401. Findings

The Congress finds that—

(1) Indian art and culture and Native Hawaiian art and culture have contributed greatly to the artistic and cultural richness of the Nation;

(2) Indian art and culture and Native Hawaiian art and culture occupy a unique position in American history as being our only native art form and cultural heritage;

(3) the enhancement and preservation of this Nation's native art and culture has a fundamental positive influence on the American people;

(4) although the encouragement and support of Indian and Native Hawaiian arts and crafts are primarily a matter for private, local, and Indian and Native Hawaiian initiative, it is also an appropriate matter of concern to the Federal Government;

(5) it is appropriate and necessary for the Federal Government to support research and scholarship in Indian art and culture and Na-

tive Hawaiian art and culture and to complement programs for the advancement of such art and culture by tribal, private, and public agencies and organizations;

(6) current Federal initiatives in the area of Indian art and culture and Native Hawaiian art and culture are fragmented and inadequate; and

(7) in order to coordinate the Federal Government's effort to preserve, support, revitalize, and disseminate Indian art and culture and Native Hawaiian art and culture, it is desirable to establish—

(A) a national Institute of American Indian and Alaska Native Culture and Arts Development, and

(B) a program for Native Hawaiian culture and arts development.

(Pub. L. 99–498, title XV, § 1502, Oct. 17, 1986, 100 Stat. 1600.)

SHORT TITLE OF 1994 AMENDMENT

Pub. L. 103–239, title VII, § 721, May 4, 1994, 108 Stat. 606, provided that: ''This title [probably should be ''subtitle'' meaning subtitle C [§§ 721, 722] of title VII of Pub. L. 103–239, amending section 4441 of this title] may be cited as the 'Alaska Native Culture and Arts Development Act'.''

SHORT TITLE

Section 1501 of title XV of Pub. L. 99–498 provided that: ''This title [enacting this chapter] may be cited as the 'American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act'.''

§ 4402. Definitions

For the purpose of this chapter—

(1) The term ''Indian art and culture'' includes (but is not limited to) the traditional and contemporary expressions of Indian language, history, visual and performing arts, and crafts.

(2) The term ''Native Hawaiian art and culture'' includes the traditional and contemporary expressions of Native Hawaiian language, history, visual and performing arts, and crafts.

(3) The term ''Institute'' means the Institute of American Indian and Alaska Native Culture and Arts Development established by this chapter.

(4) The term ''Indian'' means any person who is a member of an Indian tribe.

(5) The term ''Indian tribe'' means any tribe, band, nation, or other organized group or community of Indians, including any Alaska Native village (as defined in, or established pursuant to, the Alaska Native Claims Settlement Act [43 U.S.C. 1601 et seq.]), which is recognized as eligible for special programs and services provided by the United States to Indians because of their status as Indians.

(6) The term ''Native Hawaiian'' means any descendent of a person who, prior to 1778, was a native of the Hawaiian Islands.

(7) The term ''Secretary'' means the Secretary of the Interior.

(8) The term ''Board'' means the Board of Trustees of the Institute established under this chapter.

(Pub. L. 99–498, title XV, § 1503, Oct. 17, 1986, 100 Stat. 1600.)

REFERENCES IN TEXT

The Alaska Native Claims Settlement Act, referred to in par. (5), is Pub. L. 92–203, Dec. 18, 1971, 85 Stat. 688, as amended, which is classified generally to chapter 33 (§ 1601 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 43 and Tables.

SUBCHAPTER I—AMERICAN INDIANS AND ALASKA NATIVES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 4451 of this title.

§ 4411. Establishment of Institute

(a) In general

There is hereby established a corporation to be known as the ''Institute of American Indian and Alaska Native Culture and Arts Development'', which shall be under the direction and control of a Board of Trustees established under section 4412 of this title.

(b) Succession and amendment of charter

The corporation established under subsection (a) of this section shall have succession until dissolved by Act of Congress. Only the Congress shall have the authority to revise or amend the charter of such corporation.

(Pub. L. 99–498, title XV, § 1504, Oct. 17, 1986, 100 Stat. 1601.)

AVAILABILITY OF FISCAL YEAR 1988 APPROPRIATIONS

Pub. L. 100–202, § 101(g) [title I, § 100], Dec. 22, 1987, 101 Stat. 1329–213, 1329–228, provided: ''That notwithstanding any provision of the American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act [this chapter], the amounts appropriated for fiscal year 1988 for the Bureau of Indian Affairs for the Institute of American Indian Arts shall be available to operate the Institute until the Board of Regents and President of the Institute have been named and had an opportunity to organize, and for use under part A of that Act [this subchapter].''

AVAILABILITY OF APPROPRIATIONS; IMPLEMENTATION OF CHAPTER; INTERIM AUTHORITY OF SECRETARY

Pub. L. 99–500, § 101(h) [title I, § 100], Oct. 18, 1986, 100 Stat. 1783–242, 1783–255, and Pub. L. 99–591, § 101(h) [title I, § 100], Oct. 30, 1986, 100 Stat. 3341–242, 3341–255, provided: ''That notwithstanding any provision of the American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act [this chapter], the amounts appropriated for fiscal year 1987 for the Bureau of Indian Affairs for the Institute of American Indian Arts shall be available for use under part A of that Act [this subchapter] and—

''(1) that Act shall be implemented in a reasonable period of time and shall be fully implemented by no later than October 1, 1987,

''(2) until the earlier of—

''(A) October 1, 1987, or

''(B) the appointment and confirmation of a majority of the members of the Board of Trustees of the Institute of American Indian and Alaska Native Culture and Arts Development under section 1505(a)(1)(A) of that Act [20 U.S.C. 4412(a)(1)(A)],

the Secretary of the Interior shall have the authority conferred upon such members under that Act, and

''(3) until the earlier of—

''(A) October 1, 1987, or

''(B) the appointment of a President of such Institute under section 1508 of that Act [20 U.S.C. 4415],

the Secretary of the Interior shall have the authority conferred upon such members under that Act, and

''(3) [(4)] until the earlier of—
''(A) October 1, 1987, or
''(B) the appointment of a President of such Institute under section 1508 of that Act,
the Secretary of the Interior shall have the authority conferred upon the President of such Institute under this [that] Act''.

§ 4412. Board of Trustees

(a) Composition

(1) The Board of Trustees of the Institute shall be composed of 13 voting members and 6 nonvoting members as follows:

(A) Subject to the provisions of subsection (i) of this section, the voting members shall be appointed by the President of the United States by and with the advice and consent of the Senate, not later than 180 days after October 17, 1986, from among individuals from private life who are Indians, or other individuals, widely recognized in the field of Indian art and culture and who represent diverse political views, and diverse fields of expertise, including finance, law, fine arts, and higher education administration.

(B) The nonvoting members shall consist of—

(i) 2 Members of the House of Representatives appointed by the Speaker of the House of Representatives in consultation with the Minority Leader of the House of Representatives;

(ii) 2 Members of the Senate appointed by the President pro tempore of the Senate, upon the recommendation of the Majority Leader and the Minority Leader of the Senate;

(iii) the President of the Institute, ex officio; and

(iv) the president of the student body of the Institute, ex officio.

(2) In making appointments pursuant to paragraph (1)(A), the President of the United States shall—

(A) consult with the Indian tribes and the various organizations of Indians;

(B) publish in the Federal Register an announcement of the expiration of terms no less than 4 months before such expiration;

(C) solicit nominations from Indian tribes and various Indian organizations to fill the vacancies;

(D) give due consideration to the appointment of individuals who will provide appropriate regional and tribal representation on the Board; and

(E) ensure that a majority of the Board appointed under paragraph (1)(A) are Indians.

(3) The President shall carry out the activities described in subparagraphs (B) and (C) of paragraph (2) through the Board. The Board may make recommendations based upon the nominations received, may make recommendations of its own, and may review and make comments to the President or the President's appointed staff on individuals being considered by the President for whom no nominations have been received.

(4) Members of Congress appointed under this section, or their designees, shall be entitled to attend all meetings of the Board and to provide advice to the Board on any matter relating to the Institute.

(b) Terms of office

(1) Except as otherwise provided in this section, members shall be appointed for terms of office of 6 years.

(2) The terms of office on the Board for the Members of the House of Representatives and of the Senate shall expire at the end of the congressional term of office during which such Member or Senator was appointed to the Board.

(3) Of the members of the Board first appointed under subsection (a)(1)(A) of this section—

(A) 4 shall be appointed for terms of office of 2 years;

(B) 4 shall be appointed for terms of office of 4 years; and

(C) 5 shall be appointed for terms of office of 6 years,

as determined by the drawing of lots during the first meeting of the Board.

(4) No member of the Board appointed under subsection (a)(1)(A) of this section shall be eligible to serve in excess of 2 consecutive terms, but may continue to serve until such member's successor is appointed.

(c) Vacancies

Any member of the Board appointed under subsection (a) of this section to fill a vacancy occurring before the expiration of the term to which such member's predecessor was appointed shall be appointed for the remainder of such term. If the vacancy occurs prior to the expiration of the term of a member of the Board appointed under subsection (a)(1)(B) of this section, a replacement shall be appointed in the same manner in which the original appointment was made.

(d) Removal

No member of the Board may be removed during the term of office of such member except for just and sufficient cause.

(e) Chairman and Vice Chairman

The President of the United States shall designate the initial Chairman and Vice Chairman of the Board from among the members of the Board appointed pursuant to subsection (a)(1)(A) of this section. Such Chairman and Vice Chairman so designated shall serve for 12 calendar months. Thereafter, the Chairman and Vice Chairman shall be elected from among the members of the Board appointed pursuant to subsection (a)(1)(A) of this section and shall serve for terms of 2 years. In the case of a vacancy in the office of Chairman or Vice Chairman, such vacancy shall be filled by the members of the Board appointed pursuant to subsection (a)(1)(A) of this section, and the member filling such vacancy shall serve for the remainder of the unexpired term.

(f) Quorum

Unless otherwise provided by the bylaws of the Institute, a majority of the members appointed under subsection (a)(1)(A) of this section shall constitute a quorum.

(g) Powers

The Board is authorized—

(1) to formulate the policy of the Institute;

(2) to direct the management of the Institute; and

(3) to make such bylaws and rules as it deems necessary for the administration of its functions under this chapter, including the organization and procedures of the Board.

(h) Compensation

Members of the Board appointed pursuant to subsection (a)(1)(A) of this section shall, for each day they are engaged in the performance of the duties under this chapter, receive compensation at the rate of $125 per day, including traveltime. All members of the Board, while so serving away from their homes or regular places of business, shall be allowed travel expenses (including per diem in lieu of subsistence), as authorized by section 5703 of title 5 for persons in Government service employed intermittently.

(i) Appointment exception for continuity

(1) In order to maintain the stability and continuity of the Board, the Board shall have the power to recommend the continuation of members on the Board pursuant to the provisions of this subsection. When the Board makes such a recommendation, the Chairman of the Board shall transmit the recommendation to the President no later than 75 days prior to the expiration of the term of the member.

(2) If the President has not transmitted to the Senate a nomination to fill the position of a member covered by such a recommendation within 60 days from the date that the member's term expires, the member shall be deemed to have been reappointed for another full term to the Board, with all the appropriate rights and responsibilities.

(3) This subsection shall not be construed to permit less than 7 members of the Board to be Indians. If an extension of a term under paragraph (2) would result in less than 7 members being Indians, the term of the member covered by paragraph (2) shall be deemed to expire 60 days after the date upon which it would have been deemed to expire without the operation of this subsection, except that the provisions of subsection (b)(4) of this section, relating to continuation of service pending replacement, shall continue to apply.

(Pub. L. 99–498, title XV, §1505, Oct. 17, 1986, 100 Stat. 1601; Pub. L. 102–325, title XIII, §1331(a), July 23, 1992, 106 Stat. 805.)

AMENDMENTS

1992—Subsec. (a)(1)(A). Pub. L. 102–325, §1331(a)(1), substituted ''Subject to the provisions of subsection (i) of this section, the voting'' for ''The voting'' and inserted before period at end '', and diverse fields of expertise, including finance, law, fine arts, and higher education administration''.

Subsec. (a)(3), (4). Pub. L. 102–325, §1331(a)(2), (3), added par. (3) and redesignated former par. (3) as (4).

Subsec. (i). Pub. L. 102–325, §1331(a)(4), added subsec. (i) and struck out former subsec. (i) which read as follows: ''(i) REVIEW BY SECRETARY OF THE INTERIOR.—For so long as any employee of the Institute is covered under title 5, the Board (acting by majority vote) shall submit final decisions relating to personnel to the Secretary of the Interior. Each such decision shall become final 30 days after the date of its receipt by the Secretary unless the Secretary disapproves of such decision. The Secretary may only disapprove a decision of the Board for just cause.''

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

DELEGATION OF AUTHORITY

Memorandum of President of the United States, Feb. 22, 1991, 56 F.R. 8099, provided:

Memorandum for the Chairman of the Board of Trustees of the Institute of American Indian and Alaska Native Culture and Arts Development

By the authority vested in me as President of the United States by section 301 of Title 3 of the United States Code, I hereby delegate to the Chairman of the Board of Trustees of the Institute of American Indian and Alaska Native Culture and Arts Development the responsibility under section 1505(a)(2)(B) of P.L. 99–498 (20 U.S.C. 4412(a)(2)(B)) to publish in the Federal Register an announcement of the expiration of the terms of the presidentially appointed members of the Board of Trustees of the Institute of American Indian and Alaska Native Culture and Arts Development no less than 4 months prior to their expiration. The authority delegated by this memorandum may be further redelegated within the Institute.

The delegation of authority to the Secretary of the Interior by memorandum of June 22, 1988, is hereby rescinded.

This memorandum shall be published in the Federal Register.

GEORGE BUSH.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4411 of this title.

§ 4413. Executive Board

(a) Composition

The Board shall have an Executive Board composed of—

(1) the chairman of the Board;

(2) the vice chairman of the Board;

(3) the secretary of the Board;

(4) the treasurer of the Board; and

(5) an at-large member of the Board elected by the Board at its initial meeting.

(b) Vacancies

In the case of any vacancy which occurs in the position of at-large member before the expiration of such member's term, the Board shall elect a replacement to complete that term.

(c) Meetings

The Executive Board shall hold not more than 4 regular meetings per calendar year. Special meetings may be held upon the call of the chairman or 3 members of the Executive Board.

(d) Quorum

A majority of the Executive Board shall constitute a quorum.

(e) Powers

The Executive Board may hold and use all the powers of the Board, subject to the approval of the Board.

(Pub. L. 99–498, title XV, §1506, Oct. 17, 1986, 100 Stat. 1603.)

§ 4414. General powers of Board

(a) In general

In carrying out the provisions of this chapter, the Board shall have the power, consistent with the provisions of this chapter—

(1) to adopt, use, and alter a corporate seal;

(2) to make agreements and contracts with persons, Indian tribes, and private or governmental entities and to make payments or advance payments under such agreements or contract[1] without regard to section 3324 of title 31;

(3) any other provision of law to the contrary notwithstanding, to enter into joint development ventures with public or private commercial or noncommercial entities for development of facilities to meet the plan required under section 4426 of this title, if the ventures are related to and further the mission of the Institute;

(4) to sue and be sued in its corporate name and to complain and defend in any court of competent jurisdiction;

(5) to represent itself, or to contract for representation, in all judicial, legal, and other proceedings;

(6) with the approval of the agency concerned, to make use of services, facilities, and property of any board, commission, independent establishment, or executive agency or department of the executive branch in carrying out the provisions of this chapter and to pay for such use (such payments to be credited to the applicable appropriation that incurred the expense);

(7) to use the United States mails on the same terms and conditions as the executive departments of the United States Government;

(8) to obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5 and to accept and utilize the services of voluntary and noncompensated personnel and reimburse them for travel expenses, including per diem, as authorized by section 5703 of title 5;

(9) to solicit, accept, and dispose of gifts, bequests, devises of money, securities, and other properties of whatever character, for the benefit of the Institute;

(10) to receive grants from, and enter into contracts and other arrangements with, Federal, State, or local governments, public and private agencies, organizations, institutions, and individuals;

(11) to acquire, hold, maintain, use, operate, and dispose of such real property, including improvements thereon, personal property, equipment, and other items, as may be necessary to enable the Board to carry out the purpose of this chapter;

(12) to the extent not already provided by law, to obtain insurance to cover all activities of the Institute, including coverage relating to property and liability, or make other provisions against losses;

(13) to use any funds or property received by the Institute to carry out the purpose of this chapter, including the authority to designate on an annual basis a portion, not to exceed 10 percent, of the funds appropriated pursuant to section 4451 of this title for investment, without regard to any other provision of law regarding investment or disposition of federally appropriated funds, on a short-term basis for the purpose of maximizing yield and liquidity of such funds; and

(14) to exercise all other lawful powers necessarily or reasonably related to the establishment of the Institute in order to carry out the provisions of this chapter and the exercise of the powers, purposes, functions, duties, and authorized activities of the Institute.

(b) Accounting for non-Federal funds

Any funds received by, or under the control of, the Institute that are not Federal funds shall be accounted for separately from Federal funds.

(c) Interest and investments

Interest and earnings on amounts received by the Institute pursuant to section 4451 of this title invested under subsection (a)(12)[2] of this section shall be the property of the Institute and shall be expended to carry out this chapter. The Board shall be held to a reasonable and prudent standard of care, given such information and circumstances as existed when the decision is made, in decisions involving investment of funds under subsection (a)(12)[2] of this section.

(Pub. L. 99–498, title XV, § 1507, Oct. 17, 1986, 100 Stat. 1603; Pub. L. 100–297, title V, § 5406(e), Apr. 28, 1988, 102 Stat. 418; Pub. L. 101–644, title V, § 501, Nov. 29, 1990, 104 Stat. 4668; Pub. L. 102–325, title XIII, § 1331(b), July 23, 1992, 106 Stat. 806; Pub. L. 103–208, § 2(*l*), Dec. 20, 1993, 107 Stat. 2486.)

REFERENCES IN TEXT

Subsection (a)(12) of this section, referred to in subsec. (c), was redesignated subsec. (a)(13) of this section, repealed, and a new subsec. (a)(13) added by Pub. L. 102–325, title XIII, § 1331(b)(1)(A), (C), July 23, 1992, 106 Stat. 806, and former subsec. (a)(11) of this section was redesignated subsec. (a)(12).

AMENDMENTS

1993—Subsec. (a)(12). Pub. L. 103–208 substituted semicolon for period at end.

1992—Subsec. (a)(2). Pub. L. 102–325, § 1331(b)(1)(B), added par. (2) and struck out former par. (2) which read as follows: ''to make agreements and contracts with persons, Indian tribes, and private or governmental entities and to make payments or advance payments under such agreements or contracts without regard to section 3324 of title 31;''.

Subsec. (a)(3) to (12). Pub. L. 102–325, § 1331(b)(1)(A), (B), added par. (3) and redesignated former pars. (3) to (11) as (4) to (12), respectively. Former par. (12) redesignated (13).

Subsec. (a)(13). Pub. L. 102–325, § 1331(b)(1)(C), added par. (13) and struck out former par. (13) which read as follows: ''to use any funds or property received by the Institute to carry out the purpose of this chapter; and''.

Pub. L. 102–325, § 1331(b)(1)(A), redesignated par. (12) as (13). Former par. (13) redesignated (14).

Subsec. (14). Pub. L. 102–325, § 1331(b)(1)(A), redesignated par. (13) as (14).

Subsec. (c). Pub. L. 102–325, § 1331(b)(2), substituted ''shall be expended'' for ''may be expended''.

1990—Subsec. (a)(11). Pub. L. 101–644, § 501(b), amended par. (11) generally. Prior to amendment, par. (11) read as follows: ''to obtain insurance or make other provisions against losses;''.

Subsec. (c). Pub. L. 101–644, § 501(a), added subsec. (c).

1988—Pub. L. 100–297 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L.

[1] So in original. Probably should be ''contracts''.

[2] See References in Text note below.

102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1003 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

For effective date and applicability of amendment by Pub. L. 100–297, see section 6303 of Pub. L. 100–297, set out as an Effective Date note under section 1201 of this title.

§ 4415. President of Institute

(a) Appointment

The Institute shall have a President who shall be appointed by the Board. The President of the Institute shall serve as the chief executive officer of the Institute. Subject to the direction of the Board and the general supervision of the Chairman of the Board, the President of the Institute shall have the responsibility for carrying out the policies and functions of the Institute and shall have authority over all personnel and activities of the Institute.

(b) Compensation

The President of the Institute shall be paid at a rate not to exceed the maximum rate of basic pay payable for grade GS–18 of the General Schedule.

(Pub. L. 99–498, title XV, § 1508, Oct. 17, 1986, 100 Stat. 1604.)

REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, § 101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

§ 4416. Staff of Institute

(a) Exemption from civil service

Except as otherwise provided in this section, title 5 shall not apply to the Institute.

(b) Appointment and compensation

(1) The President of the Institute, with the approval of the Board, shall have the authority to appoint, fix the compensation of (including health and retirement benefits), and prescribe the duties of, such officers and employees as the President of the Institute deems necessary for the efficient administration of the Institute.

(2) The President of the Institute shall fix the basic compensation for officers and employees of the Institute at rates comparable to the rates in effect under the General Schedule for individuals with comparable qualifications and positions, to whom chapter 51 of title 5 applies. If the Board determines that such action is necessary for purposes of recruitment or retention of officers or employees necessary to the functions of the Institute, the Board is authorized, by formal action, to establish a rate of, or a range for, basic compensation that is comparable to the rate of compensation paid to officers or employees having similar duties and responsibilities in other institutions of higher education.

(3)(A) Not later than 180 days after the President of the Institute is appointed, the President of the Institute shall make policies and procedures governing—

(i) the establishment of positions at the Institute,

(ii) basic compensation for such positions (including health and retirement benefits),

(iii) entitlement to compensation,

(iv) conditions of employment,

(v) discharge from employment,

(vi) the leave system, and

(vii) such other matters as may be appropriate.

(B) Rules and regulations promulgated with respect to discharge and conditions of employment shall require—

(i) that procedures be established for the rapid and equitable resolution of grievances of such individuals; and

(ii) that no individual may be discharged without notice of the reasons therefor and an opportunity for a hearing under procedures that comport with the requirements of due process.

(c) Appeal to Board

Any officer or employee of the Institute may appeal to the Board any determination by the President of the Institute to not re-employ or to discharge such officer or employee. Upon appeal, the Board may, in writing, overturn the determination of the President of the Institute with respect to the employment of such officer or employee.

(d) No reduction in classification or compensation

Individuals who elect to remain civil service employees shall be transferred in accordance with applicable laws and regulations relating to the transfer of functions and personnel, except that any such transfer shall not result in a reduction in classification or compensation with respect to any such individual for at least one year after the date on which such transfer occurs.

(e) Leave

(1) Any individual who—

(A) elects under subsection (g) of this section to be covered under the provisions of this section, or

(B) is an employee of the Federal Government and is transferred or reappointed, without a break in service, from a position under a different leave system to the Institute,

shall be credited for purposes of the leave system provided under rules and regulations promulgated pursuant to subsection (b) of this section, with the annual and sick leave to the credit of such individual immediately before the effective date of such election, transfer, or reappointment.

(2) Upon termination of employment with the Institute, any annual leave remaining to the credit of an individual within the purview of this section shall be liquidated in accordance

with sections 5551(a) and 6306 of title 5, except that leave earned or accrued under rules and regulations promulgated pursuant to subsection (b) of this section shall not be so liquidated.

(3) In the case of any individual who is transferred, promoted, or reappointed, without break in service, to a position in the Federal Government under a different leave system, any remaining leave to the credit of such person earned or credited under the rules and regulations promulgated pursuant to subsection (b) of this section shall be transferred to the credit of such individual in the employing agency on an adjusted basis in accordance with the rules and regulations which shall be promulgated by the Office of Personnel Management.

(f) Applicability

(1) This section shall apply to any individual appointed after October 17, 1986, for employment in the Institute. Except as provided in subsections (d) and (g) of this section, the enactment of this chapter shall not affect—

(A) the continued employment of any individual employed before October 17, 1986; or

(B) such individual's right to receive the compensation attached to such position.

(2) This section shall not apply to an individual whose services are procured by the Institute pursuant to a written procurement contract.

(3) This section shall not apply to employees of an entity performing services pursuant to a written contract with the Institute.

(g) Termination of civil service positions

(1) On June 30, 1989, any position at the Institute which is occupied by an individual in the civil service shall terminate. During such period, such individual may make an irrevocable election to be covered under the provisions of this section, except that any such individual who is subject to subchapter III of chapter 83 of title 5 may elect to continue to be subject to such subchapter, and any such individual who is subject to chapter 84 of such title may elect to continue to be subject to such chapter.

(2) Any individual who makes an election under paragraph (1) to continue to be subject to subchapter III of chapter 83 of title 5 or chapter 84 of such title shall, so long as continually employed by the Institute without a break in service subject to such subchapter or such chapter 84, as the case may be, continue to be treated as an employee subject to such subchapter or such chapter 84, as the case may be. Employment by the Institute without a break of continuity in service shall be considered to be employment by the United States Government for the purpose of such subchapter or such chapter 84, as the case may be. The Institute shall be responsible for making the contributions required to be made by an employing agency under such subchapter or such chapter 84, as the case may be.

(h) Collective bargaining

The Institute shall be considered an agency for the purpose of chapter 71 of title 5.

(i) Workmen's compensation

Employees of the Institute shall receive compensation for work injuries and illnesses in accordance with chapter 81 of title 5.

(Pub. L. 99–498, title XV, § 1509, Oct. 17, 1986, 100 Stat. 1604; Pub. L. 100–297, title V, § 5406(a), Apr. 28, 1988, 102 Stat. 417; Pub. L. 102–325, title XIII, § 1331(c), July 23, 1992, 106 Stat. 806; Pub. L. 103–382, title III, § 386(a), Oct. 20, 1994, 108 Stat. 4020.)

REFERENCES IN TEXT

The General Schedule, referred to in subsec. (b)(2), is set out under section 5332 of Title 5, Government Organization and Employees.

AMENDMENTS

1994—Subsec. (f). Pub. L. 103–382 amended heading and text of subsec. (f) generally. Prior to amendment, text read as follows: ''This section shall apply to any individual appointed after October 17, 1986, for employment in the Institute. Except as provided in subsections (d) and (g) of this section, the enactment of this chapter shall not affect—

''(1) the continued employment of any individual employed immediately before October 17, 1986, or

''(2) such individual's right to receive the compensation attached to such position.''

1992—Subsec. (b)(2). Pub. L. 102–325 amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''The President of the Institute shall fix the basic compensation for officers and employees of the Institute at rates comparable to the rates in effect under the General Schedule for individuals with comparable qualifications, and holding comparable positions, to whom chapter 51 of title 5 applies.''

1988—Subsec. (g)(1). Pub. L. 100–297 substituted ''On June 30, 1989'' for ''At the end of the 2-year period beginning on the date referred to in section 4421(f) of this title''.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

For effective date and applicability of amendment by Pub. L. 100–297, see section 6303 of Pub. L. 100–297, set out as an Effective Date note under section 1201 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4418 of this title.

§ 4417. Functions of Institute

(a) Primary functions

The primary functions of the Institute shall be—

(1) to provide scholarly study of, and instruction in, Indian art and culture, and

(2) to establish programs which culminate in the awarding of degrees in the various fields of Indian art and culture.

(b) Administrative entities

(1) The Board shall be responsible for establishing the policies and internal organization that relate to the control and monitoring of all subdivisions, administrative entities, and departments of the Institute.

(2) The specific responsibilities of each subdivision, entity, and department of the Institute are solely within the discretion of the Board, or its designee.

(3) The Board shall establish, within the Institute, departments for the study of culture and arts and for research and exchange, and a mu-

seum. The Board shall establish the areas of competency for the departments created under this paragraph, which may include (but are not limited to) Departments of Arts and Sciences, Visual Arts, Performing Arts, Language, Literature and Museology and a learning resources center, programs of institutional support and development, research programs, fellowship programs, seminars, publications, scholar-in-residence programs and inter-institutional programs of cooperation at national and international levels.

(c) Other programs

In addition to the centers and programs described in subsection (b) of this section, the Institute shall develop such programs and centers as the Board determines are necessary to—

(1) foster research and scholarship in Indian art and culture through—

(A) resident programs;

(B) cooperative programs; and

(C) grant programs;

(2) complement existing tribal programs for the advancement of Indian art and culture; and

(3) coordinate efforts to preserve, support, revitalize, and develop evolving forms of Indian art and culture.

(Pub. L. 99–498, title XV, § 1510, Oct. 17, 1986, 100 Stat. 1606; Pub. L. 101–644, title V, § 502, Nov. 29, 1990, 104 Stat. 4668; Pub. L. 102–325, title XIII, § 1331(d), July 23, 1992, 106 Stat. 807.)

AMENDMENTS

1992—Subsec. (b). Pub. L. 102–325 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: ''There shall be established within the Institute—

''(1) a Center for Culture and Art Studies to be administered by a director (appointed by the President of the Institute, with the approval of the Board), which shall include (but not be limited to) Departments of Arts and Sciences, Visual Arts, Performing Arts, Language, Literature, and Museology;

''(2) a Center for Research and Cultural Exchange, administered by a director (appointed by the President of the Institute, with the approval of the Board), which shall include—

''(A) a learning resources center;

''(B) programs of institutional support and development;

''(C) research programs;

''(D) fellowship programs;

''(E) seminars;

''(F) publications;

''(G) scholar-in-residence and artist-in-residence programs; and

''(H) inter-institutional programs of cooperation at national and international levels; and

''(3) a Museum of American Indian and Alaska Native Arts, which shall be under the direction of the President of the Institute.''

1990—Subsec. (b)(2). Pub. L. 101–644, § 502(1), redesignated subpars. (B) to (I) as (A) to (H), respectively, and struck out former subpar. (A) which related to a museum of Indian arts.

Subsec. (b)(3). Pub. L. 101–644, § 502(2)–(4), added par. (3).

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4441 of this title.

§ 4418. Indian preference

(a) In general

Notwithstanding any other provision of Federal or State law, the Institute is authorized to develop a policy or policies for the Institute to extend preference to Indians in—

(1) admissions to, and enrollment in, programs conducted by the Institute,

(2) employment by the Institute, and

(3) contracts, fellowships, and grants awarded by the Institute.

(b) Hiring preference

In carrying out section 4416(b)(1) of this title, the President of the Institute shall, to the maximum extent practicable, give preference in hiring to Indians.

(Pub. L. 99–498, title XV, § 1511, Oct. 17, 1986, 100 Stat. 1607; Pub. L. 102–325, title XIII, § 1331(e), July 23, 1992, 106 Stat. 807.)

AMENDMENTS

1992—Subsec. (a). Pub. L. 102–325 inserted ''develop a policy or policies for the Institute to'' after ''is authorized to''.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

§ 4419. Nonprofit and nonpolitical nature of Institute

(a) Stock

The Institute shall have no power to issue any shares of stock or to declare or pay any dividends.

(b) Nonprofit nature

No part of the income or assets of the Institute shall inure to the benefit of any director, officer, employee, or any other individual except as salary or reasonable compensation for services.

(c) Nonpolitical nature

The Institute may not contribute to, or otherwise support, any political party or candidate for elective public office.

(Pub. L. 99–498, title XV, § 1512, Oct. 17, 1986, 100 Stat. 1607.)

§ 4420. Tax status; tort liability

(a) Tax status

The Institute and the franchise, capital, reserves, income, and property of the Institute shall be exempt from all taxation now or hereafter imposed by the United States, by any Indian tribe, or by any State or political subdivision thereof.

(b) Tort liability

(1) The Institute shall be subject to liability relating to tort claims only to the extent a Federal agency is subject to such liability under chapter 171 of title 28.

(2) For purposes of chapter 171 of title 28, the Institute shall be treated as a Federal agency (within the meaning of section 2671 of such title).

(3) For purposes of chapter 171 of title 28, the President of the Institute shall be deemed the head of the Agency.

(Pub. L. 99–498, title XV, § 1513, Oct. 17, 1986, 100 Stat. 1608; Pub. L. 100–446, title II, Sept. 27, 1988, 102 Stat. 1818.)

AMENDMENTS

1988—Pub. L. 100–446 inserted ''; tort liability'' in section catchline, designated existing provisions as subsec. (a) and inserted heading, and added subsec. (b).

§ 4421. Transfer of functions

(a) Institute of American Indian Arts

There are hereby transferred to the Institute of American Indian and Alaska Native Culture and Art Development, and such Institute shall perform, the functions of the Institute of American Indian Arts established by the Secretary in 1962.

(b) Certain matters relating to transferred functions

(1) Subject to subsection (d) of this section, all personnel, liabilities, contracts, real property (including the collections of the museum located on the site known as the ''Santa Fe Indian School'' but not the museum building), personal property, assets, and records as are determined by the Director of the Office of Management and Budget to be employed, held, or used primarily in connection with any function transferred under the provisions of this chapter (regardless of the administrative entity providing the services on the date before the transfer) shall be transferred to the Institute.

(2) Personnel engaged in functions transferred by this chapter shall be transferred in accordance with applicable laws and regulations relating to the transfer of functions, except that such transfer shall be without reduction in classification or compensation for one year after such transfer.

(c) References in other laws

All laws and regulations relating to the Institute of American Indian Arts established by the Secretary in 1962 shall, insofar as such laws and regulations are appropriate, and not inconsistent with the provisions of this chapter, remain in full force and effect and apply with respect to the Institute. All references in any other Federal law to the Institute of American Indian Arts, or any officer transferred to the Institute of American Indian and Alaska Native Culture and Arts Development under subsection (b) of this section, shall be deemed to refer to the Institute of American Indian and Alaska Native Culture and Arts Development or an officer of the Institute of American Indian and Alaska Native Culture and Arts Development.

(d) Forgiveness of amounts owed; hold harmless

(1) Subject to paragraph (2)—

(A) the Institute shall be responsible for all obligations of the Institute incurred after June 2, 1988, and

(B) the Secretary shall be responsible for all obligations of the Institute incurred on or before June 2, 1988, including those which accrued by reason of any statutory, contractual, or other reason prior to June 2, 1988, which became payable within two years of June 2, 1988.

(2) With respect to all programs of the Federal Government, in whatever form or from whatever source derived, the Institute shall only be held responsible for actions and requirements, either administrative, regulatory, or statutory in nature, for events which occurred after July 1, 1988, including the submission of reports, audits, and other required information. The United States may not seek any monetary damages or repayment for the commission of events, or omission to comply with either administrative or regulatory requirements, for any action which occurred prior to June 2, 1988.

(Pub. L. 99–498, title XV, § 1514, Oct. 17, 1986, 100 Stat. 1608; Pub. L. 100–153, § 8, Nov. 5, 1987, 101 Stat. 887; Pub. L. 100–297, title V, § 5406(d), Apr. 28, 1988, 102 Stat. 418; Pub. L. 101–644, title V, § 503, Nov. 29, 1990, 104 Stat. 4669; Pub. L. 102–325, title XIII, § 1331(f), July 23, 1992, 106 Stat. 807.)

AMENDMENTS

1992—Subsec. (b)(1). Pub. L. 102–325, § 1331(f)(1), substituted ''Subject to subsection (d) of this section, all personnel'' for ''All personnel''.

Subsec. (d)(2). Pub. L. 102–325, § 1331(f)(2), substituted ''monetary damages'' for ''monetary damage''.

1990—Subsec. (d). Pub. L. 101–644, § 503, added subsec. (d) and struck out former subsec. (d) which read as follows: ''Unless the Board provides otherwise, the Secretary of the Interior shall, until October 1, 1989, provide such technical and support assistance to the Institute as the Secretary determines reasonable or necessary to assist the Institute. Such assistance shall include audit, accounting, computer services, and building and maintenance services.''

Subsecs. (e), (f). Pub. L. 101–644, § 503(1), struck out subsec. (e) which related to completion of transfers, final date of control of Institute by Secretary, payment of unexpended or unobligated funds, and responsibility for subsequently incurred obligations, and subsec. (f) which related to contract with University of New Mexico, terms of contract, and composition of advisory council.

1988—Subsec. (e)(3), (4). Pub. L. 100–297 added pars. (3) and (4).

1987—Subsec. (d). Pub. L. 100–153, § 8(1), (2), substituted ''Unless the Board provides otherwise'' for ''During the 2-year period beginning on the date referred to in subsection (f) of this section'' and inserted '', until October 1, 1989,'' after ''Secretary of the Interior shall''.

Subsec. (e). Pub. L. 100–153, § 8(3), added subsec. (e) and struck out former subsec. (e) which read as follows: ''During the period beginning on October 17, 1986, and ending on the date referred to in subsection (f) of this section, the Advisory Board for Institute of American Indian Arts shall continue to act in an advisory role for the Board and the Institute of American Indian and Alaska Native Culture and Arts Development.''

Subsec. (f). Pub. L. 100–153, § 8(3), added subsec. (f) and struck out former subsec. (f) which read as follows: ''The provisions of this section (other than subsection (e) of this section) shall take effect on October 1, 1986.''

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

For effective date and applicability of amendment by Pub. L. 100–297, see section 6303 of Pub. L. 100–297, set out as an Effective Date note under section 1201 of this title.

§ 4422. Reports

(a) Annual report

The President of the Institute shall submit an annual report to the Congress and to the Board concerning the status of the Institute during the 12 calendar months preceding the date of the report. Such report shall include, among other matters, a detailed statement of all private and public funds, gifts, and other items of a monetary value received by the Institute during such 12-month period and the disposition thereof as well as any recommendations for improving the Institute.

(b) Budget proposal

(1) After September 30, 1988 and for each fiscal year thereafter, the Board shall submit a budget proposal to the Congress.

(2) A budget proposal under this subsection shall be submitted not later than April 1 of each calendar year and shall propose a budget for the Institute for the 2 fiscal years succeeding the fiscal year during which such proposal is submitted.

(3) In determining the amount of funds to be appropriated to the Institute on the basis of such proposals, the Congress shall not consider the amount of private fundraising or bequests made on behalf of the Institute during any preceding fiscal year.

(Pub. L. 99–498, title XV, § 1515, Oct. 17, 1986, 100 Stat. 1609; Pub. L. 100–297, title V, § 5406(f), Apr. 28, 1988, 102 Stat. 418; Pub. L. 102–325, title XIII, § 1331(g), July 23, 1992, 106 Stat. 807.)

AMENDMENTS

1992—Subsec. (b). Pub. L. 102–325 redesignated pars. (2) to (4) as (1) to (3), respectively, and struck out former par. (1) which read as follows: ''Prior to October 1, 1988, the Board shall submit a budget proposal to the Secretary of the Interior. The Secretary shall submit that proposal to the Congress.''

1988—Subsec. (b)(1). Pub. L. 100–297, § 5406(f)(1), substituted ''Prior to October 1, 1988'' for ''During the 2-year period beginning on the date referred to in section 4421(f) of this title''.

Subsec. (b)(2). Pub. L. 100–297, § 5406(f)(2), substituted ''September 30, 1988'' for ''the period described in paragraph (1)''.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

For effective date and applicability of amendment by Pub. L. 100–297, see section 6303 of Pub. L. 100–297, set out as an Effective Date note under section 1201 of this title.

§ 4423. Headquarters

Santa Fe, New Mexico, shall be maintained as the location for the Institute of Indian and Alaska Native Culture and Arts Development. To facilitate this action and the continuity of programs being provided at the Institute of American Indian Arts, the Board may enter into negotiations with State and local governments for such exchanges or transfers of lands and such other assistance as may be required.

(Pub. L. 99–498, title XV, § 1516, Oct. 17, 1986, 100 Stat. 1609; Pub. L. 102–325, title XIII, § 1331(h), July 23, 1992, 106 Stat. 807.)

AMENDMENTS

1992—Pub. L. 102–325 struck out ''The site of the Institute of American Indian Arts, at'' before ''Santa Fe, New Mexico'' and substituted ''the Board may enter'' for ''the Secretary may enter''.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

§ 4424. Compliance with other Acts

(a) In general

The Institute shall comply with the provisions of—

(1) Public Law 95–341 (42 U.S.C. 1996), popularly known as the American Indian Religious Freedom Act,

(2) the Archeological Resources Protection Act of 1979 (16 U.S.C. 470aa et seq.), and

(3) the National Historic Preservation Act (16 U.S.C. 470 et seq.).

(b) Criminal laws

All Federal criminal laws relating to larceny, embezzlement, or conversion of the funds or the property of the United States shall apply to the funds and property of the Institute.

(c) Other Federal assistance

(1) Funds received by the institute[1] pursuant to this chapter[2] shall not be regarded as Federal money for purposes of meeting any matching requirements for any Federal grant, contract or cooperative agreement.

(2) The Institute shall not be subject to any provision of law requiring that non-Federal funds or other moneys be used in part to fund any grant, contract, cooperative agreement, or project as a condition to the application for, or receipt of, Federal assistance. This subsection shall not be construed to effect[3] in a negative fashion the review, prioritization, or acceptance of any application or proposal for such a program, solicited or unsolicited.

(Pub. L. 99–498, title XV, § 1517, Oct. 17, 1986, 100 Stat. 1609; Pub. L. 101–644, title V, § 504, Nov. 29, 1990, 104 Stat. 4669; Pub. L. 102–325, title XIII, § 1331(i), July 23, 1992, 106 Stat. 808.)

REFERENCES IN TEXT

Public Law 95–341, popularly known as the American Indian Religious Freedom Act, referred to in subsec. (a)(1), is Pub. L. 95–341, Aug. 11, 1978, 92 Stat. 469, which is classified to section 1996 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1996 of Title 42 and Tables.

The Archaeological Resources Protection Act of 1979, referred to in subsec. (a)(2), is Pub. L. 96–95, Oct. 31, 1979, 93 Stat. 721, which is classified generally to chapter 1B (§ 470aa et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 470aa of Title 16 and Tables.

The National Historic Preservation Act, referred to in subsec. (a)(3), is Pub. L. 89–665, Oct. 15, 1966, 80 Stat. 915, as amended, which is classified generally to subchapter II (§ 470 et seq.) of chapter 1A of Title 16. For

[1] So in original. Probably should be capitalized.

[2] See References in Text note below.

[3] So in original. Probably should be ''affect''.

complete classification of this Act to the Code, see section 470(a) of Title 16 and Tables.

This chapter, referred to in subsec. (c)(1), was in the original ''this Act'' and was translated as reading ''this title'', meaning title XV of Pub. L. 99–498 to reflect the probable intent of Congress.

AMENDMENTS

1992—Subsec. (c). Pub. L. 102–325 designated existing provisions as par. (1) and added par. (2).

1990—Subsec. (c). Pub. L. 101–644 added subsec. (c).

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

CROSS REFERENCES

Embezzlement, theft, conversion, etc., see section 641 et seq., of Title 18, Crimes and Criminal Procedure.

§ 4425. Endowment programs

(a) Program enhancement endowment

(1)(A) From the total amount appropriated for this subsection pursuant to section 4451(a) of this title, funds may be deposited into a trust fund maintained by the Institute at a federally insured banking or savings institution.

(B) The President of the Institute shall provide—

(i) for the deposit into the trust fund referred to in subparagraph (A)—

(I) of a capital contribution by the Institute in an amount equal to the amount of each Federal contribution; and

(II) any earnings on the funds deposited under this paragraph; or

(ii) for the reservation for the sole use of the Institute of any noncash, in-kind contributions of real or personal property, which property may at any time be converted to cash, which shall be deposited as a capital contribution into the trust fund referred to in subparagraph (A).

(C) If at any time the Institute withdraws any capital contribution (as described in subparagraph (B)(i)) made by the Institute to the trust fund referred to in subparagraph (A) or puts any property (as described in subparagraph (B)(ii)) to a use which is not for the sole benefit of the Institute, an amount equal to the value of the Federal contribution shall be withdrawn from such trust fund and returned to the Treasury as miscellaneous receipts.

(2) Interest deposited into the trust fund pursuant to paragraph (1)(B)(ii) may be periodically withdrawn and used, at the direction of the Board or its designee, to defray any expense associated with the operation of the Institute, including the expense of operations and maintenance, administration, academic and support personnel, community and student services programs, and technical assistance.

(3) For the purpose of complying with the contribution requirement of paragraph (1)(B), the Institute may use funds or in-kind contributions of real or personal property fairly valued which are made available from any private or tribal source, including interest earned by the funds invested under this subsection. In-kind contributions shall be other than fully depreciable property or property which is designated for addition to the permanent collection of the Museum and shall be valued according to the procedures established for such purpose by the Secretary of the Treasury. For purposes of this paragraph, all contributions, including in-kind and real estate, which are on-hand as of November 29, 1990 and which have been received after June 2, 1988, but which have not been included in computations under this provision shall be eligible for matching with Federal funds appropriated in any fiscal year. All funds transferred to the Institute by the Secretary of the Treasury after June 2, 1988, shall be deemed to have been properly transferred as of July 23, 1992.

(4) Amounts appropriated under section 4451(a) of this title for use under this subsection shall be paid by the Secretary of the Treasury to the Institute as a Federal capital contribution equal to the amount of funds or the value of the in-kind contributions which the Institute demonstrates have been placed within the control of, or irrevocably committed to the use of, the Institute as a capital contribution of the Institute in accordance with this subsection.

(b) Capital improvement endowment

(1) In addition to the trust fund established under subsection (a) of this section, funds may be deposited into a trust fund maintained by the Institute at a federally insured banking or savings institution from the amount reserved for this subsection pursuant to section 4451(a) of this title for the purpose of establishing a separate special endowment for capital improvement (hereafter in this subsection referred to as the ''capital endowment fund'') to pay expenses associated with site selection and preparation, site planning and architectural design and planning, new construction, materials and equipment procurement, renovation, alteration, repair, and other building and expansion costs of the Institute.

(2) The President of the Institute shall provide for the deposit into the capital endowment fund of a capital contribution by the Institute in an amount equal to the amount of each Federal contribution and any earnings on amounts in the capital endowment fund.

(3) Funds deposited by the Institute as a match for Federal contributions under paragraph (5) shall remain in the capital endowment fund for a period of not less than two years. If at any time the Institute withdraws any capital contribution to the capital endowment fund before the funds have been deposited for this two-year period, an equal amount of the Federal contribution shall be withdrawn from the capital endowment fund and returned to the Treasury as miscellaneous receipts. At the end of the two-year period, the entire principal and interest of the funds deposited for this period, including the Federal matching portion, shall accrue, without reservation, to the Institute and may be withdrawn, in whole or in part, to defray expenses associated with capital acquisition and improvement of the Institute referred to in paragraph (1).

(4) For the purpose of complying with the contribution requirement of paragraph (2), the Institute may use funds which are available from

any private, non-Federal governmental, or tribal source.

(5) Subject to paragraph (3), amounts appropriated under section 4451(a) of this title for use under this subsection shall be paid by the Secretary of the Treasury to the Institute as a Federal capital contribution equal to the amount which the Institute demonstrates has been placed within the control of, or irrevocably committed to the use of, the Institute and is available for deposit as a capital contribution of the Institute in accordance with this subsection.

(6) For the purpose of complying with the contribution requirement in this subsection, the Institute may use funds or in-kind contributions of real or personal property. For the purposes of this paragraph, all contributions, in-kind and real estate, which are held by the Institute beginning on November 29, 1990, and which were received after June 2, 1988, but which have not been included in their entirety in computations under this section shall be eligible for matching Federal funds appropriated in any year.

(c) General administrative provisions

(1) Funds in the trust funds described in subsections (a) and (b) of this section shall be invested under the same conditions and limitations as funds are invested under section 1065(c)(2) of this title and the regulations implementing such section (as such regulations were in effect at the time the funds are invested).

(2) No part of the net earnings of the trust funds established under this section shall inure to the benefit of any private person.

(3) Any amounts deposited in a trust fund authorized under subsection (a) of this section may be used to secure loans procured for the purposes of constructing or improving Institute facilities.

(4) The President of the Institute shall provide for such other provisions governing the trust funds established under this section as may be necessary to protect the financial interest of the United States and to promote the purpose of this chapter as agreed to by the Secretary of the Treasury and the Board or its designee, including recordkeeping procedures for the investment of funds received under the trust fund established under subsection (b) of this section and such other recordkeeping procedures for the expenditure of accumulated interest for the trust fund under subsection (a) of this section as will allow the Secretary of the Treasury to audit and monitor activities under this section.

(Pub. L. 99–498, title XV, §1518, Oct. 17, 1986, 100 Stat. 1609; Pub. L. 100–297, title V, §5406(b), Apr. 28, 1988, 102 Stat. 417; Pub. L. 101–644, title V, §505, Nov. 29, 1990, 104 Stat. 4669; Pub. L. 102–325, title XIII, §1331(j), July 23, 1992, 106 Stat. 808; Pub. L. 103–382, title III, §386(b), Oct. 20, 1994, 108 Stat. 4020.)

AMENDMENTS

1994—Subsec. (b)(6). Pub. L. 103–382, §386(b)(1), added par. (6).

Subsec. (c)(1). Pub. L. 103–382, §386(b)(2), amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''Funds in the trust funds described in subsections (a) and (b) of this section shall be invested at a rate not less than that generally available for similar funds deposited at the same banking institution for the same period or periods of time.''

1992—Subsec. (a)(3). Pub. L. 102–325, §1331(j)(1)(A), substituted ''November 29, 1990'' for ''the date of enactment of this Act''.

Pub. L. 102–325, §1331(j)(1)(B), inserted at end ''All funds transferred to the Institute by the Secretary of the Treasury after June 2, 1988, shall be deemed to have been properly transferred as of July 23, 1992.''

Subsec. (b)(4). Pub. L. 102–325, §1331(j)(2), inserted '', non-Federal governmental,'' after ''any private''.

Subsec. (c)(3), (4). Pub. L. 102–325, §1331(j)(3), added par. (3) and redesignated former par. (3) as (4).

1990—Pub. L. 101–644 amended section generally, substituting present provisions consisting of subsecs. (a) to (c) for former text which provided: in subsec. (a), establishment of program; in subsec. (b), use of funds; in subsec. (c), compliance with matching requirement; and in subsec. (d), payment of Federal contribution.

1988—Subsec. (a)(1). Pub. L. 100–297, §5406(b)(1), substituted ''From amounts appropriated under section 4451(a) of this title, not more than $500,000'' for ''From the amount appropriated pursuant to section 4441(a) of this title, the Secretary shall make available to the Institute not more than $500,000 which''.

Subsec. (d). Pub. L. 100–297, §5406(b)(2), in subsec. heading substituted ''Payment of Federal contribution'' for ''Allocation of funds'', and in text substituted ''Amounts appropriated under section 4451(a) of this title for use under this section shall be paid by the Secretary of the Treasury to the Institute as'' for ''From the amount appropriated pursuant to section 4441(a) of this title, the Secretary shall allocate to the Institute an amount for''.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

For effective date and applicability of amendment by Pub. L. 100–297, see section 6303 of Pub. L. 100–297, set out as an Effective Date note under section 1201 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4451 of this title.

§ 4426. Provision of facilities

(a) Plan

The Board shall prepare a master plan on the short- and long-term facilities needs of the Institute. The master plan shall include evaluation of all facets of existing Institute programs, including support activities and programs and facilities. The master plan shall include impact projections for the Institute's move to a new campus site. This master plan shall evaluate development and construction requirements (based on a growth plan approved by the Board), including (but not limited to) items such as infrastructure and site analysis, development of a phased plan with architectural and engineering studies, cost projections, landscaping, and related studies which cover all facets of the Institute's programs and planned functions.

(b) Deadline for transmittal

The plan required by this subsection shall be transmitted to Congress no later than 18 months after July 23, 1992. Such plan shall include a prioritization of needs, as determined by the Board.

(Pub. L. 99–498, title XV, §1519, as added Pub. L. 102–325, title XIII, §1331(k), July 23, 1992, 106 Stat. 808.)

EFFECTIVE DATE

Section effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as an Effective Date of 1992 Amendment note under section 1001 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4414 of this title.

SUBCHAPTER II—NATIVE HAWAIIANS AND ALASKA NATIVES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 4451 of this title.

§ 4441. Program for Native Hawaiian and Alaska Native culture and arts development

(a) In general

The Secretary of the Interior is authorized to make grants for the purpose of supporting programs for Native Hawaiian or Alaska Native culture and arts development to any private, nonprofit organization or institution which—

(1) primarily serves and represents Native Hawaiians or Alaska Natives, and

(2) has been recognized by the Governor of the State of Hawaii or the Governor of the State of Alaska, as appropriate, for the purpose of making such organization or institution eligible to receive such grants.

(b) Purpose of grants

Grants made under subsection (a) of this section shall, to the extent deemed possible by the Secretary and the recipient of the grant, be used—

(1) to provide scholarly study of, and instruction in, Native Hawaiian or Alaska Native art and culture,

(2) to establish programs which culminate in the awarding of degrees in the various fields of Native Hawaiian or Alaska Native art and culture, or

(3) to establish centers and programs with respect to Native Hawaiian or Alaska Native art and culture that are similar in purpose to the centers and programs described in subsections (b) and (c) of section 4417 of this title.

(c) Management of grants

(1) Any organization or institution which is the recipient of a grant made under subsection (a) of this section shall establish a governing board to manage and control the program with respect to which such grant is made.

(2) For any grants made with respect to Native Hawaiian art and culture, the members of the governing board which is required to be established under paragraph (1) shall—

(A) be Native Hawaiians or individuals widely recognized in the field of Native Hawaiian art and culture,

(B) include a representative of the Office of Hawaiian Affairs of the State of Hawaii,

(C) include the president of the University of Hawaii,

(D) include the president of the Bishop Museum, and

(E) serve for a fixed term of office.

(3) For any grants made with respect to Alaska Native art and culture, the members of the governing board which is required to be established under paragraph (1) shall—

(A) include Alaska Natives and individuals widely recognized in the field of Alaska Native art and culture,

(B) represent the Eskimo, Indian and Aleut cultures of Alaska, and

(C) serve for a fixed term.

(Pub. L. 99–498, title XV, § 1521, Oct. 17, 1986, 100 Stat. 1610; Pub. L. 103–239, title VII, § 722(2), May 4, 1994, 108 Stat. 606.)

AMENDMENTS

1994—Pub. L. 103–239 amended section generally, substituting provisions relating to development program for Native Hawaiian and Alaska Native culture and arts for provisions relating to development program for Native Hawaiian culture and arts.

§ 4442. Administrative provisions

(a) Payments

The Secretary may award grants under this subchapter in installments, in advance, or by way of reimbursement and may make necessary adjustments in payments of grants on account of overpayments or underpayments.

(b) Recovery of overpayments

(1) If the Secretary or a court of competent jurisdiction finds that—

(A) any person—

(i) has—

(I) made, or has caused to be made by another, a false statement or representation of a material fact knowing it to be false, or

(II) knowingly failed, or caused another to fail, to disclose a material fact; and

(ii) as a result of such action, has received any funds under this subchapter which such person would not have otherwise received, or

(B) any person misappropriates any funds paid by the Secretary under this subchapter,

such person shall be liable to repay the amount of such funds to the United States. Any such finding by the Secretary may be made only after an opportunity for a fair hearing.

(2) Any amount repaid under this subsection shall be returned to the general fund of the Treasury of the United States.

(c) Penalties

Whoever—

(1) makes a false statement of a material fact knowing it to be false, or knowingly fails to disclose a material fact, for the purpose of obtaining or increasing for such person or for any other person any payment of funds provided under this subchapter, or

(2) misappropriates any funds provided under this subchapter,

shall be fined not more than $1,000 or imprisoned for not more than one year, or both.

(Pub. L. 99–498, title XV, § 1522, Oct. 17, 1986, 100 Stat. 1611.)

SUBCHAPTER III—AUTHORIZATION OF APPROPRIATIONS

§ 4451. Authorization of appropriations

(a) Subchapter I

(1) There are authorized to be appropriated for each fiscal year such sums as may be necessary to carry out the provisions of subchapter I of this chapter.

(2) Funds appropriated under the authority of paragraph (1) shall remain available without fiscal year limitation.

(3) Except as provided for amounts subject to section 4425(d)[1] of this title, amounts appropriated under the authority of this subsection for fiscal year 1989, and for each succeeding fiscal year, shall be paid to the Institute at the later of—

(A) the beginning of the fiscal year, or

(B) upon enactment of such appropriation.

(4) Funds appropriated under this subsection for the fiscal year 1992 and for each succeeding fiscal year shall be transferred by the Secretary of the Treasury through the most expeditious method available with the Institute being designated as its own certifying agency.

(5) Funds are authorized to be appropriated for programs for more than one fiscal year. For the purpose of affording adequate notice of funding available under this chapter,[1] amounts appropriated in an appropriations Act for any fiscal year to carry out this chapter[1] may, subject to the appropriation, become available for obligations on July 1 of that fiscal year.

(b) Subchapter II

There are authorized to be appropriated for the purpose of carrying out the provisions of subchapter II of this chapter—

(1) for fiscal year 1987, $1,000,000, and

(2) for each succeeding fiscal year, such sums as may be necessary to carry out such provisions.

(Pub. L. 99–498, title XV, § 1531, Oct. 17, 1986, 100 Stat. 1612; Pub. L. 100–297, title V, § 5406(c), Apr. 28, 1988, 102 Stat. 418; Pub. L. 101–644, title V, § 506, Nov. 29, 1990, 104 Stat. 4672.)

REFERENCES IN TEXT

Section 4425 of this title, referred to in subsec. (a)(3), was amended generally by Pub. L. 101–644, title V, § 505, Nov. 29, 1990, 104 Stat. 4669, and, as so amended, provisions similar to subsec. (d) are contained in subsec. (a)(4).

This chapter, referred to in subsec. (a)(5), was in the original ''this Act'' and was translated as reading ''this title'', meaning title XV of Pub. L. 99–498 to reflect the probable intent of Congress.

AMENDMENTS

1990—Subsec. (a)(4), (5). Pub. L. 101–644 added pars. (4) and (5).

1988—Subsec. (a). Pub. L. 100–297 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: ''There are authorized to be appropriated for the purpose of carrying out the provisions of subchapter I of this chapter—

''(1) for fiscal year 1987, $4,000,000, and

''(2) for each succeeding fiscal year, such sums as may be necessary to carry out such provisions.''

[1] See References in Text note below.

EFFECTIVE DATE OF 1988 AMENDMENT

For effective date and applicability of amendment by Pub. L. 100–297, see section 6303 of Pub. L. 100–297, set out as an Effective Date note under section 1201 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4414, 4425 of this title.

CHAPTER 57—JAMES MADISON MEMORIAL FELLOWSHIP PROGRAM

Sec.

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§ 4501. Purpose

It is the purpose of this chapter to establish the James Madison Fellowship Program which is designed to encourage graduate study of the American Constitution, its roots, its formation, its principles, and its development.

(Pub. L. 99–500, § 101(b) [title VIII, § 802], Oct. 18, 1986, 100 Stat. 1783–39, 1783–76, and Pub. L. 99–591, § 101(b) [title VIII, § 802], Oct. 30, 1986, 100 Stat. 3341–39, 3341–76.)

CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

SHORT TITLE

Section 101(b) [title VIII, § 801] of Pub. L. 99–500 and Pub. L. 99–591 provided that: ''This title [enacting this

chapter] may be cited as the 'James Madison Memorial Fellowship Act'.''

§ 4502. Foundation

(a) Establishment

In order to commemorate the bicentennial of the Constitution, there is established, as an independent establishment of the executive branch, the James Madison Memorial Fellowship Foundation.

(b) Board of Trustees; membership; term of office

(1) The Foundation shall be subject to the supervision and direction of a Board of Trustees. The Board shall be composed of thirteen members, as follows:

(A) Two Members of the Senate, of different political parties, shall be appointed by the President upon the recommendation of the President pro tempore of the Senate, in consultation with the Majority Leader and Minority Leader of the Senate.

(B) Two Members of the House of Representatives, of different political parties, shall be appointed by the President upon the recommendation of the Speaker of the House, in consultation with the Minority Leader of the House of Representatives.

(C) Two members of the Federal judiciary shall be appointed by the President upon the recommendation of the Chief Justice of the United States.

(D) Six members, not more than three of whom shall be of the same political party, shall be appointed by the President with the advice and consent of the Senate, of whom one shall be a chief executive officer of a State, two shall be members of the general public, and three shall be members of the academic community, appointed upon the recommendation of the Librarian of Congress.

(E) The Secretary of Education or his designate shall serve ex officio as a member of the Board, but shall not be eligible to serve as Chairman.

(2) The term of office of each member of the Board shall be six years; except that (A) the members first taking office shall serve as designated by the President, four for terms of two years, five for terms of four years, and four for terms of six years, and (B) any member appointed to fill a vacancy shall serve for the remainder of the term for which his predecessor was appointed, and shall be appointed in the same manner as the original appointment for that vacancy was made. This provision shall not apply to members ex officio.

(3) A member of the Board whose term has expired may continue to serve until the earlier of—

(A) the date on which a successor has taken office; or

(B) the date on which the Congress adjourns sine die to end the session of Congress that commences after the date on which the member's term expired.

(c) Officers

Members of the Board shall elect from the members of the Board a Chairman and such other officers as may be necessary to carry out the duties of the Foundation.

(d) Reimbursement for expenses

(1) Subject to paragraph (2), members of the Board shall serve without pay.

(2) Members of the Board and the President, Executive Secretary, and other personnel of the Foundation shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of their duties at rates applicable to judges of the United States under section 456(a) of title 28.

(Pub. L. 99–500, § 101(b) [title VIII, § 803], Oct. 18, 1986, 100 Stat. 1783–39, 1783–76, and Pub. L. 99–591, § 101(b) [title VIII, § 803], Oct. 30, 1986, 100 Stat. 3341–39, 3341–76; Pub. L. 101–208, § 1, Dec. 7, 1989, 103 Stat. 1836; Pub. L. 102–221, § 1(1), Dec. 11, 1991, 105 Stat. 1676.)

CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

AMENDMENTS

1991—Subsec. (b)(3). Pub. L. 102–221 added par. (3).

1989—Subsec. (d). Pub. L. 101–208 amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: ''Members of the Board shall serve without pay, but shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of their duties.''

§ 4503. Fellowship recipients

(a) The Foundation is authorized to award fellowships to outstanding students and teachers who will pursue graduate study leading to the degree of Master of Arts in teaching or other appropriate masters degree for teachers, with a major in social studies or American history. Each recipient must take at least twelve semester hours, or its equivalent in topics directly related to the Constitution of the United States, as determined by the Board.

(b)(1) James Madison fellowships shall be awarded to individuals who are, or who desire to become, social studies and American history teachers in accordance with paragraphs (2) and (3).

(2) Junior fellowships shall be awarded to graduate students who are about to complete or have recently completed their undergraduate course of study, and plan to begin graduate work on a relatively full-time basis.

(3) Senior fellowships shall be awarded to experienced teachers who wish to undertake work for a graduate degree on a part-time basis during summers or in evening programs.

(Pub. L. 99–500, § 101(b) [title VIII, § 804], Oct. 18, 1986, 100 Stat. 1783–39, 1783–77, and Pub. L. 99–591, § 101(b) [title VIII, § 804], Oct. 30, 1986, 100 Stat. 3341–39, 3341–77.)

CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

§ 4504. Period for award

Junior fellowships shall be granted for such periods as the Foundation may prescribe but not to exceed two academic years. Senior fellowship shall be granted for such periods as the Foundation may prescribe, but not to exceed five calendar years.

(Pub. L. 99–500, § 101(b) [title VIII, § 805], Oct. 18, 1986, 100 Stat. 1783–39, 1783–77, and Pub. L. 99–591,

§ 101(b) [title VIII, § 805], Oct. 30, 1986, 100 Stat. 3341–39, 3341–77.)

CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

§ 4505. Recipient's choice of institution

Fellowship recipients may attend any institution of higher education in the United States with an accredited graduate program which offers courses of study or training which emphasize the origins of the Constitution of the United States, its principles, its development, and its comparison with other forms of government, as determined according to criteria established by the Foundation.

(Pub. L. 99–500, § 101(b) [title VIII, § 806], Oct. 18, 1986, 100 Stat. 1783–39, 1783–77, and Pub. L. 99–591, § 101(b) [title VIII, § 806], Oct. 30, 1986, 100 Stat. 3341–39, 3341–77.)

CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

§ 4506. Recipient's eligibility

Each student awarded a fellowship under this chapter shall demonstrate the potential, and a serious intention, to follow a career of educating students in secondary schools. Each institution of higher education at which such a student is in attendance shall make reasonable efforts to encourage such a student to meet the objectives of this section.

Each student receiving a Fellowship under this chapter[1] shall enter into an agreement under which the recipient shall:

(a) within a 5-year period after completing the education for which the fellowship was awarded, teach on a full-time basis students in secondary school for a period of not less than one year for each year for which asistance[2] was received;

(b) repay all of the Fellowship assistance received plus interest at the rate of 6% per annum and, if applicable, reasonable collection fees for each school year for which assistance was received for which such recipient failed to teach as provided in paragraph (a); and

(c) not be considered to be in violation of the agreement entered into during any period during which the recipient:

(1) is pursuing a full-time course of study related to the field of teaching at an eligible institution;

(2) is serving, not in excess of 3 years, as a member of the armed services of the United States;

(3) is temporarily totally disabled for a period of time not to exceed 3 years as established by sworn affidavit of a qualified physician;

(4) is unable to secure employment for a period not to exceed 12 months by reason of the care required by a spouse who is disabled;

(5) is seeking and unable to find full-time employment for a single period not to exceed 12 months; or

(6) is seeking and unable to find full-time employment as a teacher.

(Pub. L. 99–500, § 101(b) [title VIII, § 807], Oct. 18, 1986, 100 Stat. 1783–39, 1783–77, and Pub. L. 99–591, § 101(b) [title VIII, § 807], Oct. 30, 1986, 100 Stat. 3341–39, 3341–77.)

CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

§ 4507. Selection of fellowship recipients

(a) Criteria for selection

Madison Fellows shall be selected for their academic achievements and their potential to become secondary school teachers of social studies and American history.

(b) Competition for selection; application

(1) The Foundation is authorized, either directly or by contract, to provide for the conduct of a nationwide competition for the selection of fellowship recipients. Each applicant must have a demonstrated interest in pursuing a course of study which emphasizes the Constitution, its principles, and its history, and have a demonstrated record of willingness to devote themselves to civil responsibility.

(2) Each application shall be accompanied by an essay explaining the importance of the study of the Constitution both to the applicant's career aspirations and contributions to public service, and to citizenship generally in a constitutional regime.

(3)(A) Each application shall include a description of a program of study for the graduate program, designating the courses to be taken, and the proposed Master's thesis, where appropriate.

(B) For the purpose of this paragraph, the Board of Trustees of the Foundation shall establish general criteria for programs in constitutional studies.

(c) Regional selection of recipients

The Foundation shall adopt selection procedures which shall assure that at least one Madison Fellow shall be selected each year from each State, the District of Columbia, and the Commonwealth of Puerto Rico, and considered as a single entity, Guam, the Virgin Islands, American Samoa, the Trust Territories of the Pacific Islands, and the Commonwealth of the Northern Marianas in which there are at least two resident applicants who meet the minimum criteria established by the Foundation; and, if sufficient funding is available, to invite applications from scholars overseas for study in the United States.

(Pub. L. 99–500, § 101(b) [title VIII, § 808], Oct. 18, 1986, 100 Stat. 1783–39, 1783–78, and Pub. L. 99–591, § 101(b) [title VIII, § 808], Oct. 30, 1986, 100 Stat. 3341–39, 3341–78.)

CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

§ 4508. Amount of fellowships

Each student awarded a fellowship shall receive a stipend which shall not exceed the cost

[1] See References in Text note below.

[2] So in original. Probably should be ''assistance''.

to the student for tuition, fees, books, room and board, or $12,000, whichever is less, for each academic year of study.

(Pub. L. 99–500, § 101(b) [title VIII, § 809], Oct. 18, 1986, 100 Stat. 1783–39, 1783–78, and Pub. L. 99–591, § 101(b) [title VIII, § 809], Oct. 30, 1986, 100 Stat. 3341–39, 3341–78.)

CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

§ 4509. Fellowship conditions

(a) A student awarded a Madison Fellowship shall continue to receive payments only during such periods as the Foundation finds that the student is maintaining satisfactory progress in an approved program of study or research. Recipients of junior fellowships shall devote essentially full time to their program of study.

(b) The Foundation is authorized to require reports from any fellowship recipient containing such information, in such form, and to be filed at such times as the Foundation determines to be necessary. Such reports shall be accompanied by a certificate from an appropriate official at the institution of higher education, approved by the Foundation, stating that such student is making satisfactory progress in a program of study or research, with such exceptions as the Foundation may establish.

(Pub. L. 99–500, § 101(b) [title VIII, § 810], Oct. 18, 1986, 100 Stat. 1783–39, 1783–79, and Pub. L. 99–591, § 101(b) [title VIII, § 810], Oct. 30, 1986, 100 Stat. 3341–39, 3341–79.)

CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

§ 4510. James Madison Memorial Fellowship Trust Fund

(a) Establishment

There shall be established in the Treasury of the United States a trust fund consisting of appropriations and amounts contributed by the Foundation for the Commemoration of the Constitution and other private sources to be available, in accordance with the provisions of this chapter, to carry out the provisions of this chapter.

(b) Investment of amounts appropriated

It shall be the duty of the Secretary of the Treasury to invest in full the amounts appropriated and contributed to the fund. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose, such obligations may be acquired (1) on original issue at the issue price, or (2) by purchase of outstanding obligations at the market price. The purposes for which obligations of the United States may be issued under chapter 31 of title 31 are hereby extended to authorize the issuance at par of special obligations exclusively to the fund. Such special obligations shall bear interest at a rate equal to the average rate of interest, computed as to the end of the calendar month next preceding the date of such issue, borne by all marketable interest-bearing obligations of the United States then forming a part of the public debt; except that where such average rate is not a multiple of one-eighth of 1 per centum, the rate of interest of such special obligations shall be the multiple of one-eighth of 1 per centum next lower than such average rate. Such special obligations shall be issued only if the Secretary determines that the purchase of other obligations of the United States, or of obligations guaranteed as to both principal and interest by the United States or original issue at the market price, is not in the public interest.

(c) Sale of obligations acquired by fund

Any obligations acquired by the fund (except special obligations issued exclusively to the fund) may be sold by the Secretary at the market price, and such special obligations may be redeemed at par plus accrued interest.

(d) Interest and proceeds from sale or redemption of obligations credited to fund

The interest on, and the proceeds from, the sale or redemption of any obligations held in the fund shall be credited to and form a part of the fund.

(Pub. L. 99–500, § 101(b) [title VIII, § 811], Oct. 18, 1986, 100 Stat. 1783–39, 1783–79, and Pub. L. 99–591, § 101(b) [title VIII, § 811], Oct. 30, 1986, 100 Stat. 3341–39, 3341–79; Pub. L. 102–221, § 1(2), Dec. 11, 1991, 105 Stat. 1676.)

CODIFICATION

In subsec. (b), ''chapter 31 of title 31'' substituted for ''the Second Liberty Bond Act, as amended,'' on authority of Pub. L. 97–258, § 4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

AMENDMENTS

1991—Subsec. (a). Pub. L. 102–221 struck out ''(1)'' before ''There shall be'', substituted ''and other'' for ''an other'' after ''Constitution'', and struck out par. (2) which read as follows: ''No funds in the Trust Fund may be available for fellowships until the contributions from private sources are equal to $10,000,000.''

§ 4511. Expenditures and audit

(a) The Secretary of the Treasury is authorized to pay to the Foundation from the interest and earnings of the fund such sums as the Board determines are necessary and appropriate to enable the Foundation to carry out the provisions of this chapter.

(b) The activities of the Foundation under this chapter may be audited by the General Accounting Office under such rules and regulations as may be prescribed by the Comptroller General of the United States. The representatives of the General Accounting Office shall have access to all books, accounts, records, reports, and files and all other papers, things, or property belonging to or in use by the Foundation, pertaining to such activities and necessary to facilitate the audit.

(Pub. L. 99–500, § 101(b) [title VIII, § 812], Oct. 18, 1986, 100 Stat. 1783–39, 1783–80, and Pub. L. 99–591, § 101(b) [title VIII, § 812], Oct. 30, 1986, 100 Stat. 3341–39, 3341–80.)

CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

§ 4512. President and Executive Secretary of Foundation

(a)(1) The Board may appoint a President of the Foundation to serve full-time or part-time and for such a term as the Board shall determine.

(2) The President shall carry out such of the functions and duties of the Foundation as the Board may determine, subject to the supervision and direction of the Board.

(3) The President shall be compensated at a rate to be determined by the Board without regard to subchapter III of chapter 53 of title 5, not to exceed the rate for level III of the Executive Schedule under section 5314 of that title.

(4) Sections 5532, 8344, and 8468 of title 5 shall not apply to a person while such person is serving as President of the Foundation.

(b)(1) There shall be an Executive Secretary of the Foundation who shall be appointed by the Board.

(2) The Executive Secretary shall be the chief operating officer of the Foundation and shall carry out the functions of the Foundation subject to the supervision and direction of the Board or the President, as determined by the Board.

(3) The Executive Secretary shall be compensated at the rate specified for employees placed in grade GS–18 of the General Schedule set forth in section 5332 of title 5.

(Pub. L. 99–500, §101(b) [title VIII, §813], Oct. 18, 1986, 100 Stat. 1783–39, 1783–80, and Pub. L. 99–591, §101(b) [title VIII, §813], Oct. 30, 1986, 100 Stat. 3341–39, 3341–80; Pub. L. 101–208, §2, Dec. 7, 1989, 103 Stat. 1836; Pub. L. 101–557, title V, §501, Nov. 15, 1990, 104 Stat. 2771; Pub. L. 101–589, title II, §253, Nov. 16, 1990, 104 Stat. 2895.)

CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

AMENDMENTS

1990—Subsec. (a)(4). Pub. L. 101–557 and Pub. L. 101–589 amended par. (4) identically, striking out at end ''The first sentence of this paragraph shall not, in the case of any individual, apply longer than December 31, 1990.''

1989—Pub. L. 101–208 amended section generally. Prior to amendment, section read as follows:

''(a) There shall be an Executive Secretary of the Foundation who shall be appointed by the Board. The Executive Secretary shall be the chief executive officer of the Foundation and shall carry out the functions of the Foundation subject to the supervision and direction of the Board.

''(b) The Executive Secretary of the Foundation shall be compensated at the rate specified for employees placed in grade GS–18 of the General Schedule set forth in section 5332 of title 5.''

REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, §101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

§ 4513. Administrative provisions

(a) General powers

The Foundation is authorized—

(1) to appoint and fix the compensation of such personnel as may be necessary to carry out this chapter,[1] without regard to the provisions of title 5 governing appointments in the competitive service, but at General Schedule pay rates not in excess of the maximum rate for grade GS–15 of the General Schedule under section 5332 of that title;

(2) to procure temporary and intermittent services of such experts and consultants as are necessary to the extent authorized by section 3109 of title 5, but at rates not to exceed the rate specified at the time of such service for grade GS–18 in section 5332 of such title;

(3) to prescribe such regulations as it deems necessary governing the manner in which its functions shall be carried out;

(4) to receive money and other property donated, bequeathed, or devised, without condition or restriction other than it be used for the purposes of the Foundation; and to use, sell, or otherwise dispose of such property for the purpose of carrying out its functions;

(5) to accept and utilize the services of voluntary and noncompensated personnel and reimburse them for travel expenses, including per diem, as authorized by section 5703 of title 5;

(6) to enter into contracts, grants, or other arrangements, or modifications thereof, to carry out the provisions of this chapter, and such contracts or modifications thereof may, with the concurrence of two-thirds of the members of the Board, be entered into without performance or other bonds, and without regard to section 5 of title 41;

(7) to make advances, progress, and other payments which the Board deems necessary under this chapter without regard to the provisions of section 3324(a) and (b) of title 31;

(8) to rent office space in the District of Columbia or its environs;

(9) to conduct programs in addition to or in conjunction with the Fellowship program which shall further the Foundation's purpose of encouraging research and study of constitutionalism in America;

(10) to expend not more than 5 percent of its annual operating budget to pay the costs of fundraising activities, including public and private gatherings; and

(11) to make other necessary expenditures.

(b) Annual report

The foundation[2] shall submit to the President and to the Congress an annual report of its operations under this chapter.

(c) Detailing of agency personnel to Foundation

On request of the Chairman of the Foundation, the head of a Federal agency may detail personnel of the agency to the Foundation to assist the Foundation in carrying out this chapter.[1] Details under this subsection shall be without reimbursement by the Foundation to the agency from which personnel are detailed.

(Pub. L. 99–500, §101(b) [title VIII, §814], Oct. 18, 1986, 100 Stat. 1783–39, 1783–80, and Pub. L. 99–591,

[1] See References in Text note below.

[2] So in original. Probably should be capitalized.

§ 101(b) [title VIII, § 814], Oct. 30, 1986, 100 Stat. 3341–39, 3341–80; Pub. L. 101–208, § 3, Dec. 7, 1989, 103 Stat. 1837.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a)(1) and (c), was in the original ''this Act'' and was translated as reading ''this title'' meaning title VIII of section 101(b) of Pub. L. 99–500 and Pub. L. 99–591 which enacted this chapter, to reflect the probable intent of Congress.

Provisions of title 5 governing appointments in the competitive service, referred to in subsec. (a)(1), are classified generally to section 3301 et seq. of Title 5, Government Organization and Employees.

CODIFICATION

In subsec. (a)(7), ''section 3324(a) and (b) of title 31'' substituted for ''section 529 of title 31'' on authority of Pub. L. 97–258, § 4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

AMENDMENTS

1989—Subsec. (a)(1). Pub. L. 101–208, § 3(1)(A), amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''to appoint and fix the compensation of such personnel as may be necessary to carry out the provisions of this chapter, except that in no case shall employees other than the Executive Secretary be compensated at a rate to exceed the rate provided for employees in grade GS–15 of the General Schedule set forth in section 5332 of title 5;''.

Subsec. (a)(8). Pub. L. 101–208, § 3(1)(B), amended par. (8) generally. Prior to amendment, par. (8) read as follows: ''to rent office space;''.

Subsec. (a)(10), (11). Pub. L. 101–208, § 3(1)(C)–(E), added par. (10) and redesignated former par. (10) as (11).

Subsec. (c). Pub. L. 101–208, § 3(2), added subsec. (c).

§ 4514. Definitions

As used in this chapter—

(1) the term ''Board'' means the Board of Trustees of the James Madison Memorial Fellowship Foundation;

(2) the term ''Foundation'' means the James Madison Memorial Fellowship Foundation;

(3) the term ''institution of higher education'' has the same meaning given that term by section 1141(a) of this title; and

(4) the term ''secondary school'' has the same meaning given that term by section 1141(d) of this title.

(Pub. L. 99–500, § 101(b) [title VIII, § 815], Oct. 18, 1986, 100 Stat. 1783–39, 1783–81, and Pub. L. 99–591, § 101(b) [title VIII, § 815], Oct. 30, 1986, 100 Stat. 3341–39, 3341–81.)

CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

§ 4515. Appropriations

There are appropriated to the James Madison Memorial Trust Fund $20,000,000 to carry out the provisions of this chapter, $10,000,000 of which shall be available on November 1, 1987, and to remain available until expended; and $10,000,000 of which shall be available on November 1, 1988, and to remain available until expended.

(Pub. L. 99–500, § 101(b) [title VIII, § 816], Oct. 18, 1986, 100 Stat. 1783–39, 1783–81, and Pub. L. 99–591, § 101(b) [title VIII, § 816], Oct. 30, 1986, 100 Stat. 3341–39, 3341–81.)

CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

§ 4516. Constitutional Law Resource Centers

(a) Establishment

It is the purpose of this section to establish four centers where nationally recognized distinguished experts in Constitutional law will produce, on a periodic basis, articles of current interest relating to the Constitution of the United States which are suitable for use by James Madison scholars, educational institutions, law school reviews, bar associations, and the news media.

(b) Endowments

In order to encourage recipient universities to provide such a continuing service, four endowments shall be established with funds from appropriations provided herein and such other amounts as may be contributed from other sources.

(c) Chair for Professor of Constitutional Law

The income from each endowment shall be used to help support a chair for a Professor of Constitutional law.[1] Each endowment shall be held in trust with the income from the portion provided herein used exclusively to contribute toward the salary and related costs of the professor filling the chair and for services directly related to the support of such professor such as secretarial and research services. The recipient university shall from sources other than that portion of the endowment funded herein furnish the office, classroom and related services suitable to such a member of the faculty.

The professor holding each chair shall file a copy of such articles with the Library of Congress, which shall make them available to libraries in the usual manner and the recipient of the endowment shall also make a copy available upon request by accredited educational institutions, bar associations, and general news media without royalty or charge other than the costs associated with printing or reprinting, handling and distribution.

(d) Investment of endowment

That portion of each endowment provided by this chapter[2] and any accumulations attributable to such grant shall be invested by the recipient university in interest bearing obligations of the United States or in obligations guaranteed both as to principal and interest by the United States and shall be subject to audit by the General Accounting Office for the sole purpose of determining that such funds are accounted for or have been used as provided herein. If a grantee university elects to discontinue such chair and support services, the corpus of the endowment attributable to the Federal grant shall revert to the Treasury of the United States.

(e) Application for grant of endowment

The application for the grant for an endowment shall require only such information and

[1] So in original. Probably should be capitalized.

[2] See References in Text note below.

supporting material as is reasonably necessary to assure that the funds will be used for the purposes described herein. Acceptance of the grant by each university shall constitute an agreement and obligation of that university to fulfill the obligations set forth in this section.

(f) Amount of grant of endowment; recipients of offer

The grants for each endowment shall be for $800,000 and shall be offered to Howard University School of Law in Washington, D.C., Drake University School of Law in Des Moines, Iowa, the University of Akron School of Law in Akron, Ohio, and the University of South Carolina School of Law at Columbia, South Carolina.

(Pub. L. 99–500, §101(b) [title VIII, §817], Oct. 18, 1986, 100 Stat. 1783–39, 1783–81, and Pub. L. 99–591, §101(b) [title VIII, §817], Oct. 30, 1986, 100 Stat. 3341–39, 3341–81.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (d), was in the original ''this Act'' and was translated as reading ''this title'' meaning title VIII of section 101(b) of Pub. L. 99–500 and Pub. L. 99–591 which enacted this chapter, to reflect the probable intent of Congress.

CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

TEMPORARY AUTHORITY TO RECEIVE, REVIEW, AND CERTIFY FOR PAYMENT GRANT APPLICATIONS

Pub. L. 100–202, §101(a) [title V, §501], Dec. 22, 1987, 101 Stat. 1329, 1329–29, provided in part: ''That until the Board of Trustees of the James Madison Memorial Fellowship Foundation is appointed, the Commission on the Bicentennial of the United States Constitution is authorized to receive, review and certify for payment the applications for grants of endowment funds for the establishment of Constitutional Law Resource Centers as provided and appropriated under the James Madison Memorial Fellowship Act, title VIII, sections 817 and 818, Public Law 99–500 and Public Law 99–591 [20 U.S.C. 4516, 4517]''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4517 of this title.

§ 4517. Appropriations for universities

There is hereby appropriated to each recipient University named above or to the trustee of the fund designated by the President of the University the sum of $800,000 to carry out the provisions of section 4516 of this title, to be available on November 1, 1987, and to remain available until expended.

(Pub. L. 99–500, §101(b) [title VIII, §818], Oct. 18, 1986, 100 Stat. 1783–39, 1783–82, and Pub. L. 99–591, §101(b) [title VIII, §818], Oct. 30, 1986, 100 Stat. 3341–39, 3341–82.)

CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

CHAPTER 58—DRUG-FREE SCHOOLS AND COMMUNITIES

§§ 4601, 4602. Repealed. Pub. L. 100–297, title I, § 1003(e), Apr. 28, 1988, 102 Stat. 293

Section 4601, Pub. L. 99–570, title IV, §4102, Oct. 27, 1986, 100 Stat. 3207–125, related to Congressional findings.

Section 4602, Pub. L. 99–570, title IV, §4103, Oct. 27, 1986, 100 Stat. 3207–125, related to purpose of chapter.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1988, see section 6303 of Pub. L. 100–297, set out as an Effective Date note under section 1201 of this title.

SHORT TITLE

Pub. L. 99–570, title IV, §4101, Oct. 27, 1986, 100 Stat. 3207–125, which provided that subtitle B [§§4101 to 4144] of title IV of Pub. L. 99–570 was to be cited as the ''Drug-Free Schools and Communities Act of 1986'', was repealed by Pub. L. 100–297, title I, §1003(e), Apr. 28, 1988, 102 Stat. 293.

WHITE HOUSE CONFERENCE FOR A DRUG FREE AMERICA

Pub. L. 99–570, title I, §§1931–1938, Oct. 27, 1986, 100 Stat. 3207–56 to 3207–59, as amended by Pub. L. 100–138, Oct. 23, 1987, 101 Stat. 820, established the White House Conference for a Drug Free America, provided for its purpose, responsibilities, participants, authorization of appropriations, and required a final report to be submitted not later than July 31, 1988, with the President to report annually to Congress for three years thereafter on the status and implementation of the findings and recommendations of the Conference.

EXECUTIVE ORDER NO. 12595

Ex. Ord. No. 12595, May 5, 1987, 52 F.R. 17383, established and set forth the functions of the White House Conference for a Drug Free America.

SUBCHAPTER I—FINANCIAL ASSISTANCE FOR DRUG ABUSE EDUCATION AND PREVENTION PROGRAMS

§§ 4611, 4612. Repealed. Pub. L. 100–297, title I, § 1003(e), Apr. 28, 1988, 102 Stat. 293

Section 4611, Pub. L. 99–570, title IV, §4111, Oct. 27, 1986, 100 Stat. 3207–126, related to authorization of appropriations.

Section 4612, Pub. L. 99–570, title IV, §4112, Oct. 27, 1986, 100 Stat. 3207–126, related to reservations and State allotments.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1988, see section 6303 of Pub. L. 100–297, set out as an Effective Date note under section 1201 of this title.

SUBCHAPTER II—STATE AND LOCAL PROGRAMS

§§ 4621 to 4626. Repealed. Pub. L. 100–297, title I, § 1003(e), Apr. 28, 1988, 102 Stat. 293

Section 4621, Pub. L. 99–570, title IV, §4121, Oct. 27, 1986, 100 Stat. 3207–127, related to use of allotments by States.

Section 4622, Pub. L. 99–570, title IV, §4122, Oct. 27, 1986, 100 Stat. 3207–127, related to State programs.

Section 4623, Pub. L. 99–570, title IV, §4123, Oct. 27, 1986, 100 Stat. 3207–128, related to State applications.

Section 4624, Pub. L. 99–570, title IV, §4124, Oct. 27, 1986, 100 Stat. 3207–128; Pub. L. 100–418, title VI, §6091(a), Aug. 23, 1988, 102 Stat. 1499, related to responsibilities of State educational agencies.

Section 4625, Pub. L. 99–570, title IV, §4125, Oct. 27, 1986, 100 Stat. 3207–129, related to local drug abuse education and prevention programs.

Section 4626, Pub. L. 99–570, title IV, §4126, Oct. 27, 1986, 100 Stat. 3207–130, related to local applications.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1988, see section 6303 of Pub. L. 100–297, set out as an Effective Date note under section 1201 of this title.

SUBCHAPTER III—NATIONAL PROGRAMS

§§ 4641 to 4645. Repealed. Pub. L. 100–297, title I, § 1003(e), Apr. 28, 1988, 102 Stat. 293

Section 4641, Pub. L. 99–570, title IV, § 4131, Oct. 27, 1986, 100 Stat. 3207–131, related to grants to institutions of higher education.

Section 4642, Pub. L. 99–570, title IV, § 4132, Oct. 27, 1986, 100 Stat. 3207–132, related to Federal activities.

Section 4643, Pub. L. 99–570, title IV, § 4133(a), Oct. 27, 1986, 100 Stat. 3207–133, related to programs for Indian youth.

Section 4644, Pub. L. 99–570, title IV, § 4134, Oct. 27, 1986, 100 Stat. 3207–134, related to programs for Hawaiian natives.

Section 4645, Pub. L. 99–570, title IV, § 4135, Oct. 27, 1986, 100 Stat. 3207–135, related to regional centers.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1988, see section 6303 of Pub. L. 100–297, set out as an Effective Date note under section 1201 of this title.

SUBCHAPTER IV—GENERAL PROVISIONS

§§ 4661 to 4664. Repealed. Pub. L. 100–297, title I, § 1003(e), Apr. 28, 1988, 102 Stat. 293

Section 4661, Pub. L. 99–570, title IV, § 4141, Oct. 27, 1986, 100 Stat. 3207–135, related to definitions for chapter.

Section 4662, Pub. L. 99–570, title IV, § 4142, Oct. 27, 1986, 100 Stat. 3207–136, related to functions of Secretary of Education.

Section 4663, Pub. L. 99–570, title IV, § 4143, Oct. 27, 1986, 100 Stat. 3207–136, related to participation of children and teachers from private nonprofit schools.

Section 4664, Pub. L. 99–570, title IV, § 4144, Oct. 27, 1986, 100 Stat. 3207–136, related to materials distributed or produced under chapter.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1988, see section 6303 of Pub. L. 100–297, set out as an Effective Date note under section 1201 of this title.

§ 4665. Transferred

CODIFICATION

Section, Pub. L. 99–570, title IV, § 4302, Oct. 27, 1986, 100 Stat. 3207–153, which established National Trust for Drug-Free Youth, was transferred to section 3225 of this title and subsequently to section 7105 of this title.

CHAPTER 59—BARRY GOLDWATER SCHOLARSHIP AND EXCELLENCE IN EDUCATION PROGRAM

Sec.

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4702. Definitions.
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4709. Executive Secretary.
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4710. Administrative provisions.
(a) In general.
(b) Annual report.
4711. Authorization of appropriations.

§ 4701. Findings

The Congress makes the following findings:

(1) Senator Barry Goldwater of the State of Arizona has served his country for 56 years as a soldier and statesman, including service in the United States Senate for a period of 30 years.

(2) Senator Goldwater has a distinguished record as a Senator, including service as Chairman of the Select Committee on Intelligence of the Senate and as Chairman of the Committee on Armed Services of the Senate.

(3) Senator Goldwater has long maintained a special interest in the education of America's youth, particularly in the fields of science and mathematics.

(4) It would, therefore, be a fitting tribute to the leadership, courage, and vision of Senator Goldwater to establish in his name a scholarship program to foster and encourage excellence in science and mathematics.

(Pub. L. 99–661, div. A, title XIV, § 1402, Nov. 14, 1986, 100 Stat. 4008.)

SHORT TITLE

Section 1401 of title XIV of div. A of Pub. L. 99–661 provided that: ''This title [enacting this chapter] may be cited as the 'Barry Goldwater Scholarship and Excellence in Education Act'.''

§ 4702. Definitions

In this chapter:

(1) The term ''Foundation'' means the Barry Goldwater Scholarship and Excellence in Education Foundation established under section 4703(a) of this title.

(2) The term ''Board'' means the Board of Trustees of the Barry Goldwater Scholarship and Excellence in Education Foundation established under section 4703(b) of this title.

(3) The term ''fund'' means the Barry Goldwater Scholarship and Excellence in Education Fund provided for under section 4707 of this title.

(4) The term ''institution of higher education'' means any such institution as defined in section 1141(a) of this title.

(5) The term ''State'' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, and, considered as a single entity, Guam, the Virgin Islands, American Samoa, the Trust Territories of the Pacific Islands, and the Commonwealth of the Northern Marianas.

(6) The term ''eligible person'' means a citizen or national of the United States or a permanent resident alien of the United States.

(Pub. L. 99–661, div. A, title XIV, §1403, Nov. 14, 1986, 100 Stat. 4008.)

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

§ 4703. Establishment of Barry Goldwater Scholarship and Excellence in Education Foundation

(a) Establishment

There is established, as an independent establishment of the executive branch of the United States Government, the Barry Goldwater Scholarship and Excellence in Education Foundation.

(b) Board of Trustees

The Foundation shall be subject to the supervision and direction of the Board of Trustees. The Board shall be composed of 13 members, as follows:

(1) Two members from the Senate, one appointed by the majority leader and one appointed by the minority leader of the Senate.

(2) Two members from the House of Representatives, one appointed by the majority leader and one appointed by the minority leader of the House of Representatives.

(3) Eight members, not more than four of whom shall be of the same political party, to be appointed by the President, by and with the advice and consent of the Senate.

(4) The Secretary of Education, or his designee, who shall serve ex officio as a member of the Board but shall not be eligible to serve as Chairman.

(c) Term of office

(1) The term of office of each member of the Board shall be six years, except that—

(A) the members first taking office shall serve as designated by the President, four for terms of two years, five for terms of four years, and four for terms of six years;

(B) a member appointed to fill a vacancy shall serve for the remainder of the term for which his predecessor was appointed and shall be appointed in the same manner as the original appointment for that vacancy was made; and

(C) notwithstanding the term limitation provided for under this paragraph, a member appointed under subsection (b) of this section may continue to serve under such appointment until the successor to the member is appointed.

(2) A Member of Congress appointed to the Board under clause (1) or (2) of subsection (b) of this section may not serve as a member of the Board for more than a total of six years.

(d) Travel and subsistence pay

Members of the Board shall serve without pay, but shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of their duties.

(Pub. L. 99–661, div. A, title XIV, §1404, Nov. 14, 1986, 100 Stat. 4008; Pub. L. 100–26, §3(10), Apr. 21, 1987, 101 Stat. 274; Pub. L. 102–190, div. A, title X, §1089(1), Dec. 5, 1991, 105 Stat. 1485; Pub. L. 103–160, div. A, title XI, §1179(a), Nov. 30, 1993, 107 Stat. 1770.)

AMENDMENTS

1993—Subsec. (c)(1)(C). Pub. L. 103–160 added subpar. (C).

1991—Subsec. (b)(3). Pub. L. 102–190 struck out before period at end '', at least one of whom shall be a representative of the aerospace industry and at least one of whom shall be a representative of a private foundation concerned with aerospace education''.

1987—Subsec. (c)(2). Pub. L. 100–26 substituted ''clause (1) or (2)'' for ''clause (2) or (3)''.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–26 applicable as if included in Pub. L. 99–661 when enacted on Nov. 14, 1986, see section 12(a) of Pub. L. 100–26, set out as a note under section 776 of Title 10, Armed Forces.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4702 of this title.

§ 4704. Barry Goldwater scholarship and excellence in education awards

(a) Award of scholarships and fellowships

(1) The Foundation may award scholarships and fellowships to eligible persons for study in the fields of science and mathematics. Such scholarships and fellowships shall be awarded to persons as provided in this chapter who meet the minimum criteria established by the Foundation.

(2) Scholarships shall be awarded to outstanding undergraduate students who intend to pursue careers in mathematics and the natural sciences.

(3) Fellowships shall be awarded to outstanding graduate students who intend to pursue advanced degrees in mathematics and the natural sciences.

(4) The Foundation may provide, directly or by contract, for the conduct of nationwide competition for the purpose of selecting recipients of scholarships and fellowships awarded under this chapter.

(b) Barry Goldwater Scholars

Recipients of scholarships and fellowships under this chapter shall be known as ''Barry Goldwater Scholars''.

(c) Award of honoraria to volunteers

(1) The Foundation may award honoraria to outstanding educators, teachers, and persons who have volunteered to assist in secondary schools who have made significant contributions to improve the quality of instruction in mathematics and sciences in the secondary school. To the extent the Board determines such action practicable, honoraria awarded under this subsection shall be awarded annually to persons described in the preceding sentence as follows:

(A) To two persons selected at large from each State.

(B) To one person selected from each county in each State.

(C) To persons affiliated with secondary schools on military reservations.

(D) To persons affiliated with the dependent overseas school system.

(2) The Board shall establish a schedule of honoraria to be awarded under paragraph (1).

(Pub. L. 99–661, div. A, title XIV, § 1405, Nov. 14, 1986, 100 Stat. 4009.)

§ 4705. Stipends

Each person awarded a scholarship or fellowship under this chapter shall receive a stipend which shall not exceed the cost to such person for tuition, fees, books, room and board, or such lesser amount as may be prescribed by the Board.

(Pub. L. 99–661, div. A, title XIV, § 1406, Nov. 14, 1986, 100 Stat. 4010.)

§ 4706. Scholarship conditions

(a) In general

A person awarded a scholarship under this chapter may receive payments authorized under this chapter only during such periods as the Foundation finds that the person is maintaining satisfactory proficiency and devoting full time to study or research and is not engaging in gainful employment other than employment approved by the Foundation pursuant to regulations of the Board.

(b) Reports

The Foundation may require reports containing such information in such form and to be filed at such times as the Foundation determines to be necessary from any person awarded a scholarship under this chapter. Such reports shall be accompanied by a certificate from an appropriate official at the institution of higher education, approved by the Foundation, stating that such person is making satisfactory progress in, and is devoting essentially full time to study or research, except as otherwise provided in subsection (a) of this section.

(Pub. L. 99–661, div. A, title XIV, § 1407, Nov. 14, 1986, 100 Stat. 4010.)

§ 4707. Barry Goldwater Scholarship and Excellence in Education Fund

(a) Establishment of fund

There is established in the Treasury of the United States a trust fund to be known as the Barry Goldwater Scholarship and Excellence in Education Fund. The fund shall consist of amounts appropriated to it pursuant to section 4711 of this title and amounts credited to it under subsection (d) of this section.

(b) Investment of fund assets

It shall be the duty of the Secretary of the Treasury to invest in full the amounts appropriated to the fund. Such investments may be made only in public debt securities of the United States with maturities suitable to the fund. For such purpose, such obligations may be acquired (1) on original issue at the issue price, or (2) by purchase of outstanding obligations at the market place. The purposes for which obligations of the United States may be issued under chapter 31 of title 31 are hereby extended to authorize the issuance at par of special obligations exclusively to the fund. Such special obligations shall bear interest at a rate equal to the average rate of interest, computed as to the end of the calendar month next preceding the date of such issue, borne by all marketable interest-bearing obligations of the United States then forming a part of the public debt, except that where such average rate is not a multiple of ⅛ of 1 percent, the rate of interest of such special obligations shall be the multiple of ⅛ of 1 percent next lower than such average rate. Such special obligations shall be issued only if the Secretary determines that the purchases of other interest-bearing obligations of the United States, or of obligations guaranteed as to both principal and interest by the United States or original issue or at the market price, is not in the public interest.

(c) Authority to sell obligations

Any obligation acquired by the fund may be sold by the Secretary at the market price.

(d) Proceeds from certain transactions credited to fund

The interest on, and the proceeds from the sale or redemption of, any obligations held in the fund shall be credited to and form a part of the fund.

(Pub. L. 99–661, div. A, title XIV, § 1408, Nov. 14, 1986, 100 Stat. 4010; Pub. L. 102–190, div. A, title X, § 1089(2), Dec. 5, 1991, 105 Stat. 1485; Pub. L. 102–484, div. A, title X, § 1054(h), Oct. 23, 1992, 106 Stat. 2503.)

CODIFICATION

In subsec. (b), ''chapter 31 of title 31'' substituted for ''the Second Liberty Bond Act'' on authority of Pub. L. 97–258, § 4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

AMENDMENTS

1992—Subsec. (c). Pub. L. 102–484 struck out ''(except special obligations issued exclusively to the fund)'' after ''by the fund''.

1991—Subsec. (b). Pub. L. 102–190, § 1089(2)(A), substituted ''public debt securities of the United States with maturities suitable to the fund.'' for ''interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States.''

Subsec. (c). Pub. L. 102–190, § 1089(2)(B)(ii), struck out '', and such special obligations may be redeemed at par plus accrued interest'' after ''market price''.

Pub. L. 102–190, § 1089(2)(B)(i), which directed striking out of ''(exceptional special obligations issued exclusively to the fund)'', could not be executed because those words did not appear. See 1992 Amendment note above.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4702 of this title.

§ 4708. Expenditures from fund

(a) In general

The Secretary of the Treasury may pay to the Foundation from the interest and earnings of the fund such sums as the Board determines are necessary and appropriate to enable the Foundation to carry out the purposes of this chapter.

(b) Audits by GAO

The activities of the Foundation under this chapter may be audited by the General Account-

ing Office under such rules and regulations as may be prescribed by the Comptroller General of the United States. Representatives of the General Accounting Office shall have access to all books, accounts, records, reports, and files and all other papers, things, or property belonging to or in use by the Foundation pertaining to such activities and necessary to facilitate the audit.

(Pub. L. 99–661, div. A, title XIV, § 1409, Nov. 14, 1986, 100 Stat. 4011.)

§ 4709. Executive Secretary

(a) Appointment by Board

There shall be an Executive Secretary of the Foundation who shall be appointed by the Board. The Executive Secretary shall be the chief executive officer of the Foundation and shall carry out the functions of the Foundation subject to the supervision and direction of the Board. The Executive Secretary shall carry out such other functions consistent with the provisions of this chapter as the Board shall prescribe.

(b) Compensation

The Executive Secretary of the Foundation shall serve as a noncareer appointee of the Senior Executive Service and shall be compensated at a rate determined by the Board in accordance with section 5383 of title 5.

(Pub. L. 99–661, div. A, title XIV, § 1410, Nov. 14, 1986, 100 Stat. 4011; Pub. L. 102–190, div. A, title X, § 1089(3), Dec. 5, 1991, 105 Stat. 1485.)

AMENDMENTS

1991—Subsec. (b). Pub. L. 102–190 substituted ''serve as a noncareer appointee of the Senior Executive Service and shall be compensated at a rate determined by the Board in accordance with section 5383'' for ''be compensated at the rate specified for employees in grade GS–18 of the General Schedule under section 5332''.

§ 4710. Administrative provisions

(a) In general

In order to carry out this chapter, the Foundation may—

(1) appoint and fix the compensation of such personnel as may be necessary to carry out the provisions of this chapter, except that in no case may an employee other than the Executive Secretary be compensated at a rate to exceed the maximum rate provided for employees in grade GS–15 of the General Schedule under section 5332 of title 5;

(2) procure temporary and intermittent services of experts and consultants as are necessary to the extent authorized by section 3109 of title 5, but at rates not to exceed the rate specified at the time of such service for grade GS–18 under section 5332 of such title;

(3) prescribe such regulations as it considers necessary governing the manner in which its functions shall be carried out;

(4) receive money and other property donated, bequeathed, or devised, without condition or restriction other than it be used for the purposes of the Foundation, and to use, sell, or otherwise dispose of such property for the purpose of carrying out its functions;

(5) accept and use the services of voluntary and noncompensated personnel and for travel expenses, including per diem, as authorized by section 5703 of title 5;

(6) enter into contracts or other arrangements, or make grants, to carry out the provisions of this chapter, and enter into such contracts or other arrangements, or make such grants, with the concurrence of two-thirds of the members of the Board, without performance or other bonds and without regard to section 5 of title 41;

(7) rent office space in the Washington, District of Columbia, metropolitan area; and

(8) make other necessary expenditures.

(b) Annual report

The Foundation shall submit to the President and to Congress an annual report of its operations under this chapter.

(Pub. L. 99–661, div. A, title XIV, § 1411, Nov. 14, 1986, 100 Stat. 4011; Pub. L. 103–160, div. A, title XI, § 1179(b), Nov. 30, 1993, 107 Stat. 1770.)

AMENDMENTS

1993—Subsec. (a)(7). Pub. L. 103–160 substituted ''the Washington, District of Columbia, metropolitan area'' for ''the District of Columbia''.

REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, § 101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

§ 4711. Authorization of appropriations

There is hereby authorized to be appropriated to the fund $40,000,000 to carry out this chapter.

(Pub. L. 99–661, div. A, title XIV, § 1412, Nov. 14, 1986, 100 Stat. 4012.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4707 of this title.

CHAPTER 60—FUND FOR THE IMPROVEMENT AND REFORM OF SCHOOLS AND TEACHING

§ 4801. Repealed. Pub. L. 103–382, title III, § 365, Oct. 20, 1994, 108 Stat. 3975

Section, Pub. L. 100–297, title III, § 3202, Apr. 28, 1988, 102 Stat. 338, established Fund for the Improvement and Reform of Schools and Teaching.

SHORT TITLE

Section 3201 of part B (§§ 3201–3243) of title III of Pub. L. 100–297 provided that part B of title III of Pub. L. 100–297 (enacting this chapter) could be cited as the ''Fund for the Improvement and Reform of Schools and Teaching Act'', prior to repeal by Pub. L. 103–382, title III, § 365, Oct. 20, 1994, 108 Stat. 3975.

SUBCHAPTER I—GRANTS FOR SCHOOLS AND TEACHERS

§§ 4811, 4812. Repealed. Pub. L. 103–382, title III, § 365, Oct. 20, 1994, 108 Stat. 3975

Section 4811, Pub. L. 100–297, title III, § 3211, Apr. 28, 1988, 102 Stat. 338, authorized grants and contracts to

improve educational opportunities for, and the performance of, elementary and secondary school students and teachers.

Section 4812, Pub. L. 100–297, title III, § 3212, Apr. 28, 1988, 102 Stat. 339, related to applications for grants.

SUBCHAPTER II—FAMILY-SCHOOL PARTNERSHIP

§§ 4821 to 4823. Repealed. Pub. L. 103–382, title III, § 365, Oct. 20, 1994, 108 Stat. 3975

Section 4821, Pub. L. 100–297, title III, § 3221, Apr. 28, 1988, 102 Stat. 339, stated findings of Congress and purposes of this subchapter.

Section 4822, Pub. L. 100–297, title III, § 3222, Apr. 28, 1988, 102 Stat. 340, related to local educational agencies eligible for grants.

Section 4823, Pub. L. 100–297, title III, § 3223, Apr. 28, 1988, 102 Stat. 340, authorized demonstration grants for development of innovative and promising family-school educational partnership activities.

SUBCHAPTER III—ADMINISTRATIVE PROVISIONS

§§ 4831 to 4833. Repealed. Pub. L. 103–382, title III, § 365, Oct. 20, 1994, 108 Stat. 3975

Section 4831, Pub. L. 100–297, title III, § 3231, Apr. 28, 1988, 102 Stat. 341, established Fund for the Improvement and Reform of Schools and Teaching Board.

Section 4832, Pub. L. 100–297, title III, § 3232, Apr. 28, 1988, 102 Stat. 343, related to dissemination and reporting of exemplary projects and required reports.

Section 4833, Pub. L. 100–297, title III, § 3233, Apr. 28, 1988, 102 Stat. 343, related to coordination with Fund for the Improvement of Postsecondary Education.

SUBCHAPTER IV—GENERAL PROVISIONS

§§ 4841 to 4843. Repealed. Pub. L. 103–382, title III, § 365, Oct. 20, 1994, 108 Stat. 3975

Section 4841, Pub. L. 100–297, title III, § 3241, Apr. 28, 1988, 102 Stat. 343, related to special grant rules.

Section 4842, Pub. L. 100–297, title III, § 3242, Apr. 28, 1988, 102 Stat. 343, authorized appropriations.

Section 4843, Pub. L. 100–297, title III, § 3243, Apr. 28, 1988, 102 Stat. 344, defined terms used in this chapter.

CHAPTER 61—EDUCATION FOR NATIVE HAWAIIANS

§§ 4901 to 4909. Repealed. Pub. L. 103–382, title III, § 363, Oct. 20, 1994, 108 Stat. 3975

Section 4901, Pub. L. 100–297, title IV, § 4001, Apr. 28, 1988, 102 Stat. 358, stated findings of Congress relating to education of Native Hawaiians.

Section 4902, Pub. L. 100–297, title IV, § 4002, Apr. 28, 1988, 102 Stat. 358, stated purpose of this chapter.

Section 4903, Pub. L. 100–297, title IV, § 4003, Apr. 28, 1988, 102 Stat. 359, authorized grants to implement Kemehameha Elementary Education Program model curriculum.

Section 4904, Pub. L. 100–297, title IV, § 4004, Apr. 28, 1988, 102 Stat. 359, authorized grants to develop and operate Family-Based Education Centers in Hawaiian Islands.

Section 4905, Pub. L. 100–297, title IV, § 4005, Apr. 28, 1988, 102 Stat. 360, related to Native Hawaiian higher education demonstration program.

Section 4906, Pub. L. 100–297, title IV, § 4006, Apr. 28, 1988, 102 Stat. 361, related to Native Hawaiian gifted and talented demonstration program.

Section 4907, Pub. L. 100–297, title IV, § 4007, Apr. 28, 1988, 102 Stat. 362; Pub. L. 101–476, title IX, § 901(a)(3), Oct. 30, 1990, 104 Stat. 1142, related to Native Hawaiian special education program.

Section 4908, Pub. L. 100–297, title IV, § 4008, Apr. 28, 1988, 102 Stat. 362, contained administrative provisions.

Section 4909, Pub. L. 100–297, title IV, § 4009, Apr. 28, 1988, 102 Stat. 362, defined terms used in this chapter.

For similar provisions, see section 7901 et seq. of this title.

CHAPTER 62—EDUCATION AND TRAINING FOR AMERICAN COMPETITIVENESS

§§ 5001 to 5004. Repealed. Pub. L. 103–382, title III, § 391(i), Oct. 20, 1994, 108 Stat. 4023

Section 5001, Pub. L. 100–418, title VI, § 6001, Aug. 23, 1988, 102 Stat. 1469, provided that this chapter could be cited as the ''Education and Training for a Competitive America Act of 1988''.

Section 5002, Pub. L. 100–418, title VI, § 6002, Aug. 23, 1988, 102 Stat. 1469, stated findings of Congress and purpose.

Section 5003, Pub. L. 100–418, title VI, § 6003, Aug. 23, 1988, 102 Stat. 1470, defined terms used in this chapter.

Section 5004, Pub. L. 100–418, title VI, § 6004, Aug. 23, 1988, 102 Stat. 1470, contained general restrictions relating to grants and contracts under this chapter.

SUBCHAPTER I—ELEMENTARY AND SECONDARY EDUCATION

PART A—FOREIGN LANGUAGES

SUBPART 1—FOREIGN LANGUAGE ASSISTANCE

§§ 5011 to 5016. Repealed. Pub. L. 103–382, title III, § 391(i), Oct. 20, 1994, 108 Stat. 4023

Section 5011, Pub. L. 100–418, title VI, § 6021, Aug. 23, 1988, 102 Stat. 1476, provided that this subpart could be cited as the ''Foreign Language Assistance Act of 1988''.

Section 5012, Pub. L. 100–418, title VI, § 6022, Aug. 23, 1988, 102 Stat. 1476, stated findings of Congress.

Section 5013, Pub. L. 100–418, title VI, § 6023, Aug. 23, 1988, 102 Stat. 1477, authorized grants for model programs for commencement, improvement, and expansion of foreign language study.

Section 5014, Pub. L. 100–418, title VI, § 6024, Aug. 23, 1988, 102 Stat. 1478, related to allotment of funds.

Section 5015, Pub. L. 100–418, title VI, § 6025, Aug. 23, 1988, 102 Stat. 1478, defined terms used in this subpart.

Section 5016, Pub. L. 100–418, title VI, § 6026, Aug. 23, 1988, 102 Stat. 1478, authorized appropriations.

For similar provisions, see section 7511 et seq. of this title.

SUBPART 2—PRESIDENTIAL AWARD FOR LANGUAGES

§§ 5021 to 5023. Repealed. Pub. L. 103–382, title III, § 391(i), Oct. 20, 1994, 108 Stat. 4023

Section 5021, Pub. L. 100–418, title VI, § 6027, Aug. 23, 1988, 102 Stat. 1478, authorized Presidential Awards for Teaching Excellence in Foreign Languages.

Section 5022, Pub. L. 100–418, title VI, § 6028, Aug. 23, 1988, 102 Stat. 1479, contained administrative provisions.

Section 5023, Pub. L. 100–418, title VI, § 6029, Aug. 23, 1988, 102 Stat. 1479, authorized appropriations.

PART B—EDUCATIONAL PARTNERSHIPS

§§ 5031 to 5039. Repealed. Pub. L. 103–382, title III, § 391(i), (j), Oct. 20, 1994, 108 Stat. 4023

Section 5031, Pub. L. 100–418, title VI, § 6041, Aug. 23, 1988, 102 Stat. 1483, provided that this part could be cited as the ''Educational Partnerships Act of 1988''.

Section 5032, Pub. L. 100–418, title VI, § 6042, Aug. 23, 1988, 102 Stat. 1483, stated purpose of this part.

Section 5033, Pub. L. 100–418, title VI, § 6043, Aug. 23, 1988, 102 Stat. 1483, authorized grants to eligible partnerships to use public and private resources for various educational purposes.

Section 5034, Pub. L. 100–418, title VI, § 6044, Aug. 23, 1988, 102 Stat. 1483, related to authorized activities by eligible partnerships receiving payments.

Section 5035, Pub. L. 100–418, title VI, § 6045, Aug. 23, 1988, 102 Stat. 1484, related to applications for grants.

Section 5036, Pub. L. 100–418, title VI, § 6046, Aug. 23, 1988, 102 Stat. 1485, related to approval of applications.

Section 5037, Pub. L. 100–418, title VI, § 6047, Aug. 23, 1988, 102 Stat. 1485, related to computation of grant amounts.

Section 5038, Pub. L. 100–418, title VI, § 6048, Aug. 23, 1988, 102 Stat. 1485, related to evaluation by Secretary of grants and dissemination of information relating to assisted activities.

Section 5039, Pub. L. 100–418, title VI, § 6049, Aug. 23, 1988, 102 Stat. 1486, defined terms used in this part.

PART C—PROJECTS AND PROGRAMS DESIGNED TO ADDRESS SCHOOL DROPOUT PROBLEMS AND TO STRENGTHEN BASIC SKILLS INSTRUCTION

SUBPART 1—ASSISTANCE TO ADDRESS SCHOOL DROPOUT PROBLEMS

§§ 5051 to 5057. Repealed. Pub. L. 103–382, title III, § 391(i), Oct. 20, 1994, 108 Stat. 4023

Section 5051, Pub. L. 100–418, title VI, § 6061, Aug. 23, 1988, 102 Stat. 1491, provided that this subpart could be cited as the ''School Dropout Demonstration Assistance Act of 1988''.

Section 5052, Pub. L. 100–418, title VI, § 6062, Aug. 23, 1988, 102 Stat. 1491, stated purpose of this subpart.

Section 5053, Pub. L. 100–418, title VI, § 6063, Aug. 23, 1988, 102 Stat. 1491, authorized appropriations.

Section 5054, Pub. L. 100–418, title VI, § 6064, Aug. 23, 1988, 102 Stat. 1491, related to allotment of grants to local educational agencies.

Section 5055, Pub. L. 100–418, title VI, § 6065, Aug. 23, 1988, 102 Stat. 1493, related to applications for grants.

Section 5056, Pub. L. 100–418, title VI, § 6066, Aug. 23, 1988, 102 Stat. 1494, related to activities for which grants could be used.

Section 5057, Pub. L. 100–418, title VI, § 6067, Aug. 23, 1988, 102 Stat. 1495, related to distribution of assistance and limitation on costs.

For similar provisions, see section 7261 et seq. of this title.

SUBPART 2—ASSISTANCE TO PROVIDE BASIC SKILLS IMPROVEMENT

§§ 5061 to 5066. Repealed. Pub. L. 103–382, title III, § 391(i), (k), Oct. 20, 1994, 108 Stat. 4023

Section 5061, Pub. L. 100–418, title VI, § 6071, Aug. 23, 1988, 102 Stat. 1496, provided that this subpart could be cited as the ''Secondary Schools Basic Skills Demonstration Assistance Act of 1988''.

Section 5062, Pub. L. 100–418, title VI, § 6072, Aug. 23, 1988, 102 Stat. 1496, stated purpose of this subpart.

Section 5063, Pub. L. 100–418, title VI, § 6073, Aug. 23, 1988, 102 Stat. 1496, authorized appropriations.

Section 5064, Pub. L. 100–418, title VI, § 6074, Aug. 23, 1988, 102 Stat. 1496, authorized grants to local educational agencies.

Section 5065, Pub. L. 100–418, title VI, § 6075, Aug. 23, 1988, 102 Stat. 1496, related to activities for which grants could be used.

Section 5066, Pub. L. 100–418, title VI, § 6076, Aug. 23, 1988, 102 Stat. 1497, related to applications for grants.

SUBPART 3—GENERAL PROVISIONS

§§ 5071, 5072. Repealed. Pub. L. 103–382, title III, § 391(i), Oct. 20, 1994, 108 Stat. 4023

Section 5071, Pub. L. 100–418, title VI, § 6081, Aug. 23, 1988, 102 Stat. 1498, contained general administrative provisions.

Section 5072, Pub. L. 100–418, title VI, § 6082, Aug. 23, 1988, 102 Stat. 1499, defined terms used in this chapter.

SUBCHAPTER II—TECHNOLOGY AND TRAINING

PART A—TRANSFER OF EDUCATION AND TRAINING SOFTWARE

§§ 5091 to 5097. Repealed. Pub. L. 103–382, title III, § 391(i), Oct. 20, 1994, 108 Stat. 4023

Section 5091, Pub. L. 100–418, title VI, § 6101, Aug. 23, 1988, 102 Stat. 1500, provided that this part could be cited as the ''Training Technology Transfer Act of 1988''.

Section 5092, Pub. L. 100–418, title VI, § 6102, Aug. 23, 1988, 102 Stat. 1500; Pub. L. 101–600, § 6, Nov. 16, 1990, 104 Stat. 3046, stated findings of Congress and purposes of this part.

Section 5093, Pub. L. 100–418, title VI, § 6103, Aug. 23, 1988, 102 Stat. 1500; Pub. L. 103–227, title II, § 236(a)(2), Mar. 31, 1994, 108 Stat. 156, established an Office of Training Technology Transfer.

Section 5094, Pub. L. 100–418, title VI, § 6104, Aug. 23, 1988, 102 Stat. 1500, related to functions of Office of Training Technology Transfer.

Section 5095, Pub. L. 100–418, title VI, § 6105, Aug. 23, 1988, 102 Stat. 1503, contained administrative provisions.

Section 5096, Pub. L. 100–418, title VI, § 6106, Aug. 23, 1988, 102 Stat. 1503, related to coordination with Federal agencies.

Section 5097, Pub. L. 100–418, title VI, § 6107, Aug. 23, 1988, 102 Stat. 1504, defined terms used in this part.

PART B—INSTRUCTIONAL PROGRAMS IN TECHNOLOGY EDUCATION

§§ 5101 to 5106. Repealed. Pub. L. 103–382, title III, § 391(i), Oct. 20, 1994, 108 Stat. 4023

Section 5101, Pub. L. 100–418, title VI, § 6111, Aug. 23, 1988, 102 Stat. 1505, stated purpose of part to assist educational agencies and institutions in developing technologically literate population through instructional programs in technology education.

Section 5102, Pub. L. 100–418, title VI, § 6112, Aug. 23, 1988, 102 Stat. 1505, related to technology education demonstration program.

Section 5103, Pub. L. 100–418, title VI, § 6113, Aug. 23, 1988, 102 Stat. 1507, related to applications for grants.

Section 5104, Pub. L. 100–418, title VI, § 6114, Aug. 23, 1988, 102 Stat. 1507, related to national dissemination of information.

Section 5105, Pub. L. 100–418, title VI, § 6115, Aug. 23, 1988, 102 Stat. 1507, authorized appropriations.

Section 5106, Pub. L. 100–418, title VI, § 6116, Aug. 23, 1988, 102 Stat. 1507, defined ''technology education''.

PART C—REPLICATION OF TECHNICAL EDUCATION PROGRAMS

§ 5111. Repealed. Pub. L. 103–382, title III, § 391(i), Oct. 20, 1994, 108 Stat. 4023

Section, Pub. L. 100–418, title VI, § 6121, Aug. 23, 1988, 102 Stat. 1508, related to replication models for technical education programs designed to improve the quality of education for America's technically trained workforce.

PART D—ACCESS DEMONSTRATION PROGRAMS

§§ 5121 to 5124. Repealed. Pub. L. 103–382, title III, § 391(i), Oct. 20, 1994, 108 Stat. 4023

Section 5121, Pub. L. 100–418, title VI, § 6141, Aug. 23, 1988, 102 Stat. 1513, stated purpose of this part.

Section 5122, Pub. L. 100–418, title VI, § 6142, Aug. 23, 1988, 102 Stat. 1513; Pub. L. 101–26, § 1, May 11, 1989, 103 Stat. 54, authorized grants for development of training programs for secondary school personnel.

Section 5123, Pub. L. 100–418, title VI, § 6143, Aug. 23, 1988, 102 Stat. 1513, related to applications for grants.

Section 5124, Pub. L. 100–418, title VI, § 6144, Aug. 23, 1988, 102 Stat. 1514; Pub. L. 103–382, title II, § 261(i)(3), title III, § 391(z), Oct. 20, 1994, 108 Stat. 3929, 4026, defined terms used in this part.

CHAPTER 63—EISENHOWER EXCHANGE FELLOWSHIP PROGRAM

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§ 5201. Purposes

The purposes of this chapter are—

(1) to provide a permanent endowment for the Eisenhower Exchange Fellowship Program;

(2) to honor Dwight D. Eisenhower for his character, courage, and patriotism, and for his leadership based on moral integrity and trust;

(3) to pay tribute to President Eisenhower's leadership in war and peace, through his diverse understanding of history, practical affairs, and the hearts of humankind;

(4) to address America's need for the best possible higher education of its young talent for a competitive world which shares a common and endangered environment;

(5) to advance the network of friendship and trust already established in President Eisenhower's name, so that it may continue to grow to the imminent challenges of the 21st century;

(6) to complete Dwight David Eisenhower's crusade to liberate the people's of Europe from oppression;

(7) to deepen and expand relationships with European nations developing democracy and self-determination; and

(8) to honor President Dwight D. Eisenhower on the occasion of the centennial of his birth through permanent endowment of an established fellowship program, the Eisenhower Exchange Fellowships, to increase educational opportunities for young leaders in preparation for and enhancement of their professional careers, and advancement of peace through international understanding.

(Pub. L. 101–454, § 2, Oct. 24, 1990, 104 Stat. 1063.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this Act'', meaning Pub. L. 101–454, Oct. 24, 1990, 104 Stat. 1063, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note below and Tables.

SHORT TITLE

Section 1 of Pub. L. 101–454 provided that: ''This Act [enacting this chapter, amending sections 4901, 4902, and 4904 of Title 22, Foreign Relations and Intercourse, and enacting provisions set out as notes under sections 4901 and 4902 of Title 22] may be cited as the 'Eisenhower Exchange Fellowship Act of 1990'.''

§ 5202. Eisenhower Exchange Fellowship Program Trust Fund

(a) Establishment

There is established in the Treasury of the United States a trust fund to be known as the Eisenhower Exchange Fellowship Program Trust Fund (hereinafter in this chapter referred to as the ''fund''). The fund shall consist of amounts authorized to be appropriated under section 5204 of this title.

(b) Investment in interest-bearing obligations

It shall be the duty of the Secretary of the Treasury to invest in full amounts appropriated to the fund. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interests[1] by the United States. For such purpose, such obligations may be acquired (1) on original issue at the issue price, or (2) by purchase of outstanding obligations at the market price. The purposes for which obligations of the United States may be issued under chapter 31 of title 31, are hereby extended to authorize the issuance at par of special obligations exclusively to the fund. Such special obligations shall bear interest at a rate equal to the average rate of interest, computed as to the end of the calendar month next preceding the date of such issue borne by all marketable interest-bearing obligations of the United States then forming a part of the public debt; except that where such average rate is not a multiple of one-eighth of 1 percent, the rate of interest of such special obligations shall be the multiple of one-eighth of 1 percent next lower than such average rate. Such special obligations shall be issued only if the Secretary determines that the purchase of other interest-bearing obligations of the United States, or of obligations guaranteed as to both principal and interest by the United States or original issue or at the market price, is not in the public interest.

(c) Sale and redemption of obligations

Any obligation acquired by the fund (except special obligations issued exclusively to the fund) may be sold by the Secretary of the Treasury at the market price, and such special obliga-

[1] So in original. Probably should be ''interest''.

tions may be redeemed at par plus accrued interest.

(d) Credit to fund of interest and proceeds of sale or redemption

The interest on, and the proceeds from the sale or redemption of, any obligations held in the fund shall be credited to and form a part of the fund.

(Pub. L. 101–454, § 3, Oct. 24, 1990, 104 Stat. 1063.)

§ 5203. Expenditure and audit of trust fund

(a) Authorization of funding

For each fiscal year, there is authorized to be appropriated from the fund to Eisenhower Exchange Fellowships, Incorporated, the interest and earnings of the fund.

(b) Access to books, records, etc., by General Accounting Office

The activities of Eisenhower Exchange Fellowships, Incorporated, may be audited by the General Accounting Office under such rules and regulations as may be prescribed by the Comptroller General of the United States. The representatives of the General Accounting Office shall have access to all books, accounts, records, reports, and files and all other papers, things, or property belonging to or in use by Eisenhower Exchange Fellowships, Incorporated, pertaining to such activities and necessary to facilitate the audit.

(Pub. L. 101–454, § 4, Oct. 24, 1990, 104 Stat. 1064.)

USE OF EARNED UNUSED TRUST INCOME FOR FELLOWSHIP PURPOSES

Pub. L. 104–134, title I, § 101[(a)] [title IV, § 407], Apr. 26, 1996, 110 Stat. 1321, 1321–45; renumbered title I, Pub. L. 104–140, § 1(a), May 2, 1996, 110 Stat. 1327, provided in part that: ''notwithstanding any other provision of law, Eisenhower Exchange Fellowships, Incorporated, may use one-third of any earned but unused trust income from the period 1992 through 1995 for Fellowship purposes in each of fiscal years 1996 through 1998.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5205, 5206 of this title.

§ 5204. Authorization of appropriations

To provide a permanent endowment for the Eisenhower Exchange Fellowship Program, there are authorized to be appropriated to the Eisenhower Exchange Fellowships Program Trust Fund—

(1) $5,000,000; and

(2) the lesser of—

(A) $2,500,000, or

(B) an amount equal to contributions to Eisenhower Exchange Fellowships, Incorporated, from private sector sources during the 4-year period beginning on October 24, 1990.

(Pub. L. 101–454, § 5, Oct. 24, 1990, 104 Stat. 1064.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5202 of this title.

§ 5205. Use of income on endowment

(a), (b) Repealed. Pub. L. 104–134, title I, § 101[(a)] [title IV, § 407], Apr. 26, 1996, 110 Stat. 1321, 1321–45; renumbered title I, Pub. L. 104–140, § 1(a), May 2, 1996, 110 Stat. 1327

(c) Agricultural exchange program

For any fiscal year, as may be determined by Eisenhower Exchange Fellowships, Incorporated, a portion of the amounts made available to Eisenhower Exchange Fellowships, Incorporated, pursuant to section 5203(a) of this title shall be used to provide fellowships for agricultural exchange programs for farmers from the United States and foreign countries.

(d) Participation by United States minority populations

In order to ensure that the United States fellows participating in programs of the Eisenhower Exchange Fellowships, Incorporated, are representative of the cultural, ethnic, and racial diversity of the American people, of the amounts made available to Eisenhower Exchange Fellowships, Incorporated, pursuant to section 5203(a) of this title which are obligated and expended for United States fellowship programs, not less than 10 percent shall be available only for participation by individuals who are representative of United States minority populations.

(Pub. L. 101–454, § 6, Oct. 24, 1990, 104 Stat. 1065; Pub. L. 104–134, title I, § 101[(a)] [title IV, § 407], Apr. 26, 1996, 110 Stat. 1321, 1321–45; renumbered title I, Pub. L. 104–140, § 1(a), May 2, 1996, 110 Stat. 1327.)

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–134 struck out heading and text of subsec. (a). Text read as follows: ''For any fiscal year, not less than 50 percent of the amounts made available to Eisenhower Exchange Fellowships, Incorporated, pursuant to section 5203(a) of this title shall be available only to assist United States fellows in traveling to and studying in emerging European democracies.''

Subsec. (b). Pub. L. 104–134 struck out heading and text of subsec. (b). Text read as follows: ''For any fiscal year, not more than 50 percent of the amounts made available to Eisenhower Exchange Fellowships, Incorporated, pursuant to section 5203(a) of this title shall be available to assist foreign fellows in traveling to and studying in the United States.''

§ 5206. Report to Congress

For any fiscal year for which Eisenhower Exchange Fellowships, Incorporated, receive funds pursuant to section 5203(a) of this title, Eisenhower Exchange Fellowships, Incorporated, shall prepare and transmit to the President and the Congress a report of its activities for such fiscal year.

(Pub. L. 101–454, § 7, Oct. 24, 1990, 104 Stat. 1065.)

CHAPTER 64—EXCELLENCE IN MATHEMATICS, SCIENCE, AND ENGINEERING EDUCATION

SUBCHAPTER I—FINDINGS AND OBJECTIVES

§ 5301. Repealed. Pub. L. 103–382, title III, § 391(*l*), Oct. 20, 1994, 108 Stat. 4023

Section, Pub. L. 101–589, title I, § 101, Nov. 16, 1990, 104 Stat. 2882, stated findings of Congress and national objectives relating to mathematics, science, and engineering education.

SHORT TITLE

Section 1 of Pub. L. 101–589 provided that Pub. L. 101–589 (enacting this chapter and sections 2994 to 2994g of this title, redesignating section 2993 of this title as section 2996 of this title, amending sections 237, 240, 1201a, 1221e–1, 2983 to 2992, and 4512 of this title and sections 1869 and 1873 of Title 42, the Public Health and Welfare, and enacting provisions set out as notes under this section and sections 240 and 2982 of this title) could be cited as the ''Excellence in Mathematics, Science and Engineering Education Act of 1990'', prior to repeal by Pub. L. 103–382, title III, § 391(*l*), Oct. 20, 1994, 108 Stat. 4023.

SUBCHAPTER II—MATHEMATICS, SCIENCE AND TECHNOLOGY IMPROVEMENTS

PART A—INNOVATIVE TECHNOLOGIES

§ 5311. Repealed. Pub. L. 103–382, title III, § 391(*l*), Oct. 20, 1994, 108 Stat. 4023

Section, Pub. L. 101–589, title II, § 221, Nov. 16, 1990, 104 Stat. 2891, related to expanding uses of innovative technologies for mathematics and science instruction.

PART B—SCIENCE-TECHNOLOGY CENTERS

§ 5321. Repealed. Pub. L. 103–382, title III, § 391(*l*), Oct. 20, 1994, 108 Stat. 4023

Section, Pub. L. 101–589, title II, § 231, Nov. 16, 1990, 104 Stat. 2892, related to awards to science-technology centers.

PART C—GRANTS TO EDUCATIONAL AGENCIES FOR SYSTEMIC REFORM OF MATHEMATICS AND SCIENCE EDUCATION

§ 5331. Repealed. Pub. L. 103–382, title III, § 391(*l*), Oct. 20, 1994, 108 Stat. 4023

Section, Pub. L. 101–589, title II, § 241, Nov. 16, 1990, 104 Stat. 2894, related to systemic reform of mathematics and science education.

SUBCHAPTER III—HIGHER EDUCATION

PART A—GRADUATE FELLOWSHIPS AND TRAINEESHIPS

§§ 5341 to 5343. Repealed. Pub. L. 103–382, title III, § 391(*l*), Oct. 20, 1994, 108 Stat. 4023

Section 5341, Pub. L. 101–589, title III, § 301, Nov. 16, 1990, 104 Stat. 2895, stated purpose of this part to avert shortage of American scientists and engineers.

Section 5342, Pub. L. 101–589, title III, § 302, Nov. 16, 1990, 104 Stat. 2895, related to graduate fellowships.

Section 5343, Pub. L. 101–589, title III, § 303, Nov. 16, 1990, 104 Stat. 2896, related to graduate traineeships.

PART B—CENTERS OF EXCELLENCE

§ 5351. Repealed. Pub. L. 103–382, title III, § 391(*l*), Oct. 20, 1994, 108 Stat. 4023

Section, Pub. L. 101–589, title III, § 311, Nov. 16, 1990, 104 Stat. 2896, related to Centers of Excellence for Undergraduate Teaching.

SUBCHAPTER IV—WOMEN AND MINORITIES IN MATHEMATICS, SCIENCE AND ENGINEERING

§§ 5361 to 5364. Repealed. Pub. L. 103–382, title III, § 391(*l*), Oct. 20, 1994, 108 Stat. 4023

Section 5361, Pub. L. 101–589, title IV, § 401, Nov. 16, 1990, 104 Stat. 2897, stated purpose of this subchapter to increase participation of women and minorities in mathematics, science, and engineering.

Section 5362, Pub. L. 101–589, title IV, § 402, Nov. 16, 1990, 104 Stat. 2897, related to Distinguished Visiting Professors.

Section 5363, Pub. L. 101–589, title IV, § 403, Nov. 16, 1990, 104 Stat. 2897, related to faculty awards for women and minorities.

Section 5364, Pub. L. 101–589, title IV, § 404, Nov. 16, 1990, 104 Stat. 2897, related to alliances for minority participation.

SUBCHAPTER V—EDUCATION COORDINATION AND DEPARTMENT OF ENERGY PROGRAMS

§§ 5371 to 5373. Repealed. Pub. L. 103–382, title III, § 391(*l*), Oct. 20, 1994, 108 Stat. 4023

Section 5371, Pub. L. 101–589, title V, § 501, Nov. 16, 1990, 104 Stat. 2898, required science education report.

Section 5372, Pub. L. 101–589, title V, § 502, Nov. 16, 1990, 104 Stat. 2898, required general education reports.

Section 5373, Pub. L. 101–589, title V, § 503, Nov. 16, 1990, 104 Stat. 2899, related to Department of Energy programs.

SUBCHAPTER VI—SCIENCE SCHOLARSHIPS

PART A—NATIONAL SCIENCE SCHOLARS PROGRAM

§§ 5381 to 5386. Repealed. Pub. L. 103–382, title III, § 391(*l*), Oct. 20, 1994, 108 Stat. 4023

Section 5381, Pub. L. 101–589, title VI, § 601, Nov. 16, 1990, 104 Stat. 2900; Pub. L. 102–103, title III, § 314(a), Aug. 17, 1991, 105 Stat. 508; Pub. L. 102–325, title XV, § 1556(a), July 23, 1992, 106 Stat. 840, stated purpose of this part to establish a National Science Scholars Program and support science, mathematics, and engineering in the United States, and authorized appropriations for awards.

Section 5382, Pub. L. 101–589, title VI, § 602, Nov. 16, 1990, 104 Stat. 2900, authorized awarding of scholarships for study of science, mathematics, and engineering.

Section 5383, Pub. L. 101–589, title VI, § 603, Nov. 16, 1990, 104 Stat. 2901, related to selection of scholars.

Section 5384, Pub. L. 101–589, title VI, § 604, Nov. 16, 1990, 104 Stat. 2902, related to eligibility of scholars for awards.

Section 5385, Pub. L. 101–589, title VI, § 605, Nov. 16, 1990, 104 Stat. 2903, related to scholarship amounts.

Section 5386, Pub. L. 101–589, title VI, § 606, Nov. 16, 1990, 104 Stat. 2903, related to summer employment opportunities for scholars.

PART B—ROBERT NOYCE SCHOLARSHIPS

§ 5401. Repealed. Pub. L. 103–382, title III, § 391(*l*), Oct. 20, 1994, 108 Stat. 4023

Section, Pub. L. 101–589, title VI, § 611, Nov. 16, 1990, 104 Stat. 2904, established scholarship program for stu-

dents in science, mathematics, and engineering programs.

PART C—NATIONAL ACADEMY OF SCIENCE, SPACE, AND TECHNOLOGY

§ 5411. Repealed. Pub. L. 103–382, title III, § 391(*l*), Oct. 20, 1994, 108 Stat. 4023

Section, Pub. L. 101–589, title VI, § 621, Nov. 16, 1990, 104 Stat. 2907; Pub. L. 102–103, title III, § 314(b), Aug. 17, 1991, 105 Stat. 508; Pub. L. 102–325, title XV, § 1556(b), July 23, 1992, 106 Stat. 840, established National Academy of Science, Space, and Technology.

PART D—ADDITIONAL PROVISIONS

§§ 5421, 5422. Repealed. Pub. L. 103–382, title III, § 391(*l*), Oct. 20, 1994, 108 Stat. 4023

Section 5421, Pub. L. 101–589, title VI, § 631, Nov. 16, 1990, 104 Stat. 2910, related to effect of certain controlled substance and felony convictions on eligibility.

Section 5422, Pub. L. 101–589, title VI, § 632, Nov. 16, 1990, 104 Stat. 2910, required report by National Science Foundation.

SUBCHAPTER VII—GENERAL PROVISIONS AND AUTHORIZATION OF APPROPRIATIONS

PART A—AUTHORIZATION OF APPROPRIATIONS

§ 5431. Repealed. Pub. L. 103–382, title III, § 391(*l*), Oct. 20, 1994, 108 Stat. 4023

Section, Pub. L. 101–589, title VII, § 701, Nov. 16, 1990, 104 Stat. 2910, authorized appropriations to National Science Foundation.

PART B—DEFINITIONS

§ 5441. Repealed. Pub. L. 103–382, title III, § 391(*l*), Oct. 20, 1994, 108 Stat. 4023

Section, Pub. L. 101–589, title VII, § 711, Nov. 16, 1990, 104 Stat. 2911, defined terms used in this chapter.

CHAPTER 65—NATIONAL ENVIRONMENTAL EDUCATION

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§ 5501. Findings and policy

(a) Findings

The Congress finds that—

(1) Threats to human health and environmental quality are increasingly complex, involving a wide range of conventional and toxic contaminants in the air and water and on the land.

(2) There is growing evidence of international environmental problems, such as global warming, ocean pollution, and declines in species diversity, and that these problems pose serious threats to human health and the environment on a global scale.

(3) Environmental problems represent as significant a threat to the quality of life and the economic vitality of urban areas as they do the natural balance of rural areas.

(4) Effective response to complex environmental problems requires understanding of the natural and built environment, awareness of environmental problems and their origins (including those in urban areas), and the skills to solve these problems.

(5) Development of effective solutions to environmental problems and effective implemen-

tation of environmental programs requires a well educated and trained, professional work force.

(6) Current Federal efforts to inform and educate the public concerning the natural and built environment and environmental problems are not adequate.

(7) Existing Federal support for development and training of professionals in environmental fields is not sufficient.

(8) The Federal Government, acting through the Environmental Protection Agency, should work with local education institutions, State education agencies, not-for-profit educational and environmental organizations, noncommercial educational broadcasting entities, and private sector interests to support development of curricula, special projects, and other activities, to increase understanding of the natural and built environment and to improve awareness of environmental problems.

(9) The Federal Government, acting through the coordinated efforts of its agencies and with the leadership of the Environmental Protection Agency, should work with local education institutions, State education agencies, not-for-profit educational and environmental organizations, noncommercial educational broadcasting entities, and private sector interests to develop programs to provide increased emphasis and financial resources for the purpose of attracting students into environmental engineering and assisting them in pursuing the programs to complete the advanced technical education required to provide effective problem solving capabilities for complex environmental issues.

(10) Federal natural resource agencies such as the United States Forest Service have a wide range of environmental expertise and a long history of cooperation with educational institutions and technology transfer that can assist in furthering the purposes of the[1] chapter.

(b) Policy

It is the policy of the United States to establish and support a program of education on the environment, for students and personnel working with students, through activities in schools, institutions of higher education, and related educational activities, and to encourage postsecondary students to pursue careers related to the environment.

(Pub. L. 101–619, § 2, Nov. 16, 1990, 104 Stat. 3325.)

SHORT TITLE

Section 1(a) of Pub. L. 101–619 provided that: ''This Act [enacting this chapter] may be cited as the 'National Environmental Education Act'.''

§ 5502. Definitions

For the purposes of this chapter, the term—

(1) ''Administrator'' means the Administrator of the Environmental Protection Agency;

(2) ''Agency'' means the United States Environmental Protection Agency;

(3) ''Federal agency'' or ''agency of the United States'' means any department, agency or other instrumentality of the Federal Government, any independent agency or establishment of the Federal Government including any Government corporation;

(4) ''Secretary'' means the Secretary of the Department of Education;

(5) ''local educational agency'' means any education agency as defined in section 8801 of this title) and shall include any tribal education agency;

(6) ''not-for-profit'' organization[1] means an organization, association, or institution described in section 501(c)(3) of title 26, which is exempt from taxation pursuant to the provisions of section 501(a) of title 26;

(7) ''noncommercial education broadcasting entities'' means any noncommercial educational broadcasting station (and/or its legal nonprofit affiliates) as defined and licensed by the Federal Communications Commission;

(8) ''tribal education agency'' means a school or community college which is controlled by an Indian tribe, band, or nation, including any Alaska Native village, which is recognized as eligible for special programs and services provided by the United States to Indians because of their status as Indians and which is not administered by the Bureau of Indian Affairs;

(9) ''Federal natural resource management agencies'' means the United States Forest Service, the Bureau of Land Management, the National Park Service, and the Fish and Wildlife Service;

(10) ''environmental engineering'' means the discipline within engineering and science concerned with the development and application of scientific and technical solutions to protecting the aquatic and atmospheric environment, including, but not limited to, all phases of water resources planning, water supply, water treatment, air pollution characterization and control, remediation of hazardous substances, environmental transport of contaminants in surface and ground water and atmosphere, and methods for assessment and control of pollution;

(11) ''environmental education'' and ''environmental education and training'' mean educational activities and training activities involving elementary, secondary, and postsecondary students, as such terms are defined in the State in which they reside, and environmental education personnel, but does not include technical training activities directed toward environmental management professionals or activities primarily directed toward the support of noneducational research and development;

(12) ''Foundation'' means the National Environmental Education and Training Foundation established pursuant to section 5509 of this title; and

(13) ''Board of Directors'' means the Board of Directors of the National Environmental Education and Training Foundation.

(Pub. L. 101–619, § 3, Nov. 16, 1990, 104 Stat. 3326; Pub. L. 103–382, title III, § 391(m), Oct. 20, 1994, 108 Stat. 4023.)

[1] So in original. Probably should be ''this''.

[1] So in original. Probably should be '' 'not-for-profit organization' ''.

AMENDMENTS

1994—Par. (5). Pub. L. 103–382 substituted ''local educational agency'' for ''local education agency'' and reference to section 8801 of this title for reference to section 198 of the Elementary and Secondary Education Act of 1965.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5509 of this title.

§ 5503. Office of Environmental Education

(a) Establishment

The Administrator shall establish an Office of Environmental Education within the Environmental Protection Agency.

(b) Duties and functions

The Office of Environmental Education shall—

(1) develop and support programs and related efforts, in consultation and coordination with other Federal agencies, to improve understanding of the natural and built environment, and the relationships between humans and their environment, including the global aspects of environmental problems;

(2) support development and the widest possible dissemination of model curricula, educational materials, and training programs for elementary and secondary students and other interested groups, including senior Americans;

(3) develop and disseminate, in cooperation with other Federal agencies, not-for-profit educational and environmental organizations, State agencies, and noncommercial educational broadcasting entities, environmental education publications and audio/visual and other media materials;

(4) develop and support environmental education seminars, training programs, teleconferences, and workshops for environmental education professionals, as provided for in section 5504 of this title;

(5) manage Federal grant assistance provided to local education agencies, institutions of higher education, other not-for-profit organizations, and noncommercial education broadcasting entities, under section 5505 of this title;

(6) administer the environmental internship and fellowship programs provided for in section 5506 of this title;

(7) administer the environmental awards program provided for in section 5507 of this title;

(8) provide staff support to the Advisory Council and Task Force provided for in section 5508 of this title;

(9) assess, in coordination with other Federal agencies, the demand for professional skills and training needed to respond to current and anticipated environmental problems and cooperate with appropriate institutions, organizations, and agencies to develop training programs, curricula, and continuing education programs for teachers, school administrators, and related professionals;

(10) assure the coordination of Federal statutes and programs administered by the Agency relating to environmental education, consistent with the provisions and purposes of those programs, and work to reduce duplication or inconsistencies within these programs;

(11) work with the Department of Education, the Federal Interagency Committee on Education, and with other Federal agencies, including Federal natural resource management agencies, to assure the effective coordination of programs related to environmental education, including environmental education programs relating to national parks, national forests, and wildlife refuges;

(12) provide information on environmental education and training programs to local education agencies, State education and natural resource agencies, and others; and

(13) otherwise provide for the implementation of this chapter.

(c) Director and staff

The Office of Environmental Education shall—

(1) be directed by a Director who shall be a member of the Senior Executive Service;

(2) include a headquarters staff of not less than six and not more than ten full-time equivalent employees; and

(3) be supported by one full-time equivalent employee in each Agency regional office.

(Pub. L. 101–619, § 4, Nov. 16, 1990, 104 Stat. 3327.)

§ 5504. Environmental Education and Training Program

(a) Establishment

There is hereby established an Environmental Education and Training Program. The purpose of the program shall be to train educational professionals in the development and delivery of environmental education and training programs and studies.

(b) Functions and activities

The functions and activities of the program shall include, at a minimum—

(1) classroom training in environmental education and studies including environmental sciences and theory, educational methods and practices, environmental career or occupational education, and topical environmental issues and problems;

(2) demonstration of the design and conduct of environmental field studies and assessments;

(3) development of environmental education programs and curriculum, including programs and curriculum to meet the needs of diverse ethnic and cultural groups;

(4) sponsorship and management of international exchanges of teachers and other educational professionals between the United States, Canada, and Mexico involved in environmental programs and issues;

(5) maintenance or support of a library of environmental education materials, information, literature, and technologies, with electronic as well as hard copy accessibility;

(6) evaluation and dissemination of environmental education materials, training methods, and related programs;

(7) sponsorship of conferences, seminars, and related forums for the advancement and development of environmental education and training curricula and materials, including international conferences, seminars, and forums;

(8) supporting effective partnerships and networks and the use of distant learning technologies; and

(9) such other activities as the Administrator determines to be consistent with the policies of this chapter.

Special emphasis should be placed on developing environmental education programs, workshops, and training tools that are portable and can be broadly disseminated.

(c) Grants

(1) The Administrator shall make a grant on an annual basis to an institution of higher education or other institution which is a not-for-profit institution (or consortia of such institutions) to operate the environmental education and training program required by this section.

(2) Any institution of higher education or other institution (or consortia of such institutions) which is a not-for-profit organization and is interested in receiving a grant under this section may submit to the Administrator an application in such form and containing such information as the Administrator may require.

(3) The Administrator shall award grants under this section on the basis of—

(A) the capability to develop environmental education and training programs;

(B) the capability to deliver training to a range of participants and in a range of settings;

(C) the expertise of the staff in a range of appropriate disciplines;

(D) the relative economic effectiveness of the program in terms of the ratio of overhead costs to direct services;

(E) the capability to make effective use of existing national environmental education resources and programs;

(F) the results of any evaluation under paragraph (5) of this subsection; and

(G) such other factors as the Administrator deems appropriate.

(4) No funds made available to carry out this section shall be used for the acquisition of real property (including buildings) or the construction or substantial modification of any building.

(5) The Administrator shall establish procedures for a careful and detailed review and evaluation of the environmental education and training program to determine whether the quality of the program being operated by the grantee warrants continued support under this section.

(d) Eligibility

(1) Individuals eligible for participation in the program are teachers, faculty, administrators and related support staff associated with local education agencies, colleges, and universities, employees of State education, environmental protection, and natural resource departments, and employees of not-for-profit organizations involved in environmental education activities and issues.

(2) Individuals shall be selected for participation in the program based on applications which shall be in such form as the Administrator determines to be appropriate.

(3) In selecting individuals to participate in the program, the Administrator shall provide for a wide geographic representation and a mix of individuals, including minorities, working at primary, secondary, postsecondary levels, and with appropriate other agencies and departments.

(4) Individuals selected for participation in the program may be provided with a stipend to cover travel and accommodations from grant funds awarded pursuant to this section in such amounts as the Administrator determines to be appropriate.

(Pub. L. 101–619, § 5, Nov. 16, 1990, 104 Stat. 3328.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5503 of this title.

§ 5505. Environmental education grants

(a) Cooperative agreements and grants

The Administrator may enter into a cooperative agreement or contract, or provide financial assistance in the form of a grant, to support projects to design, demonstrate, or disseminate practices, methods, or techniques related to environmental education and training.

(b) Eligible activities

Activities eligible for grant support pursuant to this section shall include, but not be limited to, environmental education and training programs for—

(1) design, demonstration, or dissemination of environmental curricula, including development of educational tools and materials;

(2) design and demonstration of field methods, practices, and techniques, including assessment of environmental and ecological conditions and analysis of environmental pollution problems;

(3) projects to understand and assess a specific environmental issue or a specific environmental problem;

(4) provision of training or related education for teachers, faculty, or related personnel in a specific geographic area or region; and

(5) design and demonstration of projects to foster international cooperation in addressing environmental issues and problems involving the United States and Canada or Mexico.

(c) Priority projects

In making grants pursuant to this section, the Administrator shall give priority to those proposed projects which will develop—

(1) a new or significantly improved environmental education practice, method, or technique;

(2) an environmental education practice, method, or technique which may have wide application;

(3) an environmental education practice, method, or technique which addresses a skill or scientific field identified as a priority in the report developed pursuant to section 5508(d) of this title; and

(4) an environmental education practice, method, or technique which addresses an environmental issue which, in the judgment of the Administrator, is of a high priority.

(d) Scope of program and implementing regulations

The program established by this section shall include solicitations for projects, selection of

suitable projects from among those proposed, supervision of such projects, evaluation of the results of projects, and dissemination of information on the effectiveness and feasibility of the practices, methods, techniques and processes. Within one year of November 16, 1990, the Administrator shall publish regulations to assure satisfactory implementation of each element of the program authorized by this section.

(e) Solicitation notices

Within 90 days after the date on which amounts are first appropriated for carrying out this chapter, and each year thereafter, the Administrator shall publish a solicitation for environmental education grants. The solicitation notice shall prescribe the information to be included in the proposal and other information sufficient to permit the Administrator to assess the project.

(f) Applications

Any local education agency, college or university, State education agency or environmental agency, not-for-profit organization, or noncommercial educational broadcasting entity may submit an application to the Administrator in response to the solicitations required by subsection (e) of this section.

(g) Performance of projects

Each project under this section shall be performed by the applicant, or by a person satisfactory to the applicant and the Administrator.

(h) Matching requirements

Federal funds for any demonstration project under this section shall not exceed 75 percent of the total cost of such project. For the purposes of this section, the non-Federal share of project costs may be provided by inkind contributions and other noncash support. In cases where the Administrator determines that a proposed project merits support and cannot be undertaken without a higher rate of Federal support, the Administrator may approve grants under this section with a matching requirement other than that specified in this subsection, including full Federal funding.

(i) Limitations on grants

Grants under this section shall not exceed $250,000. In addition, 25 percent of all funds obligated under this section in a fiscal year shall be for grants of not more than $5,000.

(Pub. L. 101–619, § 6, Nov. 16, 1990, 104 Stat. 3330.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5503 of this title.

§ 5506. Environmental internships and fellowships

(a) Postsecondary students and in-service teachers

The Administrator shall, in consultation with the Office of Personnel Management and other appropriate Federal agencies, provide for internships by postsecondary level students and fellowships for in-service teachers with agencies of the Federal Government.

(b) Purpose

The purpose of internships and fellowships pursuant to this section shall be to provide college level students and in-service teachers with an opportunity to work with professional staff of Federal agencies involved in environmental issues and thereby gain an understanding and appreciation of such issues and the skills and abilities appropriate to such professions.

(c) Minimum number of internships and fellowships

The Administrator shall, to the extent practicable, support not less than 250 internships each year and not less than 50 fellowships each year.

(d) Management of programs; eligible agencies

The internship and fellowship programs shall be managed by the Office of Environmental Education. Interns and fellows may serve in appropriate agencies of the Federal Government including, but not limited to, the Environmental Protection Agency, the Fish and Wildlife Service, the National Oceanic and Atmospheric Administration, the Council on Environmental Quality, Federal natural resource management agencies, the Department of Agriculture, and the National Science Foundation.

(e) Length of internships and fellowships; funding

Interns shall be hired on a temporary, full-time basis for not to exceed 6 months and shall be compensated appropriately. Fellows shall be hired on a temporary full-time basis for not to exceed 12 months and shall be compensated appropriately. Federal agencies hiring interns shall provide the funds necessary to support salaries and related costs.

(f) Eligible individuals

(1) Individuals eligible for participation in the internship program are students enrolled at accredited colleges or universities who have successfully completed not less than four courses or the equivalent in environmental sciences or studies, as determined by the Administrator.

(2) Individuals eligible for participation in the fellowship program are in-service teachers who are currently employed by a local education agency and have not less than 2 years experience in teaching environmental education, environmental sciences, or related courses.

(g) Applications

Individuals shall be selected for internships and fellowships based on applications which shall be in such form as the Administrator considers appropriate.

(h) Geographic, cultural, and minority representation

In selecting individuals for internships and fellowships, the Administrator shall provide for wide geographic, cultural, and minority representation.

(Pub. L. 101–619, § 7, Nov. 16, 1990, 104 Stat. 3331.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5503 of this title.

§ 5507. Environmental education awards

(a) National awards

The Administrator shall provide for a series of national awards recognizing outstanding contributions to environmental education.

(b) Required awards

In addition to such other awards as the Administrator may provide for, national environmental awards shall include—

(1) The ''Theodore Roosevelt Award'' to be given in recognition of an outstanding career in environmental education, teaching, or administration;

(2) The ''Henry David Thoreau Award'' to be given in recognition of an outstanding contribution to literature on the natural environment and environmental pollution problems;

(3) The ''Rachael Carson Award'' to be given in recognition of an outstanding contribution in print, film, or broadcast media to public education and information on environmental issues or problems; and

(4) The ''Gifford Pinchot Award'' to be given in recognition of an outstanding contribution to education and training concerning forestry and natural resource management, including multiple use and sustained yield land management.

(c) Nomination by Environmental Education Advisory Council

Recipients of education awards provided for in subsection (b) of this section shall be nominated by the Environmental Education Advisory Council provided for in section 5508 of this title.

(d) President's Environmental Youth Awards

The Administrator may provide for the ''President's Environmental Youth Awards'' to be given to young people in grades kindergarten through twelfth for an outstanding project to promote local environmental awareness.

(e) Cash awards for elementary and secondary education teachers and local educational agencies

(1) The Chairman of the Council on Environmental Quality, on behalf of the President, is authorized to develop and administer an awards program to recognize elementary and secondary education teachers and their local educational agencies who demonstrate excellence in advancing environmental education through innovative approaches. One teacher, and the local education agency employing such teacher, from each State, including the District of Columbia and the Commonwealth of Puerto Rico, are eligible to be selected for an award pursuant to this subsection.

(2) The Chairman is authorized to provide a cash award of up to $2,500 to each teacher selected to receive an award pursuant to this section, which shall be used to further the recipient's professional development in environmental education.

(3) The Chairman is also authorized to provide a cash award of up to $2,500 to the local education agency employing any teacher selected to receive an award pursuant to this section, which shall be used to fund environmental educational activities and programs. Such awards may not be used for construction costs, general expenses, salaries, bonuses, or other administrative expenses.

(Pub. L. 101–619, § 8, Nov. 16, 1990, 104 Stat. 3332.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5503, 5510 of this title.

§ 5508. Environmental Education Advisory Council and Task Force

(a) Establishment

There is hereby established a National Environmental Education Advisory Council and a Federal Task Force on Environmental Education.

(b) Advisory Council; duties; members; terms of office; compensation; termination

(1) The Advisory Council shall advise, consult with, and make recommendations to, the Administrator on matters relating to activities, functions, and policies of the Agency under this chapter. With respect to such matters, the Council shall be the exclusive advisory entity for the Administrator. The Council may exchange information with other Advisory Councils established by the Administrator. The Office of Environmental Education shall provide staff support to the Council.

(2) The Advisory Council shall consist of 11 members appointed by the Administrator after consultation with the Secretary. Two members shall be appointed to represent primary and secondary education (one of whom shall be a classroom teacher); two members shall be appointed to represent colleges and universities; two members shall be appointed to represent not-for-profit organizations involved in environmental education; two members shall be appointed to represent State departments of education and natural resources; two representatives shall be appointed to represent business and industry; and one representative shall be appointed to represent senior Americans. A representative of the Secretary shall serve as an ex officio member of the Advisory Council. The conflict of interest provision at section 208(a) of title 18 shall not apply to members' participation in particular matters which affect the financial interests of employers which they represent pursuant to this subsection.

(3) The Administrator shall provide that members of the Council represent the various geographic regions of the country, has minority representation, and that the professional backgrounds of the members include scientific, policy, and other appropriate disciplines.

(4) Each member of the Advisory Council shall hold office for a term of 3 years, except that—

(A) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term; and

(B) the terms of the members first taking office shall expire as follows: four shall expire 3 years after November 16, 1990, four shall expire 2 years after November 16, 1990, and three shall expire 1 year after November 16, 1990, as designated by the Administrator at the time of appointment.

(5) Members of the Advisory Council appointed under this section shall, while attending meetings of the Council or otherwise engaged in busi-

ness of the Council, receive compensation and allowances at a rate to be fixed by the Administrator, but not exceeding the daily equivalent of the annual rate of basic pay in effect for grade GS–18 of the General Schedule for each day (including travel time) during which they are engaged in the actual performance of duties vested in the Council. While away from their homes or regular places of business in the performance of services for the Council, members of the Council shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b)[1] of title 5.

(6) Section 14(a) of the Federal Advisory Committee Act relating to termination, shall not apply to the Advisory Council.

(c) Federal Task Force on Environmental Education; duties; members

(1) The Federal Task Force on Environmental Education shall advise, consult with and make recommendations to the Administrator on matters relating to implementation of this chapter and assure the coordination of such implementation activities with related activities of other Federal agencies.

(2) Membership of the Task Force shall include the—

(A) Department of Education,

(B) Department of the Interior,

(C) Department of Agriculture,

(D) the Environmental Protection Agency,

(E) National Oceanic and Atmospheric Administration,

(F) Council on Environmental Quality,

(G) Tennessee Valley Authority, and

(H) National Science Foundation.

(3) The Environmental Protection Agency shall chair the Task Force.

(4) The Administrator may ask other Federal agencies to participate in the meetings and activities of the Task Force where the Administrator finds it appropriate in carrying out the requirements of this chapter.

(d) Reports

(1) The Advisory Council shall, after providing for public review and comment, submit to the Congress, within 24 months of November 16, 1990, and biennially thereafter, a report which shall—

(A) describe and assess the extent and quality of environmental education in the Nation;

(B) provide a general description of the activities conducted pursuant to this chapter and related authorities over the previous 2-year period;

(C) summarize major obstacles to improving environmental education (including environmental education programs relating to national parks and wildlife refuges) and make recommendations for addressing such obstacles;

(D) identify personnel skills, education, and training needed to respond to current and anticipated environmental problems and make recommendations for actions to assure sufficient educational and training opportunities in these professions; and

(E) describe and assess the extent and quality of environmental education programs available to senior Americans and make recommendations thereon; describe the various Federal agency programs to further senior environmental education; and evaluate and make recommendations as to how such educational apparatuses could best be coordinated with nonprofit senior organizations across the Nation, and environmental education institutions and organizations now in existence.

(2) The Federal Task Force on Environmental Education shall review and comment on a draft of the report to Congress.

(Pub. L. 101–619, § 9, Nov. 16, 1990, 104 Stat. 3333.)

REFERENCES IN TEXT

Section 5703 of title 5, referred to in subsec. (b)(5), was amended generally by Pub. L. 94–22, May 19, 1975, § 4, 89 Stat. 85, and, as so amended, does not contain a subsec. (b).

Section 14(a) of the Federal Advisory Committee Act, referred to in subsec. (b)(6), is section 14(a) of Pub. L. 92–463, which is set out in the Appendix to Title 5, Government Organization and Employees.

REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, § 101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5503, 5505, 5507 of this title.

§ 5509. National Environmental Education and Training Foundation

(a) Establishment and purposes

(1) Establishment

(A) There is hereby established the National Environmental Education and Training Foundation. The Foundation is established in order to extend the contribution of environmental education and training to meeting critical environmental protection needs, both in this country and internationally; to facilitate the cooperation, coordination, and contribution of public and private resources to create an environmentally advanced educational system; and to foster an open and effective partnership among Federal, State, and local government, business, industry, academic institutions, community based environmental groups, and international organizations.

(B) The Foundation is a charitable and nonprofit corporation whose income is exempt from tax, and donations to which are tax deductible to the same extent as those organizations listed pursuant to section 501(c) of title 26. The Foundation is not an agency or establishment of the United States.

(2) Purposes

The purposes of the Foundation are—

(A) subject to the limitation contained in the final sentence of subsection (d) of this

[1] See References in Text note below.

section, to encourage, accept, leverage, and administer private gifts for the benefit of, or in connection with, the environmental education and training activities and services of the United States Environmental Protection Agency;

(B) to conduct such other environmental education activities as will further the development of an environmentally conscious and responsible public, a well-trained and environmentally literate workforce, and an environmentally advanced educational system;

(C) to participate with foreign entities and individuals in the conduct and coordination of activities that will further opportunities for environmental education and training to address environmental issues and problems involving the United States and Canada or Mexico.

(3) Programs

The Foundation will develop, support, and/or operate programs and projects to educate and train educational and environmental professionals, and to assist them in the development and delivery of environmental education and training programs and studies.

(b) Board of Directors

(1) Establishment and membership

(A) The Foundation shall have a governing Board of Directors (hereafter referred to in this section as ''the Board''), which shall consist of 13 directors, each of whom shall be knowledgeable or experienced in the environment, education and/or training. The Board shall oversee the activities of the Foundation and shall assure that the activities of the Foundation are consistent with the environmental and education goals and policies of the Environmental Protection Agency and with the intents and purposes of this chapter. The membership of the Board, to the extent practicable, shall represent diverse points of view relating to environmental education and training.

(B) The Administrator of the Environmental Protection Agency shall, pursuant to paragraph (2), appoint the Director of the Office of Environmental Education established pursuant to section 5502 of this title as an ex-officio member of the Board. Ex officio membership shall also be offered to other Federal agencies or departments with an interest and/or experience in environmental education and training.

(C) Appointment to the Board shall not constitute employment by, or the holding of an office of, the United States for the purposes of any Federal law.

(2) Appointment and terms

(A) Members of the Board shall be appointed by the Administrator of the Environmental Protection Agency.

(B) Within 90 days of November 16, 1990, and as appropriate thereafter, the Administrator shall publish in the Federal Register an announcement of appointments of Directors of the Board. At the same time, the Administrator shall transmit a copy of such announcement to the Education and Labor Committee and the Committee on Energy and Commerce of the House of Representatives and the Committee on Environment and Public Works of the United States Senate. Such appointments shall become final and effective 90 days after publication in the Federal Register.

(C) The directors shall be appointed for terms of 4 years, except that the Administrator, in making the initial appointments to the Board, shall appoint 5 directors to a term of 2 years, 4 directors to a term of 3 years, and 4 directors to a term of 4 years. The Administrator shall appoint an individual to serve as a director in the event of a vacancy on the Board within 60 days of said vacancy in the manner in which the original appointment was made. No individual may serve more than 2 consecutive terms as a director.

(3) Chair

The Chair shall be elected by the Board from its members for a 2-year term.

(4) Quorum

A majority of the current membership of the Board shall constitute a quorum for the transaction of business.

(5) Meetings

The Board shall meet at the call of the Chair at least twice a year. If a Director misses three consecutive regularly scheduled meetings, that individual may be removed from the Board and that vacancy filled in accordance with this subsection.

(6) Reimbursement of expenses

Members of the Board shall serve without pay, but may be reimbursed for the actual and necessary traveling and subsistence expenses incurred by them in the performance of the duties of the Foundation.

(7) General powers

(A) The Board may complete the organization of the Foundation by—

(i) appointing officers and employees;

(ii) adopting a constitution and bylaws consistent with the purposes of the Foundation and the provisions of this section; and

(iii) undertaking such other acts as may be necessary to carry out the provisions of this section.

(B) The following limitations apply with respect to the appointment of officers and employees of the Foundation:

(i) Officers and employees may not be appointed until the Foundation has sufficient funds to pay for their service. Officers and employees of the Foundation shall be appointed without regard to the provisions of title 5 governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 or subchapter III of chapter 53 of title 5 relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay in effect for grade GS–18 of the General Schedule.

(ii) The first officer or employee appointed by the Board shall be the Executive Director of the Foundation who—

(I) shall serve, at the direction of the Board, as the Secretary of the Board and the Foundation's chief executive officer; and

(II) shall be experienced in matters relating to environmental education and training.

(c) Rights and obligations of Foundation

(1) In general

The Foundation—

(A) shall have perpetual succession;

(B) may conduct business throughout the several States, territories, and possessions of the United States and abroad;

(C) shall have its principal offices in the District of Columbia or in the greater metropolitan area; and

(D) shall at all times maintain a designated agent authorized to accept service of process for the Foundation.

The service of notice to, or service of notice upon, the agent required under paragraph (4), or mailed to the business address of such agent, shall be deemed as service upon or notice to the Foundation.

(2) Seal

The Foundation shall have an official seal selected by the Board which shall be judicially noticed.

(3) Powers

To carry out its purposes under subsection (a) of this section, the Foundation shall have, in addition to the powers otherwise given it under this section, the usual powers of a corporation acting as a trustee, including the power—

(A) to accept, receive, solicit, hold, administer, and use any gift, devise, or bequest, either absolutely or in trust, of real or personal property or any income therefrom or other interest therein;

(B) to acquire by purchase or exchange any real or personal property or interest therein;

(C) unless otherwise required by the instrument of transfer, to sell, donate, lease, invest, reinvest, retain, or otherwise dispose of any property or income therefrom;

(D) to sue, or to be sued, and complain or defend itself in any court of competent jurisdiction, except that the Directors of the Board shall not be personally liable, except for gross negligence;

(E) to enter into contracts or other arrangements with public agencies and private organizations and persons and to make such payments as may be necessary to carry out its functions; and

(F) to do any and all acts necessary and proper to carry out the purposes of the Foundation.

(d) Conditions on donations

(1) For the purposes of this section, a gift, devise, or bequest may be accepted by the Foundation even though it is encumbered, restricted, or subject to beneficial interests of private persons if any current future interest therein is for the benefit of the Foundation.

(2) No donation, gift, devise, bequest, property (either real or personal), voluntary services, or any other thing of value may be accepted by the Foundation if it—

(A) is contingent upon the transmission by the Foundation of materials or information prepared by the donor or a third party in such a fashion as to convey a particular point of view favorable to the economic interests of the donor or its constituents or associates; or

(B) in the judgment of the Board carries with it an explicit or implied requirement on the part of the Foundation to do a specific act or make general representations which are to the benefit of the donor and which are not consistent with the environmental and education goals and policies of the Environmental Protection Agency and with the intents and purposes of this chapter.

(3) No materials bearing ''logos'', letterhead or other means of identification associated with a donor or third party may be transmitted by the Foundation, for use in environmental education and training except as required pursuant to subsection (f) of this section.

(e) Administrative services and support

Subject to the requirements of this subsection, the Administrator may provide personnel, facilities, and other administrative services to the Foundation, including reimbursement of expenses under subsection (b)(6) of this section, not to exceed then current Federal Government per diem rates, for a period of up to 4 years from November 16, 1990, and may accept reimbursement therefor, to be deposited in the Treasury to the credit of the appropriations then current and chargeable for the costs of providing such services. With respect to personnel, the Administrator may provide no more than 1 full-time employee to serve the Foundation in a policy capacity, and may provide clerical and other support staff at a level equivalent to 2 full-time equivalent employees to the Foundation, for a period not to exceed 2 years from the date of initial assignment of any personnel for this purpose.

(f) Report

The Foundation shall, as soon as practicable after the end of each fiscal year, transmit to Congress a report of its proceedings and activities during the year, including a full and complete statement of its receipts, expenditures, and investments.

(g) Volunteer status

The Administrator may accept, without regard to the civil service classification laws, rules, or regulations, the services of the Foundation, the Board, and the officers and employees of the Board, without compensation from the Environmental Protection Agency, as volunteers in the performance of the functions authorized herein, in the manner provided for under this section.

(h) Audits and petition of Attorney General for equitable relief

For purposes of the Act entitled ''An Act for audit of accounts of private corporations established under Federal law'', approved August 30, 1964 (Public Law 88–504; 36 U.S.C. 1101–1103), the Foundation shall be treated as a private corporation established under Federal law.

(i) United States release from liability

The United States shall not be liable for any debts, defaults, acts, or omissions of the Foundation nor shall the full faith and credit of the United States extend to any obligation of the Foundation.

(j) Amendment and repeal

The Congress expressly reserves the right to repeal or amend this section at any time.

(Pub. L. 101–619, § 10, Nov. 16, 1990, 104 Stat. 3335.)

REFERENCES IN TEXT

The provisions of title 5 governing appointments in the competitive service, referred to in subsec. (b)(7)(B)(i), are classified generally to section 3301 et seq. of Title 5, Government Organization and Employees.

The civil service classification laws, referred to in subsec. (g), probably should refer to civil service and classification laws. The civil service laws are set forth in Title 5. See, particularly, section 3301 et seq. of Title 5. The classification laws are set forth in chapter 51 and subchapter III of chapter 53 of Title 5.

The Act entitled ''An Act for audit of accounts of private corporations established under Federal law'', approved August 30, 1964 (Public Law 88–504, 36 U.S.C. 1101–1103), referred to in subsec. (h), is Pub. L. 88–504, Aug. 30, 1964, 78 Stat. 635, as amended, which is classified principally to chapter 42 (§ 1101 et seq.) of Title 36, Patriotic Societies and Observances. For complete classification of this Act to the Code, see Tables.

CHANGE OF NAME

Committee on Education and Labor of House of Representatives treated as referring to Committee on Economic and Educational Opportunities of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Economic and Educational Opportunities of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Fifth Congress, Jan. 7, 1997.

Committee on Energy and Commerce of House of Representatives treated as referring to Committee on Commerce of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2.

REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, § 101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5502, 5510 of this title.

§ 5510. Authorization

(a) Authorization of appropriations

There is hereby authorized to be appropriated to the Environmental Protection Agency to carry out this chapter not to exceed $12,000,000 for each fiscal year 1992 and 1993, not to exceed $13,000,000 for fiscal year 1994, and not to exceed $14,000,000 for each fiscal year 1995 and 1996.

(b) Limitations

Of such sums appropriated in a fiscal year, 25 percent shall be available for the activities of the Office of Environmental Education, 25 percent shall be available for the operation of the environmental education and training program, 38 percent shall be available for environmental education grants, 10 percent shall be available for support of the National Environmental Education and Training Foundation, and 2 percent shall be available to support awards pursuant to section 5507(e) of this title.

(c) Availability of funds to National Environmental Education and Training Foundation

Funds appropriated pursuant to this section may be made available to the National Environmental Education and Training Foundation to—

(1) match partially or wholly the amount or value of contributions (whether in currency, services, or property) made to the Foundation by private persons and State and local governments; and

(2) provide administrative services under section 5509(d) of this title:

Provided, That the Administrator determines that such funds will be used to carry out the statutory purposes of the Foundation in a manner consistent with the goals, objectives and programs of this chapter.

(Pub. L. 101–619, § 11, Nov. 16, 1990, 104 Stat. 3339.)

CHAPTER 66—MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY FOUNDATION

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§ 5601. Findings

The Congress finds that—

(1) for three decades, Congressman Morris K. Udall has served his country with distinction and honor;

(2) Congressman Morris K. Udall has had a lasting impact on this Nation's environment, public lands, and natural resources, and has instilled in this Nation's youth a love of the air, land, and water;

(3) Congressman Morris K. Udall has been a champion of the rights of Native Americans and Alaska Natives and has used his leader-

ship in the Congress to strengthen tribal self-governance; and

(4) it is a fitting tribute to the leadership, courage, and vision Congressman Morris K. Udall exemplifies to establish in his name programs to encourage the continued use, enjoyment, education, and exploration of our Nation's rich and bountiful natural resources.

(Pub. L. 102–259, § 3, Mar. 19, 1992, 106 Stat. 78.)

SHORT TITLE

Section 1 of Pub. L. 102–259 provided that: ''This Act [enacting this chapter] may be cited as the 'Morris K. Udall Scholarship and Excellence in National Environmental and Native American Public Policy Act of 1992'.''

REPEAL OF PREVIOUS LEGISLATION

Section 2 of Pub. L. 102–259 provided that: ''The Morris K. Udall Scholarship and Excellence in National Environmental Policy Act, S. 1176, One Hundred Second Congress, is hereby repealed.'' [For details concerning purported pocket veto of S. 1176, One Hundred Second Congress, see Weekly Compilation of Presidential Documents, vol. 28 (1992), no. 12, p. 507, Mar. 19, Presidential Statement, and Cong. Rec., vol. 138, pt. 3, p. 4078.]

§ 5602. Definitions

For the purposes of this chapter—

(1) the term ''Board'' means the Board of Trustees of the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation established under 5603(b) of this title;

(2) the term ''Center'' means the Udall Center for Studies in Public Policy established at the University of Arizona in 1987;

(3) the term ''eligible individual'' means a citizen or national of the United States or a permanent resident alien of the United States;

(4) the term ''Foundation'' means the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation established under section 5603(a) of this title;

(5) the term ''fund'' means the Morris K. Udall Scholarship and Excellence in National Environmental Policy Trust Fund established in section 5606 of this title;

(6) the term ''institution of higher education'' has the same meaning given to such term by section 1141(a) of this title; and

(7) the term ''State'' means each of the several States, the District of Columbia, Guam, the Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federal States of Micronesia, and the Republic of Palau (until the Compact of Free Association is ratified).

(Pub. L. 102–259, § 4, Mar. 19, 1992, 106 Stat. 78.)

REFERENCES IN TEXT

For ratification of Compact of Free Association with the Republic of Palau, referred to in par. (7), see Proc. No. 6726, Sept. 27, 1994, 59 F.R. 49777, set out as a note under section 1931 of Title 48, Territories and Insular Possessions.

§ 5603. Establishment of Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation

(a) Establishment

There is established as an independent entity of the executive branch of the United States Government, the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation.

(b) Board of Trustees

The Foundation shall be subject to the supervision and direction of the Board of Trustees. The Board shall be comprised of twelve trustees, eleven of whom shall be voting members of the Board, as follows:

(1) Two Trustees, shall be appointed by the President, with the advice and consent of the Senate, after considering the recommendation of the Speaker of the House of Representatives, in consultation with the Minority Leader of the House of Representatives.

(2) Two Trustees, shall be appointed by the President, with the advice and consent of the Senate, after considering the recommendation of the President pro tempore of the Senate, in consultation with the Majority and Minority Leaders of the Senate.

(3) Five Trustees, not more than three of whom shall be of the same political party, shall be appointed by the President with the advice and consent of the Senate, who have shown leadership and interest in—

(A) the continued use, enjoyment, education, and exploration of our Nation's rich and bountiful natural resources, such as presidents of major foundations involved with the environment; or

(B) in the improvement of the health status of Native Americans and Alaska Natives and in strengthening tribal self-governance, such as tribal leaders involved in health and public policy development affecting Native American and Alaska Native communities.

(4) The Secretary of the Interior, or the Secretary's designee, who shall serve as a voting ex officio member of the Board but shall not be eligible to serve as Chairperson.

(5) The Secretary of Education, or the Secretary's designee, who shall serve as a voting ex officio member of the Board but shall not be eligible to serve as Chairperson.

(6) The President of the University of Arizona shall serve as a nonvoting, ex officio member and shall not be eligible to serve as chairperson.[1]

(c) Term of office

(1)[2] IN GENERAL.—The term of office of each member of the Board shall be six years, except that—

(A) in the case of the Trustees first taking offices—

(i) as designated by the President, one Trustee appointed pursuant to subsection (b)(2) of this section and two trustees ap-

[1] So in original. Probably should be capitalized.

[2] So in original. No par. (2) has been enacted.

pointed pursuant to subsection (b)(3) of this section shall each serve two years; and

(ii) as designated by the President, one Trustee appointed pursuant to subsection (b)(1) of this section and two Trustees appointed pursuant to subsection (b)(3) of this section shall each serve four years; and

(iii) as designated by the President, one Trustee appointed pursuant to subsection (b)(1) of this section, one Trustee appointed pursuant to subsection (b)(2) of this section, and one Trustee appointed pursuant to subsection (b)(3) of this section shall each serve six years;

(B) a Trustee appointed to fill a vacancy shall serve for the remainder of the term for which the Trustee's predecessor was appointed and shall be appointed in the same manner as the original appointment for that vacancy was made; and

(C) a Trustee may serve after the expiration of the Trustee's term until a successor has been chosen.

(d) Travel and subsistence pay

Trustees shall serve without pay, but shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of their duties as members of the Board.

(e) Location of Foundation

The Foundation shall be located in Tucson, Arizona.

(f) Executive Director

(1) In general

There shall be an Executive Director of the Foundation who shall be appointed by the Board. The Executive Director shall be the chief executive officer of the Foundation and shall carry out the functions of the Foundation subject to the supervision and direction of the Board. The Executive Director shall carry out such other functions consistent with the provisions of this chapter as the Board shall prescribe.

(2) Compensation

The Executive Director of the Foundation shall be compensated at the rate specified for employees in level IV of the Executive Schedule under section 5315 of title 5.

(Pub. L. 102–259, § 5, Mar. 19, 1992, 106 Stat. 79; Pub. L. 104–208, div. A, title I, § 101(f) [title VI, § 655], Sept. 30, 1996, 110 Stat. 3009–314, 3009–369.)

AMENDMENTS

1996—Subsec. (c)(1)(C). Pub. L. 104–208 added subpar. (C).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5602 of this title.

§ 5604. Purpose of Foundation

It is the purpose of the Foundation to—

(1) increase awareness of the importance of and promote the benefit and enjoyment of the Nation's natural resources;

(2) foster among the American population greater recognition and understanding of the role of the environment, public lands and resources in the development of the United States;

(3) identify critical environmental issues;

(4) establish a Program for Environmental Policy Research and an Environmental Conflict Resolution at the Center;

(5) develop resources to properly train professionals in the environmental and related fields;

(6) provide educational outreach regarding environmental policy; and

(7) develop resources to properly train Native American and Alaska Native professionals in health care and public policy.

(Pub. L. 102–259, § 6, Mar. 19, 1992, 106 Stat. 80.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5605 of this title.

§ 5605. Authority of Foundation

(a) Authority of Foundation

(1) In general

(A) The Foundation, in consultation with the Center, is authorized to identify and conduct such programs, activities, and services as the Foundation considers appropriate to carry out the purposes described in section 5604 of this title. The Foundation shall have the authority to award scholarships, fellowships, internships, and grants and fund the Center to carry out and manage other programs, activities and services.

(B) The Foundation may provide, directly or by contract, for the conduct of national competition for the purpose of selecting recipients of scholarships, fellowships, internships, and grants awarded under this chapter.

(C) The Foundation may award scholarships, fellowships, internships and grants to eligible individuals in accordance with the provisions of this chapter for study in fields related to the environment and Native American and Alaska Native health care and tribal public policy. Such scholarships, fellowships, internships and grants shall be awarded to eligible individuals who meet the minimum criteria established by the Foundation.

(2) Scholarships

(A) Scholarships shall be awarded to outstanding undergraduate students who intend to pursue careers related to the environment and to outstanding Native American and Alaska Native undergraduate students who intend to pursue careers in health care and tribal public policy.

(B) An eligible individual awarded a scholarship under this chapter may receive payments under this chapter only during such periods as the Foundation finds that the eligible individual is maintaining satisfactory proficiency and devoting full time to study or research and is not engaging in gainful employment other than employment approved by the Foundation pursuant to regulations of the Board.

(C) The Foundation may require reports containing such information, in such form, and to be filed at such times as the Foundation determines to be necessary from any eligible indi-

vidual awarded a scholarship under this chapter. Such reports shall be accompanied by a certificate from an appropriate official at the institution of higher education, approved by the Foundation, stating that such individual is making satisfactory progress in, and is devoting essentially full time to study or research, except as otherwise provided in this subsection.

(3) Fellowships

Fellowships shall be awarded to—

(A) outstanding graduate students who intend to pursue advanced degrees in fields related to the environment and to outstanding Native American and Alaska Native graduate students who intend to pursue advanced degrees in health care and tribal public policy, including law and medicine; and

(B) faculty from a variety of disciplines to bring the expertise of such faculty to the Foundation.

(4) Internships

Internships shall be awarded to—

(A) deserving and qualified individuals to participate in internships in Federal, State and local agencies or in offices of major environmental organizations pursuant to section 5604 of this title; and

(B) deserving and qualified Native American and Alaska Native individuals to participate in internships in Federal, State and local agencies or in offices of major public health or public policy organizations pursuant to section 5604 of this title.

(5) Grants

The Foundation shall award grants to the Center—

(A) to provide for an annual panel of experts to discuss contemporary environmental issues;

(B) to conduct environmental policy research;

(C) to conduct research on Native American and Alaska Native health care issues and tribal public policy issues; and

(D) for visiting policymakers to share the practical experiences of such for visiting policymakers with the Foundation.

(6) Repository

The Foundation shall provide direct or indirect assistance from the proceeds of the Fund[1] to the Center to maintain the current site of the repository for Morris K. Udall's papers and other such public papers as may be appropriate and assure such papers' availability to the public.

(7) Coordination

The Foundation shall assist in the development and implementation of a Program for Environmental Policy Research and Environmental Conflict Resolution to be located at the Center.

(b) Morris K. Udall Scholars

Recipients of scholarships, fellowships, internships, and grants under this chapter shall be known as ''Morris K. Udall Scholars''.

[1] So in original. Probably should not be capitalized.

(c) Program priorities

The Foundation shall determine the priority of the programs to be carried out under this chapter and the amount of funds to be allocated for such programs. However, not less than 50 percent shall be utilized for the programs set forth in section 5604(a)(2) of this title, section 5604(a)(3) of this title, and section 5604(a)(4) of this title, not more than 15 percent shall be used for salaries and other administrative purposes, and not less than 20 percent shall be appropriated to the Center for section 5604(a)(5) of this title, section 5604(a)(6) of this title, and section 5604(a)(7) of this title conditioned on a 25-percent match from other sources and further conditioned on adequate space at the Center being made available for the Executive Director and other appropriate staff of the Foundation by the Center.

(Pub. L. 102–259, §7, Mar. 19, 1992, 106 Stat. 81.)

§ 5606. Establishment of Morris K. Udall Scholarship and Excellence in National Environmental Policy Trust Fund

(a) Establishment of fund

There is established in the Treasury of the United States a trust fund to be known as the ''Morris K. Udall Scholarship and Excellence in National Environmental Policy Trust Fund'' to be administered by a Foundation. The fund shall consist of amounts appropriated to it pursuant to section 5609 of this title and amounts credited to it under subsection (b) of this section.

(b) Investment of fund assets

(1)[1] IN GENERAL.—It shall be the duty of the Secretary of the Treasury to invest, at the direction of the Foundation Board, in full the amounts appropriated to the Fund.[2] Such investments shall be in public debt securities with maturities suitable to the needs of the Fund.[2] Investments in public debt securities shall bear interest ''at rates determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States'' of comparable maturity.

(Pub. L. 102–259, §8, Mar. 19, 1992, 106 Stat. 82.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5602 of this title.

§ 5607. Expenditures and audit of trust fund

(a) In general

The Foundation shall pay from the interest and earnings of the Fund[1] such sums as the Board determines are necessary and appropriate to enable the Foundation to carry out the provisions of this chapter.

(b) Audit by General Accounting Office

The activities of the Foundation and the Center under this chapter may be audited by the General Accounting Office under such rules and regulations as may be prescribed by the Comp-

[1] So in original. No par. (2) has been enacted.

[2] So in original. Probably should not be capitalized.

[1] So in original. Probably should not be capitalized.

troller General of the United States. Representatives of the General Accounting Office shall have access to all books, accounts, records, reports filed and all other papers, things, or property belonging to or in use by the Foundation and the Center, pertaining to such federally assisted activities and necessary to facilitate the audit.

(Pub. L. 102–259, § 9, Mar. 19, 1992, 106 Stat. 83.)

§ 5608. Administrative provisions

IN GENERAL.—In order to carry out the provisions of this chapter, the Foundation may—

(1) appoint and fix the compensation of such personnel as may be necessary to carry out the provisions of this chapter, except that in no case shall employees other than the Executive Director be compensated at a rate to exceed the maximum rate for employees in grade GS–15 of the General Schedule under section 5332 of title 5;

(2) procure or fund the Center to procure temporary and intermittent services of experts and consultants as are necessary to the extent authorized by section 3109 of title 5, but at rates not to exceed the rate specified at the time of such service for level IV of the Executive Schedule under section 5315 of title 5;

(3) prescribe such regulations as the Foundation considers necessary governing the manner in which its functions shall be carried out;

(4) accept, hold, administer, and utilize gifts, both real and personal, for the purpose of aiding or facilitating the work of the Foundation;

(5) accept and utilize the services of voluntary and noncompensated personnel and reimburse such personnel for travel expenses, including per diem, as authorized by section 5703 of title 5;

(6) enter into contracts, grants, or other arrangements or modifications thereof, to carry out the provisions of this chapter, and such contracts or modifications thereof may, with the concurrence of two-thirds of the members of the Board of Trustees, be entered into without performance or other bonds, and without regard to section 5 of title 41; and

(7) make other necessary expenditures.

(Pub. L. 102–259, § 10, Mar. 19, 1992, 106 Stat. 83.)

§ 5609. Authorization of appropriations

There are authorized to be appropriated to the Fund[1] $40,000,000 to carry out the provisions of this chapter.

(Pub. L. 102–259, § 11, Mar. 19, 1992, 106 Stat. 84.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5606 of this title.

CHAPTER 67—CHRISTOPHER COLUMBUS FELLOWSHIP FOUNDATION

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5702. Christopher Columbus Fellowship Foundation.
(a) Establishment and purposes.
(b) Membership.
(c) Chairman and Vice Chairman of Foundation.
(d) Terms of office; vacancies.
(e) Expenses; no additional compensation.
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(a) Award.
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(a) In general.
(b) Investments.
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5706. Audits.
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§ 5701. Purpose

The purpose of this chapter is to establish the Christopher Columbus Fellowship Program to encourage and support research, study, and labor designed to produce new discoveries in all fields of endeavor for the benefit of mankind.

(Pub. L. 102–281, title IV, § 422, May 13, 1992, 106 Stat. 142.)

SHORT TITLE

Section 400 of title IV of Pub. L. 102–281 provided that: ''This title [enacting this chapter and provisions set out as a note under section 5112 of Title 31, Money and Finance] may be cited as the 'Frank Annunzio Act'.''

Section 421 of Pub. L. 102–281 provided that: ''This subtitle [subtitle B (§§ 421–429) of title IV of Pub. L. 102–281, enacting this chapter] may be cited as the 'Christopher Columbus Fellowship Act'.''

§ 5702. Christopher Columbus Fellowship Foundation

(a) Establishment and purposes

There is established, as an independent establishment of the executive branch, the Christopher Columbus Fellowship Foundation (hereinafter in this chapter referred to as the ''Foundation'').

(b) Membership

The Foundation shall be subject to the supervision and direction of the Board of Trustees. The Board shall be composed of 13 members as follows:

(1) 2 members appointed by the President in consultation with the President pro tempore of the Senate.

(2) 2 members appointed by the President in consultation with the Minority Leader of the Senate.

(3) 2 members appointed by the President in consultation with the Speaker of the House of Representatives.

(4) 2 members appointed by the President in consultation with the Minority Leader of the House of Representatives.

(5) 5 members appointed by the President.

(c) Chairman and Vice Chairman of Foundation

The President shall designate a Chairman and a Vice Chairman from among the members appointed by the President.

[1] So in original. Probably should not be capitalized.

(d) Terms of office; vacancies

Each member of the Board of Trustees appointed under subsection (b) of this section shall serve for a term of 6 years from the expiration of the term of such member's predecessor, except that—

(1) any member appointed to fill a vacancy occurring prior to the expiration of the term for which such member's predecessor was appointed shall be appointed for the remainder of such term; and

(2) of the members first appointed—

(A) 4 shall be appointed for a term of 2 years;

(B) 5 shall be appointed for a term of 4 years; and

(C) 4 shall be appointed for a term of 6 years,

as designated by the President.

(e) Expenses; no additional compensation

Members of the Board shall serve without pay, but shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of their duties as members of the Board.

(Pub. L. 102–281, title IV, § 423, May 13, 1992, 106 Stat. 142.)

§ 5703. Fellowship recipients

(a) Award

The Foundation is authorized to award fellowships to outstanding individuals to encourage new discoveries in all fields of endeavor for the benefit of mankind. Recipients shall be known as ''Columbus Scholars''.

(b) Term

Fellowships shall be granted for such periods as the Foundation may prescribe but not to exceed 2 years.

(c) Selection

The Foundation may provide, directly or by contract, for the conduct of a nationwide competition for the selection of fellowship recipients.

(Pub. L. 102–281, title IV, § 424, May 13, 1992, 106 Stat. 143.)

§ 5704. Stipends

Each person awarded a fellowship under this chapter shall receive a stipend as determined by the Foundation.

(Pub. L. 102–281, title IV, § 425, May 13, 1992, 106 Stat. 143.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5705 of this title.

§ 5705. Christopher Columbus Fellowship Fund

(a) In general

There is established in the Treasury a fund to be known as the Christopher Columbus Scholarship[1] Fund (hereafter in this chapter referred to as the ''fund''), which shall consist of—

(1) amounts deposited under subsection (d) of this section;

(2) obligations obtained under subsection (c) of this section;

(3) amounts contributed to the Foundation; and

(4) all surcharges received by the Secretary of the Treasury from the sale of coins minted under the Christopher Columbus Quincentenary Coin Act.

(b) Investments

(1) Duty of Secretary to invest

The Secretary of the Treasury shall invest in full any amount appropriated or contributed to the fund.

(2) Authorized investments

Investments pursuant to paragraph (1) may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose, such obligations may be acquired—

(A) on original issue at the issue price; or

(B) by purchase of outstanding obligations at the market price.

(3) Special obligations

The purposes for which obligations of the United States may be issued under chapter 31 of title 31 are hereby extended to authorize the issuance at par of special obligations exclusively to the fund. Such special obligations shall bear interest at a rate equal to the average rate of interest, computed as to the end of the calendar month preceding the date of such issue, borne by all marketable interest-bearing obligations of the United States then forming a part of the public debt; except that, if such average rate is not a multiple of ⅛ of 1 percent, the rate of interest of such special obligations shall be the multiple of ⅛ of 1 percent next lower than such average rate. Such special obligations shall be issued only if the Secretary determines that the purchase of other obligations of the United States, or of obligations guaranteed as to both principal and interest by the United States or original issue at the market price, is not in the public interest.

(c) Sale of obligations

Any obligations acquired by the fund (except special obligations issued exclusively to the fund in accordance with subsection (b)(3) of this section) may be sold by the Secretary at the market price, and such special obligations may be redeemed at par plus accrued interest.

(d) Interest

The interest on, and the proceeds from, the sale or redemption of any obligations held in the fund shall be credited to and form a part of the fund.

(e) Availability of fund

(1) Stipends

The fund shall be available to the Foundation for payment of stipends awarded under section 5704 of this title.

(2) Expenses

The Secretary of the Treasury is authorized to pay to the Foundation from the interest

[1] So in original. Probably should be ''Fellowship''.

and earnings of the funds such sums as the Board determines are necessary and appropriate to enable the Foundation to carry out the provisions of this chapter.

(f) Disbursements

Disbursements from the fund shall be made on vouchers approved by the Foundation and signed by the Chairman.

(Pub. L. 102–281, title IV, § 426, May 13, 1992, 106 Stat. 143.)

REFERENCES IN TEXT

The Christopher Columbus Quincentenary Coin Act, referred to in subsec. (a)(4), is subtitle A (§§ 401–411) of title IV of Pub. L. 102–281, May 13, 1992, 106 Stat. 139, which is classified as a note under section 5112 of Title 31, Money and Finance.

§ 5706. Audits

The activities of the Foundation under this chapter may be audited by the Comptroller General of the United States. The Comptroller General shall have access to all books, accounts, records, reports, and files and all other papers, things, or property belonging to or in use by the Foundation, pertaining to such activities and necessary to facilitate the audit.

(Pub. L. 102–281, title IV, § 427, May 13, 1992, 106 Stat. 144.)

§ 5707. Executive Secretary of Foundation

(a) Duties

There shall be an Executive Secretary of the Foundation who shall be appointed by the Board. The Executive Secretary shall be the chief executive officer of the Foundation and shall carry out the functions of the Foundation subject to the supervision and direction of the Board.

(b) Compensation

The Executive Secretary of the Foundation shall be compensated at an annual rate of basic pay not in excess of the amount payable for Executive Level V.

(Pub. L. 102–281, title IV, § 428, May 13, 1992, 106 Stat. 144.)

REFERENCES IN TEXT

Executive Level V, referred to in subsec. (b), probably means level V of the Executive Schedule, which is set out in section 5316 of Title 5, Government Organization and Employees.

§ 5708. Administrative provisions

(a) The Foundation may—

(1) appoint and fix the compensation of such personnel as may be necessary to carry out the provisions of this chapter, except that in no case shall employees (other than the Executive Secretary) be compensated at a rate in excess of the rate of basic pay payable for GS–15 of the General Schedule;

(2) procure temporary and intermittent services of such experts and consultants as are necessary to the extent authorized by section 3109 of title 5, but at rates not in excess of the rate of basic pay payable for Executive Level V;

(3) prescribe such regulations as the Foundation may determine to be necessary governing the manner in which its functions shall be carried out;

(4) receive money and other property donated, bequeathed, or devised, without condition or restriction other than it be used for the purposes of the Foundation; and to use, sell, or otherwise dispose of such property for the purpose of carrying out its functions;

(5) accept and utilize the services of voluntary and uncompensated personnel and reimburse them for travel expenses, including per diem, as authorized by section 5703 of title 5;

(6) enter into contracts, grants, or other arrangements, or modifications thereof, to carry out the provisions of this chapter, and such contracts or modifications thereof may, with the concurrence of two-thirds of the members of the Board, be entered into without performance or other bonds, and without regard to section 5 of title 41;

(7) make advances, progress, and other payments which the Board deems necessary under this chapter without regard to the provisions of section 3324(a) and (b) of title 31;

(8) rent office space;

(9) conduct programs in addition to or in conjunction with the Fellowship program which shall further the Foundation's purpose of encouraging new discoveries in all fields of endeavor for the benefit of mankind; and

(10) to make other necessary expenditures.

(b) ANNUAL REPORT.—The Foundation shall submit to the President and to the Congress an annual report of its operations under this chapter.

(Pub. L. 102–281, title IV, § 429, May 13, 1992, 106 Stat. 144.)

REFERENCES IN TEXT

The General Schedule, referred to in subsec. (a)(1), is set out under section 5332 of Title 5, Government Organization and Employees.

Executive Level V, referred to in subsec. (a)(2), probably means level V of the Executive Schedule, which is set out in section 5316 of Title 5.

CODIFICATION

In subsec. (a)(7), ''section 3324(a) and (b) of title 31'' substituted for reference to section 529 of title 31, United States Code, on authority of Pub. L. 97–258, § 4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

CHAPTER 68—NATIONAL EDUCATION REFORM

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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 6102, 6103, 6112, 6123, 6124, 6143, 6144, 6311, 6312, 6367, 6396, 6434, 6645, 6648, 6671, 6843, 6845, 6900, 7112, 7115, 7206, 7301, 7351, 7426, 7431, 7545, 8101, 8852, 8857, 8904, 8941 of this title; title 25 section 2001.

§ 5801. Purpose

The purpose of this chapter is to provide a framework for meeting the National Education Goals established by subchapter I of this chapter by—

(1) promoting coherent, nationwide, systemic education reform;

(2) improving the quality of learning and teaching in the classroom and in the workplace;

(3) defining appropriate and coherent Federal, State, and local roles and responsibilities for education reform and lifelong learning;

(4) establishing valid and reliable mechanisms for—

(A) building a broad national consensus on American education reform;

(B) assisting in the development and certification of high-quality, internationally competitive content and student performance standards; and

(C) assisting in the development and certification of high-quality assessment measures that reflect the internationally competitive content and student performance standards;

(5) supporting new initiatives at the Federal, State, local, and school levels to provide equal educational opportunity for all students to meet high academic and occupational skill standards and to succeed in the world of employment and civic participation;

(6) providing a framework for the reauthorization of all Federal education programs by—

(A) creating a vision of excellence and equity that will guide all Federal education and related programs;

(B) providing for the establishment of high-quality, internationally competitive content and student performance standards and strategies that all students will be expected to achieve;

(C) encouraging and enabling all State educational agencies and local educational agencies to develop comprehensive improvement plans that will provide a coherent framework for the implementation of reauthorized Federal education and related programs in an integrated fashion that effectively educates all children to prepare them to participate fully as workers, parents, and citizens;

(D) providing resources to help individual schools, including those serving students with high needs, develop and implement comprehensive improvement plans; and

(E) promoting the use of technology to enable all students to achieve the National Education Goals;

(7) stimulating the development and adoption of a voluntary national system of skill

standards and certification to serve as a cornerstone of the national strategy to enhance workforce skills; and

(8) assisting every elementary and secondary school that receives funds under this chapter to actively involve parents and families in supporting the academic work of their children at home and in providing parents with skills to advocate for their children at school.

(Pub. L. 103–227, § 2, Mar. 31, 1994, 108 Stat. 128; Pub. L. 104–134, title I, § 101(d) [title VII, § 703(a)(2)], Apr. 26, 1996, 110 Stat. 1321–211, 1321–252; renumbered title I, Pub. L. 104–140, § 1(a), May 2, 1996, 110 Stat. 1327.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this Act'', meaning Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 125, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note below and Tables.

AMENDMENTS

1996—Par. (4)(B) to (D). Pub. L. 104–134, § 101(d) [title VII, § 703(a)(2)(A)], inserted ''and'' at end of subpar. (B), redesignated subpar. (D) as (C), and struck out former subpar. (C) which read as follows: ''assisting in the development and certification of opportunity-to-learn standards; and''.

Par. (6)(C) to (F). Pub. L. 104–134, § 101(d) [title VII, § 703(a)(2)(B)], redesignated subpars. (D) to (F) as (C) to (E), respectively, and struck out former subpar. (C) which read as follows: ''providing for the establishment of high-quality, internationally competitive opportunity-to-learn standards that all States, local educational agencies, and schools should achieve;''.

SHORT TITLE

Section 1(a) of Pub. L. 103–227 provided that: ''This Act (other than titles V and IX) [enacting this chapter (other than subchapters V and IX) and sections 3351 and 3425 of this title, amending sections 1107, 1221e–1, 1232h, 2421, 3381 to 3384, 3386, and 5093 of this title, section 5315 of Title 5, Government Organization and Employees, sections 1632, 1633, and 1635 of Title 29, Labor, and section 11903a of Title 42, The Public Health and Welfare, and enacting provisions set out as notes under sections 5093 and 6301 of this title and section 11901 of Title 42] may be cited as the 'Goals 2000: Educate America Act'.''

§ 5802. Definitions

(a) Subchapters I, II, III, and X

As used in subchapters I, II, III, and X of this chapter—

(1) the terms ''all students'' and ''all children'' mean students or children from a broad range of backgrounds and circumstances, including disadvantaged students and children, students or children with diverse racial, ethnic, and cultural backgrounds, American Indians, Alaska Natives, Native Hawaiians, students or children with disabilities, students or children with limited-English proficiency, school-aged students or children who have dropped out of school, migratory students or children, and academically talented students and children;

(2) the term ''Bureau'', unless otherwise provided, means the Bureau of Indian Affairs;

(3) the terms ''community'', ''public'', and ''advocacy group'' include representatives of organizations advocating for the education of American Indian, Alaska Native, and Native Hawaiian children and Indian tribes;

(4) the term ''content standards'' means broad descriptions of the knowledge and skills students should acquire in a particular subject area;

(5) the term ''Governor'' means the chief executive of the State;

(6) the terms ''local educational agency'' and ''State educational agency'' have the meaning given such terms in section 8801 of this title;

(7) the term ''outlying areas'' means Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, Palau (until the effective date of the Compact of Free Association with the Government of Palau), the Republic of the Marshall Islands, and the Federated States of Micronesia;

(8) the term ''performance standards'' means concrete examples and explicit definitions of what students have to know and be able to do to demonstrate that such students are proficient in the skills and knowledge framed by content standards;

(9) the term ''related services'' has the same meaning given such term under section 1401(a)(17)[1] of this title;

(10) the term ''State assessment'' means measures of student performance which include at least 1 instrument of evaluation, and may include other measures of student performance, for a specific purpose and use which are intended to evaluate the progress of all students in the State toward learning the material in State content standards in 1 or more subject areas;

(11) the term ''school'' means a public school that is under the authority of the State educational agency or a local educational agency or, for the purpose of carrying out section 5895(b) of this title, a school that is operated or funded by the Bureau;

(12) the term ''Secretary'', unless otherwise provided, means the Secretary of Education; and

(13) the term ''State'', unless otherwise provided, means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and each of the outlying areas.

(b) Subchapters IV, V, VI, VII, VIII, and IX

For the purpose of subchapters IV, V, VI, VII, VIII, and IX of this chapter—

(1) except as provided in paragraph (3) and unless otherwise provided, the terms used in such subchapters have the same meanings given such terms in section 8801 of this title;

(2) the term ''Bureau'', unless otherwise provided, means the Bureau of Indian Affairs; and

(3) the term ''Secretary'', unless otherwise provided, means the Secretary of Education.

(Pub. L. 103–227, § 3, Mar. 31, 1994, 108 Stat. 129; Pub. L. 103–382, title III, § 394(f)(1), Oct. 20, 1994, 108 Stat. 4027; Pub. L. 104–134, title I, § 101(d) [title VII, § 703(a)(3)], Apr. 26, 1996, 110 Stat. 1321–211, 1321–252; renumbered title I, Pub. L. 104–140, § 1(a), May 2, 1996, 110 Stat. 1327.)

REFERENCES IN TEXT

Subchapters I to X, referred to in text, were in the original references to titles I to X of Pub. L. 103–227,

[1] See References in Text note below.

Mar. 31, 1994, 108 Stat. 131–265. Titles I, III, IV, V, VI, and VIII are classified generally to subchapters I (§ 5811 et seq.), III (§ 5881 et seq.), IV (§ 5911 et seq.), V (§ 5931 et seq.), VI (§ 5951), and VIII (§ 5981 et seq.), respectively, of this chapter. Title II enacted subchapter II (§ 5821 et seq.) of this chapter and section 3425 of this title, amended section 5093 of this title and section 5315 of Title 5, Government Organization and Employees, and enacted provisions set out as a note under section 5093 of this title. Title VII enacted subchapter VII (§ 5961 et seq.) of this chapter and amended section 1221e–1 of this title. Title IX enacted subchapter IX (§ 6001 et seq.) of this chapter, amended sections 2422, 3155, 3412, 3419, 3462, and 4085b of this title, repealed section 1221e of this title, and enacted provisions set out as notes under sections 1221e and 3155 of this title. Title X enacted subchapter X (§ 6061 et seq.) of this chapter and section 3351 of this title, amended sections 1107, 1232h, 2421, 3381 to 3384, and 3386 of this title, sections 1632, 1633, and 1635 of Title 29, Labor, and section 11903a of Title 42, The Public Health and Welfare, and enacted provisions set out as notes under section 6301 of this title and section 11901 of Title 42. For complete classification of titles I to X to the Code, see Tables.

For Oct. 1, 1994, as the date the Compact of Free Association with the Government of Palau takes effect, referred to in subsec. (a)(7), see Proc. No. 6726, Sept. 27, 1994, 59 F.R. 49777, set out as a note under section 1931 of Title 48, Territories and Insular Possessions.

Section 1401(a)(17) of this title, referred to in subsec. (a)(9), was in the original a reference to section 602(a)(17) of the Individuals with Disabilities Education Act, Pub. L. 91–230, title VI. Section 602 of Pub. L. 91–230 was omitted in the general amendment of subchapter I of chapter 33 of this title by Pub. L. 105–17, title I, § 101, June 4, 1997, 111 Stat. 37. Pub. L. 105–17 enacted a new section 602 of Pub. L. 91–230, which is classified to section 1401 of this title, and which contains provisions defining ''related services''.

AMENDMENTS

1996—Subsec. (a)(7) to (14). Pub. L. 104–134 redesignated pars. (8) to (14) as (7) to (13), respectively, and struck out former par. (7) which read as follows: ''the term 'opportunity-to-learn standards' means the criteria for, and the basis of, assessing the sufficiency or quality of the resources, practices, and conditions necessary at each level of the education system (schools, local educational agencies, and States) to provide all students with an opportunity to learn the material in voluntary national content standards or State content standards;''.

1994—Subsec. (a)(6). Pub. L. 103–382, § 394(f)(1)(A)(i), substituted ''section 8801'' for ''section 2891''.

Subsec. (a)(10). Pub. L. 103–382, § 394(f)(1)(A)(ii), substituted ''section 1401(a)(17)'' for ''section 1401''.

Subsec. (b)(1). Pub. L. 103–382, § 394(f)(1)(B), substituted ''section 8801'' for ''section 2891''.

SUBCHAPTER I—NATIONAL EDUCATION GOALS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 5801, 5802, 5823, 5881, 6102 of this title.

§ 5811. Purpose

The purpose of this subchapter is to establish National Education Goals.

(Pub. L. 103–227, title I, § 101, Mar. 31, 1994, 108 Stat. 130.)

§ 5812. National Education Goals

The Congress declares that the National Education Goals are the following:

(1) School readiness

(A) By the year 2000, all children in America will start school ready to learn.

(B) The objectives for this goal are that—

(i) all children will have access to high-quality and developmentally appropriate preschool programs that help prepare children for school;

(ii) every parent in the United States will be a child's first teacher and devote time each day to helping such parent's preschool child learn, and parents will have access to the training and support parents need; and

(iii) children will receive the nutrition, physical activity experiences, and health care needed to arrive at school with healthy minds and bodies, and to maintain the mental alertness necessary to be prepared to learn, and the number of low-birthweight babies will be significantly reduced through enhanced prenatal health systems.

(2) School completion

(A) By the year 2000, the high school graduation rate will increase to at least 90 percent.

(B) The objectives for this goal are that—

(i) the Nation must dramatically reduce its school dropout rate, and 75 percent of the students who do drop out will successfully complete a high school degree or its equivalent; and

(ii) the gap in high school graduation rates between American students from minority backgrounds and their non-minority counterparts will be eliminated.

(3) Student achievement and citizenship

(A) By the year 2000, all students will leave grades 4, 8, and 12 having demonstrated competency over challenging subject matter including English, mathematics, science, foreign languages, civics and government, economics, arts, history, and geography, and every school in America will ensure that all students learn to use their minds well, so they may be prepared for responsible citizenship, further learning, and productive employment in our Nation's modern economy.

(B) The objectives for this goal are that—

(i) the academic performance of all students at the elementary and secondary level will increase significantly in every quartile, and the distribution of minority students in each quartile will more closely reflect the student population as a whole;

(ii) the percentage of all students who demonstrate the ability to reason, solve problems, apply knowledge, and write and communicate effectively will increase substantially;

(iii) all students will be involved in activities that promote and demonstrate good citizenship, good health, community service, and personal responsibility;

(iv) all students will have access to physical education and health education to ensure they are healthy and fit;

(v) the percentage of all students who are competent in more than one language will substantially increase; and

(vi) all students will be knowledgeable about the diverse cultural heritage of this Nation and about the world community.

(4) Teacher education and professional development

(A) By the year 2000, the Nation's teaching force will have access to programs for the continued improvement of their professional skills and the opportunity to acquire the knowledge and skills needed to instruct and prepare all American students for the next century.

(B) The objectives for this goal are that—

(i) all teachers will have access to preservice teacher education and continuing professional development activities that will provide such teachers with the knowledge and skills needed to teach to an increasingly diverse student population with a variety of educational, social, and health needs;

(ii) all teachers will have continuing opportunities to acquire additional knowledge and skills needed to teach challenging subject matter and to use emerging new methods, forms of assessment, and technologies;

(iii) States and school districts will create integrated strategies to attract, recruit, prepare, retrain, and support the continued professional development of teachers, administrators, and other educators, so that there is a highly talented work force of professional educators to teach challenging subject matter; and

(iv) partnerships will be established, whenever possible, among local educational agencies, institutions of higher education, parents, and local labor, business, and professional associations to provide and support programs for the professional development of educators.

(5) Mathematics and science

(A) By the year 2000, United States students will be first in the world in mathematics and science achievement.

(B) The objectives for this goal are that—

(i) mathematics and science education, including the metric system of measurement, will be strengthened throughout the system, especially in the early grades;

(ii) the number of teachers with a substantive background in mathematics and science, including the metric system of measurement, will increase by 50 percent; and

(iii) the number of United States undergraduate and graduate students, especially women and minorities, who complete degrees in mathematics, science, and engineering will increase significantly.

(6) Adult literacy and lifelong learning

(A) By the year 2000, every adult American will be literate and will possess the knowledge and skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship.

(B) The objectives for this goal are that—

(i) every major American business will be involved in strengthening the connection between education and work;

(ii) all workers will have the opportunity to acquire the knowledge and skills, from basic to highly technical, needed to adapt to emerging new technologies, work methods, and markets through public and private educational, vocational, technical, workplace, or other programs;

(iii) the number of quality programs, including those at libraries, that are designed to serve more effectively the needs of the growing number of part-time and midcareer students will increase substantially;

(iv) the proportion of the qualified students, especially minorities, who enter college, who complete at least two years, and who complete their degree programs will increase substantially;

(v) the proportion of college graduates who demonstrate an advanced ability to think critically, communicate effectively, and solve problems will increase substantially; and

(vi) schools, in implementing comprehensive parent involvement programs, will offer more adult literacy, parent training and lifelong learning opportunities to improve the ties between home and school, and enhance parents' work and home lives.

(7) Safe, disciplined, and alcohol- and drug-free schools

(A) By the year 2000, every school in the United States will be free of drugs, violence, and the unauthorized presence of firearms and alcohol and will offer a disciplined environment conducive to learning.

(B) The objectives for this goal are that—

(i) every school will implement a firm and fair policy on use, possession, and distribution of drugs and alcohol;

(ii) parents, businesses, governmental and community organizations will work together to ensure the rights of students to study in a safe and secure environment that is free of drugs and crime, and that schools provide a healthy environment and are a safe haven for all children;

(iii) every local educational agency will develop and implement a policy to ensure that all schools are free of violence and the unauthorized presence of weapons;

(iv) every local educational agency will develop a sequential, comprehensive kindergarten through twelfth grade drug and alcohol prevention education program;

(v) drug and alcohol curriculum should be taught as an integral part of sequential, comprehensive health education;

(vi) community-based teams should be organized to provide students and teachers with needed support; and

(vii) every school should work to eliminate sexual harassment.

(8) Parental participation

(A) By the year 2000, every school will promote partnerships that will increase parental involvement and participation in promoting the social, emotional, and academic growth of children.

(B) The objectives for this Goal are that—

(i) every State will develop policies to assist local schools and local educational agencies to establish programs for increasing partnerships that respond to the varying

needs of parents and the home, including parents of children who are disadvantaged or bilingual, or parents of children with disabilities;

(ii) every school will actively engage parents and families in a partnership which supports the academic work of children at home and shared educational decisionmaking at school; and

(iii) parents and families will help to ensure that schools are adequately supported and will hold schools and teachers to high standards of accountability.

(Pub. L. 103–227, title I, §102, Mar. 31, 1994, 108 Stat. 130.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6301, 6702 of this title.

SUBCHAPTER II—NATIONAL EDUCATION REFORM LEADERSHIP, STANDARDS, AND ASSESSMENTS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 5802, 5934, 6065 of this title.

PART A—NATIONAL EDUCATION GOALS PANEL

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 5871 of this title.

§ 5821. Purpose

It is the purpose of this part to establish a bipartisan mechanism for—

(1) building a national consensus for education improvement;

(2) reporting on progress toward achieving the National Education Goals; and

(3) reviewing the voluntary national content standards and voluntary national student performance standards.

(Pub. L. 103–227, title II, §201, Mar. 31, 1994, 108 Stat. 133; Pub. L. 104–134, title I, §101(d) [title VII, §703(a)(4)], Apr. 26, 1996, 110 Stat. 1321–211, 1321–252; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327.)

AMENDMENTS

1996—Par. (3). Pub. L. 104–134 substituted ''and voluntary national student performance standards'' for '', voluntary national student performance standards and voluntary national opportunity-to-learn standards certified by the National Education Standards and Improvement Council, as well as the criteria for the certification of such standards, and the criteria for the certification of State assessments certified by the National Education Standards and Improvement Council, with the option of disapproving such standards and criteria not later than 90 days after receipt from such Council''.

§ 5822. National Education Goals Panel

(a) Establishment

There is established in the executive branch a National Education Goals Panel (hereafter in this subchapter referred to as the ''Goals Panel'') to advise the President, the Secretary, and the Congress.

(b) Composition

The Goals Panel shall be composed of 18 members (hereafter in this part referred to as ''members''), including—

(1) 2 members appointed by the President;

(2) 8 members who are Governors, 3 of whom shall be from the same political party as the President and 5 of whom shall be from the opposite political party of the President, appointed by the Chairperson and Vice Chairperson of the National Governors' Association, with the Chairperson and Vice Chairperson each appointing representatives of such Chairperson's or Vice Chairperson's respective political party, in consultation with each other;

(3) 4 Members of the Congress, of whom—

(A) 1 member shall be appointed by the Majority Leader of the Senate from among the Members of the Senate;

(B) 1 member shall be appointed by the Minority Leader of the Senate from among the Members of the Senate;

(C) 1 member shall be appointed by the Majority Leader of the House of Representatives from among the Members of the House of Representatives; and

(D) 1 member shall be appointed by the Minority Leader of the House of Representatives from among the Members of the House of Representatives; and

(4) 4 members of State legislatures appointed by the President of the National Conference of State Legislatures, of whom 2 shall be of the same political party as the President of the United States.

(c) Special appointment rules

(1) In general

The members appointed pursuant to subsection (b)(2) of this section shall be appointed as follows:

(A) If the Chairperson of the National Governors' Association is from the same political party as the President, the Chairperson shall appoint 3 individuals and the Vice Chairperson of such association shall appoint 5 individuals.

(B) If the Chairperson of the National Governors' Association is from the opposite political party as the President, the Chairperson shall appoint 5 individuals and the Vice Chairperson of such association shall appoint 3 individuals.

(2) Special rule

If the National Governors' Association has appointed a panel that meets the requirements of subsections (b) and (c) of this section, except for the requirements of paragraph (4) of subsection (b) of this section, prior to March 31, 1994, then the members serving on such panel shall be deemed to be in compliance with the provisions of such subsections and shall not be required to be reappointed pursuant to such subsections.

(3) Representation

To the extent feasible, the membership of the Goals Panel shall be geographically representative and reflect the racial, ethnic, and gender diversity of the United States.

(d) Terms

The terms of service of members shall be as follows:

(1) Presidential appointees

Members appointed under subsection (b)(1) of this section shall serve at the pleasure of the President.

(2) Governors

Members appointed under paragraph (2) of subsection (b) of this section shall serve for 2-year terms, except that the initial appointments under such paragraph shall be made to ensure staggered terms with one-half of such members' terms concluding every 2 years.

(3) Congressional appointees and State legislators

Members appointed under paragraphs (3) and (4) of subsection (b) of this section shall serve for 2-year terms.

(e) Date of appointment

The initial members shall be appointed not later than 60 days after March 31, 1994.

(f) Initiation

The Goals Panel may begin to carry out its duties under this part when 10 members of the Goals Panel have been appointed.

(g) Vacancies

A vacancy on the Goals Panel shall not affect the powers of the Goals Panel, but shall be filled in the same manner as the original appointment.

(h) Travel

Each member may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5 for each day the member is engaged in the performance of duties for the Goals Panel away from the home or regular place of business of the member.

(i) Chairperson

(1) In general

The members shall select a Chairperson from among the members.

(2) Term and political affiliation

The Chairperson of the Goals Panel shall serve a 1-year term and shall alternate between political parties.

(j) Conflict of interest

A member of the Goals Panel who is an elected official of a State which has developed content or student performance standards may not participate in Goals Panel consideration of such standards.

(k) Ex officio member

If the President has not appointed the Secretary as 1 of the 2 members the President appoints pursuant to subsection (b)(1) of this section, then the Secretary shall serve as a nonvoting ex officio member of the Goals Panel.

(Pub. L. 103–227, title II, § 202, Mar. 31, 1994, 108 Stat. 134; Pub. L. 104–134, title I, § 101(d) [title VII, § 703(a)(5)], Apr. 26, 1996, 110 Stat. 1321–211, 1321–252; renumbered title I, Pub. L. 104–140, § 1(a), May 2, 1996, 110 Stat. 1327.)

REFERENCES IN TEXT

This subchapter, referred to in subsec. (a), was in the original ''this title'', meaning title II of Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 133, which enacted this subchapter and section 3425 of this title, amended section 5093 of this title and section 5315 of Title 5, Government Organization and Employees, and enacted provisions set out as a note under section 5093 of this title.

AMENDMENTS

1996—Subsec. (j). Pub. L. 104–134 substituted ''or student performance'' for '', student performance, or opportunity-to-learn''.

§ 5823. Duties

(a) In general

The Goals Panel shall—

(1) report to the President, the Secretary, and the Congress regarding the progress the Nation and the States are making toward achieving the National Education Goals established under subchapter I of this chapter, including issuing an annual report;

(2) review voluntary national content standards and voluntary national student performance standards;

(3) report on promising or effective actions being taken at the national, State, and local levels, and in the public and private sectors, to achieve the National Education Goals; and

(4) help build a nationwide, bipartisan consensus for the reforms necessary to achieve the National Education Goals.

(b) Report

(1) In general

The Goals Panel shall annually prepare and submit to the President, the Secretary, the appropriate committees of Congress, and the Governor of each State a report that shall—

(A) report on the progress of the United States toward achieving the National Education Goals; and

(B) identify actions that should be taken by Federal, State, and local governments to enhance progress toward achieving the National Education Goals and to provide all students with a fair opportunity-to-learn.

(2) Form; data

Reports shall be presented in a form, and include data, that is understandable to parents and the general public.

(Pub. L. 103–227, title II, § 203, Mar. 31, 1994, 108 Stat. 136; Pub. L. 104–134, title I, § 101(d) [title VII, § 703(a)(6)], Apr. 26, 1996, 110 Stat. 1321–211, 1321–252; renumbered title I, Pub. L. 104–140, § 1(a), May 2, 1996, 110 Stat. 1327.)

AMENDMENTS

1996—Subsec. (a)(2). Pub. L. 104–134, § 101(d) [title VII, § 703(a)(6)(A)(iii)], amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''after taking into consideration the public comments received pursuant to section 5846 of this title and not later than 90 days after receipt, review the—

''(A) criteria developed by the National Education Standards and Improvement Council for the certification of State content standards, State student performance standards, State assessments, and State opportunity-to-learn standards; and

''(B) voluntary national content standards, voluntary national student performance standards and voluntary national opportunity-to-learn standards certified by the National Education Standards and Improvement Council,

except that the Goals Panel shall have the option of disapproving such criteria and standards by a two-thirds majority vote of the membership of the Goals Panel not later than 90 days after receipt of such criteria and standards;''.

Pub. L. 104–134, § 101(d) [title VII, § 703(a)(6)(A)(i), (ii)], redesignated par. (4) as (2) and struck out former par. (2) which read as follows: ''report on State opportunity-to-learn standards and strategies and the progress of States that are implementing such standards and strategies to help all students meet State content standards and State student performance standards;''.

Subsec. (a)(3) to (6). Pub. L. 104–134, § 101(d) [title VII, § 703(a)(6)(A)(i), (ii)], redesignated pars. (5) and (6) as (3) and (4), respectively, and struck out former par. (3) which read as follows: ''submit to the President nominations for appointment to the National Education Standards and Improvement Council in accordance with subsections (b) and (c) of section 5842 of this title;''. Former par. (4) redesignated (2).

Subsec. (b)(1)(C). Pub. L. 104–134, § 101(d) [title VII, § 703(a)(6)(B)], struck out subpar. (C) which read as follows: ''report on State opportunity-to-learn standards and strategies and the progress of States that are implementing such standards and strategies to help all students meet State content standards and State student performance standards.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 25 section 2001.

§ 5824. Powers of Goals Panel

(a) Hearings

(1) In general

The Goals Panel shall, for the purpose of carrying out this part, conduct such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Goals Panel considers appropriate.

(2) Representation

In carrying out this part, the Goals Panel shall conduct hearings to receive reports, views, and analyses of a broad spectrum of experts and the public on the establishment of voluntary national content standards, voluntary national student performance standards, and State assessments.

(b) Information

The Goals Panel may secure directly from any department or agency of the United States information necessary to enable the Goals Panel to carry out this part. Upon request of the Chairperson of the Goals Panel, the head of a department or agency shall furnish such information to the Goals Panel to the extent permitted by law.

(c) Postal services

The Goals Panel may use the United States mail in the same manner and under the same conditions as other departments and agencies of the United States.

(d) Use of facilities

The Goals Panel may, with consent of any agency or instrumentality of the United States, or of any State or political subdivision thereof, use the research, equipment, services, and facilities of such agency, instrumentality, State, or subdivision, respectively.

(e) Administrative arrangements and support

(1) In general

The Secretary shall provide to the Goals Panel, on a reimbursable basis, such administrative support services as the Goals Panel may request.

(2) Contracts and other arrangements

The Secretary, to the extent appropriate, and on a reimbursable basis, shall make contracts and other arrangements that are requested by the Goals Panel to help the Goals Panel compile and analyze data or carry out other functions necessary to the performance of such responsibilities.

(f) Gifts

The Goals Panel may accept, administer, and utilize gifts or donations of services, money, or property, whether real or personal, tangible or intangible.

(Pub. L. 103–227, title II, § 204, Mar. 31, 1994, 108 Stat. 136; Pub. L. 103–382, title III, § 361(b)(1), Oct. 20, 1994, 108 Stat. 3974; Pub. L. 104–134, title I, § 101(d) [title VII, § 703(a)(7)], Apr. 26, 1996, 110 Stat. 1321–211, 1321–252; renumbered title I, Pub. L. 104–140, § 1(a), May 2, 1996, 110 Stat. 1327.)

AMENDMENTS

1996—Subsec. (a)(2). Pub. L. 104–134 struck out ''voluntary national opportunity-to-learn standards,'' before ''and State assessments'' and struck out ''described in section 5843(f) of this title'' after ''and State assessments''.

1994—Subsec. (f). Pub. L. 103–382 added subsec. (f).

§ 5825. Administrative provisions

(a) Meetings

The Goals Panel shall meet on a regular basis, as necessary, at the call of the Chairperson of the Goals Panel or a majority of its members.

(b) Quorum

A majority of the members shall constitute a quorum for the transaction of business.

(c) Voting and final decision

(1) Voting

No individual may vote, or exercise any of the powers of a member, by proxy.

(2) Final decisions

(A) In making final decisions of the Goals Panel with respect to the exercise of its duties and powers the Goals Panel shall operate on the principle of consensus among the members of the Goals Panel.

(B) Except as otherwise provided in this part, if a vote of the membership of the Goals Panel is required to reach a final decision with respect to the exercise of its duties and powers, then such final decision shall be made by a three-fourths vote of the members of the Goals Panel who are present and voting.

(d) Public access

The Goals Panel shall ensure public access to its proceedings (other than proceedings, or portions of proceedings, relating to internal personnel and management matters) and make available to the public, at reasonable cost, transcripts of such proceedings.

(Pub. L. 103–227, title II, § 205, Mar. 31, 1994, 108 Stat. 137.)

§ 5826. Director and staff; experts and consultants

(a) Director

The Chairperson of the Goals Panel, without regard to the provisions of title 5 relating to the appointment and compensation of officers or employees of the United States, shall appoint a Director to be paid at a rate not to exceed the rate of basic pay payable for level V of the Executive Schedule.

(b) Appointment and pay of employees

(1) In general

(A) The Director may appoint not more than 4 additional employees to serve as staff to the Goals Panel without regard to the provisions of title 5 governing appointments in the competitive service.

(B) The employees appointed under subparagraph (A) may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, but shall not be paid a rate that exceeds the maximum rate of basic pay payable for GS–15 of the General Schedule.

(2) Additional employees

The Director may appoint additional employees to serve as staff to the Goals Panel in accordance with title 5.

(c) Experts and consultants

The Goals Panel may procure temporary and intermittent services of experts and consultants under section 3109(b) of title 5.

(d) Staff of Federal agencies

Upon the request of the Goals Panel, the head of any department or agency of the United States may detail any of the personnel of such agency to the Goals Panel to assist the Goals Panel in its duties under this part.

(Pub. L. 103–227, title II, § 206, Mar. 31, 1994, 108 Stat. 138.)

REFERENCES IN TEXT

Level V of the Executive Schedule, referred to in subsec. (a), is set out in section 5316 of Title 5, Government Organization and Employees.

The provisions of title 5 governing appointments in the competitive service, referred to in subsec. (b)(1)(A), are classified generally to section 3301 et seq. of Title 5.

The General Schedule, referred to in subsec. (b)(1)(B), is set out under section 5332 of Title 5.

§ 5827. Early childhood assessment

(a) In general

The Goals Panel shall support the work of its Resource and Technical Planning Groups on School Readiness (hereafter in this section referred to as the ''Groups'') to improve the methods of assessing the readiness of children for school that would lead to alternatives to currently used early childhood assessments.

(b) Activities

The Groups shall—

(1) develop a model of elements of school readiness that address a broad range of early childhood developmental needs, including the needs of children with disabilities;

(2) create clear guidelines regarding the nature, functions, and uses of early childhood assessments, including assessment formats that are appropriate for use in culturally and linguistically diverse communities, based on model elements of school readiness;

(3) monitor and evaluate early childhood assessments, including the ability of existing assessments to provide valid information on the readiness of children for school; and

(4) monitor and report on the long-term collection of data on the status of young children to improve policy and practice, including the need for new sources of data necessary to assess the broad range of early childhood developmental needs.

(c) Advice

The Groups shall advise and assist the Congress, the Secretary, the Goals Panel, and others regarding how to improve the assessment of young children and how such assessments can improve services to children.

(d) Report

The Goals Panel shall provide reports on the work of the Groups to the appropriate committees of the Congress, the Secretary, and the public.

(Pub. L. 103–227, title II, § 207, Mar. 31, 1994, 108 Stat. 138.)

PART B—LEADERSHIP IN EDUCATIONAL TECHNOLOGY

PRIOR PROVISIONS

A prior part B, consisting of sections 5841 to 5851 of this title, was repealed by Pub. L. 104–134, title I, § 101(d) [title VII, § 701(1)], Apr. 26, 1996, 110 Stat. 1321–211, 1321–251; renumbered title I, Pub. L. 104–140, § 1(a), May 2, 1996, 110 Stat. 1327.

Section 5841, Pub. L. 103–227, title II, § 211, Mar. 31, 1994, 108 Stat. 139, stated purpose.

Section 5842, Pub. L. 103–227, title II, § 212, Mar. 31, 1994, 108 Stat. 139, established National Education Standards and Improvement Council and provided for composition, appointment rules and qualifications, terms, date of appointment, initiation of duties, retention of appointment, vacancy, compensation, conflict of interest, travel, and officers.

Section 5843, Pub. L. 103–227, title II, § 213, Mar. 31, 1994, 108 Stat. 142, related to duties of Council.

Section 5844, Pub. L. 103–227, title II, § 214, Mar. 31, 1994, 108 Stat. 147, required Council to submit annual reports to President, Secretary, appropriate committees of Congress, Governor of each State, and Goals Panel regarding its work.

Section 5845, Pub. L. 103–227, title II, § 215, Mar. 31, 1994, 108 Stat. 147; Pub. L. 103–382, title III, § 361(b)(2), Oct. 20, 1994, 108 Stat. 3975, related to powers of Council.

Section 5846, Pub. L. 103–227, title II, § 216, Mar. 31, 1994, 108 Stat. 148, related to publication in Federal Register for public comment of certain proposed procedures, standards, and criteria.

Section 5847, Pub. L. 103–227, title II, § 217, Mar. 31, 1994, 108 Stat. 148, contained administrative provisions relating to Council, including provisions relating to meetings, quorum, voting, and public access.

Section 5848, Pub. L. 103–227, title II, § 218, Mar. 31, 1994, 108 Stat. 149, related to Council Director and staff, and use of experts and consultants and staffs of Federal agencies.

Section 5849, Pub. L. 103–227, title II, § 219, Mar. 31, 1994, 108 Stat. 149, related to opportunity-to-learn development grants.

Section 5850, Pub. L. 103–227, title II, §220, Mar. 31, 1994, 108 Stat. 150, related to assessment development and evaluation grants.

Section 5851, Pub. L. 103–227, title II, §221, Mar. 31, 1994, 108 Stat. 151, required Secretary to make grant, in amount not to exceed $500,000, to National Academy of Sciences or National Academy of Education to evaluate technical quality of work performed, and certain processes used, by Goals Panel and Council, and required recipient of grant to submit final report to Congress, Secretary, and the public regarding activities assisted under this section not later than Jan. 1, 1998.

§§ 5861 to 5864. Repealed. Pub. L. 103–382, title III, § 361(a), Oct. 20, 1994, 108 Stat. 3974

Section 5861, Pub. L. 103–227, title II, §231, Mar. 31, 1994, 108 Stat. 151; Pub. L. 103–382, title III, §394(f)(2), Oct. 20, 1994, 108 Stat. 4027, stated purpose of this part to provide leadership in educational technology.

Section 5862, Pub. L. 103–227, title II, §232, Mar. 31, 1994, 108 Stat. 152; Pub. L. 103–382, title III, §394(f)(3), Oct. 20, 1994, 108 Stat. 4027, related to Federal leadership in use of technology in education.

Section 5863, Pub. L. 103–227, title II, §234, Mar. 31, 1994, 108 Stat. 155, related to uses of funds.

Section 5864, Pub. L. 103–227, title II, §235, Mar. 31, 1994, 108 Stat. 156, related to non-Federal share of cost of activities assisted under grants or contracts under this part.

PART C—AUTHORIZATION OF APPROPRIATIONS

§ 5871. Authorization of appropriations

There are authorized to be appropriated $3,000,000 for fiscal year 1994, and such sums as may be necessary for each of the four succeeding fiscal years, to carry out part A of this subchapter.

(Pub. L. 103–227, title II, §241, Mar. 31, 1994, 108 Stat. 156; Pub. L. 104–134, title I, §101(d) [title VII, §701(3)], Apr. 26, 1996, 110 Stat. 1321–211, 1321–251; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327.)

AMENDMENTS

1996—Pub. L. 104–134 struck out subsec. (a) designation and heading ''National Education Goals Panel'', and struck out subsecs. (b) to (d) which read as follows:

''(b) NATIONAL EDUCATION STANDARDS AND IMPROVEMENT COUNCIL.—There are authorized to be appropriated $3,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 through 1998, to carry out part B of this subchapter.

''(c) OPPORTUNITY-TO-LEARN DEVELOPMENT GRANTS.—There are authorized to be appropriated $2,000,000 for fiscal year 1994, and such sums as may be necessary for fiscal year 1995, to carry out section 5849 of this title.

''(d) ASSESSMENT DEVELOPMENT AND EVALUATION GRANTS.—There are authorized to be appropriated $5,000,000 for fiscal year 1994, and such sums as may be necessary for each of the 4 succeeding fiscal years, to carry out section 5850 of this title.''

SUBCHAPTER III—STATE AND LOCAL EDUCATION SYSTEMIC IMPROVEMENT

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 5802, 6041, 6065, 6066, 6311, 6314, 6320, 6649, 6702, 7207, 7814, 8821, 8857 of this title.

§ 5881. Findings

The Congress finds that—

(1) all students can learn and achieve to high standards and must realize their potential if the United States is to prosper;

(2) the reforms in education from 1977 through 1992 have achieved some good results, but such reform efforts often have been limited to a few schools or to a single part of the educational system;

(3) leadership must come from teachers, related services personnel, principals, and parents in individual schools, and from policymakers at the local, State, tribal, and national levels, in order for lasting improvements in student performance to occur;

(4) simultaneous top-down and bottom-up education reform is necessary to spur creative and innovative approaches by individual schools to help all students achieve internationally competitive standards;

(5) strategies must be developed by communities and States to support the revitalization of all local public schools by fundamentally changing the entire system of public education through comprehensive, coherent, and coordinated improvement in order to increase student learning;

(6) parents, teachers, and other local educators, and business, community, and tribal leaders must be involved in developing systemwide improvement strategies that reflect the needs of their individual communities;

(7) State and local education improvement efforts must incorporate strategies for providing all students and families with coordinated access to appropriate social services, health care, nutrition, and early childhood education, and child care to remove preventable barriers to learning and enhance school readiness for all students;

(8) States and local educational agencies, working together, must immediately set about developing and implementing such systemwide improvement strategies if our Nation is to educate all children to meet their full potential and achieve the National Education Goals described in subchapter I of this chapter;

(9) State and local systemic improvement strategies must provide all students with effective mechanisms and appropriate paths to the work force as well as to higher education;

(10) businesses should be encouraged—

(A) to enter into partnerships with schools;

(B) to provide information and guidance to schools based on the needs of area businesses for properly educated graduates in general and on the need for particular workplace skills that the schools may provide;

(C) to provide necessary education and training materials and support; and

(D) to continue the lifelong learning process throughout the employment years of an individual;

(11) schools should provide information to businesses regarding how the business community can assist schools in meeting the purposes of this chapter;

(12) institutions of higher education should be encouraged to enter into partnerships with schools to provide information and guidance to schools on the skills and knowledge graduates need in order to enter and successfully complete postsecondary education, and schools should provide information and guid-

ance to institutions of higher education on the skills, knowledge, and preservice training teachers need, and the types of professional development educators need in order to meet the purposes of this chapter;

(13) the appropriate and innovative use of technology, including distance learning, can be very effective in helping to provide all students with the opportunity to learn and meet high standards;

(14) Federal funds should be targeted to support State and local initiatives, and to leverage State and local resources for designing and implementing systemwide education improvement plans;

(15) all students are entitled to participate in a broad and challenging curriculum and to have access to resources sufficient to address other education needs; and

(16) quality education management services are being utilized by local educational agencies and schools through contractual agreements among local educational agencies or schools and businesses providing quality education management services.

(Pub. L. 103–227, title III, § 301, Mar. 31, 1994, 108 Stat. 157.)

REFERENCES IN TEXT

This chapter, referred to in pars. (11) and (12), was in the original ''this Act'', meaning Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 125, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables.

§ 5882. Purpose

(a) Purpose

It is the purpose of this subchapter to improve the quality of education for all students by improving student learning through a long-term, broad-based effort to promote coherent and coordinated improvements in the system of education throughout the Nation at the State and local levels.

(b) Congressional intent

This subchapter provides new authorities and funding for the Nation's school systems without replacing or reducing funding for existing Federal education programs. It is the intention of the Congress that no State or local educational agency will reduce its funding for education or for education reform on account of receiving any funds under this subchapter.

(Pub. L. 103–227, title III, § 302, Mar. 31, 1994, 108 Stat. 158.)

§ 5883. Authorization of appropriations

There are authorized to be appropriated $400,000,000 for the fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 through 1998, to carry out this subchapter.

(Pub. L. 103–227, title III, § 303, Mar. 31, 1994, 108 Stat. 158.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5884, 5888 of this title.

§ 5884. Allotment of funds

(a) Reservations of funds

From funds appropriated under section 5883 of this title, the Secretary—

(1) shall reserve a total of one percent to provide assistance, in amounts determined by the Secretary—

(A) to the outlying areas;

(B) to the Secretary of the Interior to benefit Indian students in schools operated or funded by the Bureau; and

(C) to the Alaska Federation of Natives in cooperation with the Alaska Native Education Council to benefit Alaska Native students; and

(2) may reserve a total of not more than 5 percent for—

(A) national leadership activities under sections 5893 and 5894 of this title; and

(B) the costs of peer review of State improvement plans and applications under this subchapter.

(b) State allotments

From the amount appropriated under section 5883 of this title and not reserved under subsection (a) of this section in each fiscal year the Secretary shall make allotments to State educational agencies as follows:

(1) 50 percent of such amount shall be allocated in accordance with the relative amounts each State would have received under chapter 1[1] of title I of the Elementary and Secondary Education Act of 1965 for the preceding fiscal year if funds under such chapter in such preceding fiscal year were not reserved for the outlying areas.

(2) 50 percent of such amount shall be allocated in accordance with the relative amounts each State would have received under part A[1] of chapter 2 of title I of the Elementary and Secondary Education Act of 1965 for the preceding fiscal year if funds under such chapter in such preceding fiscal year were not reserved for the outlying areas.

(c) Reallotments

If the Secretary determines that any amount of a State educational agency's allotment for any fiscal year under subsection (b) of this section will not be needed for such fiscal year by the State, the Secretary shall reallot such amount to other State educational agencies that need additional funds, in such manner as the Secretary determines is appropriate.

(d) Maintenance of effort

Each recipient of funds under this subchapter, in utilizing the proceeds of an allotment received under this subchapter, shall maintain the expenditures of such recipient for the activities assisted under this subchapter at a level equal to not less than the level of such expenditures maintained by such recipient for the fiscal year preceding the fiscal year for which such allotment is received, except that the Secretary may reduce, temporarily or permanently, the level of expenditures required by this subsection if the Secretary determines that such recipient has

[1] See References in Text note below.

justifiable reasons for a reduction in the level of expenditures required by this subsection.

(e) Direct grants to local educational agencies

(1) In general

Notwithstanding subsection (c) of this section, if a State educational agency was not participating in the program under this section as of October 20, 1995, and the State educational agency approves, the Secretary shall use all or a portion of the allotment that the State would have received under this section for a fiscal year to award grants to local educational agencies in the State that have approved applications under paragraph (2) for such fiscal year.

(2) Application

Any local educational agency that desires to receive a grant under this subsection shall submit an application to the Secretary that is consistent with the provisions of this chapter and shall notify the State educational agency of such application in accordance with paragraph (1). The Secretary may establish a deadline for the submission of such applications.

(3) Award basis

The Secretary may use the student enrollment of a local educational agency or other factors as a basis for awarding grants under this subsection.

(Pub. L. 103–227, title III, §304, Mar. 31, 1994, 108 Stat. 158; Pub. L. 104–134, title I, §101(d) [title VII, §§703(a)(8), 704], Apr. 26, 1996, 110 Stat. 1321–211, 1321–252, 1321–255; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327.)

REFERENCES IN TEXT

Chapter 1 and part A of chapter 2 of title I of the Elementary and Secondary Education Act of 1965, referred to in subsec. (b), are chapter 1 and part A of chapter 2 of title I of Pub. L. 89–10, as added by Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 140, 204, which were classified generally to division 1 (§2701 et seq.) and part A (§2921 et seq.) of division 2, respectively, of subchapter I of chapter 47 of this title prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519.

AMENDMENTS

1996—Subsec. (a)(2). Pub. L. 104–134, §101(d) [title VII, §703(a)(8)], inserted ''and'' at end of subpar. (A), substituted period for ''; and'' in subpar. (B), and struck out subpar. (C) which read as follows: ''evaluation activities under section 5851 of this title.''

Subsec. (e). Pub. L. 104–134, §101(d) [title VII, §704], added subsec. (e).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5886, 5887, 5893, 5894, 5895, 5897 of this title.

§ 5885. State applications

(a) Application

(1) In general

Each State educational agency that desires to receive an allotment under this subchapter shall submit an application to the Secretary at such time and in such manner as the Secretary may determine.

(2) Additional information

In addition to the information described in subsections (b) and (c) of this section, each such application shall include—

(A) an assurance that the State educational agency will cooperate with the Secretary in carrying out the Secretary's responsibilities under section 5892 of this title, and will comply with reasonable requests of the Secretary for data related to the State's progress in developing and implementing its State improvement plan under section 5886 of this title;

(B) an assurance that State law provides adequate authority to carry out each component of the State's improvement plan developed, or to be developed under section 5886 of this title, or that such authority will be sought;

(C) an assurance that the State content standards and State student performance standards developed for student achievement are not less rigorous than such standards used prior to March 31, 1994;

(D) an assurance that the State will provide for broad public participation in the planning process; and

(E) such other assurances and information as the Secretary may require.

(b) First year

A State educational agency's application for the first year of assistance under this subchapter shall—

(1) describe the process by which the State educational agency will develop a State improvement plan that meets the requirements of section 5886 of this title; and

(2) describe how the State educational agency will use funds received under this subchapter for such year, including how such agency will make subgrants to local educational agencies in accordance with section 5889(a) of this title, and how such agency will use funds received under this subchapter for education preservice programs and professional development activities in accordance with section 5889(b) of this title.

(c) Subsequent years

A State educational agency's application for the second year of assistance under this subchapter shall—

(1) cover the second through fifth years of the State's participation;

(2) except in the case of a State educational agency submitting the information described in section 5886(n)(4) of this title, include a copy of the State's improvement plan that meets the requirements of section 5886 of this title, or if the State improvement plan is not complete, a statement of the steps the State will take to complete the plan and a schedule for doing so; and

(3) include an explanation of how the State educational agency will use funds received under this subchapter, including how such agency will make subgrants to local educational agencies in accordance with section 5889(a) of this title, and how such agency will use such funds received under this subchapter for education preservice programs and professional development activities in accordance with section 5889(b) of this title.

(Pub. L. 103–227, title III, §305, Mar. 31, 1994, 108 Stat. 159; Pub. L. 104–134, title I, §101(d) [title

VII, § 705(b)], Apr. 26, 1996, 110 Stat. 1321–211, 1321–256; renumbered title I, Pub. L. 104–140, § 1(a), May 2, 1996, 110 Stat. 1327.)

AMENDMENTS

1996—Subsec. (c)(2). Pub. L. 104–134 inserted ''except in the case of a State educational agency submitting the information described in section 5886(n)(4) of this title,'' before ''include''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5886, 5887, 5895, 5897 of this title.

§ 5886. State improvement plans

(a) Basic scope of plan

Except as provided in section 5885(c)(2) of this title and consistent with the requirements of this section, any State educational agency that wishes to receive an allotment under this subchapter after its first year of participation shall develop and implement a State improvement plan for the improvement of elementary and secondary education in the State.

(b) Plan development

A State improvement plan under this subchapter shall be developed by a broad-based State panel in cooperation with the State educational agency and the Governor.

(c) Teaching, learning, standards, and assessments

Each State educational agency, with broad-based classroom teacher input, shall establish and include in its State improvement plan strategies for meeting the National Education Goals by improving teaching and learning and students' mastery of basic and advanced skills in core content areas, such as English, mathematics, science (including physics), history, geography, foreign languages, the arts, civics and government, and economics. Such strategies—

(1) shall include—

(A) a process for developing or adopting State content standards and State student performance standards for all students, which process shall include coordinating the standards developed pursuant to section 115 of the Carl D. Perkins Vocational and Applied Technology Education Act [20 U.S.C. 2325];

(B) a process for developing and implementing valid, nondiscriminatory, and reliable State assessments—

(i) which assessments shall—

(I) be aligned with such State's content standards;

(II) involve multiple measures of student performance;

(III) provide for—

(aa) the participation in such assessments of all students with diverse learning needs; and

(bb) the adaptations and accommodations necessary to permit such participation;

(IV) be consistent with relevant, nationally recognized professional and technical standards for such assessments;

(V) be capable of providing coherent information about student attainments relative to the State content standards; and

(VI) support effective curriculum and instruction; and

(ii) which process shall provide for monitoring the implementation of such assessments and the impact of such assessments on improved instruction for all students;

(C) a process for aligning State or local curricula, instructional materials, and State assessments with the State content standards and State student performance standards; and

(D) a process for familiarizing teachers with the State content standards and State student performance standards and developing the capability of teachers to provide high quality instruction within the content areas described in the matter preceding paragraph (1) of this subsection;

(2) may include strategies such as—

(A) a process for providing assistance and support to local educational agencies and schools to strengthen the capacity of such agencies and schools to provide all students the opportunity to increase educational achievement and meet State content standards and State student performance standards;

(B) assessing the effectiveness and equity of the school finance program of the State to identify disparities in the resources available to each local educational agency and school in such State and how such disparities affect the ability of the State educational agency and local educational agencies to develop and implement plans under this subchapter;

(C) a process for developing, selecting, or recommending instructional materials, including gender equitable and multicultural materials, and technology to support and assist local educational agencies and schools to provide all students the opportunity to meet State content standards and State student performance standards;

(D) a process for providing appropriate and effective professional development, including the use of technology, distance learning, and gender-equitable methods, necessary for teachers, school administrators, and others to help all students meet State content standards and State student performance standards; and

(E) a process for improving the State's system of teacher and school administrator preparation and licensure, and of continuing professional development programs, including the use of technology at both the State and local levels, so that all teachers, related services personnel, and administrators develop the subject matter and pedagogical expertise needed to prepare all students to meet State content standards and State student performance standards.

(d) Repealed. Pub. L. 104–134, title I, § 101(d) [title VII, § 702(a)(1)(B)], Apr. 26, 1996, 110 Stat. 1321–211, 1321–251; renumbered title I, Pub. L. 104–140, § 1(a), May 2, 1996, 110 Stat. 1327

(e) Governance, accountability and management

Each State improvement plan shall establish strategies for improved governance, accountability and management of the State's education system, such as—

(1) aligning responsibility, authority, and accountability throughout the education system, so that decisions regarding the means for achieving State content standards and State student performance standards are made closest to the learners; and

(2) creating an integrated and coherent approach to recruiting, retaining and supporting the continued professional development of teachers (including vocational teachers), and other educators, giving special attention to the recruitment into and retention of qualified minorities in the education profession.

(f) Parental and community support and involvement

Each State improvement plan shall describe strategies for how the State educational agency will involve parents and other community representatives in planning, designing, and implementing the State improvement plan, including strategies such as—

(1) focusing public and private community resources and public school resources on prevention and early intervention to address the needs of all students by identifying and removing unnecessary regulations and obstacles to coordination; and

(2) increasing the access of all students to social services, health care, nutrition, related services, and child care services, and locating such services in schools, cooperating service agencies, community-based centers, or other convenient sites designed to provide ''one-stop shopping'' for parents and students.

(g) Making the improvements systemwide

To help provide all students throughout the State the opportunity to meet State standards, each State improvement plan shall describe strategies, such as strategies that—

(1) provide for the availability of curricular materials, learning technologies, including distance learning, and professional development in a manner that ensures equal access by all local educational agencies in the State; and

(2) develop partnerships with Indian tribes and schools funded by the Bureau, where appropriate, to improve consistency and compatibility in curriculum among public elementary and secondary schools, and such schools funded by the Bureau at all grade levels.

(h) Promoting bottom-up reform

Each State improvement plan shall include strategies for ensuring that comprehensive, systemic reform is promoted from the bottom up in communities, local educational agencies, and schools, as well as guided by coordination and facilitation from State leaders, including strategies such as—

(1) providing flexibility to individual schools and local educational agencies to enable such schools and agencies to adapt and integrate State content standards into courses of study appropriate for individual schools and communities; and

(2) facilitating the provision of waivers from State rules and regulations that impede the ability of local educational agencies or schools to carry out local improvement plans.

(i) Dropout strategies

Each State improvement plan shall include strategies for assisting local educational agencies and schools to enable such agencies and schools—

(1) to meet the needs of school-aged children who have dropped out of school;

(2) to bring such children into the education system; and

(3) to help such students meet State content standards and State student performance standards.

(j) Coordination with school-to-work programs

If a State has received Federal assistance for the purpose of planning for, expanding, or establishing a school-to-work program, then a State shall include in the State improvement plan a description of how such school-to-work program will be incorporated into the school reform efforts of the State. In particular, the State improvement plan shall include a description of how secondary schools will be modified in order to provide career guidance, the integration of academic and vocational education, and work-based learning, if such programs are proposed in the State's school-to-work plan.

(k) Benchmarks and timelines

Each State improvement plan shall include specific benchmarks of improved student performance and of progress in implementing such plan, and timelines against which the progress of the State in carrying out such plan, including the elements described in subsections (c) through (j) of this section, can be measured.

(*l*) Coordinating strategies

Each State plan shall include strategies for coordinating the integration of academic and vocational instruction pursuant to the Carl D. Perkins Vocational and Applied Technology Education Act [20 U.S.C. 2301 et seq.].

(m) Program improvement and accountability

Each State improvement plan shall describe—

(1) how the State will monitor progress towards implementing the State and local improvement plans; and

(2) procedures the State plans to use, consistent with State law, to improve schools that are not meeting the State content standards voluntarily adopted by the State within the established timelines.

(n) Peer review and secretarial approval

(1) In general

(A) The Secretary shall review, within a reasonable period of time, each State improvement plan prepared under this section, and each application submitted under section 5885 of this title, through a peer review process in-

volving the assistance and advice of State and local education policymakers, educators, classroom teachers, related services personnel, experts on educational innovation and improvement, parents, advocates, and other appropriate individuals. Such peer review process shall be representative of the diversity of the United States with regard to geography, race, ethnicity, gender and disability characteristics. Such peer review process shall include at least 1 site visit to each State, except during the period when a State improvement plan is being developed.

(B) Notwithstanding the provisions of subparagraph (A), in the first year that a State educational agency submits an application for development of a State improvement plan under this subchapter the Secretary shall not be required to—

(i) review such application through a peer review process; and

(ii) conduct a site visit.

(2) Approval

The Secretary shall approve a State improvement plan if such plan is submitted to the Secretary not later than 2 years after the date the State educational agency receives its first allotment under section 5884(b) of this title, and when the Secretary determines, after considering the peer reviewers' comment, that such plan—

(A) reflects a widespread commitment within the State;

(B) holds reasonable promise of helping all students to achieve at the high levels called for by this chapter;

(C) meets the requirements of subsections (a) through (k) of this section; and

(D) allows local schools, local educational agencies and communities the flexibility to implement local improvement plans in a manner which reflects local needs and requirements in order to promote a ''bottom up'' system of school reform.

(3) Disapproval

The Secretary shall not disapprove a State improvement plan, or any State application submitted under section 5885 of this title, before offering the State—

(A) an opportunity to revise such plan or application; and

(B) a hearing.

(4) Alternative submission

(A) In general

Notwithstanding any other provision of this subchapter, any State educational agency that wishes to receive an allotment under this subchapter after the first year such State educational agency receives such an allotment may, in lieu of submitting its State improvement plan for approval by the Secretary under this subsection and section 5885(c)(2) of this title, or submitting major amendments to the Secretary under subsection (p) of this section, provide the Secretary, as part of an application under section 5885(c) of this title or as an amendment to a previously approved application—

(i) an assurance, from the Governor and the chief State school officer of the State, that—

(I) the State has a plan that meets the requirements of this section and that is widely available throughout the State; and

(II) any amendments the State makes to the plan will meet the requirements of this section; and

(ii) the State's benchmarks of improved student performance and of progress in implementing the plan, and the timelines against which the State's progress in carrying out the plan can be measured.

(B) Annual report

Any State educational agency that chooses to use the alternative method described in paragraph (1) shall annually report to the public summary information on the use of funds under this subchapter by the State and local educational agencies in the State, as well as the State's progress toward meeting the benchmarks and timelines described in subparagraph (A)(ii).

(*o*) Regular review

Each State improvement plan shall include a process for periodically reviewing and updating any State content standards, State student performance standards, and State assessments.

(p) Amendments to plan

(1) In general

Each State educational agency shall periodically review its State improvement plan and revise such plan, as appropriate, in accordance with the process described in subsection (b) of this section.

(2) Review

The Secretary shall review any major amendment to a State improvement plan and shall not disapprove any such amendment before offering a State educational agency—

(A) an opportunity to revise such amendment; and

(B) a hearing.

(q) Preexisting State plans and panels

(1) In general

If a State has developed a comprehensive and systemic State improvement plan to help all students meet State standards or any component of such plan, that meets the intent and purposes of this section, then the Secretary may approve such plan or component notwithstanding that such plan was not developed in accordance with subsection (b) of this section if the Secretary determines that such approval would further the purposes of State systemic education improvement.

(2) Special rule

(A)[1] If, before March 31, 1994, a State has made substantial progress in developing a plan that meets the intent and purposes of this section, but was developed by a panel that does not meet the requirements of paragraphs (1) through (3)[2] of subsection (b) of this section, the Secretary may, at the request of the Gov-

[1] So in original. No subpar. (B) has been enacted.

[2] See References in Text note below.

ernor and the State educational agency, treat such panel as meeting the requirements of this subchapter if the Secretary determines that there has been statewide involvement of educators, parents, students, advocacy groups, and other interested members of the public in the development of the plan.

(Pub. L. 103–227, title III, § 306, Mar. 31, 1994, 108 Stat. 160; Pub. L. 104–134, title I, § 101(d) [title VII, §§ 702(a), 703(a)(9), 705(a)], Apr. 26, 1996, 110 Stat. 1321–211, 1321–251, 1321–253, 1321–256; renumbered title I, Pub. L. 104–140, § 1(a), May 2, 1996, 110 Stat. 1327.)

REFERENCES IN TEXT

The Carl D. Perkins Vocational and Applied Technology Education Act, referred to in subsec. (*l*), is Pub. L. 88–210, Dec. 18, 1963, 77 Stat. 403, as amended, which is classified generally to chapter 44 (§ 2301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2301 of this title and Tables.

Subsection (b) of this section, referred to in subsec. (q)(2)(A), was amended generally by Pub. L. 104–134, title I, § 101(d) [title VII, § 702(a)(1)(A)], Apr. 26, 1996, 110 Stat. 1321–211, 1321–251; renumbered title I, Pub. L. 104–140, § 1(a), May 2, 1996, 110 Stat. 1327, and, as so amended, no longer contains pars. (1) through (3).

AMENDMENTS

1996—Subsec. (b). Pub. L. 104–134, § 101(d) [title VII, § 702(a)(1)(A)], amended subsec. (b) generally, substituting present provisions for former provisions relating to plan development and consisting of pars. (1) to (9).

Subsec. (d). Pub. L. 104–134, § 101(d) [title VII, § 702(a)(1)(B)], struck out subsec. (d) which related to opportunity-to-learn standards and strategies.

Subsec. (n)(4). Pub. L. 104–134, § 101(d) [title VII, § 705(a)], added par. (4).

Subsec. (*o*). Pub. L. 104–134, § 101(d) [title VII, § 703(a)(9)], struck out ''State opportunity-to-learn standards or strategies,'' after ''performance standards,''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5885, 5887, 5888, 5890, 5891, 5892, 5894, 5895, 5897 of this title.

§ 5887. Secretary's review of applications; payments

(a) First year

The Secretary shall approve the State educational agency's first year application under section 5885(b) of this title if the Secretary determines that—

(1) such application meets the requirements of this subchapter; and

(2) there is a substantial likelihood that the second year application of the State educational agency under section 5885(c) of this title will provide for the development and implementation of a State improvement plan that complies with section 5886 of this title.

(b) Second through fifth years

The Secretary shall approve the State educational agency's second year application under section 5885(c)(1) of this title for the second through fifth years of participation only if—

(1)(A) the Secretary has approved the State improvement plan under section 5886(n) of this title;

(B) the Secretary determines that the State has made substantial progress in developing its State improvement plan and will implement such plan not later than the end of the second year of participation; or

(C) the State educational agency has submitted the information described in section 5886(n)(4) of this title; and

(2) the application meets the other requirements of this subchapter.

(c) Payments

For any fiscal year for which a State has an approved application under this subchapter, the Secretary shall provide an allotment to the State educational agency in the amount determined under section 5884(b) of this title.

(Pub. L. 103–227, title III, § 307, Mar. 31, 1994, 108 Stat. 167; Pub. L. 104–134, title I, § 101(d) [title VII, § 705(c)], Apr. 26, 1996, 110 Stat. 1321–211, 1321–256; renumbered title I, Pub. L. 104–140, § 1(a), May 2, 1996, 110 Stat. 1327.)

AMENDMENTS

1996—Subsec. (b)(1)(C). Pub. L. 104–134 added subpar. (C).

§ 5888. State use of funds

(a) First year

In the first year for which a State educational agency receives an allotment under this subchapter, such agency—

(1) if the amount made available under section 5883 of this title for such year is equal to or greater than $50,000,000, shall use at least 60 percent of such allotted funds to award subgrants—

(A) in accordance with section 5889(a) of this title, to local educational agencies for the development or implementation of local improvement plans; and

(B) in accordance with section 5889(b) of this title, to improve educator preservice programs and for professional development activities consistent with the State improvement plan;

(2) if the amount made available under section 5883 of this title for such year is less than $50,000,000, may use such funds for the subgrants described in paragraph (1); and

(3) shall use any such allotted funds not used in accordance with paragraphs (1) and (2) to develop, revise, expand, or implement a State improvement plan described in section 5886 of this title.

(b) Succeeding years

Each State educational agency that receives an allotment under this subchapter for any year after the first year of such agency receives assistance under this subchapter shall—

(1) use at least 90 percent of such allotment to make subgrants—

(A) in accordance with section 5889(a) of this title, to local educational agencies for the implementation of the State improvement plan and of local improvement plans; and

(B) in accordance with section 5889(b) of this title, to improve educator preservice programs and for professional development activities that are consistent with the State improvement plan; and

(2) use the remainder of such assistance for State activities designed to implement its State improvement plan, such as—

(A) supporting the development or adoption of State content standards and State student performance standards, and State assessments linked to such standards, including through consortia of States;

(B) supporting the implementation of high-performance management and organizational strategies, such as site-based management, shared decisionmaking, or quality management principles, to promote effective implementation of such plan;

(C) supporting the development and implementation, at the local educational agency and school building level, of improved human resource development systems for recruiting, selecting, mentoring, supporting, evaluating and rewarding educators;

(D) providing special attention to the needs of minority, limited-English proficient, disabled, and female students, including instructional programs and activities that encourage such students in elementary and secondary schools to aspire to enter and complete post-secondary education or training;

(E) supporting innovative and proven methods of enhancing a teacher's ability to identify student learning needs, and motivating students to develop higher order thinking skills, discipline, and creative resolution methods;

(F) supporting the development, at the State or local level, of performance-based accountability and incentive systems for schools;

(G) outreach to and training for parents, tribal officials, organizations serving young children, classroom teachers, related services personnel, and other educators, and the public, related to education improvement;

(H) providing technical assistance and other services to increase the capacity of local educational agencies and schools to develop and implement systemic local improvement plans, implement new State assessments, and develop curricula consistent with the State content standards and State student performance standards;

(I) promoting public magnet schools, public ''charter schools'', and other mechanisms for increasing choice among public schools, including information and referral programs which provide parents with information on available choices;

(J) supporting activities relating to the planning of, and evaluation of, projects under which local educational agencies or schools contract with private management organizations to reform a school;

(K) supporting intergenerational mentoring programs;

(L) supporting the development, at the State or local level, of school-based programs that restore discipline and reduce violence in schools and communities, such as community mobilization programs; and

(M) collecting and analyzing data.

(c) Limit on administrative costs

A State educational agency that receives an allotment under this subchapter in any fiscal year shall use not more than 4 percent of such allotment in such year, or $100,000, whichever is greater, for administrative expenses, which administrative expenses shall not include the expenses related to the activities of the panel established under section 5886(b) of this title.

(d) Special rule

Any new public school established under this subchapter—

(1) shall be nonsectarian;

(2) shall not be affiliated with a nonpublic sectarian school or religious institution; and

(3) shall operate under the authority of a State educational agency or local educational agency.

(Pub. L. 103–227, title III, § 308, Mar. 31, 1994, 108 Stat. 168; Pub. L. 104–134, title I, § 101(d) [title VII, § 703(a)(10)], Apr. 26, 1996, 110 Stat. 1321–211, 1321–253; renumbered title I, Pub. L. 104–140, § 1(a), May 2, 1996, 110 Stat. 1327.)

AMENDMENTS

1996—Subsec. (b)(2)(A). Pub. L. 104–134, § 101(d) [title VII, § 703(a)(10)(A)], struck out ''State opportunity-to-learn standards,'' after ''performance standards,'', substituted ''including through consortia of States;'' for ''including—'', and struck out cls. (i) and (ii) which read as follows:

''(i) through consortia of States; or

''(ii) with the assistance of the National Education Standards and Improvement Council established under part B of subchapter II of this chapter;''.

Subsec. (c). Pub. L. 104–134, § 101(d) [title VII, § 703(a)(10)(B)], substituted ''5886(b)'' for ''5886(b)(1)''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5889, 5895, 8821 of this title.

§ 5889. Subgrants for local reform and professional development

(a) Subgrants to local educational agencies

(1) In general

(A) Each State educational agency shall make subgrants, through a competitive process to carry out the authorized activities described in paragraph (4), to local educational agencies (or consortia of such agencies) in accordance with section 5888 of this title.

(B) In making such subgrants, the State educational agency shall award not less than 1 subgrant in each fiscal year to an urban local educational agency and not less than 1 subgrant in each fiscal year to a rural local educational agency, where appropriate, except that this provision shall not apply to the District of Columbia. An education service agency may serve as a fiscal agent for a rural local educational agency.

(C) Each such subgrant shall be for a project of sufficient duration and of sufficient size, scope, and quality to carry out the purpose of this subchapter effectively.

(2) Application required

(A) A local educational agency desiring to receive a subgrant under this subsection for

the development of a local improvement plan shall submit an application to the State educational agency. Such application shall contain assurances that the local educational agency intends to develop a local improvement plan that meets the requirements of this section.

(B) A local educational agency only shall be eligible to receive a subgrant under this subsection to develop a local improvement plan for one fiscal year.

(3) Plan required

Each local educational agency desiring to receive a subgrant under this subsection to implement a local improvement plan shall submit a local improvement plan to the State educational agency. Each such plan shall—

(A) be developed by a broad-based panel;

(B) address districtwide education improvement, directed at enabling all students to meet the State content standards and State student performance standards, including specific goals and benchmarks, reflect the priorities of the State improvement plan (either approved or under development) and include a strategy for—

(i) ensuring that all students have a fair opportunity to learn;

(ii) improving teaching and learning;

(iii) improving governance and management;

(iv) generating, maintaining, and strengthening parental and community involvement; and

(v) expanding improvements throughout the local educational agency;

(C) promote the flexibility of local schools in developing plans which address the particular needs of their school and community and are consistent with the local improvement plan;

(D) describe a process of broad-based community participation in the development, implementation, and evaluation of the local improvement plan;

(E) describe how the local educational agency will encourage and assist schools to develop and implement comprehensive school improvement plans that—

(i) focus on helping all students reach State content standards and State student performance standards; and

(ii) address relevant elements of the local improvement plan of the local educational agency identified in subparagraph (B);

(F) describe how the local educational agency will implement specific programs aimed at ensuring improvements in school readiness and the ability of students to learn effectively at all grade levels by identifying the most pressing needs facing students and their families with regard to social services, health care, nutrition, and child care, and entering into partnerships with public and private nonprofit agencies to increase the access of students and families to coordinated nonsectarian services in a school setting or at a nearby site;

(G) describe how the subgrant funds will be used by the local educational agency, and the procedures to be used to make funds available to schools in accordance with paragraph (6)(A);

(H) identify, with an explanation, any State or Federal requirements that the local educational agency believes impede educational improvement and that such agency requests be waived in accordance with section 5891 of this title, which requests shall promptly be transmitted to the Secretary by the State educational agency; and

(I) contain such other information as the State educational agency may reasonably require.

(4) Submission

A local educational agency which has approved a local improvement plan shall submit such plan to the State educational agency for approval together with a description of modifications made by the local educational agency to such plan and any comments from the local panel regarding such plan.

(5) Monitoring

The panel described in paragraph (3)(A), after approval of the local educational agency's application by the State educational agency, shall be informed of progress on such plan by the local educational agency, and the local educational agency shall monitor the implementation and effectiveness of the local improvement plan in close consultation with teachers, related services personnel, principals, administrators, community members, and parents from schools receiving funds under this subchapter, as well as assure that implementation of the local improvement plan does not result in a significant increase in paperwork for teachers. The panel shall review such plan and based on the progress described in the preceding sentence, determine if revisions to the local improvement plan should be recommended to the local educational agency. The panel shall periodically report such determination to the public.

(6) Authorized activities

(A) A local educational agency that receives a subgrant under this subsection—

(i) in the first year such agency receives the subgrant shall use—

(I) not more than 25 percent of the subgrant funds to develop a local improvement plan or for any local educational agency activities approved by the State educational agency that are reasonably related to carrying out the State or local improvement plans, which may include the establishment of innovative new public schools; and

(II) not less than 75 percent of the subgrant funds to support individual school improvement initiatives related to providing all students in the school the opportunity to meet State content standards and State student performance standards; and

(ii) in subsequent years, shall use subgrant funds for any activities approved by the

State educational agency which are reasonably related to carrying out the State or local improvement plans which may include the establishment of innovative new public schools and the acquisition of technology and use of technology-enhanced curricula and instruction, except that at least 85 percent of such funds shall be made available to individual schools to develop and implement comprehensive school improvement plans which are designed to meet the needs of their particular student population and help all students meet State content standards and State student performance standards.

(B) At least 50 percent of the funds made available by a local educational agency to individual schools under this section in any fiscal year shall be made available to schools with a special need for such assistance, as indicated by a high number or percentage of students from low-income families, low student achievement, or other similar criteria developed by the local educational agency.

(C) A local educational agency may not use more than five percent of the subgrant funds such agency receives in each fiscal year under this subchapter for administrative expenses.

(7) Special consideration

The State educational agency shall give special consideration in awarding a subgrant to—

(A) a consortium of local educational agencies; or

(B) a local educational agency that provides in the application or local improvement plan described in paragraph (2) or (3), respectively, that such subgrant funds will be used to assist a consortium of schools that has developed a plan for school improvement.

(b) Subgrants for preservice teacher education and professional development activities

(1) In general

(A) Each State educational agency shall make subgrants, through a competitive, peer-reviewed process to a local educational agency, or a consortium of local educational agencies, in cooperation with institutions of higher education, nonprofit organizations, or any combination thereof, in accordance with section 5888 of this title to—

(i) improve preservice teacher education programs consistent with the State improvement plan, including how to work effectively with parents and the community; and

(ii) support continuing, sustained professional development activities for educators and school administrators or related services personnel working with educators which will increase student learning in accordance with the State improvement plan.

(B) Each State educational agency awarding subgrants under subparagraph (A) shall give priority to awarding such subgrants to—

(i) a local educational agency or consortium serving a greater number or percentage of disadvantaged students than the statewide average of such number or percentage;

(ii) a local educational agency or consortium that forms partnerships with collegiate educators to establish professional development sites; and

(iii) a local educational agency or consortium that—

(I) focuses on upgrading teachers' knowledge of content areas; or

(II) targets preparation and continued professional development of teachers of students with limited-English proficiency and students with disabilities.

(2) Application

Each local educational agency or consortium that desires to receive a subgrant under this subsection shall submit an application to the State educational agency which—

(A) describes how the applicant will use the subgrant to improve teacher preservice and school administrator education programs or to implement educator professional development activities consistent with the State improvement plan;

(B) identifies the criteria to be used by the applicant to judge improvements in preservice education or the effects of professional development activities consistent with the State improvement plan; and

(C) contains any other information that the State educational agency determines is appropriate.

(3) Required activities

A recipient of a subgrant under this subsection shall use the subgrant funds for activities supporting—

(A) the improvement of preservice teacher education and school administrator programs so that such programs equip educators with the subject matter and pedagogical expertise necessary for preparing all students to meet standards; or

(B) the development and implementation of new and improved forms of continuing and sustained professional development opportunities for teachers, principals, and other educators at the school or district level that equip educators with such expertise, and with other knowledge and skills necessary for leading and participating in continuous education improvement.

(4) Permissive activities

A recipient of a subgrant under this subsection may use the subgrant funds for costs related to release time for teachers to participate in professional development activities, which professional development shall include related services personnel as appropriate.

(c) Special award rule

(1) In general

Each State educational agency shall award at least 50 percent of subgrant funds under subsection (a) of this section in each fiscal year to local educational agencies that have a greater percentage or number of disadvantaged children than the statewide average such percentage or number for all local educational agencies in the State.

(2) Waiver

The State educational agency may waive the requirement of paragraph (1) if such agency

does not receive a sufficient number of applications to comply with such requirement.

(Pub. L. 103–227, title III, § 309, Mar. 31, 1994, 108 Stat. 169; Pub. L. 103–382, title III, § 361(c), Oct. 20, 1994, 108 Stat. 3975; Pub. L. 104–134, title I, § 101(d) [title VII, §§ 702(b), 703(a)(11)], Apr. 26, 1996, 110 Stat. 1321–211, 1321–251, 1321–253; renumbered title I, Pub. L. 104–140, § 1(a), May 2, 1996, 110 Stat. 1327.)

AMENDMENTS

1996—Subsec. (a)(3)(A). Pub. L. 104–134, § 101(d) [title VII, § 702(b)], substituted a semicolon for ''that—'' after ''panel'' and struck out cls. (i) and (ii) which read as follows:

''(i) is appointed by the local educational agency and is representative of the diversity of students and community with regard to race, language, ethnicity, gender, disability, and socioeconomic characteristics and includes teachers, parents, advocacy groups, school administrators, business representatives, and others, as appropriate; and

''(ii) shall, following the selection of its members, establish the procedures regarding the operation of the panel, including the designation of the chairperson;''.

Subsec. (a)(6)(A)(ii). Pub. L. 104–134, § 101(d) [title VII, § 703(a)(11)], inserted ''and the acquisition of technology and use of technology-enhanced curricula and instruction'' after ''new public schools''.

1994—Subsec. (a)(4). Pub. L. 103–382 inserted ''made by the local educational agency'' after ''modifications''.

PURPOSE OF 1996 AMENDMENT

Section 101(d) [title VII, § 703(a)(11)] of Pub. L. 104–134 provided in part that the amendment made by that section was ''[f]or the purpose of expanding the use and availability of computers and computer technology''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5885, 5888, 5894 of this title.

§ 5890. Availability of information and training

(a) Information and training

Proportionate to the number of children in a State or in a local educational agency who are enrolled in private elementary or secondary schools—

(1) a State educational agency or local educational agency which uses funds under this subchapter to develop goals, State content standards or State student performance standards, curricular materials, and State assessments shall, upon request, make information related to such goals, standards, materials, and assessments available to private schools; and

(2) a State educational agency or local educational agency which uses funds under this subchapter for teacher and administrator training shall provide in the State improvement plan described in section 5886 of this title for the training of teachers and administrators in private schools located in the geographical area served by such agency.

(b) Waiver

If, by reason of any provision of law, a State or local educational agency is prohibited from providing for the equitable participation of teachers and administrators from private schools in training programs assisted with Federal funds provided under this subchapter, or if the Secretary determines that a State or local educational agency has substantially failed or is unwilling to provide for such participation, the Secretary shall waive such requirements and shall arrange for the provision of training consistent with State goals and State content standards for such teachers and administrators. Such waivers shall be subject to consultation, withholding, notice, and judicial review in accordance with sections 6321[1] and 8893 of this title.

(Pub. L. 103–227, title III, § 310, Mar. 31, 1994, 108 Stat. 174; Pub. L. 103–382, title III, § 394(f)(4), Oct. 20, 1994, 108 Stat. 4028.)

REFERENCES IN TEXT

Section 6321 of this title, referred to in subsec. (b), was in the original a reference to section 1020 of the Elementary and Secondary Education Act of 1965, meaning section 1020 of Pub. L. 89–10, which was translated as reading section 1120 of that Act to reflect the probable intent of Congress, because Pub. L. 89–10 does not contain a section 1020, but it does contain a section 1120 relating to participation of children enrolled in private schools.

AMENDMENTS

1994—Subsec. (b). Pub. L. 103–382 substituted ''sections 6321 and 8893'' for ''section 2727''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6066 of this title.

§ 5891. Waivers of statutory and regulatory requirements

(a) Waiver authority

(1) In general

Except as provided in subsection (c) of this section, the Secretary may waive any statutory or regulatory requirement applicable to any program or Act described in subsection (b) of this section for a State educational agency, local educational agency, or school if—

(A) and only to the extent that, the Secretary determines that such requirement impedes the ability of the State, or of a local educational agency or school in the State, to carry out the State or local improvement plan;

(B) the State educational agency has waived, or agrees to waive, similar requirements of State law;

(C) in the case of a statewide waiver, the State educational agency—

(i) provides all local educational agencies and parent organizations in the State with notice and an opportunity to comment on the State educational agency's proposal to seek a waiver; and

(ii) submits the local educational agencies' comments to the Secretary; and

(D) in the case of a local educational agency waiver, the local educational agency provides parents, community groups, and advocacy or civil rights groups with the opportunity to comment on the proposed waiver.

(2) Application

(A)(i) To request a waiver under paragraph (1), a local educational agency or school that

[1] See References in Text note below.

receives funds under this subchapter, or a local educational agency or school that does not receive funds under this subchapter but is undertaking school reform efforts that the Secretary determines are comparable to the activities described in section 5886 of this title, shall transmit an application for such a waiver to the State educational agency. The State educational agency then shall submit approved applications for waivers under paragraph (1) to the Secretary.

(ii) A State educational agency that receives funds under this subchapter may request a waiver under paragraph (1) by submitting an application for such waiver to the Secretary.

(B) Each application submitted to the Secretary under subparagraph (A) shall—

(i) identify the statutory or regulatory requirements that are requested to be waived and the goals that the State educational agency or local educational agency or school intends to achieve;

(ii) describe the action that the State educational agency has undertaken to remove State statutory or regulatory barriers identified in the application of local educational agencies;

(iii) describe the goals of the waiver and the expected programmatic outcomes if the request is granted;

(iv) describe the numbers and types of students to be impacted by such waiver;

(v) describe a timetable for implementing a waiver; and

(vi) describe the process the State educational agency will use to monitor, on a biannual basis, the progress in implementing a waiver.

(3) Timeliness

The Secretary shall act promptly on a request for a waiver under paragraph (1) and shall provide a written statement of the reasons for granting or denying such request.

(4) Duration

Each waiver under paragraph (1) shall be for a period not to exceed 4 years. The Secretary may extend such period if the Secretary determines that the waiver has been effective in enabling the State or affected local educational agencies to carry out reform plans.

(b) Included programs

The statutory or regulatory requirements subject to the waiver authority of this section are any such requirements under the following programs or Acts:

(1) Title I of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6301 et seq.].

(2) Part A of title II of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6621 et seq.].

(3) Part A of title V of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 7201 et seq.].

(4) Title VIII of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 7701 et seq.].

(5) Part B of title IX of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 7901 et seq.].

(6) The Carl D. Perkins Vocational and Applied Technology Education Act [20 U.S.C. 2301 et seq.].

(c) Waivers not authorized

The Secretary may not waive any statutory or regulatory requirement of the programs or Acts described in subsection (b) of this section—

(1) relating to—

(A) maintenance of effort;

(B) comparability of services;

(C) the equitable participation of students and professional staff in private schools;

(D) parental participation and involvement; and

(E) the distribution of funds to States or to local educational agencies; and

(2) unless the underlying purposes of the statutory requirements of each program or Act for which a waiver is granted continue to be met to the satisfaction of the Secretary.

(d) Termination of waivers

The Secretary shall periodically review the performance of any State, local educational agency, or school for which the Secretary has granted a waiver under subsection (a)(1) of this section and shall terminate the waiver if the Secretary determines that the performance of the State, the local educational agency, or the school in the area affected by the waiver has been inadequate to justify a continuation of the waiver.

(e) Flexibility demonstration

(1) Short title

This subsection may be cited as the ''Education Flexibility Partnership Demonstration Act''.

(2) Program authorized

(A) In general

The Secretary may carry out an education flexibility demonstration program under which the Secretary authorizes not more than 6 State educational agencies serving eligible States to waive statutory or regulatory requirements applicable to 1 or more programs or Acts described in subsection (b) of this section, other than requirements described in subsection (c) of this section, for the State educational agency or any local educational agency or school within the State.

(B) Award rule

In carrying out subparagraph (A), the Secretary shall select for participation in the demonstration program described in subparagraph (A) three State educational agencies serving eligible States that each have a population of 3,500,000 or greater and three State educational agencies serving eligible States that each have a population of less than 3,500,000, determined in accordance with the most recent decennial census of the population performed by the Bureau of the Census.

(C) Designation

Each eligible State participating in the demonstration program described in sub-

paragraph (A) shall be known as an ''Ed-Flex Partnership State''.

(3) "Eligible State" defined

For the purpose of this subsection the term ''eligible State'' means a State that—

(A) has developed a State improvement plan under section 5886 of this title that is approved by the Secretary; and

(B) waives State statutory or regulatory requirements relating to education while holding local educational agencies or schools within the State that are affected by such waivers accountable for the performance of the students who are affected by such waivers.

(4) State application

(A) Each State educational agency desiring to participate in the education flexibility demonstration program under this subsection shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require. Each such application shall demonstrate that the eligible State has adopted an educational flexibility plan for the State that includes—

(i) a description of the process the State educational agency will use to evaluate applications from local educational agencies or schools requesting waivers of—

(I) Federal statutory or regulatory requirements described in paragraph (2)(A); and

(II) State statutory or regulatory requirements relating to education; and

(ii) a detailed description of the State statutory and regulatory requirements relating to education that the State educational agency will waive.

(B) The Secretary may approve an application described in subparagraph (A) only if the Secretary determines that such application demonstrates substantial promise of assisting the State educational agency and affected local educational agencies and schools within such State in carrying out comprehensive educational reform and otherwise meeting the purposes of this chapter, after considering—

(i) the comprehensiveness and quality of the educational flexibility plan described in subparagraph (A);

(ii) the ability of such plan to ensure accountability for the activities and goals described in such plan;

(iii) the significance of the State statutory or regulatory requirements relating to education that will be waived; and

(iv) the quality of the State educational agency's process for approving applications for waivers of Federal statutory or regulatory requirements described in paragraph (2)(A) and for monitoring and evaluating the results of such waivers.

(5) Local application

(A) Each local educational agency or school requesting a waiver of a Federal statutory or regulatory requirement described in paragraph (2)(A) and any relevant State statutory or regulatory requirement from a State educational agency shall submit an application to the State educational agency at such time, in such manner, and containing such information as the State educational agency may reasonably require. Each such application shall—

(i) indicate each Federal program affected and the statutory or regulatory requirement that will be waived;

(ii) describe the purposes and overall expected results of waiving each such requirement;

(iii) describe for each school year specific, measurable, educational goals for each local educational agency or school affected by the proposed waiver; and

(iv) explain why the waiver will assist the local educational agency or school in reaching such goals.

(B) A State educational agency shall evaluate an application submitted under subparagraph (A) in accordance with the State's educational flexibility plan described in paragraph (4)(A).

(C) A State educational agency shall not approve an application for a waiver under this paragraph unless—

(i) the local educational agency or school requesting such waiver has developed a local reform plan that is applicable to such agency or school, respectively; and

(ii) the waiver of Federal statutory or regulatory requirements described in paragraph (2)(A) will assist the local educational agency or school in reaching its educational goals.

(6) Monitoring

Each State educational agency participating in the demonstration program under this subsection shall annually monitor the activities of local educational agencies and schools receiving waivers under this subsection and shall submit an annual report regarding such monitoring to the Secretary.

(7) Duration of Federal waivers

(A) The Secretary shall not approve the application of a State educational agency under paragraph (4) for a period exceeding 5 years, except that the Secretary may extend such period if the Secretary determines that such agency's authority to grant waivers has been effective in enabling such State or affected local educational agencies or schools to carry out their local reform plans.

(B) The Secretary shall periodically review the performance of any State educational agency granting waivers of Federal statutory or regulatory requirements described in paragraph (2)(A) and shall terminate such agency's authority to grant such waivers if the Secretary determines, after notice and opportunity for hearing, that such agency's performance has been inadequate to justify continuation of such authority.

(f) Accountability

In deciding whether to extend a request for a waiver under subsection (a)(1) of this section, or a State educational agency's authority to issue waivers under subsection (e) of this section, the

Secretary shall review the progress of the State educational agency, local educational agency, or school affected by such waiver or authority to determine if such agency or school has made progress toward achieving the desired results described in the application submitted pursuant to subsection (a)(2)(B)(iii) or (e)(5)(A)(ii) of this section.

(g) Publication

A notice of the Secretary's decision to grant waivers under subsection (a)(1) of this section and to authorize State educational agencies to issue waivers under subsection (e) of this section shall be published in the Federal Register and the Secretary shall provide for the dissemination of such notice to State educational agencies, interested parties, including educators, parents, students, advocacy and civil rights organizations, other interested parties, and the public.

(Pub. L. 103–227, title III, § 311, Mar. 31, 1994, 108 Stat. 174; Pub. L. 103–382, title III, § 394(f)(5), Oct. 20, 1994, 108 Stat. 4028.)

REFERENCES IN TEXT

The Elementary and Secondary Education Act of 1965, referred to in subsec. (b)(1) to (5), is Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, as amended generally by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519. Title I of the Act is classified generally to subchapter I (§ 6301 et seq.) of chapter 70 of this title. Part A of title II of the Act is classified generally to part A (§ 6621 et seq.) of subchapter II of chapter 70 of this title. Part A of title V of the Act is classified generally to part A (§ 7201 et seq.) of subchapter V of chapter 70 of this title. Title VIII of the Act is classified generally to subchapter VIII (§ 7701 et seq.) of chapter 70 of this title. Part B of title IX of the Act is classified generally to part B (§ 7901 et seq.) of subchapter IX of chapter 70 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

The Carl D. Perkins Vocational and Applied Technology Education Act, referred to in subsec. (b)(6), is Pub. L. 88–210, Dec. 18, 1963, 77 Stat. 403, as amended, which is classified generally to chapter 44 (§ 2301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2301 of this title and Tables.

AMENDMENTS

1994—Subsec. (b)(1) to (6). Pub. L. 103–382 amended pars. (1) to (6) generally. Prior to amendment, pars. (1) to (6) read as follows:

''(1) Chapter 1 of title I of the Elementary and Secondary Education Act of 1965, including Even Start.

''(2) Part A of chapter 2 of title I of the Elementary and Secondary Education Act of 1965.

''(3) The Dwight D. Eisenhower Mathematics and Science Education Act.

''(4) The Emergency Immigrant Education Act of 1984.

''(5) The Drug-Free Schools and Communities Act of 1986.

''(6) The Carl D. Perkins Vocational and Applied Technology Education Act.''

ADDITIONAL STATE EDUCATIONAL AGENCIES AUTHORIZED TO WAIVE FEDERAL REQUIREMENTS

Pub. L. 104–134, title I, § 101(d) [title III], Apr. 26, 1996, 110 Stat. 1321–211, 1321–229; renumbered title I, Pub. L. 104–140, § 1(a), May 2, 1996, 110 Stat. 1327, provided in part: ''That notwithstanding section 311(e) of Public Law 103–227 [20 U.S.C. 5891(e)], the Secretary is authorized to grant up to six additional State education agencies authority to waive Federal statutory or regulatory requirements for fiscal year 1996 and succeeding fiscal years''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5889, 5892 of this title.

§ 5892. Progress reports

(a) State reports to Secretary

Except in the case of a State educational agency submitting the information described in section 5886(n)(4) of this title, each State educational agency that receives funds under this subchapter shall annually report to the Secretary regarding—

(1) progress in meeting State goals and plans;

(2) proposed State activities for the succeeding year; and

(3) in summary form, the progress of local educational agencies in meeting local goals and plans and increasing student learning.

(b) Secretary's reports to Congress

By April 30, 1996, and every 2 years thereafter, the Secretary shall submit a report to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate describing—

(1) the activities assisted under, and outcomes of, allotments under this subchapter; and

(2) the effect of waivers granted under section 5891 of this title, including—

(A) a listing of all State educational agencies, local educational agencies and schools seeking and receiving waivers;

(B) a summary of the State and Federal statutory or regulatory requirements that have been waived, including the number of waivers sought and granted under each such statutory or regulatory requirement;

(C) a summary of waivers that have been terminated, including a rationale for the terminations; and

(D) recommendations to the Congress regarding changes in statutory or regulatory requirements, particularly those actions that should be taken to overcome Federal statutory or regulatory impediments to education reform.

(Pub. L. 103–227, title III, § 312, Mar. 31, 1994, 108 Stat. 178; Pub. L. 104–134, title I, § 101(d) [title VII, §§ 703(a)(12), 705(d)], Apr. 26, 1996, 110 Stat. 1321–211, 1321–253, 1321–257; renumbered title I, Pub. L. 104–140, § 1(a), May 2, 1996, 110 Stat. 1327.)

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–134, § 101(d) [title VII, § 705(d)], substituted ''Except in the case of a State educational agency submitting the information described in section 5886(n)(4) of this title, each'' for ''Each'' in introductory provisions.

Subsec. (b). Pub. L. 104–134, § 101(d) [title VII, § 703(a)(12)], redesignated pars. (2) and (3) as (1) and (2), respectively, and struck out former par. (1) which read as follows: ''the activities assisted under, and outcomes of, grants or contracts under section 5850 of this title, including—

''(A) a description of the purpose, uses, and technical merit of assessments evaluated with funds awarded under such paragraph; and

''(B) an analysis of the impact of such assessments on the performance of students, particularly students of different racial, gender, ethnic, or language groups and individuals with disabilities;''.

CHANGE OF NAME

Committee on Education and Labor of House of Representatives treated as referring to Committee on Economic and Educational Opportunities of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Economic and Educational Opportunities of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Fifth Congress, Jan. 7, 1997.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5885 of this title.

§ 5893. Technical and other assistance regarding school finance equity

(a) Technical assistance

(1) In general

From funds reserved in each fiscal year under section 5884(a)(2)(A) of this title, the Secretary is authorized to make grants to, and enter into contracts and cooperative agreements with, State educational agencies and other public and private agencies, institutions, and organizations to provide technical assistance to State and local educational agencies to assist such agencies in achieving a greater degree of equity in the distribution of financial resources for education among local educational agencies in the State.

(2) Activities

A grant, contract or cooperative agreement under this section may support technical assistance activities, such as—

(A) the establishment and operation of a center or centers for the provision of technical assistance to State and local educational agencies;

(B) the convening of conferences on equalization of resources within local educational agencies, within States, and among States; and

(C) obtaining advice from experts in the field of school finance equalization.

(b) Data

Each State educational agency or local educational agency receiving assistance under the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6301 et seq.] shall provide such data and information on school finance as the Secretary may require to carry out this section.

(c) Models

The Secretary is authorized, directly or through grants, contracts, or cooperative agreements, to develop and disseminate models and materials useful to States in planning and implementing revisions of the school finance systems of such States.

(Pub. L. 103–227, title III, § 313, Mar. 31, 1994, 108 Stat. 179.)

REFERENCES IN TEXT

The Elementary and Secondary Education Act of 1965, referred to in subsec. (b), is Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, as amended generally by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519, which is classified generally to chapter 70 (§ 6301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5884 of this title.

§ 5894. National leadership

(a) Technical assistance and integration of standards

From funds reserved in each fiscal year under section 5884(a)(2)(A) of this title, the Secretary may, directly or through grants or contracts—

(1) provide technical assistance to States, local educational agencies, and tribal agencies developing or implementing school improvement plans, in a manner that ensures that such assistance is broadly available;

(2) gather data on, conduct research on, and evaluate systemic education improvement and how such improvement affects student learning, including the programs assisted under this subchapter;

(3) disseminate research findings and other information on outstanding examples of systemic education improvement in States and local communities through existing dissemination systems within the Department of Education, including through publications, electronic and telecommunications mediums, conferences, and other means;

(4) provide grants to tribal divisions of education for coordination efforts between school reform plans developed for schools funded by the Bureau and public schools described in section 5886(g)(2) of this title, including tribal activities in support of such plans;

(5) support national demonstration projects that unite local and State educational agencies, institutions of higher education, government, business, and labor in collaborative arrangements in order to make educational improvements systemwide; and

(6) support model projects to integrate multiple content standards, if—

(A) such standards are approved by the National Goals Panel for different subject areas, in order to provide balanced and coherent instructional programs for all students; and

(B) such projects are appropriate for a wide range of diverse circumstances, localities (including both urban and rural communities), and populations.

(b) Reservation of funds

(1) In general

The Secretary shall use at least 50 percent of the funds reserved each year under section 5884(a)(2)(A) of this title to make grants, in accordance with the provisions of section 5889(a) of this title that the Secretary determines appropriate, and provide technical and other assistance to urban and rural local educational agencies with large numbers or concentrations of students who are economically disadvantaged or who have limited English proficiency, to assist such agencies in developing and im-

plementing local school improvement plans, except that any school that received funds under section 5889(a) of this title shall not receive assistance pursuant to this paragraph other than technical assistance.

(2) Survey

The Secretary shall use not less than $1,000,000 of the funds reserved for fiscal year 1994 under section 5884(a)(2)(A) of this title to replicate coordinated services programs that have been found to be successful in helping students and families and improving student outcomes, and shall disseminate information about such programs to schools that plan to develop coordinated services programs.

(c) Administration

Any activities assisted under this section that involve research shall be administered through the Office of Educational Research and Improvement.

(Pub. L. 103–227, title III, § 314, Mar. 31, 1994, 108 Stat. 180; Pub. L. 104–134, title I, § 101(d) [title VII, § 703(a)(13)], Apr. 26, 1996, 110 Stat. 1321–211, 1321–253; renumbered title I, Pub. L. 104–140, § 1(a), May 2, 1996, 110 Stat. 1327.)

AMENDMENTS

1996—Subsec. (a)(6)(A). Pub. L. 104–134 struck out ''certified by the National Education Standards and Improvement Council and'' after ''such standards are''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5884 of this title.

§ 5895. Assistance to outlying areas and to Secretary of the Interior

(a) Outlying areas

(1) In general

Funds reserved for outlying areas under section 5884(a)(1)(A) of this title shall be distributed among such areas by the Secretary according to relative need of such areas.

(2) Inapplicability of Public Law 95–134

The provisions of Public Law 95–134, permitting the consolidation of grants to the insular areas, shall not apply to funds received by such areas under this subchapter.

(b) Secretary of the Interior

(1) In general

The funds reserved for the Secretary of the Interior under section 5884(a)(1)(B) of this title shall be made in a payment which shall be pursuant to an agreement between the Secretary and the Secretary of the Interior containing such assurances and terms as the Secretary determines shall best achieve the provisions of this section and this chapter. The agreement shall, at a minimum, contain assurances that—

(A) a panel, as set forth in paragraph (3), shall be established;

(B) a reform and improvement plan, designed to increase student learning and assist students in meeting the National Education Goals, meeting the requirements pertaining to State improvement plans required in section 5886 of this title and providing for the fundamental restructuring and improvement of elementary and secondary education in schools funded by the Bureau, shall be developed by such panel; and

(C) the provisions and activities required under such State improvement plans shall be carried out in the same time frames and under the same conditions stipulated for the States in sections 5885 and 5886 of this title, provided that for these purposes, the term ''local educational agencies'' shall be interpreted to mean ''schools funded by the Bureau''.

(2) Plan specifics

The reform and improvement plan shall include, in addition to the requirements described above, specific provisions for—

(A) review and incorporation of the National Education Goals and the voluntary national content standards and voluntary national student performance standards, provided that such review shall include the issues of cultural and language differences; and

(B) provision for coordination of the efforts of the Bureau with the efforts for school improvement of the States and local educational agencies in which the schools funded by the Bureau are located, including the development of the partnerships outlined in section 5886(g)(2) of this title.

(3) Panel

(A) To carry out the provisions of this section, and to develop the plan for system-wide reform and improvement required under the agreement required under paragraph (1), the Secretary of the Interior shall establish a panel coordinated by the Assistant Secretary of the Interior for Indian Affairs. Such panel shall consist of—

(i) the Director of the Office of Indian Education Programs of the Bureau and two heads of other divisions of such Bureau as the Assistant Secretary shall designate;

(ii) a designee of the Secretary of Education; and

(iii) a representative nominated by each of the following:

(I) The organization representing the majority of teachers and professional personnel in schools operated by the Bureau.

(II) The organization representing the majority of nonteaching personnel in schools operated by the Bureau, if not the same organization as in subclause (I).

(III) School administrators of schools operated by the Bureau.

(IV) Education line officers located in Bureau area or agency offices serving schools funded by the Bureau.

(V) The organization representing the majority of contract or grant schools funded by the Bureau not serving students on the Navajo reservation.

(VI) The organization representing the majority of contract or grant schools funded by the Bureau serving students on the Navajo reservation.

(VII) The organization representing the school boards required by statute for

schools operated by the Bureau not serving students on the Navajo reservation.

(VIII) The organization representing the school boards required by statute for schools funded by the Bureau serving students on the Navajo reservation.

(B) Including the additional members required by paragraph (4), a majority of the members of such panel shall be from the entities designated under subparagraph (A)(iii).

(4) Additional members

In addition, the members of the panel described in paragraph (3) shall designate for full membership on the panel four additional members—

(A) one of whom shall be a representative of a national organization which represents primarily national Indian education concerns; and

(B) three of whom shall be chairpersons (or their designees) of Indian tribes with schools funded by the Bureau on their reservations (other than those specifically represented by organizations referred to in paragraph (3)), provided that preference for no less than two of these members shall be given to Indian tribes with a significant number of schools funded by the Bureau on their reservations, or with a significant percentage of their children enrolled in schools funded by the Bureau.

(c) Bureau of Indian Affairs cost analysis and studies

(1) In general

The Secretary of the Interior shall reserve from the funds received pursuant to section 5884(a)(1)(B) of this title in the first and second fiscal year for which the Secretary of the Interior receives such funds an amount not to exceed $500,000 for each such year to provide, through a contract executed, after open solicitation, with an organization or institution having extensive experience in school finance, for an analysis of—

(A) the costs associated with meeting the academic, home-living, and residential standards of the Bureau for each Bureau funded school and annual projections of such costs; and

(B) the feasibility and desirability of changing the method of financing for Bureau funded schools from the weighted student unit formula method in effect on March 31, 1994, to a school-based budget system or other alternative system of financial support.

(2) Cost analysis purpose

The purpose of the cost analysis provided for in paragraph (1)(A) shall be to provide the Bureau and the panel described in subsection (b)(3) of this section with baseline data regarding the current state of operations funded by the Bureau. Such analysis shall evaluate the costs of providing a program in each school operated or supported by the Bureau for the next succeeding academic year and shall be based on—

(A) the standards either published in the Federal Register and effective for schools funded by the Bureau on October 20, 1994, or the State or regional standards in effect on October 20, 1994, for a Bureau funded school;

(B) the best projections of student counts and demographics as provided by the Bureau and as independently reviewed by the organization or institution selected by the Secretary to perform the analysis described in this section; and

(C) the pay and benefit schedules and other personnel requirements for each school operated by the Bureau, as such pay and benefit schedules and requirements existed on October 20, 1994.

(3) Feasibility study purpose

(A) The purpose of the feasibility analysis provided for in paragraph (1)(B) shall be to determine whether it is feasible and desirable for the Bureau to replace or modify the weighted student unit formula system in effect on March 31, 1994.

(B) For the purposes of the feasibility analysis described in paragraph (1)(B), the term ''school-based budget system'' means a system based upon an initial determination, at each school site, of the number of students who shall be served at the site, the needs of those students, the standards which will best meet those needs (including any standards or conditions reflecting local community input and such community's program), the personnel profile necessary to establish such program and the cost (determined on an actual basis) of funding such a program. Such a system shall include procedures to aggregate the determinations for each school site to determine the amount needed to fund all Bureau funded schools, to prepare a budget submission based upon such aggregate, and to provide for a mechanism for distributing such sums as may be appropriated based upon the determination at each school site.

(4) Results report

The contractor selected shall be required to report the results of analyses provided for in this section, in aggregate and school-specific form to the chairpersons and ranking minority members of the Committee on Education and Labor and the Committee on Appropriations of the House of Representatives and the Committee on Indian Affairs and the Committee on Appropriations of the Senate, and to the Secretary of the Interior, not later than six months after October 20, 1994. The contractor shall also be required to provide an estimate of the costs of meeting the academic and residential standards of the Bureau for each Bureau funded school for each of the three succeeding forward-funded fiscal years following the date of submission of such report. The contractor shall provide an estimate of such costs to such persons and members not later than January 1 of each succeeding fiscal year.

(d) Secretary of Defense

The Secretary shall consult with the Secretary of Defense to ensure that, to the extent practicable, the purposes of this subchapter are applied to the Department of Defense schools.

(e) Grants

The Secretary of the Interior may use not more than one percent of the funds received pursuant to section 5884(a)(1)(B) of this title in the first and second fiscal year[1] for which the Secretary of the Interior receives such funds for the purpose of providing grants, if requested by Bureau funded school boards, to enable such school boards to carry out activities of reform planning as such activities are described for States in section 5888(b)(2)(J) of this title, including the feasibility of becoming a contract school pursuant to the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), or a grant school pursuant to section 2503 of title 25.

(f) Study

In cooperation with the panel established in subsection (b)(3) of this section, the Secretary of the Interior shall conduct a study to evaluate the feasibility of contracting with a private management firm for the operation of one or more Bureau operated schools to facilitate the achievement of the National Education Goals and the efficient use of funds in the education of Indian children, and to report to the persons identified in subsection (c)(4) of this section and to the panel described in subsection (b)(3) of this section not later than 12 months after October 20, 1994.

(Pub. L. 103–227, title III, § 315, Mar. 31, 1994, 108 Stat. 181; Pub. L. 103–382, title III, § 384, Oct. 20, 1994, 108 Stat. 4018; Pub. L. 104–134, title I, § 101(d) [title VII, § 703(a)(14)], Apr. 26, 1996, 110 Stat. 1321–211, 1321–253; renumbered title I, Pub. L. 104–140, § 1(a), May 2, 1996, 110 Stat. 1327.)

REFERENCES IN TEXT

Public Law 95–134, referred to in subsec. (a)(2), is Pub. L. 95–134, Oct. 15, 1977, 91 Stat. 1159, as amended. Provisions relating to consolidation of grants are contained in section 501 of Pub. L. 95–134 which is classified to section 1469a of Title 48, Territories and Insular Possessions.

The Indian Self-Determination and Education Assistance Act referred to in subsec. (e), is Pub. L. 93–638, Jan. 4, 1975, 88 Stat. 2203, as amended, which is classified principally to subchapter II (§ 450 et seq.) of chapter 14 of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 450 of Title 25 and Tables.

AMENDMENTS

1996—Subsec. (b)(1)(A). Pub. L. 104–134, § 101(d) [title VII, § 703(a)(14)(A)(iv)], substituted ''paragraph (3)'' for ''paragraph (4) of this subsection''.

Subsec. (b)(1)(C). Pub. L. 104–134, § 101(d) [title VII, § 703(a)(14)(A)(i)], struck out '', including the requirements for timetables for opportunity-to-learn standards,'' after ''such State improvement plans''.

Subsec. (b)(2). Pub. L. 104–134, § 101(d) [title VII, § 703(a)(14)(A)(ii), (iii)], redesignated par. (3) as (2) and struck out heading and text of former par. (2). Text read as follows: ''The provisions applicable to the States in section 5843 of this title shall apply to the Bureau plan with regard to voluntary submission of standards and assessments to the National Education Standards and Improvement Council for review and certification.''

Subsec. (b)(2)(A). Pub. L. 104–134, § 101(d) [title VII, § 703(a)(14)(A)(v)(III)], substituted ''and voluntary national student performance standards'' for '', voluntary natural student performance standards, and voluntary natural opportunity-to-learn standards developed under part B of subchapter II of this chapter''.

Pub. L. 104–134, § 101(d) [title VII, § 703(a)(14)(A)(v)(I), (II)], redesignated subpar. (B) as (A) and struck out former subpar. (A) which read as follows: ''opportunity to learn standards pertaining to residential programs and transportation costs associated with programs located on or near reservations or serving students in off-reservation residential boarding schools;''.

Subsec. (b)(2)(B), (C). Pub. L. 104–134, § 101(d) [title VII, § 703(a)(14)(A)(v)(II)], redesignated subpar. (C) as (B). Former subpar. (B) redesignated (A).

Subsec. (b)(3). Pub. L. 104–134, § 101(d) [title VII, § 703(a)(14)(A)(iii)], redesignated par. (4) as (3). Former par. (3) redesignated (2).

Subsec. (b)(3)(B). Pub. L. 104–134, § 101(d) [title VII, § 703(a)(14)(A)(vi)], substituted ''paragraph (4)'' for ''paragraph (5)''.

Subsec. (b)(4), (5). Pub. L. 104–134, § 101(d) [title VII, § 703(a)(14)(A)(iii), (vii)], redesignated par. (5) as (4) and substituted ''paragraph (3)'' for ''paragraph (4)'' in introductory provisions and in subpar. (B). Former par. (4) redesignated (3).

Subsec. (c)(2). Pub. L. 104–134, § 101(d) [title VII, § 703(a)(14)(B)], in introductory provisions, substituted ''subsection (b)(3)'' for ''subsection (b)(4)'', and struck out ''and to provide a framework for the implementation of opportunity-to-learn standards or strategies'' after ''funded by the Bureau''.

Subsec. (f). Pub. L. 104–134, § 101(d) [title VII, § 703(a)(14)(C)], substituted ''subsection (b)(3)'' for ''subsection (b)(4)'' in two places.

1994—Subsec. (c). Pub. L. 103–382, § 384(a)(1), amended heading and text of subsec. (c) generally. Prior to amendment, text contained pars. (1) and (2) relating to BIA cost analysis, reserving up to $500,000 for one fiscal year for cost analysis, specifying contents of cost analysis, and directing that such analysis be reported to Congressional committees.

Subsecs. (e), (f). Pub. L. 103–382, § 384(a)(2), added subsecs. (e) and (f).

CHANGE OF NAME

Committee on Education and Labor of House of Representatives treated as referring to Committee on Economic and Educational Opportunities of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Economic and Educational Opportunities of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Fifth Congress, Jan. 7, 1997.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5802 of this title; title 25 section 2001.

§ 5896. Repealed. Pub. L. 104–134, title I, § 101(d) [title VII, § 703(a)(15)(A)], Apr. 26, 1996, 110 Stat. 1321–211, 1321–254; renumbered title I, Pub. L. 104–140, § 1(a), May 2, 1996, 110 Stat. 1327

Section, Pub. L. 103–227, title III, § 316, Mar. 31, 1994, 108 Stat. 184, provided that standards or State assessments described in State improvement plan submitted in accordance with section 5886 of this title were not to be required to be certified by Council.

§ 5897. State planning for improving student achievement through integration of technology into curriculum

(a) Purpose

It is the purpose of this section to assist each State to plan effectively for improved student

[1] So in original. Probably should be ''years''.

learning in all schools through the use of technology as an integral part of the State improvement plan described in section 5886 of this title.

(b) Program authorized

(1) Authority

The Secretary shall award grants in accordance with allocations under paragraph (2) to each State educational agency that, as part of its application under section 5885 of this title, requests a grant to develop (or continue the development of), and submits as part of the State improvement plan described in section 5886 of this title, a systemic statewide plan to increase the use of state-of-the-art technologies that enhance elementary and secondary student learning and staff development in support of the National Education Goals and State content standards and State student performance standards.

(2) Formula

From the amount appropriated pursuant to the authority of subsection (f) of this section in each fiscal year, each State educational agency with an application approved under section 5885 of this title shall receive a grant under paragraph (1) in such year in an amount determined on the same basis as allotments are made to State educational agencies under subsections (b) and (c) of section 5884 of this title for such year, except that each such State shall receive at least $75,000.

(3) Outlying areas

(A) From the amount appropriated pursuant to the authority of subsection (f) of this section for fiscal year 1995, the Secretary shall reserve a total of 1 percent to provide assistance under this section—

(i) to the outlying areas; and

(ii) for the Secretary of the Interior to conduct directly or through a contract, systemic technology planning for Bureau-funded schools.

(B) The funds reserved under subparagraph (A) shall be distributed among the outlying areas and the Secretary of the Interior by the Secretary according to the relative need of such areas and schools for assistance under this section.

(c) Plan objectives

Each State educational agency shall use funds received under this section to develop and, if the Secretary has approved the systemic statewide plan, to implement such plan. Such plan shall have as its objectives—

(1) the promotion of higher student achievement through the use of technology in education;

(2) the participation of all schools and school districts in the State, especially those schools and districts with a high percentage or number of disadvantaged students;

(3) the development and implementation of a cost-effective, high-speed, statewide, interoperable, wide-area-communication educational technology support system for elementary and secondary schools within the State, particularly for such schools in rural areas; and

(4) the promotion of shared usage of equipment, facilities, and other technology resources by adult learners during after-school hours.

(d) Plan requirements

At a minimum, each systemic statewide plan shall—

(1) be developed by a task force that—

(A) includes among its members experts in the educational use of technology and representatives of the State panel described in section 5886(b) of this title; and

(B) ensures that such plan is integrated into the State improvement plan described in section 5886 of this title;

(2) be developed in collaboration with the Governor, representatives of the State legislature, the State board of education, institutions of higher education, appropriate State agencies, local educational agencies, public and private telecommunication entities, parents, public and school libraries, students, adult literacy providers, and leaders in the field of technology, through a process of statewide grassroots outreach to local educational agencies and schools in the State;

(3) identify and describe the requirements for introducing state-of-the-art technologies into the classroom and school library in order to enhance educational curricula, including the installation and ongoing maintenance of basic connections, hardware and the necessary support materials;

(4) describe how the application of advanced technologies in the schools will enhance student learning, provide greater access to individualized instruction, and help make progress toward the achievement of the National Education Goals;

(5) describe how the ongoing training of educational personnel will be provided;

(6) describe the resources necessary, and procedures, for providing ongoing technical assistance to carry out such plan;

(7) provide for the dissemination on a statewide basis of exemplary programs and practices relating to the use of technology in education;

(8) establish a funding estimate (including a statement of likely funding sources) and a schedule for the development and implementation of such plan;

(9) describe how the State educational agency will assess the impact of implementing such plan on student achievement and aggregate achievement for schools;

(10) describe how the State educational agency and local educational agencies in the State will coordinate and cooperate with business and industry, and with public and private telecommunications entities;

(11) describe how the State educational agency will promote the purchase of equipment by local educational agencies that, when placed in schools, will meet the highest possible level of interoperability and open system design;

(12) describe how the State educational agency will consider using existing telecommunications infrastructure and technology resources;

(13) describe how the State educational agency will apply the uses of technology to meet the needs of children from low-income families;

(14) describe the process through which such plan will be reviewed and updated periodically; and

(15) describe how the State educational agency will facilitate collaboration between State literacy resource centers, local educational agencies, and adult and family literacy providers, to ensure that technology can be used by adult and family literacy providers during after school hours.

(e) Reports

Each State educational agency receiving a grant under this section shall submit a report to the Secretary within 1 year of the date such agency submits to the Secretary its systemic statewide plan under this section. Such report shall—

(1) describe the State's progress toward implementation of the provisions of such plan;

(2) describe any revisions to the State's long-range plans for technology; and

(3) include any other information the Secretary deems appropriate.

(f) Authorization of appropriations

There are authorized to be appropriated $5,000,000 for fiscal year 1994 to carry out this section.

(Pub. L. 103–227, title III, § 317, Mar. 31, 1994, 108 Stat. 184; Pub. L. 103–382, title III, § 361(d), Oct. 20, 1994, 108 Stat. 3975; Pub. L. 104–134, title I, § 101(d) [title VII, § 703(a)(16)], Apr. 26, 1996, 110 Stat. 1321–211, 1321–254; renumbered title I, Pub. L. 104–140, § 1(a), May 2, 1996, 110 Stat. 1327.)

AMENDMENTS

1996—Subsec. (d)(4). Pub. L. 104–134, § 101(d) [title VII, § 703(a)(16)(A)], struck out ''promote the standards and strategies described in section 5886(d) of this title,'' after ''individualized instruction,''.

Subsec. (e)(2) to (4). Pub. L. 104–134, § 101(d) [title VII, § 703(a)(16)(B)], inserted ''and'' at end of par. (2), redesignated par. (4) as (3), and struck out former par. (3) which read as follows: ''describe the extent to which resources provided pursuant to such plan are distributed among schools to promote the standards and strategies described in section 5886(d) of this title; and''.

1994—Subsec. (b)(3). Pub. L. 103–382 added par. (3).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6832 of this title.

§ 5898. Prohibition on Federal mandates, direction, and control

Nothing in this chapter shall be construed to authorize an officer or employee of the Federal Government to mandate, direct, or control a State, local educational agency, or school's curriculum, program of instruction, or allocation of State or local resources or mandate a State or any subdivision thereof to spend any funds or incur any costs not paid for under this chapter.

(Pub. L. 103–227, title III, § 318, Mar. 31, 1994, 108 Stat. 186.)

§ 5899. State and local government control of education

(a) Findings

The Congress finds as follows:

(1) Congress is interested in promoting State and local government reform efforts in education.

(2) In Public Law 96–88 [20 U.S.C. 3401 et seq.] the Congress found that education is fundamental to the development of individual citizens and the progress of the Nation.

(3) In Public Law 96–88 the Congress found that in our Federal system the responsibility for education is reserved respectively to the States and the local school systems and other instrumentalities of the States.

(4) In Public Law 96–88 the Congress declared the purpose of the Department of Education was to supplement and complement the efforts of States, the local school systems, and other instrumentalities of the States, the private sector, public and private educational institutions, public and private nonprofit educational research institutions, community based organizations, parents and schools to improve the quality of education.

(5) With the establishment of the Department of Education, Congress intended to protect the rights of State and local governments and public and private educational institutions in the areas of educational policies and administration of programs and to strengthen and improve the control of such governments and institutions over their own educational programs and policies.

(6) Public Law 96–88 specified that the establishment of the Department of Education shall not increase the authority of the Federal Government over education or diminish the responsibility for education which is reserved to the States and local school systems and other instrumentalities of the States.

(7) Public Law 96–88 specified that no provision of a program administered by the Secretary or by any other officer of the Department of Health, Education, and Welfare[1] shall be construed to authorize the Secretary or any such officer to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution, school, or school system, over any accrediting agency or association or over the selection or content of library resources, textbooks, or other instructional materials by any educational institution or school system.

(b) Reaffirmation

The Congress agrees and reaffirms that the responsibility for control of education is reserved to the States and local school systems and other instrumentalities of the States and that no action shall be taken under the provisions of this chapter by the Federal Government which would, directly or indirectly, impose standards or requirements of any kind through the promulgation of rules, regulations, provision of financial assistance and otherwise, which would reduce, modify, or undercut State and local responsibility for control of education.

(Pub. L. 103–227, title III, § 319, Mar. 31, 1994, 108 Stat. 186.)

[1] So in original. Probably should be ''Department of Education''.

REFERENCES IN TEXT

Public Law 96–88, referred to in subsec. (a), is Pub. L. 96–88, Oct. 17, 1979, 93 Stat. 668, as amended, known as the Department of Education Organization Act, which is classified principally to chapter 48 (§ 3401 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3401 of this title and Tables.

§ 5900. Limitations

(a) Prohibited conditions

Nothing in this chapter shall be construed to require a State, a local educational agency, or a school, as a condition of receiving assistance under this subchapter—

(1) to provide outcomes-based education; or

(2) to provide school-based health clinics or any other health or social service.

(b) Limitation on government officials

Nothing in this chapter shall be construed to require or permit any Federal or State official to inspect a home, judge how parents raise their children, or remove children from their parents, as a result of the participation of a State, local educational agency, or school in any program or activity carried out under this chapter.

(Pub. L. 103–227, title III, § 320, as added Pub. L. 104–134, title I, § 101(d) [title VII, § 706], Apr. 26, 1996, 110 Stat. 1321–211, 1321–257; renumbered title I, Pub. L. 104–140, § 1(a), May 2, 1996, 110 Stat. 1327.)

SUBCHAPTER IV—PARENTAL ASSISTANCE

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 5802 of this title.

§ 5911. Parental information and resource centers

(a) Purpose

The purpose of this subchapter is—

(1) to increase parents' knowledge of and confidence in child-rearing activities, such as teaching and nurturing their young children;

(2) to strengthen partnerships between parents and professionals in meeting the educational needs of children aged birth through 5 and the working relationship between home and school;

(3) to enhance the developmental progress of children assisted under this subchapter; and

(4) to fund at least 1 parental information and resource center in each State before September 30, 1998.

(b) Grants authorized

(1) In general

The Secretary is authorized to award grants in each fiscal year to nonprofit organizations, and nonprofit organizations in consortia with local educational agencies, to establish parental information and resource centers that provide training, information, and support to—

(A) parents of children aged birth through 5 years;

(B) parents of children enrolled in elementary and secondary schools; and

(C) individuals who work with the parents described in subparagraphs (A) and (B).

(2) Award rule

In awarding grants under this subchapter, the Secretary shall ensure that such grants are distributed, to the greatest extent possible, to all geographic regions of the United States.

(Pub. L. 103–227, title IV, § 401, Mar. 31, 1994, 108 Stat. 187.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5912, 5913, 6319 of this title.

§ 5912. Applications

(a) Grants applications

(1) In general

Each nonprofit organization and nonprofit organization in consortium with a local educational agency which desires a grant under this subchapter shall submit an application to the Secretary at such time and in such manner as the Secretary shall determine.

(2) Contents

Each application submitted under paragraph (1) shall, at a minimum, include assurances that a grantee will—

(A)(i) be governed by a board of directors the membership of which includes parents; or

(ii) be an organization that represents the interests of parents;

(B) establish a special advisory committee the membership of which—

(i) includes—

(I) parents described in subparagraphs (A) and (B) of section 5911(b)(1) of this title; and

(II) representatives of education professionals with expertise in improving services for disadvantaged children; and

(ii) is broadly representative of minority, low-income, and other individuals and groups that have an interest in compensatory education and family literacy;

(C) use at least one-half of the funds provided under this chapter in each fiscal year to serve areas with high concentrations of low-income families in order to serve parents who are severely educationally or economically disadvantaged;

(D) operate a center of sufficient size, scope, and quality to ensure that the center is adequate to serve the parents in the area;

(E) serve both urban and rural areas;

(F) design a center that meets the unique training, information, and support needs of parents described in subparagraphs (A) and (B) of section 5911(b)(1) of this title, particularly parents who are educationally or economically disadvantaged;

(G) demonstrate the capacity and expertise to conduct the effective training information and support activities for which assistance is sought;

(H) network with—

(i) clearinghouses;

(ii) parent centers for the parents of infants, toddlers, children, and youth with

disabilities served under section 1431(e)[1] of this title;

(iii) other organizations and agencies;

(iv) established national, State, and local parent groups representing the full range of parents of children, aged birth through 5 years; and

(v) parents of children enrolled in elementary and secondary schools;

(I) focus on serving parents described in subparagraphs (A) and (B) of section 5911(b) of this title who are parents of low-income, minority, and limited-English proficient, children; and

(J) use part of the funds received under this subchapter to establish, expand, or operate Parents as Teachers programs or Home Instruction for Preschool Youngsters programs.

(b) Grant renewal

In each fiscal year after the first fiscal year a grantee receives assistance under this subchapter, the grantee shall demonstrate in the application submitted for each fiscal year after such first year that a portion of the services provided by such grantee is supported through non-Federal contributions, which contributions may be in cash or in kind.

(Pub. L. 103–227, title IV, § 402, Mar. 31, 1994, 108 Stat. 187.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a)(2)(C), was in the original ''this Act'', meaning Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 125, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables.

Section 1431(e) of this title, referred to in subsec. (a)(2)(H)(ii), was in the original a reference to section 631(e) of the Individuals with Disabilities Education Act, Pub. L. 91–230, title VI. Section 631 of Pub. L. 91–230 was omitted in the general amendment of subchapters III and IV of chapter 33 of this title by Pub. L. 105–17, title I, § 101, June 4, 1997, 111 Stat. 37. Pub. L. 105–17 enacted a new section 631 of Pub. L. 91–230, relating to findings and policy regarding infants and toddlers with disabilities, which is classified to section 1431 of this title, and which no longer contains a subsec. (e). Provisions relating to parent training and information centers are now contained in section 1482 of this title.

§ 5913. Uses of funds

Grant funds received under this subchapter may be used—

(1) for parent training, information, and support programs that assist parents to—

(A) better understand their children's educational needs;

(B) provide followup support for their children's educational achievement;

(C) communicate more effectively with teachers, counselors, administrators, and other professional educators and support staff;

(D) participate in the design and provision of assistance to students who are not making adequate educational progress;

(E) obtain information about the range of options, programs, services, and resources available at the national, State, and local levels to assist parents described in subparagraphs (A) and (B) of section 5911(b) of this title;

(F) seek technical assistance regarding compliance with the requirements of this subchapter and of other Federal programs relevant to achieving the National Education Goals;

(G) participate in State and local decision-making;

(H) train other parents; and

(I) plan, implement, and fund activities that coordinate the education of their children with other Federal programs that serve their children or their families; and

(2) to include State or local educational personnel where such participation will further the activities assisted under the grant.

(Pub. L. 103–227, title IV, § 403, Mar. 31, 1994, 108 Stat. 189.)

§ 5914. Technical assistance

The Secretary shall provide technical assistance, by grant or contract, for the establishment, development, and coordination of parent training, information and support programs and parental information and resource centers.

(Pub. L. 103–227, title IV, § 404, Mar. 31, 1994, 108 Stat. 189.)

§ 5915. Definitions

For purposes of this subchapter—

(1) the term ''parent education'' includes parent support activities, the provision of resource materials on child development, parent-child learning activities and child rearing issues, private and group educational guidance, individual and group learning experiences for the parent and child, and other activities that enable the parent to improve learning in the home;

(2) the term ''Parents as Teachers program'' means a voluntary early childhood parent education program that—

(A) is designed to provide all parents of children from birth through age 5 with the information and support such parents need to give their child a solid foundation for school success;

(B) is based on the Missouri Parents as Teachers model with the philosophy that parents are their child's first and most influential teachers;

(C) provides—

(i) regularly scheduled personal visits with families by certified parent educators;

(ii) regularly scheduled developmental screenings; and

(iii) linkage with other resources within the community in order to provide services that parents may want and need, except that such services are beyond the scope of the Parents as Teachers program;

(3) the term ''Home Instruction for Preschool Youngsters program'' means a vol-

[1] See References in Text note below.

untary early-learning program for parents with one or more children between the ages of 3 through 5, that—

(A) provides support, training, and appropriate educational materials necessary for parents to implement a school-readiness, home instruction program for their child; and

(B) includes—

(i) group meetings with other parents participating in the program;

(ii) individual and group learning experiences with the parent and child;

(iii) provision of resource materials on child development and parent-child learning activities; and

(iv) other activities that enable the parent to improve learning in the home.

(Pub. L. 103–227, title IV, § 405, Mar. 31, 1994, 108 Stat. 189.)

§ 5916. Reports

Each organization receiving a grant under this subchapter shall submit to the Secretary, on an annual basis, information concerning the parental information and resource centers assisted under this subchapter, including—

(1) the number of parents, including the number of minority and limited-English-proficient parents, who receive information and training;

(2) the types and modes of training, information, and support provided under this subchapter;

(3) the number of Parents as Teachers programs and Home Instruction for Preschool Youngsters programs which have been assisted under this subchapter; and

(4) the strategies used to reach and serve parents of minority and limited-English-proficient children, parents with limited literacy skills, and other parents in need of the services provided under this subchapter.

(Pub. L. 103–227, title IV, § 406, Mar. 31, 1994, 108 Stat. 190.)

§ 5917. General provision

Notwithstanding any other provision of this subchapter—

(1) no person, including a parent who educates a child at home, public school parent, or private school parent, shall be required to participate in any program of parent education or developmental screening pursuant to the provisions of this subchapter;

(2) no program assisted under this subchapter shall take any action that infringes in any manner on the right of a parent to direct the education of their children; and

(3) the provisions of section 1232g(c)[1] of this title shall apply to organizations awarded grants under this subchapter.

(Pub. L. 103–227, title IV, § 407, Mar. 31, 1994, 108 Stat. 190.)

REFERENCES IN TEXT

Section 1232g(c) of this title, referred to in par. (3), was in the original a reference to section 438(c) of the General Education Provisions Act. Sections 432 and 438 of that Act were renumbered as sections 438 and 444, respectively, by Pub. L. 103–382, title II, § 212(b)(1), Oct. 20, 1994, 108 Stat. 3913, and are classified to sections 1232a and 1232g, respectively, of this title.

[1] See References in Text note below.

§ 5918. Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1995 through 1998 to carry out this subchapter.

(Pub. L. 103–227, title IV, § 408, Mar. 31, 1994, 108 Stat. 191.)

SUBCHAPTER V—NATIONAL SKILL STANDARDS BOARD

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 5802, 6102, 6103, 6125, 6143 of this title.

§ 5931. Short title

This subchapter may be cited as the ''National Skill Standards Act of 1994''.

(Pub. L. 103–227, title V, § 501, Mar. 31, 1994, 108 Stat. 191.)

§ 5932. Purpose

It is the purpose of this subchapter to establish a National Skill Standards Board to serve as a catalyst in stimulating the development and adoption of a voluntary national system of skill standards and of assessment and certification of attainment of skill standards—

(1) that will serve as a cornerstone of the national strategy to enhance workforce skills;

(2) that will result in increased productivity, economic growth, and American economic competitiveness; and

(3) that can be used, consistent with civil rights laws—

(A) by the Nation, to ensure the development of a high skills, high quality, high performance workforce, including the most skilled frontline workforce in the world;

(B) by industries, as a vehicle for informing training providers and prospective employees of skills necessary for employment;

(C) by employers, to assist in evaluating the skill levels of prospective employees and to assist in the training of current employees;

(D) by labor organizations, to enhance the employment security of workers by providing portable credentials and skills;

(E) by workers, to—

(i) obtain certifications of their skills to protect against dislocation;

(ii) pursue career advancement; and

(iii) enhance their ability to reenter the workforce;

(F) by students and entry level workers, to determine the skill levels and competencies needed to be obtained in order to compete effectively for high wage jobs;

(G) by training providers and educators, to determine appropriate training services to offer;

(H) by government, to evaluate whether publicly funded training assists participants

to meet skill standards where such standards exist and thereby protect the integrity of public expenditures;

(I) to facilitate the transition to high performance work organizations;

(J) to increase opportunities for minorities and women, including removing barriers to the entry of women into nontraditional employment; and

(K) to facilitate linkages between other components of the national strategy to enhance workforce skills, including school-to-work transition, secondary and postsecondary vocational-technical education, and job training programs.

(Pub. L. 103–227, title V, § 502, Mar. 31, 1994, 108 Stat. 191.)

REFERENCES IN TEXT

The civil rights laws, referred to in par. (3), are classified generally to chapter 21 (§ 1981 et seq.) of Title 42, The Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5936 of this title.

§ 5933. Establishment of National Board

(a) In general

There is established a National Skill Standards Board (hereafter in this subchapter referred to as the ''National Board'').

(b) Composition

(1) In general

The National Board shall be composed of 27 members (appointed in accordance with paragraph (3)), of whom—

(A) one member shall be the Secretary of Labor;

(B) one member shall be the Secretary of Education;

(C) one member shall be the Secretary of Commerce;

(D) eight members shall be representatives of business (including representatives of small employers and representatives of large employers) selected from among individuals recommended by recognized national business organizations or trade associations;

(E) eight members shall be representatives of organized labor selected from among individuals recommended by recognized national labor federations; and

(F)(i) 2 members shall be neutral, qualified human resource professionals; and

(ii) 6 members shall be representatives from the following groups, with at least 1 member from each group:

(I) Educational institutions (including vocational-technical institutions).

(II) Community-based organizations.

(III) State and local governments.

(IV) Nongovernmental organizations with a demonstrated history of successfully protecting the rights of racial, ethnic, or religious minorities, women, individuals with disabilities, or older persons.

(2) Diversity requirements

The members described in subparagraph (F) of paragraph (1) shall have expertise in the area of education and training. The members described in subparagraphs (D), (E), and (F) of paragraph (1) shall—

(A) in the aggregate, represent a broad cross-section of occupations and industries; and

(B) to the extent feasible, be geographically representative of the United States and reflect the racial, ethnic, and gender diversity of the United States.

(3) Appointment

The membership of the National Board shall be appointed as follows:

(A) Twelve members (four from each class of members described in subparagraphs (D), (E), and (F) of paragraph (1)) shall be appointed by the President.

(B) Six members (two from each class of members described in subparagraphs (D), (E), and (F) of paragraph (1)) shall be appointed by the Speaker of the House of Representatives, of whom three members (one from each class of members described in subparagraphs (D), (E), and (F) of paragraph (1)) shall be selected from recommendations made by the Majority Leader of the House of Representatives and three members (one from each class of members described in subparagraphs (D), (E), and (F) of paragraph (1)) shall be selected from recommendations made by the Minority Leader of the House of Representatives.

(C) Six members (two from each class of members described in subparagraphs (D), (E), and (F) of paragraph (1)) shall be appointed by the President pro tempore of the Senate, of whom three members (one from each class of members described in subparagraphs (D), (E), and (F) of paragraph (1)) shall be selected from recommendations made by the Majority Leader of the Senate and three members (one from each class of members described in subparagraphs (D), (E), and (F) of paragraph (1)) shall be selected from recommendations made by the Minority Leader of the Senate.

(4) Ex officio nonvoting members

The members of the National Board specified in subparagraphs (A), (B), and (C) of paragraph (1) shall be ex officio, nonvoting members of the National Board.

(5) Term

Each member of the National Board appointed under subparagraph (D), (E), or (F) of paragraph (1) shall be appointed for a term of 4 years, except that of the initial members of the Board appointed under such subparagraphs—

(A) twelve members shall be appointed for a term of 3 years (four from each class of members described in subparagraphs (D), (E), and (F) of paragraph (1)), of whom—

(i) two from each such class shall be appointed in accordance with paragraph (3)(A);

(ii) one from each such class shall be appointed in accordance with paragraph (3)(B); and

(iii) one from each such class shall be appointed in accordance with paragraph (3)(C); and

(B) twelve members shall be appointed for a term of 4 years (four from each class of members described in subparagraphs (D), (E), and (F) of paragraph (1)), of whom—

(i) two from each such class shall be appointed in accordance with paragraph (3)(A);

(ii) one from each such class shall be appointed in accordance with paragraph (3)(B); and

(iii) one from each such class shall be appointed in accordance with paragraph (3)(C).

(6) Vacancies

Any vacancy in the National Board shall not affect its powers, but shall be filled in the same manner as the original appointment.

(c) Chairperson and Vice Chairpersons

(1) Chairperson

(A) In general

Except as provided in subparagraph (B), the National Board, by majority vote, shall elect a Chairperson once every 2 years from among the members of the National Board.

(B) Initial Chairperson

The first Chairperson of the National Board shall be elected, by a majority vote of the National Board, from among the members who are representatives of business (as described in subparagraph (D) of subsection (b)(1) of this section) and shall serve for a term of 2 years.

(2) Vice Chairpersons

The National Board, by majority vote, shall annually elect 3 Vice Chairpersons (each representing a different class of the classes of members described in subparagraphs (D), (E), and (F) of subsection (b)(1) of this section and each of whom shall serve for a term of 1 year) from among its members appointed under subsection (b)(3) of this section.

(d) Compensation and expenses

(1) Compensation

All Members of the National Board who are not full-time employees or officers of the Federal Government shall serve without compensation. All members of the National Board who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(2) Expenses

The members of the National Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57, title 5, while away from their homes or regular places of business in the performance of services for the National Board.

(e) Executive Director and staff

(1) Executive Director

The Chairperson of the National Board shall appoint an Executive Director who shall be compensated at a rate determined by the National Board, not to exceed the rate payable for level V of the Executive Schedule under section 5316 of title 5.

(2) Staff

(A) In general

The Executive Director may appoint and compensate such additional staff as may be necessary to enable the Board to perform its duties. Such staff shall include at least one individual with expertise in measurement and assessment.

(B) Compensation

The Executive Director may fix the compensation of the staff without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5 relating to classification of positions and General Schedule pay rates, except that the rate of pay for the staff may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(f) Voluntary and uncompensated services

Notwithstanding section 1342 of title 31, the National Board is authorized, in carrying out this subchapter, to accept voluntary and uncompensated services.

(g) Agency support

(1) Use of facilities

The National Board may use the research, equipment, services, and facilities of any agency or instrumentality of the United States with the consent of such agency or instrumentality.

(2) Staff of Federal agencies

Upon the request of the National Board, the head of any Federal agency of the United States may detail to the National Board, on a reimbursable basis, any of the personnel of such Federal agency to assist the National Board in carrying out this subchapter. Such detail shall be without interruption or loss of civil service status or privilege.

(h) Conflict of interest

An individual who has served as a member of the National Board may not have any financial interest in an assessment and certification system developed or endorsed under this subchapter for a period of 3 years after the termination of service of such individual from the National Board.

(i) Procurement of temporary and intermittent services

The Chairperson of the National Board may procure temporary and intermittent services of experts and consultants under section 3109(b) of title 5.

(j) Termination

The National Board shall terminate on September 30, 1999.

(Pub. L. 103–227, title V, §503, Mar. 31, 1994, 108 Stat. 192; Pub. L. 104–134, title I, §101(d) [title VII, §703(a)(17)], Apr. 26, 1996, 110 Stat. 1321–211, 1321–254; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327.)

AMENDMENTS

1996—Subsec. (b)(1). Pub. L. 104–134, §101(d) [title VII, §703(a)(17)(A)(i)(I)], substituted ''27'' for ''28'' in introductory provisions.

Subsec. (b)(1)(D) to (G). Pub. L. 104–134, § 101(d) [title VII, § 703(a)(17)(A)(i)(II), (III)], redesignated subpars. (E) to (G) as (D) to (F), respectively, and struck out former subpar. (D) which read as follows: ''one member shall be the Chairperson of the National Education Standards and Improvement Council established pursuant to section 5842(a) of this title;''.

Subsec. (b)(2). Pub. L. 104–134, § 101(d) [title VII, § 703(a)(17)(A)(ii), (iii)], in introductory provisions, substituted ''subparagraph (F)'' for ''subparagraph (G)'' and ''subparagraphs (D), (E), and (F)'' for ''subparagraphs (E), (F), and (G)''.

Subsec. (b)(3). Pub. L. 104–134, § 101(d) [title VII, § 703(a)(17)(A)(ii)], substituted ''subparagraphs (D), (E), and (F)'' for ''subparagraphs (E), (F), and (G)'' wherever appearing.

Subsec. (b)(4). Pub. L. 104–134, § 101(d) [title VII, § 703(a)(17)(A)(iv)], substituted ''and (C)'' for ''(C), and (D)''.

Subsec. (b)(5). Pub. L. 104–134, § 101(d) [title VII, § 703(a)(17)(A)(ii), (v)], substituted ''subparagraph (D), (E), or (F)'' for ''subparagraph (E), (F), or (G)'' in introductory provisions and ''subparagraphs (D), (E), and (F)'' for ''subparagraphs (E), (F), and (G)'' in introductory provisions of subpars. (A) and (B).

Subsec. (c)(1)(B), (2). Pub. L. 104–134, § 101(d) [title VII, § 703(a)(17)(B)], which directed that subsec. (e) of this section be amended by substituting ''subparagraph (D)'' for ''subparagraph (E)'' in par. (1)(B) and ''subparagraphs (D), (E), and (F)'' for ''subparagraphs (E), (F), and (G)'' in par. (2), was executed by making the amendment in subsec. (c) of this section to reflect the probable intent of Congress, because the language being struck out did not appear in subsec. (e).

§ 5934. Functions of National Board

(a) Identification of occupational clusters

(1) In general

Subject to paragraph (2), the National Board shall identify broad clusters of major occupations that involve 1 or more than 1 industry in the United States and that share characteristics that are appropriate for the development of common skill standards.

(2) Procedures for identification

Prior to identifying broad clusters of major occupations under paragraph (1), the National Board shall engage in extensive public consultation, including solicitation of public comment on proposed clusters through publication in the Federal Register.

(b) Establishment of voluntary partnerships to develop standards

(1) In general

For each of the occupational clusters identified pursuant to subsection (a) of this section, the National Board shall encourage and facilitate the establishment of voluntary partnerships to develop a skill standards system in accordance with subsection (d) of this section.

(2) Representatives

Such voluntary partnerships shall include the full and balanced participation of—

(A)(i) representatives of business (including representatives of large employers and representatives of small employers) who have expertise in the area of workforce skill requirements, and who are recommended by national business organizations or trade associations representing employers in the occupation or industry for which a standard is being developed; and

(ii) representatives of trade associations that have received grants from the Department of Labor or the Department of Education to establish skill standards prior to March 31, 1994;

(B) employee representatives who have expertise in the area of workforce skill requirements and who shall be—

(i) individuals recommended by recognized national labor organizations representing employees in the occupation or industry for which a standard is being developed; and

(ii) such other individuals who are nonmanagerial employees with significant experience and tenure in such occupation or industry as are appropriate given the nature and structure of employment in the occupation or industry;

(C) representatives of—

(i) educational institutions;

(ii) community-based organizations;

(iii) State and local agencies with administrative control or direction over education, vocational-technical education, or employment and training;

(iv) other policy development organizations with expertise in the area of workforce skill requirements; and

(v) non-governmental organizations with a demonstrated history of successfully protecting the rights of racial, ethnic, or religious minorities, women, individuals with disabilities, or older persons; and

(D) individuals with expertise in measurement and assessment, including relevant experience in designing unbiased assessments and performance-based assessments.

(3) Experts

The partnerships described in paragraph (1) may also include such other individuals who are independent, qualified experts in their fields.

(c) Research, dissemination, and coordination

In order to support the activities described in subsections (b) and (d) of this section, the National Board shall—

(1) conduct workforce research relating to skill standards (including research relating to use of skill standards in compliance with civil rights laws) and make such research available to the public, including the voluntary partnerships described in subsection (b) of this section;

(2) identify and maintain a catalog of skill standards used by other countries and by States and leading firms and industries in the United States;

(3) serve as a clearinghouse to facilitate the sharing of information on the development of skill standards and other relevant information among representatives of occupations and industries identified pursuant to subsection (a) of this section, the voluntary partnerships described in subsection (b) of this section, and among education and training providers through such mechanisms as the Capacity Building and Information and Dissemination Network established under section 1733(b) of

title 29 and the Educational Resources Information Center Clearinghouses;

(4) develop a common nomenclature relating to skill standards;

(5) encourage the development and adoption of curricula and training materials, for attaining the skill standards developed pursuant to subsection (d) of this section, that provide for structured work experiences and related study programs leading to progressive levels of professional and technical certification and postsecondary education;

(6) provide appropriate technical assistance to voluntary partnerships involved in the development of standards and systems described in subsection (b) of this section; and

(7) facilitate coordination among voluntary partnerships that meet the requirements of subsection (b) of this section to promote the development of a coherent national system of voluntary skill standards.

(d) Endorsement of skill standards systems

(1) Development of endorsement criteria

(A) The National Board, after extensive public consultation, shall develop objective criteria for endorsing skill standards systems relating to the occupational clusters identified pursuant to subsection (a) of this section. Such criteria shall, at a minimum, include the components of a skill standards system described in subparagraph (B). The endorsement criteria shall be published in the Federal Register, and updated as appropriate.

(B) The skill standards systems endorsed pursuant to paragraph (1) shall have one or more of the following components:

(i) Voluntary skill standards, which at a minimum—

(I) take into account relevant standards used in other countries and relevant international standards;

(II) meet or exceed the highest applicable standards used in the United States, including apprenticeship standards registered under the Act of August 16, 1937 (commonly known as the ''National Apprenticeship Act'', 50 Stat. 664, chapter 663, 29 U.S.C. 50 et seq.);

(III) take into account content and performance standards certified pursuant to subchapter II of this chapter;

(IV) take into account the requirements of high performance work organizations;

(V) are in a form that allows for regular updating to take into account advances in technology or other developments within the occupational cluster;

(VI) are formulated in such a manner that promotes the portability of credentials and facilitates worker mobility within an occupational cluster or industry and among industries; and

(VII) are not discriminatory with respect to race, color, gender, age, religion, ethnicity, disability, or national origin, consistent with Federal civil rights laws.

(ii) A voluntary system of assessment and certification of the attainment of skill standards developed pursuant to subparagraph (A), which at a minimum—

(I) has been developed after taking into account relevant methods of such assessment and certification used in other countries;

(II) utilizes a variety of evaluation techniques, including, where appropriate, oral and written evaluations, portfolio assessments, and performance tests; and

(III) includes methods for establishing that the assessment and certification system is not discriminatory with respect to race, color, gender, age, religion, ethnicity, disability, or national origin, consistent with Federal civil rights laws.

(iii) A system to promote the use of and to disseminate information relating to skill standards, and assessment and certification systems, developed pursuant to this paragraph (including dissemination of information relating to civil rights laws relevant to the use of such standards and systems) to entities such as institutions of higher education offering professional and technical education, labor organizations, trade associations, employers providing formalized training, and other organizations likely to benefit from such standards and systems.

(iv) A system to evaluate the implementation of the skill standards, and assessment and certification systems developed pursuant to this paragraph, and the effectiveness of the information disseminated pursuant to subparagraph (C) for informing the users of such standards and systems of the requirements of relevant civil rights laws.

(v) A system to periodically revise and update the skill standards, and assessment and certification systems developed pursuant to this paragraph, which will take into account changes in standards in other countries.

(2) Endorsement

The National Board, after public review and comment, shall endorse those skill standards systems relating to the occupational clusters identified pursuant to subsection (a) of this section that—

(A) meet the objective endorsement criteria that are developed pursuant to paragraph (1); and

(B) are submitted by voluntary partnerships that meet the requirements of subsection (b) of this section.

(e) Relationship with civil rights laws

(1) In general

Nothing in this subchapter shall be construed to modify or affect any Federal or State law prohibiting discrimination on the basis of race, color, gender, age, religion, ethnicity, disability, or national origin.

(2) Evidence

The endorsement or absence of an endorsement by the National Board of a skill standard, or assessment and certification system, under subsection (d) of this section shall not be used in any action or proceeding to establish that the use of a skill standard or assessment and certification system conforms or does not conform to the requirements of civil rights laws.

(f) Financial assistance

(1) In general

From funds appropriated pursuant to section 5937 of this title—

(A) the National Board may enter into contracts and cooperative agreements to carry out the purposes of this subchapter; and

(B) the Secretary of Labor may, in accordance with paragraph (2), award grants to voluntary partnerships for the development of skill standards systems meeting the requirements of subsection (d) of this section.

(2) Grants to voluntary partnerships

(A) Eligibility and application

Voluntary partnerships that meet the requirements of subsection (b) of this section shall be eligible to apply for a grant under this subsection. Each such voluntary partnership desiring a grant shall submit an application to the National Board at such time, in such manner, and accompanied by such information as the National Board may reasonably require.

(B) Review and recommendation

The National Board shall review each application submitted pursuant to subparagraph (A) in accordance with the objective criteria published pursuant to subparagraph (C) and shall forward each such application to the Secretary of Labor accompanied by a nonbinding recommendation for the approval or disapproval of each such application by the Secretary.

(C) Criteria for review

Prior to each fiscal year, the National Board shall publish objective criteria to be used by the Board in reviewing applications under subparagraph (B).

(3) Limitation on use of funds

(A) In general

Not more than 20 percent of the funds appropriated pursuant to the authority of section 5937(a) of this title for each fiscal year shall be used by the National Board for the costs of administration.

(B) "Costs of administration" defined

For purposes of this paragraph, the term ''costs of administration'' means costs relating to staff, supplies, equipment, space, and travel and per diem, costs of conducting meetings and conferences, and other related costs.

(Pub. L. 103–227, title V, § 504, Mar. 31, 1994, 108 Stat. 195; Pub. L. 104–134, title I, § 101(d) [title VII, § 703(a)(18)], Apr. 26, 1996, 110 Stat. 1321–211, 1321–254; renumbered title I, Pub. L. 104–140, § 1(a), May 2, 1996, 110 Stat. 1327.)

REFERENCES IN TEXT

Act of August 16, 1937, known as the National Apprenticeship Act, referred to in subsec. (d)(1)(B)(i)(II), is act Aug. 16, 1937, ch. 663, 50 Stat. 664, as amended, which is classified generally to chapter 4C (§ 50 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 50 of Title 29 and Tables.

Subchapter II of this chapter, referred to in subsec. (d)(1)(B)(i)(III), was in the original ''title II'', meaning title II of Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 133, which enacted subchapter II of this chapter and section 3425 of this title, amended section 5093 of this title and section 5315 of Title 5, Government Organization and Employees, and enacted provisions set out as a note under section 5093 of this title.

Federal civil rights laws, referred to in subsec. (d)(1)(B)(i)(VII), (ii)(III), are classified generally to chapter 21 (§ 1981 et seq.) of Title 42, The Public Health and Welfare.

AMENDMENTS

1996—Subsecs. (f), (g). Pub. L. 104–134 redesignated subsec. (g) as (f) and struck out heading and text of former subsec. (f). Text read as follows: ''The National Board shall establish cooperative arrangements with the National Education Standards and Improvement Council to promote the coordination of the development of skill standards under this section with the development of voluntary national content standards and voluntary national student performance standards in accordance with section 5843 of this title.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5935 of this title.

§ 5935. Deadlines

Not later than December 31, 1995, the National Board shall, at a minimum—

(1) identify occupational clusters pursuant to section 5934(a) of this title representing a substantial portion of the workforce; and

(2) promote the development of an initial set of skill standards in accordance with section 5934(d) of this title for such clusters.

(Pub. L. 103–227, title V, § 505, Mar. 31, 1994, 108 Stat. 199.)

§ 5936. Reports

The National Board shall prepare and submit to the President and the Congress in each of the fiscal years 1994 through 1999, a report on the activities conducted under this subchapter. Such report shall include information on the extent to which skill standards have been adopted by employers, training providers, and other entities, and on the effectiveness of such standards in accomplishing the purposes described in section 5932 of this title.

(Pub. L. 103–227, title V, § 506, Mar. 31, 1994, 108 Stat. 199.)

§ 5937. Authorization of appropriations

(a) In general

There are authorized to be appropriated to carry out this subchapter $15,000,000 for fiscal year 1994 and such sums as may be necessary for each of fiscal years 1995 through 1999.

(b) Availability

Amounts appropriated pursuant to subsection (a) of this section shall remain available until expended.

(Pub. L. 103–227, title V, § 507, Mar. 31, 1994, 108 Stat. 199.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5934 of this title.

§ 5938. Definitions

For purposes of this subchapter, the following definitions apply:

(1) Community-based organizations

The term ''community-based organizations'' has the meaning given the term in section 1503(5) of title 29.

(2) Educational institution

The term ''educational institution'' means a high school, a vocational school, and an institution of higher education.

(3) Institution of higher education

The term ''institution of higher education'' means an institution of higher education (as such term is defined in section 1088 of this title) which continues to meet the eligibility and certification requirements under section 1099c of this title.

(4) Skill standard

The term ''skill standard'' means a standard that specifies the level of knowledge and competence required to successfully perform work-related functions within an occupational cluster.

(Pub. L. 103–227, title V, § 508, Mar. 31, 1994, 108 Stat. 200.)

§ 5939. Sunset provision

(a) Repeal

This subchapter is repealed on September 30, 1999.

(b) Review of repeal

It is the sense of the Congress that the appropriate committees of the Congress should review the accomplishments of the National Board prior to the date of repeal described in subsection (a) of this section in order to determine whether it is appropriate to extend the authorities provided under this subchapter for a period beyond such date.

(Pub. L. 103–227, title V, § 509, Mar. 31, 1994, 108 Stat. 200.)

SUBCHAPTER VI—INTERNATIONAL EDUCATION PROGRAM

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 5802 of this title.

§ 5951. International Education Program

(a) Program established

The Secretary, with the concurrence of the Director of the United States Information Agency and with the foreign policy guidance of the Secretary of State, shall carry out an International Education Program in accordance with this section that shall provide for—

(1) the study of international education programs and delivery systems; and

(2) an international education exchange program.

(b) Assessment and information

The Secretary shall award grants for the study, evaluation, and analysis of education systems in other nations, particularly Great Britain, France, Germany and Japan. Such studies shall focus upon a comparative analysis of curriculum, methodology, and organizational structure, including the length of the school year and school day. In addition, the studies shall provide an analysis of successful strategies employed by other nations to improve student achievement, with a specific focus upon application to schooling and the National Education Goals.

(c) International Education Exchange Program

(1) Requirement

(A) In general

The Secretary, in consultation with the Director of the United States Information Agency, shall carry out a program to be known as the International Education Exchange Program. Under such program the Secretary shall award grants to or enter into contracts with organizations with demonstrated effectiveness or expertise in international achievement comparisons, in order to—

(i) make available to educators from eligible countries exemplary curriculum and teacher training programs in civics and government education and economic education developed in the United States;

(ii) assist eligible countries in the adaptation and implementation of such programs or joint research concerning such programs;

(iii) create and implement educational programs for United States students which draw upon the experiences of emerging constitutional democracies;

(iv) provide a means for the exchange of ideas and experiences in civics and government education and economic education among political, educational, and private sector leaders of participating eligible countries; and

(v) provide support for—

(I) research and evaluation to determine the effects of educational programs on students' development of the knowledge, skills, and traits of character essential for the preservation and improvement of constitutional democracy; and

(II) effective participation in and the preservation and improvement of an efficient market economy.

(B) Program administration

The Secretary and the Director of the United States Information Agency, or their designees, shall be jointly responsible for the design of the program described in subparagraph (A). The Secretary and the Director of the United States Information Agency shall name to an oversight committee an equal number of representatives. Such committee shall determine the specifications for requests for proposals, the eligibility and review criteria for proposals, and the review process for proposals, for grants or contracts under this section. The Director of the United States Information Agency shall have particular responsibility for ensuring that programs assisted under this section are not duplicative of other efforts in the target countries and that foreign partner institutions are creditable.

(C) Reservations

In carrying out the program described in subparagraph (A), there shall be reserved in each fiscal year—

(i) 50 percent of the amount available to carry out this subsection for civics and government education activities; and

(ii) 50 percent of such amount available to carry out this subsection for economic education activities.

(2) Contract authorized

(A) In general

The Secretary, in consultation with the Director of the United States Information Agency, is authorized to contract with independent nonprofit educational organizations to carry out the provisions of this subsection.

(B) Number

The Secretary, in consultation with the Director of the United States Information Agency, shall award at least 1 but not more than 3 contracts described in subparagraph (A) in each of the areas described in clauses (i) and (ii) of paragraph (1)(B).

(C) Avoidance of duplication

The Secretary, in consultation with the Director of the United States Information Agency, shall award contracts described in subparagraph (A) so as to avoid duplication of activities in such contracts.

(D) Requirements

Each organization with which the Secretary enters into a contract pursuant to subparagraph (A) shall—

(i) be experienced in—

(I) the development and national implementation of curricular programs in civics and government education and economic education for students from grades kindergarten through 12 in local, intermediate, and State educational agencies, in schools funded by the Bureau, and in private schools throughout the Nation with the cooperation and assistance of national professional educational organizations, colleges and universities, and private sector organizations;

(II) the development and implementation of cooperative university and school-based inservice training programs for teachers of grades kindergarten through grade 12 using scholars from such relevant disciplines as political science, political philosophy, history, law and economics;

(III) the development of model curricular frameworks in civics and government education and economic education;

(IV) the administration of international seminars on the goals and objectives of civics and government education or economic education in constitutional democracies (including the sharing of curricular materials) for educational leaders, teacher trainers, scholars in related disciplines, and educational policymakers; and

(V) the evaluation of civics and government education or economic education programs; and

(ii) have the authority to subcontract with other organizations to carry out the provisions of this subsection.

(3) Activities

The international education program described in this subsection shall—

(A) provide eligible countries with—

(i) seminars on the basic principles of United States constitutional democracy and economics, including seminars on the major governmental and economic institutions and systems in the United States, and visits to such institutions;

(ii) visits to school systems, institutions of higher learning, and nonprofit organizations conducting exemplary programs in civics and government education and economic education in the United States;

(iii) home stays in United States communities;

(iv) translations and adaptations regarding United States civics and government education and economic education curricular programs for students and teachers, and in the case of training programs for teachers translations and adaptations into forms useful in schools in eligible countries, and joint research projects in such areas;

(v) translation of basic documents of United States constitutional government for use in eligible countries, such as The Federalist Papers, selected writings of Presidents Adams and Jefferson and the Anti-Federalists, and more recent works on political theory, constitutional law and economics; and

(vi) research and evaluation assistance to determine—

(I) the effects of educational programs on students' development of the knowledge, skills and traits of character essential for the preservation and improvement of constitutional democracy; and

(II) effective participation in and the preservation and improvement of an efficient market economy;

(B) provide United States participants with—

(i) seminars on the histories, economics, and governments of eligible countries;

(ii) visits to school systems, institutions of higher learning, and organizations conducting exemplary programs in civics and government education and economic education located in eligible countries;

(iii) home stays in eligible countries;

(iv) assistance from educators and scholars in eligible countries in the development of curricular materials on the history, government and economics of such countries that are useful in United States classrooms;

(v) opportunities to provide on-site demonstrations of United States curricula and pedagogy for educational leaders in eligible countries; and

(vi) research and evaluation assistance to determine—

(I) the effects of educational programs on students' development of the knowledge, skills and traits of character essential for the preservation and improvement of constitutional democracy; and

(II) effective participation in and improvement of an efficient market economy; and

(C) assist participants from eligible countries and the United States in participating in international conferences on civics and government education and economic education for educational leaders, teacher trainers, scholars in related disciplines, and educational policymakers.

(4) Participants

The primary participants in the international education program assisted under this subsection shall be leading educators in the areas of civics and government education and economic education, including curriculum and teacher training specialists, scholars in relevant disciplines, and educational policymakers, from the United States and eligible countries.

(5) Personnel and technical experts

The Secretary is authorized to provide Department of Education personnel and technical experts to assist eligible countries to establish and implement a database or other effective methods to improve educational delivery systems, structure and organization.

(6) "Eligible country" defined

For the purpose of this subsection the term ''eligible country'' means a Central European country, an Eastern European country, Lithuania, Latvia, Estonia, Georgia, the Commonwealth of Independent States, and any country that formerly was a republic of the Soviet Union whose political independence is recognized in the United States.

(d) Authorization of appropriations

(1) Assessment and information

There are authorized to be appropriated $1,000,000 for fiscal year 1995, and such sums as may be necessary for each of the fiscal years 1996 through 1999, to carry out subsection (b) of this section.

(2) International education exchange

There are authorized to be appropriated $10,000,000 for fiscal year 1995, and such sums as may be necessary for each of the fiscal years 1996 through 1999, to carry out subsection (c) of this section.

(Pub. L. 103–227, title VI, § 601, Mar. 31, 1994, 108 Stat. 200.)

SUBCHAPTER VII—SAFE SCHOOLS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 5802 of this title.

§ 5961. Short title; statement of purpose

(a) Short title

This subchapter may be cited as the ''Safe Schools Act of 1994''.

(b) Statement of purpose

It is the purpose of this subchapter to help local school systems achieve Goal Six[1] of the National Education Goals, which provides that by the year 2000, every school in America will be free of drugs and violence and will offer a disciplined environment conducive to learning, by ensuring that all schools are safe and free of violence.

(Pub. L. 103–227, title VII, § 701, Mar. 31, 1994, 108 Stat. 204.)

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original ''this title'', meaning title VII of Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 204, which enacted this subchapter and amended section 1221e–1 of this title.

§ 5962. Safe schools program authorized

(a) Authority

(1) In general

From funds appropriated pursuant to the authority of subsection (b)(1) of this section, the Secretary shall make competitive grants to eligible local educational agencies to enable such agencies to carry out projects and activities designed to achieve Goal Six[1] of the National Education Goals by helping to ensure that all schools are safe and free of violence.

(2) Grant duration and amount

Grants under this subchapter may not exceed—

(A) two fiscal years in duration; and

(B) $3,000,000.

(3) Geographic distribution

To the extent practicable, grants under this subchapter shall be awarded to eligible local educational agencies serving rural, as well as urban, areas.

(b) Authorization of appropriations and reservation

(1) Authorization

There are authorized to be appropriated $50,000,000 for fiscal year 1994 to carry out this subchapter.

(2) Reservation

The Secretary is authorized in each fiscal year to reserve not more than 10 percent of the amount appropriated pursuant to the authority of paragraph (1) to carry out national activities described in section 5966 of this title, of which 50 percent of such amount shall be available in such fiscal year to carry out the program described in section 5966(b) of this title.

(Pub. L. 103–227, title VII, § 702, Mar. 31, 1994, 108 Stat. 204.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5966 of this title.

§ 5963. Eligible applicants

(a) In general

To be eligible to receive a grant under this subchapter, a local educational agency shall

[1] So in original. Probably should be ''Goal Seven''.

[1] So in original. Probably should be ''Goal Seven''.

demonstrate in the application submitted pursuant to section 5964(a) of this title that such agency—

(1) serves an area in which there is a high rate of—

(A) homicides committed by persons between the ages 5 to 18, inclusive;

(B) referrals of youth to juvenile court;

(C) youth under the supervision of the courts;

(D) expulsions and suspensions of students from school;

(E) referrals of youth, for disciplinary reasons, to alternative schools; or

(F) victimization of youth by violence, crime, or other forms of abuse; and

(2) has serious school crime, violence, and discipline problems, as indicated by other appropriate data.

(b) Priority

In awarding grants under this subchapter, the Secretary shall give priority to a local educational agency that submits an application that assures a strong local commitment to the projects or activities assisted under this subchapter, such as—

(1) the formation of partnerships among the local educational agency, a community-based organization, a nonprofit organization with a demonstrated commitment to or expertise in developing education programs or providing educational services to students or the public, a local law enforcement agency, or any combination thereof; and

(2) a high level of youth participation in such projects or activities.

(Pub. L. 103–227, title VII, § 703, Mar. 31, 1994, 108 Stat. 205.)

§ 5964. Applications and plans

(a) Application

In order to receive a grant under this subchapter, an eligible local educational agency shall submit to the Secretary an application that includes—

(1) an assessment of the current violence and crime problems in the schools to be served by the grant and in the community to be served by the applicant;

(2) an assurance that the applicant has written policies regarding school safety, student discipline, and the appropriate handling of violent or disruptive acts;

(3) a description of the schools and communities to be served by the grant, the activities and projects to be carried out with grant funds, and how these activities and projects will help to reduce the current violence and crime problems in the schools and communities served;

(4) a description of educational materials to be developed in the first most predominate non-English language of the schools and communities to be served by the grant, if applicable;

(5) if the local educational agency receives Federal education funds, an explanation of how activities assisted under this subchapter will be coordinated with and support any systemic education improvement plan prepared with such funds;

(6) the applicant's plan to establish school-level advisory committees, which include faculty, parents, staff, and students, for each school to be served by the grant and a description of how each committee will assist in assessing that school's violence and discipline problems as well as in designing appropriate programs, policies, and practices to combat such problems;

(7) the applicant's plan for collecting baseline and future data, by individual schools, to monitor violence and discipline problems and to measure the applicant's progress in achieving the purpose of this subchapter;

(8) a description of how, in subsequent fiscal years, the grantee will integrate the violence prevention activities the grantee carries out with funds under this subchapter with activities carried out under the grantee's comprehensive plan for drug and violence prevention adopted under the Drug-Free Schools and Communities Act of 1986;

(9) a description of how the grantee will coordinate the grantee's school crime and violence prevention efforts with education, law enforcement, judicial, health, and social service programs supported under the Juvenile Justice and Delinquency Prevention Act of 1974 [42 U.S.C. 5601 et seq.], and other appropriate agencies and organizations serving the community;

(10) a description of how the grantee will inform parents about the extent of crime and violence in their children's schools and maximize the participation of parents in the grantee's violence prevention activities;

(11) an assurance that grant funds under this subchapter will be used to supplement and not supplant State and local funds that would, in the absence of funds under this subchapter, be made available by the applicant for the purposes of the grant;

(12) an assurance that the applicant will cooperate with, and provide assistance to, the Secretary in gathering statistics and other data the Secretary determines are necessary to determine the effectiveness of projects and activities assisted under this subchapter or the extent of school violence and discipline problems throughout the Nation; and

(13) such other information as the Secretary may require.

(b) Plan

In order to receive funds under this subchapter for a second year, a grantee shall submit to the Secretary a comprehensive, long-term, school safety plan for reducing and preventing school violence and discipline problems. Such plan shall contain a description of how the grantee will coordinate the grantee's school crime and violence prevention efforts with education, law-enforcement, judicial, health, social service, and other appropriate agencies and organizations serving the community.

(Pub. L. 103–227, title VII, § 704, Mar. 31, 1994, 108 Stat. 205.)

REFERENCES IN TEXT

The Drug-Free Schools and Communities Act of 1986, referred to in subsec. (a)(8), is title V of Pub. L. 89–10

as added by Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 252, which was classified generally to subchapter V (§ 3171 et seq.) of chapter 47 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519. See section 7101 et seq. of this title.

The Juvenile Justice and Delinquency Prevention Act of 1974, referred to in subsec. (a)(9), is Pub. L. 93–415, Sept. 7, 1974, 88 Stat. 1109, as amended, which is classified principally to chapter 72 (§ 5601 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5601 of Title 42 and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5963, 5967 of this title.

§ 5965. Use of funds

(a) In general

A local educational agency shall use grant funds received under this subchapter for one or more of the following activities:

(1) Identifying and assessing school violence and discipline problems, including coordinating needs assessment activities with education, law enforcement, judicial, health, social service, and other appropriate agencies and organizations, juvenile justice programs, and gang prevention activities.

(2) Conducting school safety reviews or violence prevention reviews of programs, policies, practices, and facilities to determine what changes are needed to reduce or prevent violence and promote safety and discipline.

(3) Planning for comprehensive, long-term strategies for addressing and preventing school violence and discipline problems through the involvement and coordination of school programs with other education, law enforcement, judicial, health, social service, and other appropriate agencies and organizations.

(4) Training school personnel in programs of demonstrated effectiveness in addressing violence, including violence prevention, conflict resolution, anger management, peer mediation, and identification of high-risk youth.

(5) Activities which involve parents in efforts to promote school safety and prevent school violence.

(6) Community education programs, including video- and technology-based projects, informing parents, businesses, local government, the media and other appropriate entities about—

(A) the local educational agency's plan to promote school safety and reduce and prevent school violence and discipline problems; and

(B) the need for community support.

(7) Coordination of school-based activities designed to promote school safety and reduce or prevent school violence and discipline problems with related efforts of education, law enforcement, judicial, health, social service, and other appropriate agencies and organizations and juvenile justice programs.

(8) Developing and implementing violence prevention activities and materials, including—

(A) conflict resolution and social skills development for students, teachers, aides, other school personnel, and parents;

(B) disciplinary alternatives to expulsion and suspension of students who exhibit violent or antisocial behavior;

(C) student-led activities such as peer mediation, peer counseling, and student courts; or

(D) alternative after-school programs that provide safe havens for students, which may include cultural, recreational, educational and instructional activities, and mentoring and community service programs.

(9) Educating students and parents regarding the dangers of guns and other weapons and the consequences of their use.

(10) Developing and implementing innovative curricula to prevent violence in schools and training staff how to stop disruptive or violent behavior if such behavior occurs.

(11) Supporting ''safe zones of passage'' for students between home and school through such measures as Drug- and Weapon-Free School Zones, enhanced law enforcement, and neighborhood patrols.

(12) Counseling programs for victims and witnesses of school violence and crime.

(13) Acquiring and installing metal detectors and hiring security personnel.

(14) Reimbursing law enforcement authorities for their personnel who participate in school violence prevention activities.

(15) Evaluating projects and activities assisted under this subchapter.

(16) The cost of administering projects or activities assisted under this subchapter.

(17) Other projects or activities that meet the purpose of this subchapter.

(b) Limitations

(1) In general

A local educational agency may use not more than—

(A) a total of 5 percent of grant funds received under this subchapter in each fiscal year for activities described in paragraphs (11), (13), and (14) of subsection (a) of this section; and

(B) 5 percent of grant funds received under this subchapter in each fiscal year for activities described in paragraph (16) of subsection (a) of this section.

(2) Special rule

A local educational agency shall only be able to use grant funds received under this subchapter for activities described in paragraphs (11), (13), and (14) of subsection (a) of this section if funding for such activities is not available from other Federal sources.

(3) Prohibition

A local educational agency may not use grant funds received under this subchapter for construction.

(Pub. L. 103–227, title VII, § 705, Mar. 31, 1994, 108 Stat. 206.)

§ 5966. National activities

(a) National activities

(1) In general

To carry out the purpose of this subchapter, the Secretary—

(A) is authorized to use funds reserved under section 5962(b)(2) of this title to—

(i) conduct national leadership activities such as research, program development and evaluation, data collection, public awareness activities, training and technical assistance, dissemination (through appropriate research entities assisted by the Department of Education) of information on successful projects, activities, and strategies developed pursuant to this subchapter;

(ii) provide grants to noncommercial telecommunications entities for the production and distribution of national video-based projects that provide young people with models for conflict resolution and responsible decisionmaking; and

(iii) conduct peer review of applications under this subchapter; and

(B) shall develop a written safe schools model so that all schools can develop models that enable all students to participate regardless of any language barrier.

(2) Special rule

The Secretary may carry out the activities described in paragraph (1) directly, through interagency agreements, or through grants, contracts or cooperative agreements.

(b) National model city

The Secretary shall designate the District of Columbia as a national model city and shall provide funds made available pursuant to section 5962(b)(2) of this title in each fiscal year to a local educational agency serving the District of Columbia in an amount sufficient to enable such agency to carry out a comprehensive program to address school and youth violence.

(Pub. L. 103–227, title VII, § 706, Mar. 31, 1994, 108 Stat. 208.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5962 of this title.

§ 5967. Reports

(a) Report to Secretary

Each local educational agency that receives funds under this subchapter shall submit to the Secretary a report not later than March 1, 1995, that describes progress achieved in carrying out the plan described in section 5964(b) of this title.

(b) Report to Congress

The Secretary shall submit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report not later than October 1, 1995, which shall contain a detailed statement regarding grant awards, activities of grant recipients, a compilation of statistical information submitted by applicants under section 5964(a) of this title, and an evaluation of programs assisted under this subchapter.

(Pub. L. 103–227, title VII, § 708, Mar. 31, 1994, 108 Stat. 209.)

§ 5968. Coordination of Federal assistance

The Secretary, as a member of the Coordinating Council on Juvenile Justice and Delinquency Prevention of the Department of Justice, shall coordinate the programs and activities carried out under this subchapter with the programs and activities carried out by the departments and offices represented within the Council that provide assistance under other Federal law for purposes that are determined by the Secretary to be similar to the purpose of this subchapter, in order to avoid redundancy and coordinate Federal assistance, research, and programs for youth violence prevention.

(Pub. L. 103–227, title VII, § 709, Mar. 31, 1994, 108 Stat. 209.)

SUBCHAPTER VIII—MINORITY-FOCUSED CIVICS EDUCATION

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 5802 of this title.

§ 5981. Short title

This subchapter may be cited as the ''Minority-Focused Civics Education Act of 1994''.

(Pub. L. 103–227, title VIII, § 801, Mar. 31, 1994, 108 Stat. 209.)

§ 5982. Purposes

It is the purpose of this subchapter—

(1) to encourage improved instruction for minorities and Native Americans in American government and civics through a national program of accredited summer teacher training and staff development seminars or institutes followed by academic year inservice training programs conducted on college and university campuses or other appropriate sites, for—

(A) social studies and other teachers responsible for American history, government, and civics classes; and

(B) other educators who work with minority and Native American youth; and

(2) through such improved instruction to improve minority and Native American student knowledge and understanding of the American system of government.

(Pub. L. 103–227, title VIII, § 802, Mar. 31, 1994, 108 Stat. 209.)

§ 5983. Grants authorized; authorization of appropriations

(a) Grants authorized

(1) In general

The Secretary is authorized to make grants to eligible entities for the development and implementation of seminars in American government and civics for elementary and secondary school teachers and other educators who work with minority and Native American students.

(2) Award rule

In awarding grants under this subchapter, the Secretary shall ensure that there is wide geographic distribution of such grants.

(b) Authorization of appropriations

There are authorized to be appropriated $5,000,000 for fiscal 1995, and such sums as may

be necessary for each of the fiscal years 1996, 1997, and 1998, to carry out this subchapter.

(Pub. L. 103–227, title VIII, § 803, Mar. 31, 1994, 108 Stat. 210.)

§ 5984. Definitions

For purposes of this subchapter—

(1) the term ''eligible entity'' means a State educational agency, an institution of higher education or a State higher education agency, or a public or private nonprofit organization, with experience in coordinating or conducting teacher training seminars in American government and civics education, or a consortium thereof; and

(2) the term ''State higher education agency'' means the officer or agency primarily responsible for the State supervision of higher education.

(Pub. L. 103–227, title VIII, § 804, Mar. 31, 1994, 108 Stat. 210.)

§ 5985. Applications

(a) Application required

Each eligible entity desiring a grant under this subchapter shall submit an application to the Secretary, at such time, in such manner and containing or accompanied by such information as the Secretary may reasonably require.

(b) Contents of application

Each application submitted pursuant to subsection (a) of this section shall—

(1) define the learning objectives and course content of each seminar to be held and describe the manner in which seminar participants shall receive substantive academic instruction in the principles, institutions and processes of American government;

(2) provide assurances that educators successfully participating in each seminar will qualify for either graduate credit or professional development or advancement credit according to the criteria established by a State or local educational agency;

(3) describe the manner in which seminar participants shall receive exposure to a broad array of individuals who are actively involved in the political process, including political party representatives drawn equally from the major political parties, as well as representatives of other organizations involved in the political process;

(4) provide assurances that the seminars will be conducted on a nonpartisan basis;

(5) describe the manner in which the seminars will address the role of minorities or Native Americans in the American political process, including such topics as—

(A) the history and current political state of minorities or Native Americans;

(B) recent research on minority or Native American political socialization patterns and cognitive learning styles; and

(C) studies of political participation patterns of minorities or Native Americans;

(6) describe the pedagogical elements for teachers that will enable teachers to develop effective strategies and lesson plans for teaching minorities or Native American students at the elementary and secondary school levels;

(7) identify the eligible entities which will conduct the seminars for which assistance is sought;

(8) in the case that the eligible entity is an institution of higher education, describe the plans for collaborating with national organizations in American government and civics education;

(9) provide assurances that during the academic year educators participating in the summer seminars will provide inservice training programs based upon what such educators have learned and the curricular materials such educators have developed or acquired for their peers in their school systems with the approval and support of their school administrators; and

(10) describe the activities or services for which assistance is sought, including activities and services such as—

(A) development of seminar curricula;

(B) development and distribution of instructional materials;

(C) scholarships for participating teachers; and

(D) program assessment and evaluation.

(c) Priority

The Secretary, in approving applications for assistance under this subchapter, shall give priority to applications which demonstrate that—

(1) the applicant will serve teachers who teach in schools with a large number or concentration of economically disadvantaged students;

(2) the applicant has demonstrated national experience in conducting or coordinating accredited summer seminars in American government or civics education for elementary and secondary school teachers;

(3) the applicant will coordinate or conduct seminars on a national or multistate basis through a collaboration with an institution of higher education, State higher education agency or a public or private nonprofit organization, with experience in coordinating or conducting teacher training programs in American government and civics education;

(4) the applicant will coordinate or conduct seminars designed for more than one minority student population and for Native Americans; and

(5) the applicant will coordinate or conduct seminars that offer a combination of academic instruction in American government, exposure to the practical workings of the political system, and training in appropriate pedagogical techniques for working with minority and Native American students.

(Pub. L. 103–227, title VIII, § 805, Mar. 31, 1994, 108 Stat. 210.)

SUBCHAPTER IX—EDUCATIONAL RESEARCH AND IMPROVEMENT

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 3419, 5802, 6194 of this title.

§ 6001. Short title

This subchapter may be cited as the ''Educational Research, Development, Dissemination, and Improvement Act of 1994''.

(Pub. L. 103–227, title IX, § 901, Mar. 31, 1994, 108 Stat. 212.)

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original ''this title'', meaning title IX of Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 212, which enacted this subchapter, amended sections 2422, 3155, 3412, 3419, 3462, and 4085b of this title, repealed section 1221e of this title, and enacted provisions set out as notes under sections 1221e and 3155 of this title.

§ 6002. Findings

The Congress finds as follows with respect to improving education in the United States:

(1) A majority of public schools in the United States are failing to prepare students to achieve the National Education Goals. The Federal Government should support an extensive program of educational research, development, dissemination, replication and assistance to identify and support the best responses for the challenges ahead. A significant investment in attaining a deeper understanding of the processes of learning and schooling and developing new ideas holds the best hope of making a substantial difference to the lives of every student in the United States. The Office of Educational Research and Improvement within the Department of Education should be at the center of this campaign in order to coordinate such efforts.

(2) The Federal role in educational research has been closely identified with youths who are socioeconomically disadvantaged, are minorities, belong to a language minority, or have a disability. The Federal commitment to education was sufficient to serve not more than—

(A) in 1993, 1 out of every 6 low-income children in need of preschool education;

(B) in 1990, 3 out of every 5 children in need of remediation;

(C) in 1991, 1 out of every 5 children in need of bilingual education; and

(D) in 1992, 1 out of every 20 youths eligible for assistance under the Job Training Partnership Act [29 U.S.C. 1501 et seq.].

(3) The failure of the Federal Government to adequately invest in educational research and development has denied the United States a sound foundation of knowledge on which to design school improvements. The educational achievement of minority children is of particular concern because at least half of the public school students in 25 of the largest cities of the United States are minority children, and demographers project that, by the year 2005, almost all urban public school students will be minority children or other children in poverty.

(4) The investment goal of the Federal research, development, and dissemination function should be at least 1 percent of the total amount of funds spent on education.

(5) Nationwide model programs and reliable interventions should be demonstrated and replicated, and for such purposes, programs should be established to conduct research and evaluations, and to disseminate information.

(6) The Office should develop a national dissemination policy that will advance the goal of placing a national treasure chest of research results, models, and materials at the disposal of the education decisionmakers of the United States.

(7) A National Educational Research Policy and Priorities Board should be established to work collaboratively with the Assistant Secretary to forge a national consensus with respect to a long-term agenda for educational research, development, dissemination, and the activities of the Office.

(8) Existing research and development entities should adopt expanded, proactive roles and new institutions should be created to promote knowledge development necessary to accelerate the application of research findings to high priority areas.

(9) Greater use should be made of existing technologies in efforts to improve the educational system of the United States, including efforts to disseminate research findings.

(10) Minority educational researchers are inadequately represented throughout the Department of Education, but particularly in the Office. The Office therefore should assume a leadership position in the recruitment, retention, and promotion of qualified minority educational researchers.

(11) The coordination of the mission of the Office with that of other components of the Department of Education is critical. The Office should improve the coordination of the educational research, development, and dissemination function with those of other Federal agencies.

(Pub. L. 103–227, title IX, § 902, Mar. 31, 1994, 108 Stat. 212.)

REFERENCES IN TEXT

The Job Training Partnership Act, referred to in par. (2)(D), is Pub. L. 97–300, Oct. 13, 1982, 96 Stat. 1322, as amended, which is classified generally to chapter 19 (§ 1501 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 1501 of Title 29 and Tables.

PART A—GENERAL PROVISIONS REGARDING OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT

§ 6011. Office of Educational Research and Improvement

(a) Declaration of policy regarding educational opportunity

(1) In general

The Congress declares it to be the policy of the United States to provide to every individual an equal opportunity to receive an education of high quality regardless of race, color, religion, sex, age, disability, national origin, or social class. Although the American educational system has pursued this objective, it has not been attained. Inequalities of opportunity to receive high quality education remain pronounced. To achieve the goal of qual-

ity education requires the continued pursuit of knowledge about education through research, development, improvement activities, data collection, synthesis, technical assistance, and information dissemination. While the direction of American education remains primarily the responsibility of State and local governments, the Federal Government has a clear responsibility to provide leadership in the conduct and support of scientific inquiry into the educational process.

(2) Mission of Office

(A) The mission of the Office shall be to provide national leadership in—

(i) expanding fundamental knowledge and understanding of education;

(ii) promoting excellence and equity in education; and the achievement of the National Educational[1] Goals by spurring reform in the school systems of the United States;

(iii) promoting the use and application of research and development to improve practice in the classroom; and

(iv) monitoring the state of education.

(B) The mission of the Office shall be accomplished in collaboration with researchers, teachers, school administrators, parents, students, employers, and policymakers.

(b) Purpose and structure of Office

(1) In general

The Secretary, acting through the Office, shall carry out the policies set forth in subsection (a) of this section. In carrying out such policies, the Office shall be guided by the Research Priorities Plan developed by the Assistant Secretary working collaboratively with the Board and which has been approved by the Board.

(2) Administrative structure

The Office shall be administered by the Assistant Secretary and shall include—

(A) the National Educational Research Policy and Priorities Board established by section 6021 of this title;

(B) the national research institutes established by section 6031 of this title;

(C) the national education dissemination system established by section 6041 of this title;

(D) the National Center for Education Statistics; and

(E) such other units as the Secretary deems appropriate to carry out the purposes of the Office.

(3) Authorized activities

(A) Office

In fulfilling its purposes under this section, the Office is authorized to—

(i) conduct and support education-related research activities, including basic and applied research, development, planning, surveys, assessments, evaluations, investigations, experiments, and demonstrations of national significance;

(ii) disseminate the findings of education research, and provide technical assistance to apply such information to specific problems at school sites;

(iii) collect, analyze, and disseminate data related to education, and to library and information services;

(iv) promote the use of knowledge gained from research and statistical findings in schools, other educational institutions, and communities;

(v) provide training in education research; and

(vi) promote the coordination of education research and research support within the Federal Government, and otherwise assist and foster such research.

(c) Appointment of employees

(1) In general

The Assistant Secretary may appoint, for terms not to exceed three years (without regard to the provisions of title 5 governing appointment in the competitive service) and may compensate (without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates) such scientific or technical employees of the Office as the Assistant Secretary considers necessary to accomplish its functions, provided that—

(A) at least 30 days prior to the appointment of any such employee, public notice is given of the availability of such position and an opportunity is provided for qualified individuals to apply and compete for such position;

(B) the rate of basic pay for such employees does not exceed the maximum rate of basic pay payable for positions at GS–15, as determined in accordance with section 5376 of title 5;

(C) the appointment of such employee is necessary to provide the Office with scientific or technical expertise which could not otherwise be obtained by the Office through the competitive service; and

(D) the total number of such employees does not exceed one-fifth of the number of full-time, regular scientific or professional employees of the Office.

(2) Reappointment of employees

The Assistant Secretary may reappoint employees described in paragraph (1) upon presentation of a clear and convincing justification of need, for one additional term not to exceed 3 years. All such employees shall work on activities of the Office and shall not be reassigned to other duties outside the Office during their term.

(d) Authority to publish

(1) In general

The Assistant Secretary is authorized to prepare and publish such information, reports, and documents as may be of value in carrying out the purposes of this subchapter without further clearance or approval by the Secretary or any other office of the Department of Education.

[1] So in original. Probably should be ''Education''.

(2) Quality assurance

In carrying out such authority, the Assistant Secretary shall—

(A) establish such procedures as may be necessary to assure that all reports and publications issued by the Office are of the highest quality; and

(B) provide other offices of the Department of Education with an opportunity to comment upon any report or publication prior to its publication when its contents relate to matters for which such office has responsibility.

(e) Biennial report on activities of Office

The Assistant Secretary shall transmit to the President and the Congress by not later than December 30 of every other year a report which shall consist of—

(1) a description of the activities carried out by and through each research institute during the fiscal years for which such report is prepared and any recommendations and comments regarding such activities as the Assistant Secretary considers appropriate;

(2) a description of the activities carried out by and through the national education dissemination system established by section 6041 of this title during the fiscal years for which such report is prepared and any recommendations and comments regarding such activities as the Assistant Secretary considers appropriate;

(3) such written comments and recommendations as may be submitted by the Board concerning the activities carried out by and through each of the institutes and the national education dissemination system during the fiscal years for which such report is prepared;

(4) a description of the coordination activities undertaken pursuant to subsection (g) of this section during the fiscal years for which such report is prepared;

(5) recommendations for legislative and administrative changes necessary to improve the coordination of all educational research, development, and dissemination activities carried out within the Federal Government; and

(6) such additional comments, recommendations, and materials as the Assistant Secretary considers appropriate.

(f) Research priorities plan

(1) In general

Working collaboratively with the Board, the Assistant Secretary shall—

(A) survey and assess the state of knowledge in education research, development and dissemination to identify disciplines and areas of inquiry in which the state of knowledge is insufficient and which warrant further investigation, taking into account the views of both education researchers and practicing educators;

(B) consult with the National Education Goals Panel and other authorities on education to identify national priorities for the improvement of education;

(C) actively solicit recommendations from education researchers, teachers, school administrators, cultural leaders, parents, and others throughout the United States through such means as periodic regional forums;

(D) provide recommendations for the development, maintenance, and assurance of a strong infrastructure for education, research, and development in the United States; and

(E) on the basis of such recommendations, develop a research priorities program which shall recommend priorities for the investment of the resources of the Office over the next 5-, 10-, and 15-year periods, including as priorities those areas of inquiry in which further research, development and dissemination—

(i) is necessary to attain the National Education Goals;

(ii) promises to yield the greatest practical benefits to teachers and other educators in terms of improving education; and

(iii) will not be undertaken in sufficient scope or intensity by the other Federal and non-Federal entities engaged in education research and development.

(2) Contents of plan

(A) The research and priorities plan described in paragraph (1) shall, at a minimum—

(i) set forth specific objectives which can be expected to be achieved as a result of a Federal investment in the priorities set forth in the plan;

(ii) include recommendations with respect to research and development on cross-cutting issues which should be carried out jointly by 2 or more of the research institutes; and

(iii) include an evaluative summary of the educational research and development activities undertaken by the Federal Government during the preceding 2 fiscal years, which shall describe—

(I) what has been learned as a result of such activities;

(II) how such new knowledge or understanding extends or otherwise relates to what had been previously known or understood;

(III) the implications of such new knowledge or understanding for educational practice and school reform; and

(IV) any development, reform, and other assistance activities which have utilized such knowledge or understanding and the effects of such efforts.

(B) REPORT.—(i) Not later than 6 months after the first meeting of the Board and by October 1 of every second year thereafter, the Assistant Secretary shall publish a report specifying the proposed research priorities of the Office and allow a 60-day period beginning on the date of the publication of the report for public comment and suggestions.

(ii) Not later than 90 days after the expiration of the 60-day period referred to in clause (i), the Assistant Secretary shall submit to the Board a report specifying the proposed research priorities of the Office and any public

comment and suggestions obtained under such subparagraph for the Board's review and approval.

(g) Coordination

With the advice and assistance of the Board, the Assistant Secretary shall work cooperatively with the Secretary and the other Assistant Secretaries of the Department of Education to establish and maintain an ongoing program of activities designed to improve the coordination of education research, development, and dissemination and activities within such Department and within the Federal Government to—

(1) minimize duplication in education research, development, and dissemination carried out by the Federal Government;

(2) maximize the value of the total Federal investment in education research, development, and dissemination; and

(3) enable entities engaged in education research, development, and dissemination within the Federal Government to interact effectively as partners and take full advantage of the diverse resources and proficiencies which each entity has available.

(h) Activities required with respect to coordination

In carrying out such program of coordination, the Assistant Secretary shall compile (and thereafter regularly maintain) and make available a comprehensive inventory of education research, development, dissemination activities, and expenditures being carried out by the Federal Government.

(i) Standards for conduct and evaluation of research

(1) In general

In consultation with the Board, the Assistant Secretary shall develop such standards as may be necessary to govern the conduct and evaluation of all research, development, and dissemination activities carried out by the Office to assure that such activities meet the highest standards of professional excellence. In developing such standards, the Assistant Secretary shall review the procedures utilized by the National Institutes of Health, the National Science Foundation, and other Federal departments or agencies engaged in research and development and shall also actively solicit recommendations from research organizations and members of the general public.

(2) Contents of standards

Such standards shall at a minimum—

(A) require that a process of open competition be used in awarding or entering into all grants, contracts, and cooperative agreements under this subchapter;

(B) require that a system of peer review be utilized by the Office—

(i) for reviewing and evaluating all applications for grants and cooperative agreements and bids for those contracts which exceed $100,000;

(ii) for evaluating and assessing the performance of all recipients of grants from and cooperative agreements and contracts with the Office; and

(iii) for reviewing and designating exemplary and promising programs in accordance with section 6041(d) of this title;

(C) describe the general procedures which shall be used by each peer review panel in its operations;

(D)(i) describe the procedures which shall be utilized in evaluating applications for grants, proposed cooperative agreements, and contract bids; and

(ii) specify the criteria and factors which shall be considered in making such evaluations;

(E) describe the procedures which shall be utilized in reviewing educational programs which have been identified by or submitted to the Secretary for evaluation in accordance with section 6041(d) of this title; and

(F) require that the performance of all recipients of grants from and contracts and cooperative agreements with the Office shall be periodically evaluated, both during and at the conclusion of their receipt of assistance.

(3) Publication and promulgation of standards

(A) The Assistant Secretary shall publish proposed standards—

(i) which meet the requirements of subparagraphs (A), (B), (C), and (D) of paragraph (2) not later than 1 year after March 31, 1994;

(ii) which meet the requirements of paragraph (2)(E) not later than 2 years after March 31, 1994; and

(iii) which meet the requirements of subparagraph (F) of paragraph (2) not later than 3 years after March 31, 1994.

(B) Following the publication of such proposed standards, the Assistant Secretary shall solicit comments from interested members of the public with respect to such proposed standards for a period of not more than 120 days. After giving due consideration to any comments which may have been received, the Assistant Secretary shall transmit such standards to the Board for its review and approval.

(C) Upon the approval of the Board, the Assistant Secretary shall transmit final standards to the Secretary which meet the requirements of the particular subparagraphs of paragraph (2) for which such standards were developed. Such standards shall be binding upon all activities carried out with funds appropriated pursuant to subsection (m) of this section.

(j) Additional responsibilities of Assistant Secretary

In carrying out the activities and programs of the Office, the Assistant Secretary—

(1) shall be guided by the Research Priorities Plan developed by the Assistant Secretary working collaboratively with the Board and which has been approved by the Board;

(2) shall ensure that there is broad and regular public and professional involvement from the educational field in the planning and carrying out of the Office's activities, including establishing teacher advisory boards for any program office, program or project of the Office as the Assistant Secretary deems necessary and involving Indian and Alaska Native researchers and educators in activities that

relate to the education of Indian and Alaska Native people;

(3) shall ensure that the selection of research topics and the administration of the program are free from undue partisan political influence;

(4) shall ensure that all statistics and other data collected and reported by the Office shall be collected, cross-tabulated, analyzed, and reported by sex within race or ethnicity and socioeconomic status whenever feasible (and when such data collection or analysis is not feasible, ensure that the relevant report or document includes an explanation as to why such data collection or analysis is not feasible);

(5) is authorized to administer funds to support a single project when more than 1 Federal agency uses funds to support such project, and the Assistant Secretary may act for all such agencies in administering such funds; and

(6) is authorized to offer information and technical assistance to State and local educational agencies, school boards, and schools, including schools funded by the Bureau, to ensure that no student is—

(A) denied access to the same rigorous, challenging curriculum that such student's peers are offered; or

(B) grouped or otherwise labeled in such a way that may impede such student's achievement.

(k) Independent evaluations

The Secretary shall enter into one or more contracts for the conduct of an independent evaluation of the effectiveness of the implementation of the provisions of this subchapter. Such evaluations shall be transmitted to the Congress, the President, and the Assistant Secretary not later than 54 months after March 31, 1994.

(*l*) Definitions

For purposes of this subchapter, the following definitions apply:

(1) Assistant Secretary

The term ''Assistant Secretary'' means the Assistant Secretary for Educational Research and Improvement established by section 3412 of this title.

(2) At-risk student

The term ''at-risk student'' means a student who, because of limited English proficiency, poverty, race, geographic location, or economic disadvantage, faces a greater risk of low educational achievement or reduced academic expectations.

(3) Board

The term ''Board'' means the National Educational Research Policy and Priorities Board.

(4) Development

The term ''development''—

(A) means the systematic use, adaptation, and transformation of knowledge and understanding gained from research to create alternatives, policies, products, methods, practices, or materials which can contribute to the improvement of educational practice; and

(B) includes the design and development of prototypes and the testing of such prototypes for the purposes of establishing their feasibility, reliability, and cost-effectiveness.

(5) Dissemination

The term ''dissemination'' means the communication and transfer, through the provision of technical assistance and other means, of the results of research and proven practice in forms that are understandable, easily accessible and usable or adaptable for use in the improvement of educational practice by teachers, administrators, librarians, other practitioners, researchers, policymakers, and the public.

(6) Educational research

The term ''educational research'' includes basic and applied research, inquiry with the purpose of applying tested knowledge gained to specific educational settings and problems, development, planning, surveys, assessments, evaluations, investigations, experiments, and demonstrations in the field of education and other fields relating to education.

(7) Field-initiated research

The term ''field-initiated research'' means education research in which topics and methods of study are generated by investigators, including teachers and other practitioners, not by the source of funding.

(8) National education dissemination system

The term ''national education dissemination system'' means the activities carried out by the Office of Reform Assistance and Dissemination established by section 6041 of this title.

(9) Office

The term ''Office'', unless otherwise specified, means the Office of Educational Research and Improvement established in section 3419 of this title.

(10) National research institute

The term ''national research institute'' means an institute established in section 6031 of this title.

(11) Technical assistance

The term ''technical assistance'' means assistance in identifying, selecting, or designing solutions based on research to address educational problems, planning, and design that leads to adapting research knowledge to school practice, training to implement such solutions, and other assistance necessary to encourage adoption or application of research.

(12) United States; State

The terms ''United States'' and ''State'' means[2] each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, Palau (until the effective date of the Compact of Free Association with the Government of Palau), the Republic of the Marshall

[2] So in original. Probably should be ''mean''.

Islands, and the Federated States of Micronesia.

(m) Authorization of appropriations

(1) National institutes

(A) For the purpose of carrying out section 6031 of this title, there is authorized to be appropriated $68,000,000 for fiscal year 1995.

(B)(i) For the purpose of carrying out the provisions of section 6031 of this title relating to the National Institute on Student Achievement, Curriculum, and Assessment and the National Institute on the Education of At-Risk Students, there are authorized to be appropriated $60,000,000 for fiscal year 1996, and such sums as are necessary for each of fiscal years 1997, 1998, and 1999.

(ii) Of the total amounts appropriated pursuant to clause (i)—

(I) 50 percent shall be used by the Assistant Secretary for the purpose of carrying out the provisions of section 6031 of this title relating to the National Institute on the Education of At-Risk Students; and

(II) 50 percent shall be used for the purpose of carrying out the provisions of section 6031 of this title relating to the National Institute on Student Achievement, Curriculum, and Assessment.

(C) For the purpose of carrying out the provisions of section 6031 of this title relating to the National Institute on Educational Governance, Finance, Policy-Making, and Management, there are authorized to be appropriated $10,000,000 for fiscal year 1996, and such sums as are necessary for each of fiscal years 1997, 1998, and 1999.

(D) For the purpose of carrying out the provisions of section 6031 of this title relating to the National Institute on Early Childhood Development and Education, there are authorized to be appropriated $15,000,000 for fiscal year 1996, and such sums as are necessary for each of fiscal years 1997, 1998, and 1999.

(E) For the purpose of carrying out the provisions of section 6031 of this title relating to the National Institute on Postsecondary Education, Libraries, and Lifelong Learning, there are authorized to be appropriated $15,000,000 for fiscal year 1996, and such sums as are necessary for each of fiscal years 1997, 1998, and 1999.

(F) COORDINATION AND SYNTHESIS.—The Assistant Secretary is authorized to reserve not more than 10 percent of the total amounts appropriated in any fiscal year pursuant to subparagraphs (A) through (E) (but not more than 33 percent of the amount appropriated for any single institute in any fiscal year) for the purposes of supporting coordination and synthesis activities described in section 6031(i) of this title or to address other priorities which are consistent with the Research Priorities Plan developed by the Assistant Secretary and approved by the Board.

(2) National education dissemination system

(A)(i) For the purpose of carrying out paragraph (2) of subsection (b) and subsections (c) through (g) of section 6041 of this title, there are authorized to be appropriated $23,000,000 for fiscal year 1995, and such sums as are necessary for each of the fiscal years 1996 through 1999.

(ii) Of the amount appropriated under clause (i) for any fiscal year, the Secretary shall make available not less than $8,000,000 to carry out subsection (f) of section 6041 of this title (relating to Educational Resources Information Center Clearinghouses).

(B) For the purpose of carrying out subsection (h) of section 6041 of this title (relating to regional educational laboratories), there are authorized to be appropriated $41,000,000 for fiscal year 1995, and such sums as are necessary for each of the fiscal years 1996 through 1999. Of the amounts appropriated under the preceding sentence for a fiscal year, the Secretary shall obligate not less than 25 percent to carry out such purpose with respect to rural areas (including schools funded by the Bureau which are located in rural areas).

(C) For the purpose of carrying out subsection (j) of section 6041 of this title (relating to the teacher research dissemination demonstration program) there are authorized to be appropriated $20,000,000 for fiscal year 1995, and such sums as are necessary for each of the fiscal years 1996 through 1999.

(D) For the purpose of carrying out subsection (i) of section 6041 of this title (relating to the Goals 2000 Community Partnerships program), there are authorized to be appropriated $30,000,000 for fiscal year 1995, $50,000,000 for fiscal year 1996, and such sums as are necessary for each of the fiscal years 1997 and[3] 1999.

(3) National Educational Research Policy and Priorities Board

Of the amounts appropriated under paragraphs (1) and (2) for any fiscal year, the Secretary shall make available 2 percent of such amounts, or $1,000,000, whichever is less, for the purpose of supporting the activities and expenses of the Board and the collaborative development of the Research Priorities Plan by the Assistant Secretary and the Board.

(4) Allocations for grants, cooperative agreements, and contracts

Of the amounts appropriated under paragraph (1) or (2) for any fiscal year, not less than 95 percent shall be expended to carry out the purposes described in such paragraphs through grants, cooperative agreements, or contracts.

(5) Limitations on appropriations

No amounts are authorized to be appropriated under paragraph (1) or (2) for fiscal year 1996 or any fiscal year thereafter unless the Board has been appointed in accordance with section 6021 of this title.

(6) Grant authorized

(A) In general

From the amounts appropriated pursuant to paragraph (1) for any fiscal year, the Secretary is authorized, in accordance with the provisions of this paragraph, to award a

[3] So in original. Probably should be ''through''.

grant of not more than $5,000,000 to a public or private institution, agency or organization for a period not to exceed 5 years for the purpose of conducting a State-by-State poll to determine the perceptions of recent graduates of secondary schools, their instructors in institutions of higher education, parents of recent such graduates, and employers of recent such graduates on how well schools have prepared students for further education or employment.

(B) Matching requirement

The grant described in subparagraph (A) shall be awarded on a competitive basis and shall be matched on a two-to-one basis by the recipient.

(Pub. L. 103–227, title IX, § 912, Mar. 31, 1994, 108 Stat. 213; Pub. L. 103–382, title II, § 271(a)(3)(B), Oct. 20, 1994, 108 Stat. 3929.)

REFERENCES IN TEXT

The provisions of title 5 governing appointment in the competitive service, referred to in subsec. (c)(1), are classified generally to section 3301 et seq. of Title 5, Government Organization and Employees.

For Oct. 1, 1994, as the date the Compact of Free Association with the Government of Palau takes effect, referred to in subsec. (*l*)(12), see Proc. No. 6726, Sept. 27, 1994, 59 F.R. 49777, set out as a note under section 1931 of Title 48, Territories and Insular Possessions.

AMENDMENTS

1994—Subsec. (*l*)(9). Pub. L. 103–382 made technical amendment to reference to section 3419 of this title to reflect renumbering of corresponding section of original act.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6021, 6031, 6041 of this title.

PART B—NATIONAL EDUCATIONAL RESEARCH POLICY AND PRIORITIES BOARD

§ 6021. Establishment within Office of Educational Research and Improvement

(a) In general

There is established within the Office a National Educational Research Policy and Priorities Board.

(b) Functions

It shall be the responsibility of the Board to—

(1) work collaboratively with the Assistant Secretary to determine priorities that should guide the work of the Office and provide guidance to the Congress in its oversight of the Office;

(2) review and approve the Research Priorities Plan developed by the Assistant Secretary in collaboration with the Board;

(3) review and approve standards for the conduct and evaluation of all research, development, and dissemination carried out under the auspices of the Office pursuant to this subchapter; and

(4) review regularly, evaluate, and publicly comment upon, the implementation of its recommended priorities and policies by the Department and the Congress.

(c) Additional responsibilities of Board

It shall also be the responsibility of the Board to—

(1) provide advice and assistance to the Assistant Secretary in carrying out the coordination activities described in section 6011 of this title;

(2) make recommendations to the Assistant Secretary of persons qualified to fulfill the responsibilities of the Director of each research institute established by section 6031 of this title after making special efforts to identify qualified women and minorities and soliciting and giving due consideration to recommendations from professional associations and interested members of the public;

(3) advise and make recommendations to the President with respect to individuals who are qualified to fulfill the responsibilities of the Assistant Secretary for the Office;

(4) review and comment upon proposed contract grant, and cooperative agreement proposals in accordance with section 6031(c)(4) of this title;

(5) advise the United States on the Federal educational research and development effort;

(6) recommend ways for strengthening active partnerships among researchers, educational practitioners, librarians, and policymakers;

(7) recommend ways to strengthen interaction and collaboration between the various program offices and components;

(8) solicit advice and information from the educational field, to define research needs and suggestions for research topics, and shall involve educational practitioners, particularly teachers, in this process;

(9) solicit advice from practitioners, policymakers, and researchers, and recommend missions for the national research centers assisted under this subchapter by identifying topics which require long-term, sustained, systematic, programmatic, and integrated research and dissemination efforts;

(10) provide recommendations for translating research findings into workable, adaptable models for use in policy and in practice across different settings, and recommendations for other forms of dissemination; and

(11) provide recommendations for creating incentives to draw talented young people into the field of educational research, including scholars from disadvantaged and minority groups.

(d) Standing subcommittees

The Board may establish a standing subcommittee for each of the Institutes established by section 6031 of this title and for the Office of Reform Assistance and Dissemination established by section 6041(b) of this title which shall advise, assist, consult with and make recommendations to the Assistant Secretary, the Board, the Director of such entity and the Congress on matters related to the activities carried out by and through such entities.

(e) Powers of Board

In carrying out its functions, powers, and responsibilities, the Board—

(1) shall, without regard to the provisions of title 5 relating to the appointment and compensation of officers or employees of the United States, appoint a director to be paid at a rate not to exceed the rate of basic pay pay-

able for level V of the Executive Schedule who shall assist in carrying out and managing the activities of the Board and perform such other functions the Board determines to be necessary and appropriate;

(2) shall utilize such additional staff as may be appointed or assigned by the Assistant Secretary;

(3) may arrange for the detail of staff personnel and utilize the services and facilities of any department or agency of the Federal Government;

(4) may enter into contracts, or make other arrangements as may be necessary to carry out its functions;

(5) shall participate in any public meetings or other activities carried out by the Assistant Secretary in the development of the Research Priorities Plan;

(6) may review any grant, contract, or cooperative agreement made or entered into by the Office;

(7) may, to the extent otherwise permitted by law, obtain directly from any department or agency of the United States such information as the Board deems necessary to carry out its responsibilities;

(8) may convene workshops and conferences, collect data, and establish subcommittees which may be composed of members of the Board and nonmember consultants (including employees of the Department of Education) with expertise in the particular area addressed by such subcommittees; and

(9) shall establish such rules and procedures to govern its operations as it considers appropriate, to the extent otherwise permitted by law.

(f) Membership in general

(1) Qualifications

The members of the Board shall be individuals who, by virtue of their training, experience, and background in educational research and the education professions, are exceptionally qualified to appraise the educational research and development effort of the United States and to fulfill the responsibilities described in subsections (b) and (c) of this section.

(2) Broad representation

Due consideration shall be given to the gender, race, and ethnicity of appointees to assure that the Board is broadly representative of the diversity of the United States.

(3) Limitation

A voting member of the Board may not serve on any other governing or advisory board within the Department of Education or as a paid consultant of such Department.

(4) Conflict of interest

A voting member of the Board shall be considered a special Government employee for the purposes of the Ethics in Government Act of 1978.

(g) Secretarial appointments

The Board shall consist of 15 members appointed by the Secretary. Of the members of the Board—

(1) five shall be appointed from among researchers in the field of education who have been nominated by the National Academy of Sciences;

(2) five shall be outstanding school-based professional educators; and

(3) five shall be individuals who are knowledgeable about the educational needs of the United States and may include parents with experience in promoting parental involvement in education, Chief State School Officers, local educational agency superintendents, principals, members of State or local boards of education or Bureau-funded school boards, and individuals from business and industry with experience in promoting private sector involvement in education.

(h) Requirements for nominations by National Academy of Sciences

(1) In general

In making nominations for the members of the Board described in subsection (g)(1) of this section, the National Academy of Sciences—

(A) shall give due consideration to recommendations from research and education organizations;

(B) may not nominate any individual who is an elected officer or employee of such organization; and

(C) shall nominate not less than 5 individuals for each of the positions on the Board for which such organization has responsibility for making nominations.

(2) Request for additional nominations

In the event that the Secretary determines that none of the individuals nominated by the National Academy of Sciences meets the qualifications for membership on the Board specified in subsection (g) of this section, the Secretary may request that such organization make additional nominations.

(i) Nominations for Board membership

Prior to appointing any member of the Board, the Secretary shall actively solicit and give due consideration to recommendations from organizations such as the National Education Association, the American Federation of Teachers, the National Parent-Teachers Association, the American Library Association, the American Association of School Administrators, the National Association of State Boards of Education, the National Indian School Board Association, the Association of Community Tribal Schools, the National Indian Education Association, and other education-related organizations and interested members of the public.

(j) Ex officio members

The ex officio, nonvoting members of the Board shall include the Assistant Secretary and may also include—

(1) the Director of Research for the Department of Defense;

(2) the Director of Research for the Department of Labor;

(3) the Director of the National Science Foundation;

(4) the Director of the National Institutes of Health;

(5) the chair of the National Endowment for the Arts;

(6) the chair of the National Endowment for the Humanities;

(7) the Librarian of Congress; and

(8) the Director of the Office of Indian Education Programs of the Department of the Interior.

(k) Chair

The Board shall select a Chair from among its appointed members who shall serve for a renewable term of 2 years.

***(l)* Terms of office**

(1) In general

Except as provided in paragraphs (2) and (3), the term of office of each voting member of the Board shall be 6 years.

(2) Exceptions

(A) Any individual appointed to fill a vacancy occurring on the Board prior to the expiration of the term for which the predecessor of the individual was appointed shall be appointed for the remainder of the term. A vacancy shall be filled in the same manner in which the original appointment was made.

(B) The terms of office of the members of the Board who first take office after March 31, 1994, shall, as designated by a random selection process at the time of appointment, be as follows:

(i) 3 years for each of 5 members of the Board.

(ii) 4 years for each of 5 members of the Board.

(iii) 6 years for each of 5 members of the Board.

(3) Prohibition on certain consecutive terms

An individual who has been a member of the Board for 12 consecutive years shall thereafter be ineligible for appointment during the 6-year period beginning on the date of the expiration of the 12th year.

(4) Prohibition regarding removal

The Secretary shall neither remove nor encourage the departure of a member of the Board before the expiration of such member's term.

(m) Meetings of Board

(1) Initial meeting

The Secretary shall ensure that the first meeting of the Board is held not later than May 15, 1995.

(2) Subsequent meetings

The Board shall meet quarterly, at the call of the Chair, and when at least one-third of the members of the Board make a written request to meet.

(3) Quorum

A majority of the Board shall constitute a quorum.

(4) Open meetings

The Government in the Sunshine Act (5 U.S.C. 552b) shall apply to meetings of the Board.

(Pub. L. 103–227, title IX, § 921, Mar. 31, 1994, 108 Stat. 223.)

REFERENCES IN TEXT

Level V of the Executive Schedule, referred to in subsec. (e)(1), is set out in section 5316 of Title 5, Government Organization and Employees.

The Ethics in Government Act of 1978, referred to in subsec. (f)(4), is Pub. L. 95–521, Oct. 26, 1978, 92 Stat. 1824, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 101 of Pub. L. 95–521 in the Appendix to Title 5.

The Government in the Sunshine Act, referred to in subsec. (m)(4), is Pub. L. 94–409, Sept. 13, 1976, 90 Stat. 1241, which enacted section 552b of Title 5, amended sections 551, 552, 556, and 557 of Title 5, section 10 of Pub. L. 92–463, set out in the Appendix to Title 5, and section 410 of Title 39, Postal Service, and enacted provisions set out as notes under section 552b of Title 5. For complete classification of this Act to the Code, see Short Title note set out under section 552b of Title 5 and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6011 of this title.

PART C—NATIONAL RESEARCH INSTITUTES

§ 6031. Establishment within Office of Educational Research and Improvement

(a) Establishment of Institutes

In order to fulfill the research and development purposes of the Office, and to carry out a program of high-quality and rigorously evaluated research and development that is capable of improving Federal, State, Indian tribal, and local education policies and practices, there are established within the Office the following Institutes:

(1) The National Institute on Student Achievement, Curriculum, and Assessment.

(2) The National Institute on the Education of At-Risk Students.

(3) The National Institute on Educational Governance, Finance, Policy-Making, and Management.

(4) The National Institute on Early Childhood Development and Education.

(5) The National Institute on Postsecondary Education, Libraries, and Lifelong Education.

(b) Directors

(1) In general

Each Institute established by subsection (a) of this section shall be headed by a Director who shall be appointed by the Assistant Secretary from among individuals who have significant experience and expertise in the disciplines relevant to the purposes of such Institute. The Assistant Secretary shall give due consideration to recommendations made by the Board of individuals qualified to fill the position.

(2) Reporting

Each Director shall report directly to the Assistant Secretary regarding the activities of the Institute and shall work with the other directors to promote research synthesis across the Institutes.

(c) Authorities and duties

(1) In general

The Assistant Secretary is authorized to conduct research, development, demonstra-

tion, and evaluation activities to carry out the purposes for which such Institute was established—

(A) directly;

(B) through grants, contracts, and cooperative agreements with institutions of higher education, regional educational laboratories, public and private organizations, institutions, agencies, and individuals, or a consortium thereof, which may include—

(i) grants to support research and development centers which are—

(I) awarded competitively for a period of 5 years and which may be renewed for an additional 5 years;

(II) of sufficient size, scope, and quality, and funded at not less than $1,500,000 annually in order to support a full range of basic research, applied research and dissemination activities, which may also include development activities; and

(III) established by institutions of higher education, by institutions of higher education in consortium with public agencies or private nonprofit organizations, or by interstate agencies established by compact which operate subsidiary bodies established to conduct postsecondary educational research and development;

(ii) meritorious unsolicited proposals for educational research and related activities;

(iii) proposals that are specifically invited or requested by the Assistant Secretary, on a competitive basis; and

(iv) dissertation grants, awarded for a period of not more than 2 years and in a total amount not to exceed $20,000 to graduate students in the sciences, humanities, and the arts to support research by such scholars in the field of education;

(C) through the provision of technical assistance;

(D) through the award of fellowships to support graduate study in educational research by qualified African-American, Hispanic, American Indian and Alaska Native, and other individuals from groups which have been traditionally underrepresented in the field of educational research which shall—

(i) be awarded on the basis of merit for a period of 3 years; and

(ii) provide stipends to each fellow in an amount which shall be set at a level of support comparable to that provided by the National Science Foundation Graduate Fellowships, except that such amounts shall be adjusted as necessary so as not to exceed each fellow's demonstrated level of need; and

(E) through the award of fellowships in the Office for scholars, researchers, policymakers, education practitioners, librarians, and statisticians engaged in the use, collection, and dissemination of information about education and educational research which—

(i) shall be awarded following the biennial publication in the Federal Register of proposed research priorities and a period of 60 days for public comments and suggestions with respect to such priorities;

(ii) shall be awarded competitively following the publication of a notice in the Federal Register inviting the submission of applications; and

(iii) may include such stipends and allowances, including travel and subsistence expenses provided under title 5, as the Assistant Secretary considers appropriate.

(2) Scope and focus of activities

In carrying out the purposes for which each Institute is established, the Assistant Secretary shall—

(A) maintain an appropriate balance between applied and basic research;

(B) significantly expand the role of field-initiated research in meeting the education research and development needs of the United States by reserving not less than 20 percent of the amounts available to each Institute in fiscal years 1996 and 1997 and 25 percent in fiscal years 1998 and 1999 to support field-initiated research;

(C) provide for and maintain a stable foundation of long-term research and development on core issues and concerns conducted through university-based research and development centers by reserving not less than one-third of the amounts available to each Institute in any fiscal year to support such research and development centers;

(D) support and provide research information that leads to policy formation by State legislatures, State and local boards of education, schools funded by the Bureau, and other policy and governing bodies, to assist such entities in identifying and developing effective policies to promote student achievement and school improvement;

(E) promote research that is related to the core content areas;

(F) plan and coordinate syntheses that provide research knowledge related to each level of the education system (from preschool to postsecondary education) to increase understanding of student performance across different educational levels;

(G) conduct and support research in early childhood, elementary and secondary, vocational, adult and postsecondary education (including the professional development of teachers) to the extent that such research is related to the purposes for which such Institute has been established;

(H) conduct sustained research and development on improving the educational achievement of poor and minority individuals as an integral part of its work; and

(I) coordinate the Institute's activities with the activities of the regional educational laboratories and with other educational service organizations in designing the Institute's research agenda and projects in order to increase the responsiveness of such Institute to the needs of teachers and the educational field and to bring research findings directly into schools to ensure greatest access at the local level to the latest research developments.

(3) Requirements regarding financial assistance

No grant, contract, or cooperative agreement may be made under this subchapter unless—

(A) sufficient notice of the availability of, and opportunity to compete for, assistance has first been provided to potential applicants through notice published in the Federal Register or other appropriate means;

(B) such grant, contract, or agreement has been evaluated through peer review in accordance with the standards developed pursuant to section 6011(i) of this title;

(C) such grant, contract, or agreement will be evaluated in accordance with the standards developed pursuant to section 6011(i) of this title;

(D) in the case of a grant, contract, or cooperative agreement which exceeds $500,000 for a single fiscal year or $1,000,000 for more than one fiscal year, the Secretary has complied with the requirements of paragraph (4); and

(E) in the case of a grant, contract, or cooperative agreement to support a research and development center, all applications for such assistance have been evaluated by independent experts according to standards and criteria which include—

(i) whether applicants have assembled a group of high quality researchers sufficient to achieve the mission of the center;

(ii) whether the proposed organizational structure and arrangements will facilitate achievement of the mission of the center;

(iii) whether there is a substantial staff commitment to the work of the center;

(iv) whether the directors and support staff will devote a majority of their time to the activities of the center;

(v) review of the contributions of primary researchers (other than researchers at the proposed center) to evaluate the appropriateness of such primary researcher's experiences and expertise in the context of the proposed center activities, and the adequacy of such primary researcher's time commitment to achievement of the mission of the center; and

(vi) the manner in which the results of education research will be disseminated for further use, including how the center will work with the Office of Reform Assistance and Dissemination.

(4) Board review of certain proposed grant and contract actions

The Assistant Secretary may not solicit any contract bid or issue a request for proposals or applications for any grant or cooperative agreement the amount of which exceeds $500,000 in any single fiscal year or which exceeds an aggregate amount of $1,000,000 for more than one fiscal year unless the Board has had an opportunity to review such proposed grant, contract, or cooperative agreement and to provide written comments to the Assistant Secretary with respect to whether—

(A) the purposes and scope of the proposed action are consistent with the Research Priorities Plan; and

(B) the methodology and approach of the proposed action are sound and adequate to achieve the objectives of such grant, contract, or cooperative agreement.

(5) Historically underutilized researchers and institutions

The Assistant Secretary shall establish and maintain initiatives and programs to increase the participation in the activities of each Institute of groups of researchers and institutions that have been historically underutilized in Federal educational research activities, including—

(A) researchers who are women, African-American, Hispanic, American Indian and Alaska Native, or other ethnic minorities;

(B) promising young or new researchers in the field, such as postdoctoral students and recently appointed assistant or associate professors;

(C) Historically Black Colleges and Universities, Tribally Controlled Community Colleges, and other institutions of higher education with large numbers of minority students;

(D) institutions of higher education located in rural areas; and

(E) institutions and researchers located in States and regions of the United States which have historically received the least Federal support for educational research and development.

(6) Additional authorities

The Assistant Secretary—

(A) may obtain (in accordance with section 3109 of title 5 but without regard to the limitation in such section on the period of service) the services of experts or consultants with scientific or professional qualifications in the disciplines relevant to the purposes of such Institute;

(B) may use, with their consent, the services, equipment, personnel, information, and facilities of other Federal, State, or local public agencies, with or without reimbursement therefore; and

(C) may accept voluntary and uncompensated services.

(d) National Institute on Student Achievement, Curriculum, and Assessment

(1) Findings

The Congress finds as follows:

(A) The current achievement levels of students in the United States are far below those that might indicate competency in challenging subject matter in core content areas.

(B) During the last 20 years, relatively little changed in how students were taught. Despite much research suggesting better alternatives, classrooms continue to be dominated by textbooks, teacher lectures, short-answer activity sheets, and unequal patterns of student attention.

(C) Despite progress in narrowing the gaps, the differences in performance between Caucasian students and their minority counterparts remain unacceptably large. While progress has been made in reducing the gen-

der gap in mathematics, such gap still remains at higher levels of problem solving. Too little progress has been made in reducing gender performance gaps favoring males in science and females in writing.

(2) Purpose

The purpose of the National Institute on Student Achievement, Curriculum, and Assessment is to carry out a coordinated and comprehensive program of research and development to provide research-based leadership to the United States as it seeks to improve student achievement in core content areas and the integration of such areas. Such program shall—

(A) identify, develop, and evaluate innovative and exemplary methods to improve student knowledge at all levels in the core content areas, such as—

(i) student learning and assessment in various subject matters;

(ii) the effects of organizational patterns on the delivery of instruction, including issues of grouping and tracking, ungraded classrooms, and on the effects of various pedagogies, including the issues of technology in education;

(iii) standards for what students should know and be able to do, particularly standards of desired performance set to internationally competitive levels;

(iv) methods to improve the process of reading, the craft of writing, the growth of reasoning skills, and the development of information-finding skills;

(v) enabling students to develop higher order thinking skills;

(vi) methods to teach effectively all students in mixed-ability classrooms;

(vii) curriculum, instruction, and assessment, in vocational education and school-to-work transition;

(viii) the impact and effectiveness of Federal, State, and local efforts to provide gender-fair educational opportunities to elementary and secondary students;

(ix) programs, policies, and approaches which promote gender equity in elementary and secondary education;

(x) improving the working conditions of teachers and other educational practitioners, which may include such topics as—

(I) teacher isolation;

(II) professional resources available to teachers;

(III) continuing educational and professional opportunities available to teachers;

(IV) physical facilities and equipment, such as office space, telephone, computer access, and fax machines and television cable access available to teachers in the work environment;

(V) opportunities for teachers to share information and resources with other teachers and education professionals;

(VI) opportunities for advanced learning experience; and

(VII) the reduction of stress in the teaching profession;

(xi) curriculum development designed to meet challenging standards, including State efforts to develop such curriculum;

(xii) the need for, and methods of delivering, teacher education, development, and inservice training;

(xiii) educational methods and activities to reduce and prevent violence in schools;

(xiv) the use of technology in learning, teaching and testing; and

(xv) other topics relevant to the mission of the institute;[1]

(B) conduct basic and applied research in the areas of human learning, cognition, and performance, including research and development on the education contexts which promote excellence in learning and instruction, and motivational issues related to learning;

(C) identify, develop, and evaluate programs designed to enhance academic achievement and narrow racial and gender performance gaps in a variety of subject areas, including research and development on methods of involving parents in their children's education and ways to involve business, industry and other community partners in promoting excellence in schools; and

(D) include a comprehensive, coordinated program of research and development in the area of assessment which—

(i) addresses issues such as—

(I) the validity, reliability, generalizability, costs, relative merits, and most appropriate uses of various approaches and methods of assessing student learning and achievement;

(II) methods and approaches to assessing student opportunities to learn (including the quality of instruction and the availability of resources necessary to support learning) and evaluating the quality of school environment;

(III) the impact of high-stakes uses of assessment on student performance and motivation, narrowing of curriculum, teaching practices, and test integrity;

(IV) the impact of various methods of assessment on children of different races, ethnicities, gender, socioeconomic status, and English language proficiencies, and children with other special needs;

(V) standards of performance, quality, and validity for various methods of assessment and the means by which such standards should be developed;

(VI) current and emerging testing practices of State and local education agencies within the United States, as well as other nations;

(VII) the diverse effects, both intended and unintended, of assessments as actually used in the schools, including effects on curriculum and instruction, effects on equity in the allocation of resources and opportunities, effects on equity of out-

[1] So in original. Probably should be capitalized.

comes, effects on other procedures and standards for judging students and practitioners and possible inflation of test scores;

(VIII) identifying and evaluating how students with limited-English proficiency and students with disabilities are included and accommodated in the various assessment programs of State and local education agencies;

(IX) the feasibility and validity of comparing or equating the results of different assessments;

(X) test security, accountability, validity, reliability, and objectivity;

(XI) relevant teacher training and instruction in giving a test, scoring a test, and in the use of test results to improve student achievement;

(XII) developing, identifying, or evaluating new educational assessments, including performance-based and portfolio assessments which demonstrate skill and a command of knowledge; and

(XIII) other topics relevant to the purposes of the Institute; and

(ii) may reflect recommendations made by the National Education Goals Panel.

(e) National Institute on the Education of At-Risk Students

(1) Findings

The Congress finds as follows:

(A) The rate of decline in our urban schools is escalating at a rapid pace. Student performance in most inner city schools grows worse each year. At least half of all students entering ninth grade fail to graduate 4 years later and many more students from high-poverty backgrounds leave school with skills that are inadequate for today's workplace. Student performance in many inner city neighborhoods grows worse each year. At least half of all students entering ninth grade fail to graduate in 4 years. In 1992, the average National Assessment of Educational Progress reading score of Caucasian 17 year-olds was approximately 25 points higher than that of African-American 17 year-olds and 20 points higher than that of Hispanic 17 year-olds.

(B) Rural schools enroll a disproportionately large share of the poor and at-risk students of the United States and yet often lack the means to address effectively the needs of these children. Intensive efforts should be made to overcome the problems of geographic isolation, declining population, inadequate financial resources and other impediments to the educational success of children residing in rural areas.

(C) By the year 2000, an estimated 3,400,000 school age children with limited-English proficiency will be entering the school system. The Federal Government should develop effective policies and programs to address the educational needs of this growing population of children who are at increased risk of educational failure.

(D) An educational emergency exists in those urban and rural areas where there are large concentrations of children who live in poverty. The numbers of disadvantaged children will substantially increase by the year 2020, when the number of impoverished children alone will be 16,500,000, a 33 percent increase over the 12,400,000 children in poverty in 1987.

(E) American Indian and Alaska Native students have high dropout, illiteracy and poverty rates, and experience cultural, linguistic, social and geographic isolation. The estimated 400,000 Indian and Alaska Native student population from over 500 Indian and Alaska Native tribes, is small and scattered throughout remote reservations and villages in 32 States, and in off-reservation rural and urban communities where Indians constitute but a small percentage of public school student bodies. To meaningfully address the special educational needs of this historically under-served population, the existing research and development system should be opened to Indian and Alaska Native people to identify needs and design ways to address such needs.

(F) Minority scholars as well as institutions and groups that have been historically committed to the improvement of the education of at-risk students need to be more fully mobilized in the effort to develop a new generation of programs, models, practices, and schools capable of responding to the urgent needs of students who are educationally at-risk.

(2) Purpose

It shall be the purpose of the Institute on the Education of At-Risk Students to carry out a coordinated and comprehensive program of research and development to provide nonpartisan, research-based leadership to the United States as it seeks to improve educational opportunities for at-risk students. Such program shall—

(A) undertake research necessary to provide a sound basis from which to identify, develop, evaluate, and assist others to replicate and adapt interventions, programs, and models which promote greater achievement and educational success by at-risk students, such as—

(i) methods of instruction and educational practices (including community services) which improve the achievement and retention of at-risk students;

(ii) the quality of educational opportunities afforded at-risk students, particularly the quality of educational opportunities afforded such students in highly concentrated urban areas and sparsely populated rural areas;

(iii) methods for overcoming the barriers to learning that may impede student achievement;

(iv) innovative teacher training and professional development methods to help at-risk students meet challenging standards;

(v) methods to improve the quality of the education of American Indian and Alaska Native students not only in schools funded by the Bureau, but also in public

elementary and secondary schools located on or near Indian reservations, including—

(I) research on mechanisms to facilitate the establishment of tribal departments of education that assume responsibility for all education programs of State educational agencies operating on an Indian reservation and all education programs funded by the Bureau on an Indian reservation;

(II) research on the development of culturally appropriate curriculum for American Indian and Alaska Native students, including American Indian and Alaska Native culture, language, geography, history and social studies, and graduation requirements related to such curriculum;

(III) research on methods for recruiting, training and retraining qualified teachers from American Indian and Alaska Native communities, including research to promote flexibility in the criteria for certification of such teachers;

(IV) research on techniques for improving the educational achievement of American Indian and Alaska Native students, including methodologies to reduce dropout rates and increase graduation by such students; and

(V) research concerning the performance by American Indian and Alaska Native students of limited-English proficiency on standardized achievement tests, and related factors;

(vi) means by which parents and community resources and institutions (including cultural institutions) can be utilized to support and improve the achievement of at-risk students;

(vii) the training of teachers and other educational professionals and paraprofessionals to work more effectively with at-risk students;

(viii) the most effective uses of technology in the education of at-risk students;

(ix) programs designed to promote gender equity in schools that serve at-risk students;

(x) improving the ability of classroom teachers and schools to assist new and diverse populations of students in successfully assimilating into the classroom environment;

(xi) methods of assessing the achievement of students which are sensitive to cultural differences, provide multiple methods of assessing student learning, support student acquisition of higher order capabilities, and enable identification of the effects of inequalities in the resources available to support the learning of children throughout the United States; and

(xii) other topics relevant to the purpose of the Institute; and

(B) maximize the participation of those schools and institutions of higher education that serve the greatest number of at-risk students in inner city and rural areas, and on Indian reservations, including model collaborative programs between schools and school systems, institutions of higher education, cultural institutions, and community organizations.

(3) Consultation with Indian and Alaska Native educators

All research and development activities supported by the Institute which relate to the education of Indian and Alaska Native students shall be developed in close consultation with Indian and Alaska Native researchers and educators, Tribally Controlled Community Colleges, tribal departments of education, and others with expertise in the needs of Indian and Native Alaska students.

(f) National Institute on Early Childhood Development and Education

(1) Findings

The Congress finds as follows:

(A) Despite efforts to expand and improve preschool programs, many children still reach school age unprepared to benefit from formal education programs.

(B) Early intervention for disadvantaged children from birth to age five has been shown to be a highly cost-effective strategy for reducing later expenditures on a wide variety of health, developmental, and educational problems that often interfere with learning. Long-term studies of the benefits of preschool education have a demonstrated return on investment ranging from three to six dollars for every one dollar spent.

(C) The Federal Government should play a central role in providing research-based information on early childhood education models which enhance children's development and ultimately their success in school.

(2) Purpose

The purpose of the National Institute on Early Childhood Development and Education is to carry out a comprehensive program of research and development to provide nonpartisan, research-based leadership to the United States as it seeks to improve early childhood development and education. Such program shall undertake research necessary to provide a sound basis from which to identify, develop, evaluate, and assist others to replicate methods and approaches that promise to improve early childhood development and education, such as—

(A) social and educational development of infants, toddlers, and preschool children;

(B) the role of parents and the community in promoting the successful social and educational development of children from birth to age five;

(C) topics relating to children's readiness to learn, such as prenatal care, nutrition, and health services;

(D) family literacy and parental involvement in student learning;

(E) methods for integrating learning in settings other than the classroom, particularly within families and communities;

(F) practices and approaches which sustain the benefits of effective preschool and child care programs;

(G) effective learning methods and curriculum for early childhood learning, including access to current materials in libraries;

(H) the importance of family literacy and parental involvement in student learning;

(I) effective teaching and learning methods, and curriculum;

(J) instruction that considers the cultural environment of children;

(K) access to current materials in libraries;

(L) the impact that outside influences have on learning, including television, and drug and alcohol abuse;

(M) the structure and environment of early childhood education and child care settings which lead to improved social and educational development;

(N) training and preparation of teachers and other professional and paraprofessional preschool and child care workers;

(O) the use of technology, including methods to help parents instruct their children; and

(P) other topics relevant to the purpose of the Institute.

(3) Certain requirements

In carrying out the activities of the Institute, the Assistant Secretary shall ensure that the Institute's research and development program provides information that can be utilized in improving the major Federal early childhood education programs.

(g) National Institute on Educational Governance, Finance, Policy-Making, and Management

(1) Findings

The Congress finds as follows:

(A) Many elementary and secondary schools in the United States—

(i) are structured according to models that are ineffective and rely on notions of management and governance that may be outdated or insufficient for the challenges of the next century; and

(ii) are unsuccessful in equipping all students with the knowledge and skills needed to succeed as citizens and in the working world.

(B) New approaches are needed in the governance and management of elementary and secondary education within the United States at the State, local, school building and classroom level.

(C) Not enough is known about the effects of various systems of school governance and management on student achievement to provide sound guidance to policymakers as such policymakers pursue school restructuring and reform.

(D) A concentrated Federal effort is needed to support research, development, demonstration, and evaluation of approaches to school governance, finance and management which promise to improve education equity and excellence throughout the United States.

(2) Purpose

It shall be the purpose of the National Institute on Educational Governance, Finance, Policy-Making, and Management to carry out a coordinated and comprehensive program of research and development to provide nonpartisan, research-based leadership to the United States as it seeks to improve student achievement through school restructuring and reform. Such program shall undertake research necessary to provide a sound basis from which to identify, develop and evaluate approaches in elementary and secondary school governance, finance, policy-making, and management at the State, local, tribal, school building and classroom level which promise to improve educational equity and excellence, such as—

(A) open enrollment programs, public school choice, magnet schools and other systems through which parents may select the public schools and educational programs in which their children are enrolled;

(B) innovative school design, including lengthening the school day and the school year, reducing class size and building professional development into the weekly school schedule and, as appropriate, conducting such further research as may be recommended or suggested by the report issued by the National Education Commission on Time and Learning pursuant to section 102 of the Education Council Act of 1991 (20 U.S.C. 1221–1 note);

(C) effective approaches to organizing learning;

(D) effective ways of grouping students for learning so that a student is not labeled or stigmatized in ways that may impede such student's achievement;

(E) effective approaches to organizing, structuring, and financing vocational education;

(F) the provision of financial and other rewards and incentives to schools and educators based on performance to improve student achievement;

(G) the use of regulatory flexibility on the State or school district level to promote innovation and school restructuring;

(H) policy decisions at all levels and the impact of such decisions on school achievement and other student outcomes;

(I) the effective use of dollars for classroom construction;

(J) expanding the role of teachers in policymaking and administration at the school and school district-wide level;

(K) disparity in school financing among States, school districts, schools, and schools funded by the Bureau;

(L) the use of technology in areas such as assisting in school-based management or ameliorating the effects of disparity in school financing among States, school districts, and schools funded by the Bureau;

(M) the involvement of parents and families in the management and governance of schools and the education of their children;

(N) effective approaches to increasing the representation of women and minorities among leadership and management positions in education;

(O) approaches to systemic reforms involving the coordination of multiple policies of

each level of government to promote higher levels of student achievement;

(P) approaches to coordinated services for children;

(Q) teacher certification at the State and tribal levels;

(R) school-based management, shared decisionmaking and other innovative school structures, and State and local reforms and educational policies, which show promise for improving student achievement;

(S) policies related to school-to-work transitions and preparing non-college-bound students; and

(T) other topics relevant to the mission of the Institute.

(h) National Institute on Postsecondary Education, Libraries, and Lifelong Learning

(1) Findings

The Congress finds as follows:

(A) The American system of postsecondary education is foremost in the world in such system's achievement of both academic excellence and equity in access, but maintaining that preeminence requires renewed efforts to strengthen the quality of postsecondary education. Disappointing student performance on achievement tests and licensure examinations, declining rates of postsecondary education persistence and completion among minorities, and other troubling trends in the quality of postsecondary education should be addressed by the United States as part of its overall drive to improve American education.

(B) The need to improve our economic productivity of the United States to meet the competitive challenges of a new, international economy, coupled with high levels of mobility in the United States labor market and demographic changes in the workforce, now demands more and higher quality programs of learning and training in the American workplace.

(C) The more than 1,000,000 men and women incarcerated in the prisons and jails in the United States are among the most severely educationally disadvantaged in the United States, with high rates of functional illiteracy and extremely low levels of educational attainment. Since an estimated 90 percent of these individuals are expected to be released by the end of the decade, the United States must act to assure that our correctional system has the means to equip these Americans with the knowledge and skills they will need to participate productively in our society.

(D) The development of a ''Nation of Students'' capable of and committed to the pursuit of formal and informal lifelong learning and literacy is essential to sustain both national and individual economic success and to provide a nurturing environment in which all children and youth can learn and achieve. Historically the most effective community resource for lifelong learning, the public library system of the United States, should expand and restructure its delivery of services to take full advantage of the potential of new information technologies to meet the needs of learning communities.

(2) Purpose

The purpose of the National Institute on Postsecondary Education, Libraries, and Lifelong Learning is to promote greater coordination of Federal research and development on issues related to adult learning and to carry out a program of research and development in adult learning to provide nonpartisan, research-based leadership to the United States as it seeks to improve libraries, postsecondary education, literacy, and lifelong learning throughout the United States. Such program—

(A) shall only support research and development in those areas of postsecondary education, libraries, literacy, and lifelong learning which are not being addressed by other entities within the Federal Government;

(B) may include basic and applied research, development, replication, and evaluation activities in areas such as—

(i) methods of assessing and evaluating individual, program, and institutional performance;

(ii) the uses and applications of new technologies to improve program effectiveness and enhance student learning;

(iii) the most effective training methods for adults to upgrade education and vocational skills;

(iv) opportunities for adults to continue their education beyond higher education and graduate school, in the context of lifelong learning and information-finding skills;

(v) adult literacy and effective methods, including technology, to eliminate illiteracy;

(vi) preparing students for a lifetime of work, the ability to adapt through retraining to the changing needs of the work force and the ability to learn new tasks;

(vii) the use of technology to develop and deliver effective training methods for adults to upgrade their education and their vocational skills; and

(viii) institutional and classroom policies and practices at the postsecondary level necessary to improve matriculation, persistence, achievement and graduation by students who are economically disadvantaged, ethnic and racial minorities, women, older, working, and who have children;

(ix) instructional practices and programs which are effective in correctional settings;

(x) new models of service delivery for public library systems which expand opportunities for lifelong learning;

(xi) effective programs and approaches which promote greater access to and success by minorities in postsecondary programs which prepare such minorities for scientific, technical, teaching, and health career fields;

(xii) effective teaching for the preparation and continuing education of teachers;

(xiii) the development and evaluation of curricular materials for the initial and

continuing education of teachers and teacher educators;

(xiv) the role of Historically Black Colleges and Universities, Tribally Controlled Indian Community Colleges, women's colleges, and other special mission institutions in providing access, excellence, and equal opportunity in higher education;

(xv) methods for evaluating the quality of education at different types of institutions of higher education at all levels and the roles and responsibilities of regional and national accrediting agencies;

(xvi) methods for evaluating the productivity of different types of institutions of higher education;

(xvii) financial barriers to postsecondary educational opportunity, including—

(I) the role of Federal programs authorized under title IV of the Higher Education Act of 1965 [20 U.S.C. 1070 et seq. and 42 U.S.C. 2751 et seq.] and State grant and work programs in mitigating such barriers;

(II) the impact of the rising total cost of postsecondary education on access to higher education; and

(III) the extent and impact of student reliance on loans to meet the costs of higher education;

(xviii) opportunities for adults to continue their education beyond higher education and graduate school, in the context of lifelong learning and information-finding skills;

(xix) preparing students for a lifetime of work, the ability to adapt through retraining to the changing needs of the work force and the ability to learn new tasks; and

(xx) other topics relevant to the mission of the Institute.

(3) Involvement of certain agencies and organizations

In promoting coordination and collaboration on research and development on issues related to postsecondary education, literacy, libraries, and lifelong learning, the Institute shall, as appropriate, seek the involvement—

(A) within the Department of Education of—

(i) the Office of Library Programs;

(ii) the Office of Correctional Education;

(iii) the Office of Vocational and Adult Education;

(iv) the National Institute on Disability and Rehabilitation Research; and

(v) the Office of Postsecondary Education;

(B) of the National Institute for Literacy;

(C) of the National Board for Professional Teaching Standards;

(D) of the Employment and Training Administration of the Department of Labor;

(E) of the Administration for Children and Families within the Department of Health and Human Services;

(F) of the National Institutes of Health;

(G) of the National Endowment for the Humanities;

(H) of the National Endowment for the Arts;

(I) of the Bureau of Prisons of the Department of Justice;

(J) of the Department of Commerce;

(K) of the Department of Defense; and

(L) of the Office of Indian Education Programs of the Department of the Interior.

(4) Additional responsibilities

In addition to the responsibilities described in paragraph (2), the Assistant Secretary shall ensure that the activities of the National Center on Literacy are fully coordinated with those of the National Institute for Literacy.

(i) Coordination and research synthesis

The Assistant Secretary shall promote and provide for research syntheses and the coordination of research and development activities among the Institutes established by this section to investigate those cross-cutting disciplines and areas of inquiry which are relevant to the missions of more than one of the Institutes. Such activities—

(1) may be carried out jointly by any one of the Institutes and—

(A) one (or more) of the Institutes;

(B) the National Center for Education Statistics; or

(C) any research and development entity administered by other offices of the Department of Education or by any other Federal agency or department; and

(2) shall meet all the standards developed by the Assistant Secretary and approved by the Board for other research and development conducted by the Office.

(j) Dates for establishment of Institutes

The National Institute on the Education of At-Risk Students, the National Institute on Educational Governance, Finance, Policy-Making, and Management, the National Institute on Early Childhood Development and Education, the National Institute on Student Achievement, Curriculum, and Assessment and the National Institute on Postsecondary Education, Libraries, and Lifelong Learning shall each be established on October 1, 1995.

(Pub. L. 103–227, title IX, § 931, Mar. 31, 1994, 108 Stat. 227.)

REFERENCES IN TEXT

Section 102 of the Education Council Act of 1991, referred to in subsec. (g)(2)(B), is section 102 of Pub. L. 102–62, which is set out as a note under section 1221–1 of this title.

The Higher Education Act of 1965, referred to in subsec. (h)(2)(B)(xvii)(I), is Pub. L. 89–329, Nov. 8, 1965, 79 Stat. 1219, as amended. Title IV of the Act is classified generally to subchapter IV (§ 1070 et seq.) of chapter 28 of this title and part C (§ 2751 et seq.) of subchapter I of chapter 34 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6011, 6021, 6041, 8677 of this title.

PART D—NATIONAL EDUCATION DISSEMINATION SYSTEM

§ 6041. Establishment within Office of Educational Research and Improvement

(a) In general

(1) Findings

The Congress finds as follows:

(A) In order to improve the American educational system for all students, achieve the National Education Goals, and provide for greater educational equity, policymakers, administrators, teachers, and parents must have ready access to the best information and methods available as a result of educational research and development.

(B) The Office of Educational Research and Improvement should have as one of its primary purposes the dissemination of such information and methods in order to assist the national education reform effort.

(C) All current resources within the Office, the Department of Education, and other agencies that can help accomplish the purposes described in subparagraph (B) should be coordinated by the Assistant Secretary, to the extent practicable, so as to form a systematic process to accomplish such purposes.

(D) Education research has the capacity to improve teaching and learning in our Nation's schools, however, teachers need training in the skills necessary to translate research into practice and to allow teachers to become knowledgeable practitioners and leaders in educational improvement.

(E) Adequate linkages between research and development providers and practitioners are essential to ensuring that research on effective practice is useful, disseminated to and supported with technical assistance for all educators, and that all educators are partners in the research and development process.

(2) Purpose

The purpose of this section is to—

(A) create a national system of dissemination, development, and educational improvement in order to create, adapt, identify, validate, and disseminate to educators, parents, and policymakers those educational programs that have potential or have been shown to improve educational opportunities for all students; and

(B) empower and increase the capacity of teachers to participate in the research and development process.

(3) "Educational program" defined

For the purposes of this section, the term ''educational program'' includes educational policies, research findings, practices, and products.

(b) Establishment of Office

(1) In general

There is established within the Office an Office of Reform Assistance and Dissemination (hereafter in this section referred to as the ''Dissemination Office'') through which the Secretary shall carry out all functions and activities described in this section. Such office[1] shall be headed by a Director who shall be appointed by the Assistant Secretary and have demonstrated expertise and experience in dissemination, including promoting the effective use of research in the classroom.

(2) Certain duties

The Dissemination Office shall—

(A) disseminate relevant and useful research, information, products, and publications developed through or supported by the Department of Education to schools, educators, parents, and policymakers throughout the United States;

(B) operate a depository for all Department of Education publications and products and make available for reproduction such publications and products;

(C) provide technical and financial assistance to individuals and organizations in the process of developing promising educational programs but who might not, without such assistance, be able to complete necessary development and assessment activities;

(D) coordinate the dissemination efforts of the Office, the regional educational laboratories, the research institutes, the National Diffusion Network, and the Educational Resources Information Center Clearinghouses;

(E) provide training and technical assistance regarding the implementation and adoption of exemplary and promising programs by interested entities;

(F) carry out a program of research on models for successful knowledge dissemination, and utilization, and strategies for reaching education policymakers, practitioners, and others interested in education;

(G) develop the capacity to connect schools and teachers seeking information with the relevant regional educational laboratories assisted under subsection (h) of this section, the National Diffusion Network, the Institutes assisted under this section, and the Educational Resources Information Center Clearinghouses; and

(H) provide a biennial report to the Secretary regarding the types of information, products, and services that teachers, schools, and school districts have requested and have determined to be most useful, and describe future plans to adapt Department of Education products and services to address the needs of the users of such information, products, and services.

(3) Additional duties

The Dissemination Office shall carry out a process for the identification of educational programs that work, dissemination through electronic networking and new technologies and the functions and activities performed by the following:

(A) The Educational Resources Information Center Clearinghouses.

(B) The regional educational laboratories.

(C) The Teacher Research Dissemination Demonstration Program.

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[1] So in original. Probably should be ''Dissemination Office''.

(D) The Goals 2000 Community Partnerships Program.

(E) The existing National Diffusion Network and its Developer-Demonstrator and State Facilitator projects.

(F) Such other programs, activities, or entities the Secretary determines are consistent with purposes for which the Dissemination Office is established.

(c) Identification of programs

The Assistant Secretary shall coordinate a process through which successful educational programs are actively sought out for possible dissemination through the national educational dissemination system. Such process shall, at a minimum, have the capability to—

(1) work closely with the Institutes, research and development centers, regional educational laboratories, the National Diffusion Network and its Developer-Demonstrator and State Facilitator projects, learning grant institutions established under the Goals 2000 Community Partnerships Program, Department of Education-supported technical assistance providers, and other entities to identify successful educational programs at the regional, State, local, or classroom level;

(2) review successful educational programs supported by the Department of Education through all of its programs;

(3) through cooperative agreements, review for possible inclusion in the system educational programs administered by the Departments of Health and Human Services (particularly the Head Start program), Labor, and Defense, the National Science Foundation, the Department of the Interior (particularly the Office of Indian Education Programs), and any other appropriate Federal agency; and

(4) provide for an active outreach effort to identify successful educational programs through cooperative arrangements with State and local education agencies, teachers and teacher organizations, curriculum associations, foundations, private schools, institutions of higher education, and other entities that could enhance the ability of the Secretary to identify programs for possible inclusion in the dissemination system.

(d) Designation of exemplary and promising programs

(1) In general

The Assistant Secretary, in consultation with the Board, shall establish 1 or more panels of appropriately qualified experts and practitioners to—

(A) evaluate educational programs that have been identified by the Secretary under subsection (c) of this section or that have been submitted to the Secretary for such evaluation by some other individual or organization; and

(B) recommend to the Secretary programs that should be designated as exemplary or promising educational programs.

(2) Considerations in making recommendations

In determining whether an educational program should receive a recommendation under paragraph (1), a panel established under such paragraph shall consider—

(A) whether, based on empirical data, which may include test results, the program is effective and should be designated as exemplary and disseminated through the national dissemination system; or

(B) whether there is sufficient evidence to lead a panel of experts and practitioners to believe that the program shows promise for improving student achievement and should be designated as promising and disseminated through the national dissemination system while the program continues to be evaluated.

(3) Requirement regarding approval of programs

In seeking out programs for approval under paragraph (2), the Assistant Secretary shall seek programs that may be implemented at the State, local, and classroom level.

(4) Requirements regarding panels

(A) A panel shall not eliminate a program from consideration under this subsection based solely on the fact that the program does not have one specific type of supporting data, such as test scores.

(B) The Assistant Secretary may not designate a program as exemplary or promising unless a panel established under paragraph (1) has recommended that the program be so designated.

(C) The Secretary shall establish such panels under paragraph (1) as may be necessary to ensure that each program identified or submitted for evaluation is evaluated.

(D) Not less than ⅔ of the membership of a panel established under paragraph (1) shall consist of individuals who are not officers or employees of the United States. Members of panels under paragraph (1) who are not employees of the United States shall receive compensation for each day they are engaged in carrying out the duties of the panel as well as compensation for their expenses.

(e) Dissemination of exemplary and promising programs

In order to ensure that programs identified as exemplary or promising are available for adoption by the greatest number of teachers, schools, local and State education agencies, and Bureau-funded schools, the Assistant Secretary shall utilize the capabilities of—

(1) the Educational Resources Information Center Clearinghouses;

(2) electronic networking;

(3) the regional educational laboratories;

(4) the National Diffusion Network;

(5) entities established under the Goals 2000 Community Partnerships Program;

(6) department-supported technical assistance providers;

(7) the National Library of Education; and

(8) other public and private nonprofit entities, including existing education associations and networks, that have the capability to assist educators in adopting exemplary and promising programs.

(f) Educational Resources Information Center Clearinghouses

(1) In general

The Assistant Secretary shall establish a system of 16 clearinghouses having, at a minimum, the functions and scope of work as the clearinghouses had on the day preceding March 31, 1994. The Assistant Secretary shall establish for the clearinghouses a policy for the abstraction from, and inclusion in, the Educational Resources Information Center Clearinghouses system for books, periodicals, reports, and other materials related to education.

(2) Additional functions

In addition to those functions carried out by the clearinghouses on the day preceding March 31, 1994, such clearinghouses may—

(A) periodically produce interpretive summaries, digests, and syntheses of the results and findings of education-related research and development; and

(B) contain and make available to users information concerning those programs designated as exemplary and promising under subsection (d) of this section.

(3) Coordination of activities

The Assistant Secretary shall assure that the functions and activities of such clearinghouses are coordinated with the activities of the Institutes, the regional educational laboratories, learning grant institutions, other clearinghouses supported by the Department of Education, the National Diffusion Network, and other appropriate entities within the Office and such Department.

(4) Special responsibilities of the Secretary

To assure that the information provided through such clearinghouses is fully comprehensive, the Secretary shall—

(A) require that all reports, studies, and other resources produced directly or by grant or contract with the Department of Education are made available to clearinghouses;

(B) establish cooperative agreements with the Departments of Defense, Health and Human Services, Interior, and other Federal departments and agencies to assure that all education-related reports, studies, and other resources produced directly or by grant from or contract with the Federal Government are made available to such clearinghouses; and

(C) devise an effective system for maximizing the identification, synthesis, and dissemination of information related to the needs of Indian and Alaska Native children.

(5) Copyright prohibited

(A) No clearinghouse or other entity receiving assistance under this subsection may copyright or otherwise charge a royalty or other fee that—

(i) is for the use or redissemination of any database, index, abstract, report, or other information produced with assistance under this subsection; and

(ii) exceeds the incremental cost of disseminating such information.

(B) For purposes of subparagraph (A), the incremental cost of dissemination does not include any portion of the cost of collecting, organizing, or processing the information which is disseminated.

(g) Dissemination through new technologies

(1) In general

The Assistant Secretary is authorized to award grants or contracts in accordance with this subsection to support the development of materials, programs, and resources which utilize new technologies and techniques to synthesize and disseminate research and development findings and other information which can be used to support educational improvement.

(2) Electronic networking

(A) Electronic network

The Assistant Secretary, acting through the Office of Reform Assistance and Dissemination, shall establish and maintain an electronic network which shall, at a minimum, link—

(i) each office of the Department of Education;

(ii) the Institutes established by section 6031 of this title;

(iii) the National Center for Education Statistics;

(iv) the National Library of Education; and

(v) entities engaged in research, development, dissemination, and technical assistance under grant from, or contract, or cooperative agreement with, the Department of Education.

(B) Certain requirements for network

The network described in subparagraph (A) shall—

(i) to the extent feasible, build upon existing national, regional, and State electronic networks and support video, telecomputing, and interactive communications;

(ii) at a minimum, have the capability to support electronic mail and file transfer services;

(iii) be linked to and accessible to other users, including State and local education agencies, institutions of higher education, museums, libraries, and others through the Internet and the National Research and Education Network; and

(iv) be provided at no cost (excluding the costs of necessary hardware) to the contractors and grantees described in clause (v) of subparagraph (A) and to educational institutions accessing such network through the Internet and the National Research and Education Network.

(C) Information resources

The Assistant Secretary, acting through the Office of Reform Assistance and Dissemination, may make available through the network described in subparagraph (A)—

(i) information about grant and contract assistance available through the Department of Education;

(ii) an annotated directory of current research and development activities and projects being undertaken with the assistance of the Department of Education;

(iii) information about publications published by the Department of Education and, to the extent feasible, the full text of such publications;

(iv) statistics and data published by the National Center for Education Statistics;

(v) syntheses of research and development findings;

(vi) a directory of other education-related electronic networks and databases, including information about the means by which such networks and databases may be accessed;

(vii) a descriptive listing of materials and courses of instruction provided by telecommunications partnerships assisted under the Star Schools program;

(viii) resources developed by the Educational Resources Information Center Clearinghouses;

(ix) education-related software (including video) which is in the public domain;

(x) a listing of instructional materials available through telecommunications to local education agencies through the Public Broadcasting Service and State educational television networks; and

(xi) such other information and resources the Assistant Secretary considers useful and appropriate.

(D) Evaluations regarding other functions of network

The Assistant Secretary shall also undertake projects to test and evaluate the feasibility of using the network described in subparagraph (A) for—

(i) the submission of applications for assistance to the Department of Education; and

(ii) the collection of data and other statistics through the National Center for Education Statistics.

(E) Training and technical assistance

The Assistant Secretary, acting through the Office of Reform Assistance and Dissemination, shall—

(i) provide such training and technical assistance as may be necessary to enable the contractors and grantees described in clause (v) of subparagraph (A) to participate in the electronic network described in such subparagraph; and

(ii) work with the National Science Foundation to provide, upon request, assistance to State and local educational agencies, the Department of the Interior's Office of Indian Education Programs, tribal departments of education, State library agencies, libraries, museums, and other educational institutions in obtaining access to the Internet and the National Research and Education Network.

(h) Regional educational laboratories for research, development, dissemination, and technical assistance

(1) Regional educational laboratories

The Assistant Secretary shall enter into contracts with public or private nonprofit entities to establish a networked system of not less than 10 and not more than 12 regional educational laboratories which serve the needs of each region of the United States in accordance with the provisions of this subsection. The amount of assistance allocated to each laboratory by the Assistant Secretary shall reflect the number of local educational agencies and the number of school-age children within the region served by such laboratory, as well as the cost of providing services within the geographic area encompassed by the region.

(2) Regions

The regions served by the regional educational laboratories shall be the 10 geographic regions in existence on the day preceding March 31, 1994, except that in fiscal year 1996, the Assistant Secretary may support not more than 2 additional regional educational laboratories serving regions not in existence on the day preceding March 31, 1994, provided that—

(A) the amount appropriated for the regional educational laboratories in fiscal year 1996 exceeds the amount appropriated for the regional educational laboratories in fiscal year 1995 by not less than $2,000,000;

(B) each such additional regional laboratory shall be supported by not less than $2,000,000 annually;

(C) the creation of any such additional laboratory region is announced at the time of the announcement of the competition for contracts for all regional educational laboratories;

(D) the creation of a regional educational laboratory that involves the combination or subdivision of a region or regions in existence on the day preceding March 31, 1994, in which States in 1 such region are combined with States in another such region does not result in any region in existence on such date permanently becoming part of a larger region, nor result in any such region permanently subsuming another region, nor creates within the continental United States a region that is smaller than 4 contiguous States, nor partitions a region in existence on the day preceding March 31, 1994, to include less than 4 contiguous States included in the region on the day preceding March 31, 1994;

(E) the Assistant Secretary has published a notice in the Federal Register inviting the public, for a period of not less than 60 days, to make recommendations with respect to the creation of 1 or 2 additional regional educational laboratories;

(F) the Assistant Secretary has solicited and received letters of support for the creation of any new region from the Chief State School Officers and State boards of education in each of the contiguous States that would be included in such new region.

(3) Duties

Each regional educational laboratory receiving assistance under this section shall promote the implementation of broad-based systemic school improvement strategies and shall have as such laboratory's central mission and primary function to—

(A) develop and disseminate educational research products and processes to schools, teachers, local educational agencies, State educational agencies, librarians, and schools funded by the Bureau, as appropriate, and through such development and dissemination, and provide technical assistance, to help all students meet standards;

(B) develop a plan for identifying and serving the needs of the region by conducting a continuing survey of the educational needs, strengths, and weaknesses within the region, including a process of open hearings to solicit the views of schools, teachers, administrators, parents, local educational agencies, librarians, and State educational agencies within the region;

(C) provide technical assistance to State and local educational agencies, school boards, schools funded by the Bureau, as appropriate, State boards of education, schools, and librarians;

(D) facilitate school restructuring at the individual school level, including technical assistance for adapting model demonstration grant programs to each school;

(E) serve the educational development needs of the region by providing education research in usable forms in order to promote school improvement and academic achievement and to correct educational deficiencies;

(F) facilitate communication between educational experts, school officials, and teachers, parents, and librarians, to enable such individuals to assist schools to develop a plan to meet the National Education Goals;

(G) provide training in—

(i) the field of education research and related areas;

(ii) the use of new educational methods; and

(iii) the use of information-finding methods, practices, techniques, and products developed in connection with such training for which the regional educational laboratory may support internships and fellowships and provide stipends;

(H) use applied educational research to assist in solving site-specific problems and to assist in development activities;

(I) conduct applied research projects designed to serve the particular needs of the region only in the event that such quality applied research does not exist as determined by the regional education laboratory or the Department of Education;

(J) collaborate and coordinate services with other technical assistance providers funded by the Department of Education;

(K) provide support and technical assistance in—

(i) replicating and adapting exemplary and promising practices;

(ii) the development of high-quality, challenging curriculum frameworks;

(iii) the development of valid, reliable assessments which are linked to State, local, or Bureau-funded content and student performance standards and reflect recent advances in the field of educational assessment;

(iv) the improvement of professional development strategies to assure that all teachers are prepared to teach a challenging curriculum;

(v) expanding and improving the use of technology in education to improve teaching and learning;

(vi) the development of alternatives for restructuring school finance systems to promote greater equity in the distribution of resources; and

(vii) the development of alternative administrative structures which are more conducive to planning, implementing, and sustaining school reform and improved educational outcomes; and

(L) bring teams of experts together to develop and implement school improvement plans and strategies.

(4) Networking

In order to improve the efficiency and effectiveness of the regional laboratories, the governing boards of the regional laboratories shall establish and maintain a network to—

(A) share information about the activities each laboratory is carrying out;

(B) plan joint activities that would meet the needs of multiple regions;

(C) create a strategic plan for the development of activities undertaken by the laboratories to reduce redundancy and increase collaboration and resource-sharing in such activities; and

(D) otherwise devise means by which the work of the individual laboratories could serve national, as well as regional, needs.

(5) Additional duties

Each regional education laboratory receiving assistance under this subsection shall carry out the following activities:

(A) Collaborate with the Institutes established under section 6031 of this title in order to—

(i) maximize the use of research conducted through the Institutes in the work of such laboratory;

(ii) keep the Institutes apprised of the work of the regional educational laboratory in the field; and

(iii) inform the Institutes about additional research needs identified in the field.

(B) Consult with the State educational agencies and library agencies in the region in developing the plan for serving the region.

(C) Develop strategies to utilize schools as critical components in reforming education and revitalizing rural communities in the United States.

(D) Report and disseminate information on overcoming the obstacles faced by rural educators and rural schools.

(E) Identify successful educational programs that have either been developed by such laboratory in carrying out such laboratory's functions or that have been developed or used by others within the region served by the laboratory and make such information available to the Secretary and the network of regional laboratories so that such programs may be considered for inclusion in the national education dissemination system.

(6) Certain requirements

In carrying out its responsibilities, each regional educational laboratory shall—

(A) establish a governing board that—

(i) reflects a balanced representation of the States in the region, as well as the interests and concerns of regional constituencies, and that includes teachers and education researchers;

(ii) is the sole entity that—

(I) guides and directs the laboratory in carrying out the provisions of this subsection and satisfying the terms and conditions of the contract award;

(II) determines the regional agenda of the laboratory;

(III) engages in an ongoing dialogue with the Assistant Secretary concerning the laboratory's goals, activities, and priorities; and

(IV) determines at the start of the contract period, subject to the requirements of this section and in consultation with the Assistant Secretary, the mission of the regional educational laboratory for the duration of the contract period;

(iii) ensures that the regional educational laboratory attains and maintains a high level of quality in the laboratory's work and products;

(iv) establishes standards to ensure that the regional educational laboratory has strong and effective governance, organization, management, and administration, and employs qualified staff;

(v) directs the regional educational laboratory to carry out the laboratory's duties in a manner as will make progress toward achieving the National Education Goals and reforming schools and educational systems; and

(vi) conducts a continuing survey of the educational needs, strengths, and weaknesses within the region, including a process of open hearings to solicit the views of schools and teachers.

(B) Comply with the standards developed by the Assistant Secretary and approved by the Board under section 6011 of this title.

(C) Coordinate its activities, collaborate, and regularly exchange information with the Institutes established under section 6041[2] of this title, the National Diffusion Network, and its Developer-Demonstrator and State Facilitator projects, learning grant institutions and district education agents assisted under subsection (i) of this section, the Educational Resources Information Center Clearinghouses, and other entities engaged in technical assistance and dissemination activities which are supported by other offices of the Department of Education.

(D) Allocate the regional educational laboratory's resources to and within each State in a manner which reflects the need for assistance, taking into account such factors as the proportion of economically disadvantaged students, the increased cost burden of service delivery in areas of sparse populations, and any special initiatives being undertaken by State, intermediate, local educational agencies, or Bureau-funded schools, as appropriate, which may require special assistance from the laboratory.

(7) Evaluations

The Assistant Secretary shall provide for independent evaluations of each of the regional educational laboratories in carrying out the duties described in paragraph (1) in the third year that such laboratory receives assistance under this subsection in accordance with the standards developed by the Assistant Secretary and approved by the Board and shall transmit the results of such evaluations to the relevant committees of the Congress, the Board, and the appropriate regional educational laboratory board.

(8) Invitation regarding competition for awards of assistance

Prior to awarding a grant or entering into a contract under this section, the Secretary shall invite applicants, including the regional educational laboratories in existence on the day preceding March 31, 1994, to compete for such award through notice in the Federal Register and in the publication of the Department of Commerce known as the Commerce Business Daily.

(9) Application for assistance

Each application for assistance under this subsection shall—

(A) cover not less than a 5-year period;

(B) describe how the applicant would carry out the activities required by this subsection; and

(C) contain such additional information as the Secretary may reasonably require.

(10) Rule of construction

No regional educational laboratory receiving assistance under this subsection shall, by reason of the receipt of that assistance, be ineligible to receive any other assistance from the Department of Education as authorized by law or be prohibited from engaging in activities involving international projects or endeavors.

(11) Advance payment system

Each regional educational laboratory shall participate in the advance payment system at the Department of Education.

(12) Additional projects

In addition to activities described in paragraph (3), the Assistant Secretary, from amounts appropriated pursuant to this sub-

[2] So in original. Probably should be section ''6031''.

section, is authorized to enter into agreements with a regional educational laboratory for the purpose of carrying out additional projects to enable such regional educational laboratory to assist in efforts to achieve the National Education Goals and for other purposes.

(13) Plan

Not later than July 1 of each year, each regional educational laboratory shall submit to the Assistant Secretary a plan covering the succeeding fiscal year, in which such laboratory's mission, activities, and scope of work are described, including a general description of—

(A) the plans such laboratory expects to submit in the remaining years of such laboratory's contract; and

(B) an assessment of how well such laboratory is meeting the needs of the region.

(14) Construction

Nothing in this subsection shall be construed to require any modifications in the regional educational laboratory contracts in effect on the day preceding March 31, 1994.

(i) Goals 2000 Community Partnerships Program

(1) Purpose

The purpose of the Goals 2000 Community Partnerships program is to improve the quality of learning and teaching in the most impoverished urban and rural communities of the United States by supporting sustained collaborations between universities, schools, businesses, and communities which apply and utilize the results of educational research and development.

(2) Grants for Goals 2000 Community Partnerships

The Assistant Secretary is authorized to make grants to eligible entities to support the establishment of Learning Grant Institutions and District Education Agents and the activities authorized under this subsection within eligible communities.

(3) "Eligible entity" and "eligible community" defined

For the purposes of this subsection:

(A) The term ''eligible entity'' includes any institution of higher education, regional educational laboratory, National Diffusion Network project, national research and development center, public or private nonprofit corporation, or any consortium thereof, that—

(i) has demonstrated experience, expertise and commitment in serving the educational needs of at-risk students; and

(ii) is, by virtue of its previous activities, knowledgeable about the unique needs and characteristics of the community to be served.

(B) The term ''eligible community'' means a unit of general purpose local government (such as a city, township, or village), a nonmetropolitan county, tribal village, or a geographically distinct area (such as a school district, school attendance area, ward, precinct or neighborhood), or any group of such entities that—

(i) has a population of not less than 200,000 and not more than 300,000; and

(ii) in which not less than one-half of the school-age children have family incomes which are below the poverty line, as determined by the 1990 United States Census, participation in the National School Lunch program, or other current, reliable data concerning family income.

(4) Goals 2000 community partnerships

Each learning grant institution receiving assistance under this subsection shall establish a Goals 2000 community partnership to carry out the activities authorized under this subsection. Such partnership—

(A) shall include the participation of one or more local educational agencies, institutions of higher education, community-based organizations, parents, teachers, and the business community;

(B) may include the participation of human, social service and health care agencies, Head Start and child care agencies, libraries, museums, employment and training agencies, and the State educational agency or tribal department of education; and

(C) shall be broadly representative of all segments of the community in which the activities will be carried out.

(5) Comprehensive Goals 2000 plan

Each Goals 2000 Community Partnership shall develop a comprehensive plan for assuring educational success and high achievement for all students in the community. Each such plan shall—

(A) adopt the National Education Goals;

(B) identify additional needs and goals for educational improvement within the community;

(C) focus on helping all students reach challenging content and student performance standards;

(D) be consistent with the State and local improvement plans for system-wide education improvement developed pursuant to subchapter III of this chapter;

(E) establish a comprehensive community-wide plan for achieving such goals; and

(F) develop a means for measuring the progress of the community in meeting such goals for improvement.

(6) Implementation of community-wide plan

Each Goals 2000 Community Partnership shall, utilizing the District Education Agent, provide assistance in implementing the community-wide plan for educational improvement by—

(A) supporting innovation, restructuring, and continuous improvement in educational practice by—

(i) disseminating information throughout the community about exemplary and promising educational programs, practices, products, and policies;

(ii) evaluating the effectiveness of federally funded educational programs within the community and identifying changes in such programs which are likely to improve student achievement;

(iii) identifying, selecting and replicating exemplary and promising educational programs, practices, products, and policies in both in- and out-of-school settings;

(iv) applying educational research to solve specific problems in the classroom, home and community which impede learning and student achievement; and

(v) supporting research and development by teachers, school administrators, and other practitioners which promise to improve teaching and learning and the organization of schools;

(B) improving the capacity of educators, school administrators, child care providers and other practitioners to prepare all students to reach challenging standards and to attain the goals set out in the comprehensive community-wide plan through such means as—

(i) the training of prospective and novice teachers (including preschool and early childhood educators) in a school setting under the guidance of master teachers and teacher educators;

(ii) training and other activities to promote the continued learning and professional development of experienced teachers, related services personnel, school administrators to assure that such teachers develop the subject matter and pedagogical expertise needed to prepare all students to reach challenging standards;

(iii) training and other activities to increase the ability of prospective, novice, and experienced teachers to teach effectively at-risk students, students with disabilities, students with limited-English proficiency, and students from diverse cultural backgrounds; and

(iv) programs to enhance teaching and classroom management skills, including school-based management skills, of novice, prospective, and experienced teachers;

(C) promoting the development of an integrated system of service delivery to children from birth through age 18 and their families by facilitating linkages and cooperation among—

(i) local educational agencies;

(ii) health and social services agencies and providers;

(iii) juvenile justice and criminal justice agencies;

(iv) providers of employment training; and

(v) child care, Head Start, and other early childhood agencies; and

(D) mobilizing the resources of the community in support of student learning and high achievement by facilitating effective partnerships and collaboration among—

(i) local educational agencies;

(ii) postsecondary educational institutions;

(iii) public libraries;

(iv) parents;

(v) community-based organizations, neighborhood associations, and other civic and community organizations;

(vi) child care, Head Start, and other early childhood agencies;

(vii) churches, synagogues and other religious institutions;

(viii) labor organizations; and

(ix) business and industry.

(7) Additional requirements

In carrying out its responsibilities under this subsection, each partnership receiving assistance under this subsection shall—

(A) appoint a District Education Agent who shall be responsible, on a full-time basis, for directing the implementation of the community-wide plan, who shall have significant experience and expertise in the field of education in—

(i) addressing the needs of at-risk students; and

(ii) conducting educational research and promoting the application of the results of such research to educational practice;

(B) provide for such other professional and support personnel as may be necessary to implement the community-wide plan under the direction of the District Education Agent; and

(C) coordinate the partnership's activities and work cooperatively with the National Diffusion Network State facilitators, regional educational laboratories, and other components of the Office to utilize most effectively Federal research, development, and dissemination resources in implementing the community-wide plan.

(8) Application for grants

Any eligible entity desiring a grant under this subsection shall submit an application to the Assistant Secretary at such time, in such manner, and accompanied by such information as the Assistant Secretary may reasonably require. Each such application shall—

(A) include a comprehensive plan for meeting the objectives and requirements of this subsection; and

(B) provide evidence of support for the application from local elected officials, the State educational agency, the local educational agency, parents, local community leaders, businesses, and other appropriate organizations.

(9) Priority in making grants; duration and amount of grant

Each grant made under this subsection shall be—

(A) awarded on a competitive basis, with first priority given to those applications from communities with the greatest percentage of school-age children in families with poverty-level incomes;

(B) made for a 5-year period, with funding for the second and each succeeding year in such period conditioned upon a determination by the Assistant Secretary that the grant recipient has complied with the conditions of the grants during the previous year; and

(C) an amount equal to not less than $1,000,000 per year.

(10) Limitation of one grant per congressional district

Not more than one grant under this subsection shall be awarded within a single congressional district.

(11) Technical assistance; evaluations

In administering the program authorized under this subsection, the Assistant Secretary shall, either directly or through grant or contract with an eligible nonprofit agency—

(A) upon request, provide technical assistance to eligible entities to assist in the development of a comprehensive community-wide plan to meet the requirements of this subsection and in the preparation of applications for assistance;

(B) regularly provide technical assistance to learning grant institutions receiving assistance under this subsection to assist with the development and implementation of the comprehensive community-wide plan for educational improvement;

(C) provide for an independent evaluation of the activities assisted under this subsection, including—

(i) the impact of the Goals 2000 Community Partnerships program on children and families within each community, including effects on the extent of educational achievement, rates of school retention and completion, and enrollment in postsecondary educational programs; and

(ii) whether an intensified effort to apply and utilize educational research within a limited geographic area significantly improves student learning and achievement; and

(D) plan for the expansion of the Goals 2000 Community Partnerships program throughout the remainder of the United States beginning in fiscal year 1999.

(j) Teacher research dissemination demonstration program

(1) Findings

The Congress finds that—

(A) education research, including research funded by the Office, is not having the impact on the schools of the United States that such research should;

(B) relevant education research and resulting solutions are not being adequately disseminated to and used by the teachers that need such research and solutions;

(C) there are insufficient linkages between the research and development centers assisted under this section, the regional educational laboratories described in subsection (h) of this section, the National Diffusion Network State facilitators, the Educational Resources Information Center Clearinghouses, the comprehensive technical assistance centers assisted under the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6301 et seq.], and the public schools to ensure that research on effective practice is disseminated and technical assistance provided to all teachers;

(D) the average teacher has little time to plan or engage in a professional dialogue with peers about strategies for improved learning;

(E) teachers do not have direct access to information systems or networks;

(F) teachers have little control over what inservice education teachers will be offered; and

(G) individual teachers are not encouraged to move beyond the walls of their school buildings to identify and use outside resources.

(2) Establishment

(A) In general

The Secretary is authorized to make grants to, and enter into contracts or cooperative agreements with, public and private agencies and organizations, including institutions of higher education, the regional education laboratories, and the research and development centers, or consortia thereof—

(i) to develop and carry out projects that demonstrate effective strategies for helping elementary and secondary education teachers, in both urban and rural areas, become knowledgeable about, assist in the design and use of, and use, education research, including education research carried out under this section; and

(ii) to develop, implement, and evaluate models for creation of teacher research dissemination networks.

(B) Priority

In awarding grants and entering into contracts and cooperative agreements under subparagraph (A) the Secretary shall give priority to entities that have received Federal funds for research and dissemination.

(3) Applications

(A) In general

An entity desiring to receive assistance under this subsection shall submit an application to the Secretary in such form, at such time, and containing such information and assurances as the Secretary may require.

(B) Contents

Each such application shall describe how the project described in the application—

(i) was developed with the active participation of elementary and secondary school teachers;

(ii) will include the continuing participation of elementary and secondary school teachers in the management of the project;

(iii) is organized around one or more significant research topics;

(iv) will involve collaboration with entities that have received Federal funds for research and dissemination; and

(v) will sustain over time teacher research dissemination networks after Federal funding for such networks terminates.

(4) Use of funds

Funds provided under this subsection may be used—

(A) to train elementary and secondary education teachers (particularly new teach-

ers) about the sources of education research findings, including research findings available through activities supported by the Office, and how to access and use such findings to improve the quality of instruction;

(B) to develop simple formats, both administrative and technological, that allow elementary and secondary education teachers easy access to and use of education research findings;

(C) to share strategies and materials;

(D) to support professional networks;

(E) to survey teacher needs in the areas of research and development; and

(F) for other activities designed to support elementary and secondary education teachers in becoming knowledgeable about, assisting in the design of, and using, educational research.

(5) Stipends

The Secretary may provide for the payment of such stipends (including allowances for subsistence and other expenses for elementary and secondary teachers), as the Secretary determines to be appropriate, to teachers participating in the projects authorized under this subsection.

(6) Coordination

Recipients of funds under this subsection shall, to the greatest extent possible, coordinate their activities with related activities under the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6301 et seq.].

(7) Report

The Secretary shall, within 5 years of March 31, 1994, submit to the Congress a report on the effectiveness of activities assisted under this subsection.

(Pub. L. 103–227, title IX, § 941, Mar. 31, 1994, 108 Stat. 243.)

REFERENCES IN TEXT

The Elementary and Secondary Education Act of 1965, referred to in subsec. (j)(1)(C), (6), is Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, as amended generally by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519, which is classified generally to chapter 70 (§ 6301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6011, 6021, 6318, 6622, 6813, 8651 of this title.

PART E—NATIONAL LIBRARY OF EDUCATION

§ 6051. Establishment within Office of Educational Research and Improvement

(a) In general

There is established within the Department of Education a National Library of Education (hereafter in this section referred to as the ''Library''), which shall be maintained by the Department of Education as a governmental activity.

(b) Functions of Library

The functions of the Library are—

(1) to provide a central location within the Federal Government for information about education;

(2) to provide comprehensive reference services on matters related to education to employees of the Department of Education and its contractors and grantees, other Federal employees, and members of the public; and

(3) to promote greater cooperation and resource sharing among providers and repositories of education information in the United States.

(c) Mission

The mission of the Library shall be to—

(1) become a principal center for the collection, preservation, and effective utilization of the research and other information related to education and to the improvement of educational achievement;

(2) strive to ensure widespread access to the Library's facilities and materials, coverage of all education issues and subjects, and quality control;

(3) have an expert library staff; and

(4) use modern information technology that holds the potential to link major libraries, schools, and educational centers across the United States into a network of national education resources.

(d) One-stop information and referral service

The Library shall establish and maintain a central information and referral service to respond to telephonic, mail and electronic and other inquiries from the public concerning—

(1) programs and activities of the Department of Education;

(2) publications produced by the Department of Education and, to the extent feasible, education related publications produced by the Departments of Labor, Health and Human Services, and other Federal departments and agencies;

(3) services and resources available to the public through the Office, including the Educational Resources Information Center Clearinghouses, the research institutes, and the national education dissemination system;

(4) statistics and other information produced by the National Center for Education Statistics; and

(5) referrals to additional sources of information and expertise about educational issues which may be available through educational associations and foundations, the private sector, colleges and universities, libraries and bibliographic databases.

The Library shall maintain and actively publicize a toll-free telephone number through which public inquiries to the Library may be made.

(e) Comprehensive reference services

(1) In general

The Library shall, to the extent feasible, provide for the delivery of a full range of reference services on subjects related to education to employees of the Department of Education and such Department's contractors and grantees, other Federal employees, and members of the general public. Such services may include—

(A) specialized subject searches;

(B) search and retrieval of electronic databases;

(C) document delivery by mail and facsimile transmission;

(D) research counseling, bibliographic instruction, and other training services;

(E) interlibrary loan services; and

(F) selective dissemination of information services.

(2) Priority

The Library shall first give priority in the provision of reference services to requests made by employees of the Department of Education.

(f) Cooperation and resource sharing

The Library shall promote greater cooperation and resource sharing among libraries and archives with significant collections in the area of education through means such as—

(1) the establishment of information and resource sharing networks among such entities;

(2) the development of a national union list of education journals held by education libraries throughout the United States;

(3) the development of directories and indexes to textbook and other specialized collections held by education libraries throughout the United States; and

(4) cooperative efforts to preserve, maintain and promote access to items of special historical value or interest.

(g) Administration

The Library shall be administered by an Executive Director who shall—

(1) be appointed by the Assistant Secretary from among persons with significant training or experience in library and information science; and

(2) be paid at not less than the minimum rate of basic pay payable for GS–15 of the General Schedule.

(h) Task Force

(1) In general

The Assistant Secretary shall appoint a task force of librarians, scholars, teachers, parents, and school leaders (hereafter in this paragraph referred to as the ''Task Force'') to provide advice on the establishment of the Library.

(2) Preparation of plan

The Task Force shall prepare a workable plan to establish the Library and to implement the requirements of this section.

(3) Certain authorities

The Task Force may identify other activities and functions for the Library to carry out, except that such functions shall not be carried out until the Library is established and has implemented the requirements of this section.

(4) Report

The Task Force shall prepare and submit to the Assistant Secretary not later than 6 months after the first meeting of the Task Force a report on the activities of the Library.

(i) Transfer of functions

There are hereby transferred to the Library all functions of—

(1) the Department of Education Research Library;

(2) the Department of Education Reference Section; and

(3) the Department of Education Information Branch.

(j) Collection development policy

Not later than 180 days after March 31, 1994, the Assistant Secretary shall promulgate a comprehensive collection development policy to govern the Library's operations, acquisitions, and services to users. Such collection development policy shall—

(1) be consistent with the functions of the Library described in subsection (b) of this section;

(2) emphasize the acquisition and maintenance of a comprehensive collection of reference materials; and

(3) avoid unnecessary duplication by putting a priority on meeting the information needs of the Library's users through cooperation and resource-sharing with other entities with significant collections in the field of education.

(k) Arrearage and preservation

On the basis of the collection development policy promulgated under subsection (j) of this section, the Executive Director shall develop a multiyear plan which shall set forth goals and priorities for actions needed to—

(1) eliminate within 3 years the arrearage of uncataloged books and other materials in the Library's collections; and

(2) respond effectively and systematically to the preservation needs of the Library's collections, relying, whenever possible, upon cooperative efforts with other institutions to preserve and maintain the usability of books and materials in the Library's collections.

(Pub. L. 103–227, title IX, § 951, Mar. 31, 1994, 108 Stat. 260.)

REFERENCES IN TEXT

The General Schedule, referred to in subsec. (g)(2), is set out under section 5332 of Title 5, Government Organization and Employees.

SUBCHAPTER X—MISCELLANEOUS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 5802 of this title.

PART A—MISCELLANEOUS PROVISIONS

§ 6061. School prayer

No funds authorized to be appropriated under this chapter may be used by any State or local educational agency to adopt policies that prevent voluntary prayer and meditation in public schools.

(Pub. L. 103–227, title X, § 1011, Mar. 31, 1994, 108 Stat. 265.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original this ''Act'', meaning Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 125, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables.

§ 6062. Funding for Individuals with Disabilities Education Act

(a) Findings

The Congress finds that—

(1) the Individuals with Disabilities Education Act [20 U.S.C. 1400 et seq.] was established with the commitment of forty percent Federal funding but currently receives only eight percent Federal funding;

(2) this funding shortfall is particularly burdensome to school districts and schools in low-income areas which serve higher than average proportions of students with disabilities and have fewer local resources to contribute; and

(3) it would cost the Federal Government approximately $10,000,000,000 each year to fully fund the Individuals with Disabilities Education Act.

(b) Sense of Congress

It is the sense of the Congress that the Federal Government should provide States and communities with adequate resources under the Individuals with Disabilities Education Act [20 U.S.C. 1400 et seq.] as soon as reasonably possible, through the reallocation of noneducation funds within the current budget monetary constraints.

(Pub. L. 103–227, title X, § 1012, Mar. 31, 1994, 108 Stat. 265.)

REFERENCES IN TEXT

The Individuals with Disabilities Education Act, referred to in text, is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, as amended, which is classified generally to chapter 33 (§ 1400 et seq.) of this title. For complete classification of this Act to the Code, see section 1400 of this title and Tables.

§ 6063. Study of Goals 2000 and students with disabilities

(a) Study required

(1) In general

Not later than 180 days after March 31, 1994, the Secretary shall make appropriate arrangements with the National Academy of Sciences or the National Academy of Education to conduct a comprehensive study of the inclusion of children with disabilities in school reform activities assisted under the Goals 2000: Educate America Act [20 U.S.C. 5801 et seq.].

(2) "Children with disabilities" defined

For purposes of this section, the term ''children with disabilities'' has the same meaning given such term in section 1401[1] of this title.

(b) Study components

The study conducted under subsection (a) of this section shall include—

(1) an evaluation of the National Education Goals and objectives, curriculum reforms, standards, and other programs and activities intended to achieve those goals;

(2) a review of the adequacy of assessments and measures used to gauge progress towards meeting National Education Goals and any national and State standards, and an examination of other methods or accommodations necessary or desirable to collect data on the educational progress of children with disabilities, and the costs of such methods and accommodations;

(3) an examination of what incentives or assistance might be provided to States to develop improvement plans that adequately address the needs of children with disabilities;

(4) the relation of the Goals 2000: Educate America Act [20 U.S.C. 5801 et seq.] to other Federal laws governing or affecting the education of children with disabilities; and

(5) such other issues as the National Academy of Sciences or the National Academy of Education considers appropriate.

(c) Study panel membership

Any panel constituted in furtherance of the study to be conducted under subsection (a) of this section shall include consumer representatives.

(d) Findings and recommendations

The Secretary shall request the National Academy of Sciences or the National Academy of Education to submit an interim report of its findings and recommendations to the President and Congress not later than 12 months, and a final report not later than 24 months, from the date of the completion of procurement relating to the study.

(e) Funding

From funds appropriated to the Secretary for research related to individuals with disabilities the Secretary shall make available $600,000 for fiscal year 1994, and such sums as may be necessary for fiscal year 1995, to carry out this section. Amounts made available under this subsection shall remain available until expended.

(Pub. L. 103–227, title X, § 1015, Mar. 31, 1994, 108 Stat. 266.)

REFERENCES IN TEXT

The Goals 2000: Educate America Act, referred to in subsecs. (a)(1) and (b)(4), is Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 125 (except titles V and IX), as amended, which is classified principally to this chapter (except subchapters V (§ 5931 et seq.) and IX (§ 6001 et seq.)). For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables.

Section 1401 of this title, referred to in subsec. (a)(2), was in the original a reference to section 602 of the Individuals with Disabilities Education Act, Pub. L. 91–230, title VI. Section 602 of Pub. L. 91–230 was omitted in the general amendment of subchapter I of chapter 33 of this title by Pub. L. 105–17, title I, § 101, June 4, 1997, 111 Stat. 37. Pub. L. 105–17 enacted a new section 602 of Pub. L. 91–230, which is classified to section 1401 of this title, and which contains provisions defining ''child with a disability''.

§ 6064. Contraceptive devices

The Department of Health and Human Services and the Department of Education shall ensure that all federally funded programs which provide for the distribution of contraceptive devices to unemancipated minors develop procedures to encourage, to the extent practical, family participation in such programs.

(Pub. L. 103–227, title X, § 1018, Mar. 31, 1994, 108 Stat. 268.)

[1] See References in Text note below.

§ 6065. Assessments

(a) Subchapter II

No funds provided under subchapter II of this chapter shall be used to develop or undertake assessments that will be used to make decisions regarding the graduation, grade promotion, or retention of students for 5 years after March 31, 1994.

(b) Subchapter III

Assessments developed with funds under subchapter III of this chapter may be used for decisions regarding graduation, grade promotion, or retention of students only on the condition that students have been prepared in the content for which the students are being assessed.

(Pub. L. 103–227, title X, § 1019, Mar. 31, 1994, 108 Stat. 269.)

REFERENCES IN TEXT

Subchapter II of this chapter, referred to in subsec. (a), was in the original ''title II of this Act'', meaning title II of Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 133, which enacted subchapter II of this chapter and section 3425 of this title, amended section 5093 of this title and section 5315 of Title 5, Government Organization and Employees, and enacted provisions set out as a note under section 5093 of this title.

§ 6066. Public schools

Except as provided in section 5890 of this title, nothing in this chapter shall be construed to authorize the use of funds under subchapter III of this chapter to directly or indirectly benefit any school other than a public school.

(Pub. L. 103–227, title X, § 1020, Mar. 31, 1994, 108 Stat. 269.)

§ 6067. Sense of Congress

It is the sense of the Congress that—

(1) no funds appropriated pursuant to this chapter should be expended by an entity unless the entity agrees that in expending the assistance the entity will comply with sections 2 through 4 of the Act of March 3, 1993[1] (41 U.S.C. 10a–10c, popularly known as the ''Buy American Act'');

(2) in the case of any equipment or products that may be authorized to be purchased with financial assistance provided under this chapter, entities receiving such assistance should, in expending the assistance, purchase only American-made equipment and products;

(3) in providing financial assistance under this chapter, the head of each Federal agency should provide to each recipient of the assistance a notice describing the statement made in subsection (a)[2] by the Congress; and

(4) if it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a ''Made in America'' inscription, or any inscription with the same meaning to any product sold in or shipped to the United States that is not made in the United States, such person should be ineligible to receive any contract or subcontract made with funds provided pursuant to this chapter, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations, as such sections existed on March 31, 1994.

(Pub. L. 103–227, title X, § 1022, Mar. 31, 1994, 108 Stat. 270.)

REFERENCES IN TEXT

The Buy American Act, referred to in par. (1), is title III of act Mar. 3, 1933, ch. 212, 47 Stat. 1520, as amended, which is classified generally to sections 10a, 10b, and 10c of Title 41, Public Contracts. For complete classification of this Act to the Code, see Short Title note set out under section 10a of Title 41 and Tables.

PART B—ENVIRONMENTAL TOBACCO SMOKE

CODIFICATION

This part was, in the original, designated part C and has been redesignated part B for purposes of codification.

§ 6081. Short title

This part may be cited as the ''Pro-Children Act of 1994''.

(Pub. L. 103–227, title X, § 1041, Mar. 31, 1994, 108 Stat. 271.)

§ 6082. Definitions

As used in this part:

(1) Children

The term ''children'' means individuals who have not attained the age of 18.

(2) Children's services

The term ''children's services'' means the provision on a routine or regular basis of health, day care, education, or library services—

(A) that are funded, after March 31, 1994, directly by the Federal Government or through State or local governments, by Federal grant, loan, loan guarantee, or contract programs—

(i) administered by either the Secretary of Health and Human Services or the Secretary of Education (other than services provided and funded solely under titles XVIII and XIX of the Social Security Act [42 U.S.C. 1395 et seq., 1396 et seq.]); or

(ii) administered by the Secretary of Agriculture in the case of a clinic (as defined in 7 CFR 246.2) under section 17(b)(6) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)(6)), or

(B) that are provided in indoor facilities that are constructed, operated, or maintained with such Federal funds, as determined by the appropriate Secretary in any enforcement action under this subchapter,

except that nothing in clause (ii) of subparagraph (A) is intended to include facilities (other than clinics) where coupons are redeemed under the Child Nutrition Act of 1966 [42 U.S.C. 1771 et seq.].

(3) Person

The term ''person'' means any State or local subdivision thereof, agency of such State or

[1] So in original. Probably should be ''1933''.

[2] So in original. No subsec. (a) has been enacted.

subdivision, corporation, or partnership that owns or operates or otherwise controls and provides children's services or any individual who owns or operates or otherwise controls and provides such services.

(4) Indoor facility

The term ''indoor facility'' means a building that is enclosed.

(5) Secretary

The term ''Secretary'' means the Secretary of Health and Human Services.

(Pub. L. 103–227, title X, § 1042, Mar. 31, 1994, 108 Stat. 271.)

REFERENCES IN TEXT

The Child Nutrition Act of 1966, referred to in par. (2), is Pub. L. 89–642, Oct. 11, 1966, 80 Stat. 885, as amended, which is classified generally to chapter 13A (§ 1771 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1771 of Title 42 and Tables.

The Social Security Act, referred to in par. (2)(A)(i), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Titles XVIII and XIX of the Social Security Act are classified generally to subchapters XVIII (§ 1395 et seq.) and XIX (§ 1396 et seq.) of chapter 7 of Title 42. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

This subchapter, referred to in par. (2)(B), was in the original ''this title'', meaning title X of Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 265, which enacted this subchapter and section 3351 of this title, amended sections 1107, 1232h, 2421, 3381 to 3384, and 3386 of this title, sections 1632, 1633, and 1635 of Title 29, Labor, and section 11903a of Title 42, and enacted provisions set out as notes under section 2701 of this title and section 11901 of Title 42.

§ 6083. Nonsmoking policy for children's services

(a) Prohibition

After March 31, 1994, no person shall permit smoking within any indoor facility owned or leased or contracted for and utilized by such person for provision of routine or regular kindergarten, elementary, or secondary education or library services to children.

(b) Additional prohibition

After March 31, 1994, no person shall permit smoking within any indoor facility (or portion thereof) owned or leased or contracted for by such person for the provision by such person of regular or routine health care or day care or early childhood development (Head Start) services to children or for the use of the employees of such person who provides such services, except that this subsection shall not apply to—

(1) any portion of such facility that is used for inpatient hospital treatment of individuals dependent on, or addicted to, drugs or alcohol; and

(2) any private residence.

(c) Federal agencies

(1) Kindergarten, elementary, or secondary education or library services

After March 31, 1994, no Federal agency shall permit smoking within any indoor facility in the United States operated by such agency, directly or by contract, to provide routine or regular kindergarten, elementary, or secondary education or library services to children.

(2) Health or day care or early childhood development services

After March 31, 1994, no Federal agency shall permit smoking within any indoor facility (or portion thereof) operated by such agency, directly or by contract, to provide routine or regular health or day care or early childhood development (Head Start) services to children, except that this paragraph shall not apply to—

(A) any portion of such facility that is used for inpatient hospital treatment of individuals dependent on, or addicted to, drugs or alcohol; and

(B) any private residence.

(3) Application of provisions

The provisions of paragraph (2) shall also apply to the provision of such routine or regular kindergarten, elementary or secondary education or library services in the facilities described in paragraph (2) not subject to paragraph (1).

(d) Notice

The prohibitions in subsections (a) through (c) of this section shall be incorporated by publication of a notice in the Federal Register by the Secretary (in consultation with the heads of other affected agencies) and by such agency heads in funding arrangements involving the provision of children's services administered by such heads. Such prohibitions shall be effective 90 days after such notice is published, or 270 days after March 31, 1994, whichever occurs first.

(e) Special waiver

(1) In general

On receipt of an application, the head of the Federal agency may grant a special waiver to a person described in subsection (a) of this section who employs individuals who are members of a labor organization and provide children's services pursuant to a collective bargaining agreement that—

(A) took effect before March 31, 1994; and

(B) includes provisions relating to smoking privileges that are in violation of the requirements of this section.

(2) Termination of waiver

A special waiver granted under this subsection shall terminate on the earlier of—

(A) the first expiration date (after March 31, 1994) of the collective bargaining agreement containing the provisions relating to smoking privileges; or

(B) the date that is 1 year after March 31, 1994.

(f) Civil penalties

(1) In general

Any failure to comply with a prohibition in this section shall be a violation of this section and any person subject to such prohibition who commits such violation may be liable to the United States for a civil penalty in an amount not to exceed $1,000 for each violation, or may be subject to an administrative compliance order, or both, as determined by the

Secretary. Each day a violation continues shall constitute a separate violation. In the case of any civil penalty under this section, the total amount shall not exceed the amount of Federal funds received by such person for the fiscal year in which the continuing violations occurred. For the purpose of the prohibition in subsection (c) of this section, the term ''person'' shall mean the head of the applicable Federal agency or the contractor of such agency providing the services to children.

(2) Administrative proceeding

A civil penalty may be assessed in a written notice, or an administrative compliance order may be issued, by the Secretary only after an opportunity for a hearing in accordance with section 554 of title 5. Before making such assessment or issuing such order, or both, the Secretary shall give written notice thereof to such person by certified mail with return receipt and provide therein an opportunity to request in writing not later than 30 days after the date of receipt of such notice such hearing. The notice shall reasonably describe the violation and be accompanied with the procedures for such hearing and a simple form to request such hearing if such person desires to use such form. If a hearing is requested, the Secretary shall establish by such certified notice the time and place for such hearing which should be located, to the greatest extent possible, at a location convenient to such person. The Secretary (or the Secretary's designee) and such person may consult to arrange a suitable date and location where appropriate.

(3) Circumstances affecting penalty or order

In determining the amount of the civil penalty or the nature of the administrative compliance order, the Secretary shall take into account, as appropriate—

(A) the nature, circumstances, extent, and gravity of the violation;

(B) with respect to the violator, any good faith efforts to comply, the importance of achieving early and permanent compliance, the ability to pay or comply, the effect of the penalty or order on the ability to continue operation, any prior history of the same kind of violation, the degree of culpability, and any demonstration of willingness to comply with the prohibitions of this section in a timely manner; and

(C) such other matters as justice may require.

(4) Modification

The Secretary may, as appropriate, compromise, modify, or remit, with or without conditions, any civil penalty or administrative compliance order. In the case of a civil penalty, the amount, as finally determined by the Secretary or agreed upon in compromise, may be deducted from any sums that the United States or its agencies or instrumentalities owes to the person against whom the penalty is assessed.

(5) Petition for review

Any person aggrieved by a penalty assessed or an order issued, or both, by the Secretary under this section may file a petition for judicial review thereof with the United States Court of Appeals for the District of Columbia Circuit or for any other circuit in which the person resides or transacts business. Such person shall provide a copy thereof to the Secretary or the Secretary's designee. The petition shall be filed within 30 days after the Secretary's assessment or order, or both, are final and have been provided to such person by certified mail. The Secretary shall promptly provide to the court a certified copy of the transcript of any hearing held under this section and a copy of the notice or order.

(6) Failure to comply

If a person fails to pay an assessment of a civil penalty or comply with an order, after either or both are final under this section, or after a court under paragraph (5) has entered a final judgment in favor of the Secretary, the Attorney General, at the request of the Secretary, shall recover the amount of the civil penalty (plus interest at then currently prevailing rates from the day either or both are final) or enforce the order in an action brought in the appropriate district court of the United States. In such action, the validity and appropriateness of the penalty or order or the amount of the penalty shall not be subject to review.

(Pub. L. 103–227, title X, §1043, Mar. 31, 1994, 108 Stat. 272.)

§ 6084. Preemption

Nothing in this part is intended to preempt any provision of law of a State or political subdivision of a State that is more restrictive than a provision of this part.

(Pub. L. 103–227, title X, §1044, Mar. 31, 1994, 108 Stat. 274.)

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(a) In general.
(b) Reservations.
(c) Availability of funds.

SUBCHAPTER VII—TECHNICAL PROVISIONS

6251. Sunset.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 6314, 7234, 7815, 8852, 8857, 8941 of this title; title 31 section 6703.

§ 6101. Findings

Congress finds that—

(1) three-fourths of high school students in the United States enter the workforce without baccalaureate degrees, and many do not possess the academic and entry-level occupational skills necessary to succeed in the changing United States workplace;

(2) a substantial number of youths in the United States, especially disadvantaged students, students of diverse racial, ethnic, and cultural backgrounds, and students with disabilities, do not complete high school;

(3) unemployment among youths in the United States is intolerably high, and earn-

ings of high school graduates have been falling relative to earnings of individuals with more education;

(4) the workplace in the United States is changing in response to heightened international competition and new technologies, and such forces, which are ultimately beneficial to the Nation, are shrinking the demand for and undermining the earning power of unskilled labor;

(5) the United States lacks a comprehensive and coherent system to help its youths acquire the knowledge, skills, abilities, and information about and access to the labor market necessary to make an effective transition from school to career-oriented work or to further education and training;

(6) students in the United States can achieve high academic and occupational standards, and many learn better and retain more when the students learn in context, rather than in the abstract;

(7) while many students in the United States have part-time jobs, there is infrequent linkage between—

(A) such jobs; and

(B) the career planning or exploration, or the school-based learning, of such students;

(8) the work-based learning approach, which is modeled after the time-honored apprenticeship concept, integrates theoretical instruction with structured on-the-job training, and this approach, combined with school-based learning, can be very effective in engaging student interest, enhancing skill acquisition, developing positive work attitudes, and preparing youths for high-skill, high-wage careers;

(9) Federal resources currently fund a series of categorical, work-related education and training programs, many of which serve disadvantaged youths, that are not administered as a coherent whole; and

(10) in 1992 approximately 3,400,000 individuals in the United States age 16 through 24 had not completed high school and were not currently enrolled in school, a number representing approximately 11 percent of all individuals in this age group, which indicates that these young persons are particularly unprepared for the demands of a 21st century workforce.

(Pub. L. 103–239, § 2, May 4, 1994, 108 Stat. 569.)

EFFECTIVE DATE

Section 801 of Pub. L. 103–239 provided that: ''This Act [see Short Title note below] shall take effect on the date of enactment of this Act [May 4, 1994].''

SHORT TITLE

Section 1(a) of Pub. L. 103–239 provided that: ''This Act [enacting this chapter, amending sections 2394b, 2394c, and 4441 of this title, section 1699 of Title 29, Labor, and sections 11449 and 11450 of Title 42, The Public Health and Welfare, and enacting provisions set out as notes under this section and section 4401 of this title] may be cited as the 'School-to-Work Opportunities Act of 1994'.''

§ 6102. Purposes and Congressional intent

(a) Purposes

The purposes of this chapter are—

(1) to establish a national framework within which all States can create statewide School-to-Work Opportunities systems that—

(A) are a part of comprehensive education reform;

(B) are integrated with the systems developed under the Goals 2000: Educate America Act [20 U.S.C. 5801 et seq.] and the National Skill Standards Act of 1994 [20 U.S.C. 5931 et seq.]; and

(C) offer opportunities for all students to participate in a performance-based education and training program that will—

(i) enable the students to earn portable credentials;

(ii) prepare the students for first jobs in high-skill, high-wage careers; and

(iii) increase their opportunities for further education, including education in a 4-year college or university;

(2) to facilitate the creation of a universal, high-quality school-to-work transition system that enables youths in the United States to identify and navigate paths to productive and progressively more rewarding roles in the workplace;

(3) to utilize workplaces as active learning environments in the educational process by making employers joint partners with educators in providing opportunities for all students to participate in high-quality, work-based learning experiences;

(4) to use Federal funds under this chapter as venture capital, to underwrite the initial costs of planning and establishing statewide School-to-Work Opportunities systems that will be maintained with other Federal, State, and local resources;

(5) to promote the formation of local partnerships that are dedicated to linking the worlds of school and work among secondary schools and postsecondary educational institutions, private and public employers, labor organizations, government, community-based organizations, parents, students, State educational agencies, local educational agencies, and training and human service agencies;

(6) to promote the formation of local partnerships between elementary schools and secondary schools (including middle schools) and local businesses as an investment in future workplace productivity and competitiveness;

(7) to help all students attain high academic and occupational standards;

(8) to build on and advance a range of promising school-to-work activities, such as tech-prep education, career academies, school-to-apprenticeship programs, cooperative education, youth apprenticeship, school-sponsored enterprises, business-education compacts, and promising strategies that assist school dropouts, that can be developed into programs funded under this chapter;

(9) to improve the knowledge and skills of youths by integrating academic and occupational learning, integrating school-based and work-based learning, and building effective linkages between secondary and postsecondary education;

(10) to encourage the development and implementation of programs that will require paid high-quality, work-based learning experiences;

(11) to motivate all youths, including low-achieving youths, school dropouts, and youths

with disabilities, to stay in or return to school or a classroom setting and strive to succeed, by providing enriched learning experiences and assistance in obtaining good jobs and continuing their education in postsecondary educational institutions;

(12) to expose students to a broad array of career opportunities, and facilitate the selection of career majors, based on individual interests, goals, strengths, and abilities;

(13) to increase opportunities for minorities, women, and individuals with disabilities, by enabling individuals to prepare for careers that are not traditional for their race, gender, or disability; and

(14) to further the National Education Goals set forth in title I of the Goals 2000: Educate America Act [20 U.S.C. 5811 et seq.].

(b) Congressional intent

It is the intent of Congress that the Secretary of Labor and the Secretary of Education jointly administer this chapter in a flexible manner that—

(1) promotes State and local discretion in establishing and implementing statewide School-to-Work Opportunities systems and School-to-Work Opportunities programs; and

(2) contributes to reinventing government by—

(A) building on State and local capacity;

(B) eliminating duplication in education and training programs for youths by integrating such programs into 1 comprehensive system;

(C) maximizing the effective use of resources;

(D) supporting locally established initiatives;

(E) requiring measurable goals for performance; and

(F) offering flexibility in meeting such goals.

(Pub. L. 103–239, § 3, May 4, 1994, 108 Stat. 570.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this Act'', meaning Pub. L. 103–239, May 4, 1994, 108 Stat. 568, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 6101 of this title and Tables.

The Goals 2000: Educate America Act, referred to in subsec. (a)(1)(B), (14), is Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 125 (except titles V and IX), as amended, which is classified principally to chapter 68 (§ 5801 et seq.) of this title (except subchapters V (§ 5931 et seq.) and IX (§ 6001 et seq.)). Title I of the Act is classified generally to subchapter I (§ 5811 et seq.) of chapter 68 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables.

The National Skill Standards Act of 1994, referred to in subsec. (a)(1)(B), is title V of Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 191, which is classified generally to subchapter V (§ 5931 et seq.) of chapter 68 of this title. For complete classification of this Act to the Code, see section 5931 of this title and Tables.

§ 6103. Definitions

As used in this chapter:

(1) All aspects of an industry

The term ''all aspects of an industry'' means all aspects of the industry or industry sector a student is preparing to enter, including planning, management, finances, technical and production skills, underlying principles of technology, labor and community issues, health and safety issues, and environmental issues, related to such industry or industry sector.

(2) All students

The term ''all students'' means both male and female students from a broad range of backgrounds and circumstances, including disadvantaged students, students with diverse racial, ethnic, or cultural backgrounds, American Indians, Alaska Natives, Native Hawaiians, students with disabilities, students with limited-English proficiency, migrant children, school dropouts, and academically talented students.

(3) Approved State plan

The term ''approved State plan'' means a statewide School-to-Work Opportunities system plan that is submitted by a State under section 6143 of this title, is determined by the Secretaries to include the program components described in sections 6112 through 6114 of this title and otherwise meet the requirements of this chapter, and is consistent with the State improvement plan for the State, if any, under the Goals 2000: Educate America Act [20 U.S.C. 5801 et seq.].

(4) Career guidance and counseling

The term ''career guidance and counseling'' means programs—

(A) that pertain to the body of subject matter and related techniques and methods organized for the development in individuals of career awareness, career planning, career decisionmaking, placement skills, and knowledge and understanding of local, State, and national occupational, educational, and labor market needs, trends, and opportunities;

(B) that assist individuals in making and implementing informed educational and occupational choices; and

(C) that aid students to develop career options with attention to surmounting gender, race, ethnic, disability, language, or socioeconomic impediments to career options and encouraging careers in nontraditional employment.

(5) Career major

The term ''career major'' means a coherent sequence of courses or field of study that prepares a student for a first job and that—

(A) integrates academic and occupational learning, integrates school-based and work-based learning, establishes linkages between secondary schools and postsecondary educational institutions;

(B) prepares the student for employment in a broad occupational cluster or industry sector;

(C) typically includes at least 2 years of secondary education and at least 1 or 2 years of postsecondary education;

(D) provides the students, to the extent practicable, with strong experience in and

understanding of all aspects of the industry the students are planning to enter;

(E) results in the award of—

(i) a high school diploma or its equivalent, such as—

(I) a general equivalency diploma; or

(II) an alternative diploma or certificate for students with disabilities for whom such alternative diploma or certificate is appropriate;

(ii) a certificate or diploma recognizing successful completion of 1 or 2 years of postsecondary education (if appropriate); and

(iii) a skill certificate; and

(F) may lead to further education and training, such as entry into a registered apprenticeship program, or may lead to admission to a 2- or 4-year college or university.

(6) Community-based organizations

The term ''community-based organizations'' has the meaning given such term in section 4(5) of the Job Training Partnership Act (29 U.S.C. 1503(5)).

(7) Elementary school

The term ''elementary school'' means a day or residential school that provides elementary education, as determined under State law.

(8) Employer

The term ''employer'' includes both public and private employers.

(9) Governor

The term ''Governor'' means the chief executive of a State.

(10) Local educational agency

The term ''local educational agency'' means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools. Such term includes any other public institution or agency having administrative control and direction of a public elementary or secondary school.

(11) Local partnership

The term ''local partnership'' means a local entity that is responsible for local School-to-Work Opportunities programs and that—

(A) consists of employers, representatives of local educational agencies and local postsecondary educational institutions (including representatives of area vocational education schools, where applicable), local educators (such as teachers, counselors, or administrators), representatives of labor organizations or nonmanagerial employee representatives, and students; and

(B) may include other entities, such as—

(i) employer organizations;

(ii) community-based organizations;

(iii) national trade associations working at the local levels;

(iv) industrial extension centers;

(v) rehabilitation agencies and organizations;

(vi) registered apprenticeship agencies;

(vii) local vocational education entities;

(viii) proprietary institutions of higher education (as defined in section 481(b) of the Higher Education Act of 1965 (20 U.S.C. 1088(b)) that continue to meet the eligibility and certification requirements under title IV of such Act (20 U.S.C. 1070 et seq. [and 42 U.S.C. 2751 et seq.]);

(ix) local government agencies;

(x) parent organizations;

(xi) teacher organizations;

(xii) vocational student organizations;

(xiii) private industry councils established under section 102 of the Job Training Partnership Act (29 U.S.C. 1512);

(xiv) federally recognized Indian tribes, Indian organizations, and Alaska Native villages within the meaning of the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.); and

(xv) Native Hawaiian entities.

(12) Postsecondary educational institution

The term ''postsecondary educational institution'' means an institution of higher education (as such term is defined in section 481 of the Higher Education Act of 1965 (20 U.S.C. 1088)) which continues to meet the eligibility and certification requirements under title IV of such Act (20 U.S.C. 1070 et seq. [and 42 U.S.C. 2751 et seq.]).

(13) Registered apprenticeship agency

The term ''registered apprenticeship agency'' means the Bureau of Apprenticeship and Training in the Department of Labor or a State apprenticeship agency recognized and approved by the Bureau of Apprenticeship and Training as the appropriate body for State registration or approval of local apprenticeship programs and agreements for Federal purposes.

(14) Registered apprenticeship program

The term ''registered apprenticeship program'' means a program registered by a registered apprenticeship agency.

(15) Related services

The term ''related services'' includes the types of services described in section 1401(a)(17)[1] of title 20.

(16) Rural community with low population density

The term ''rural community with low population density'' means a county, block number area in a nonmetropolitan county, or consortium of counties or of such block number areas, that has a population density of 20 or fewer individuals per square mile.

(17) School dropout

The term ''school dropout'' means a youth who is no longer attending any school and who

[1] See References in Text note below.

has not received a secondary school diploma or a certificate from a program of equivalency for such a diploma.

(18) School site mentor

The term ''school site mentor'' means a professional employed at a school who is designated as the advocate for a particular student, and who works in consultation with classroom teachers, counselors, related services personnel, and the employer of the student to design and monitor the progress of the School-to-Work Opportunities program of the student.

(19) School-to-Work Opportunities program

The term ''School-to-Work Opportunities program'' means a program that meets the requirements of this chapter, other than a program described in section 6191(a) of this title.

(20) Secondary school

The term ''secondary school'' means—

(A) a nonprofit day or residential school that provides secondary education, as determined under State law, except that it does not include any education provided beyond grade 12; and

(B) a Job Corps center under part B of title IV of the Job Training Partnership Act (29 U.S.C. 1691 et seq.).

(21) Secretaries

The term ''Secretaries'' means the Secretary of Education and the Secretary of Labor.

(22) Skill certificate

The term ''skill certificate'' means a portable, industry-recognized credential issued by a School-to-Work Opportunities program under an approved State plan, that certifies that a student has mastered skills at levels that are at least as challenging as skill standards endorsed by the National Skill Standards Board established under the National Skill Standards Act of 1994 [20 U.S.C. 5931 et seq.], except that until such skill standards are developed, the term ''skill certificate'' means a credential issued under a process described in the approved State plan.

(23) State

The term ''State'' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, the Virgin Islands, the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau.

(24) State educational agency

The term ''State educational agency'' means the officer or agency primarily responsible for the State supervision of public elementary and secondary schools.

(25) Workplace mentor

The term ''workplace mentor'' means an employee or other individual, approved by the employer at a workplace, who possesses the skills and knowledge to be mastered by a student, and who instructs the student, critiques the performance of the student, challenges the student to perform well, and works in consultation with classroom teachers and the employer of the student.

(Pub. L. 103–239, § 4, May 4, 1994, 108 Stat. 572; Pub. L. 103–382, title III, § 394(j)(1), Oct. 20, 1994, 108 Stat. 4029.)

REFERENCES IN TEXT

The Goals 2000: Educate America Act, referred to in par. (3), is Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 125 (except titles V and IX), as amended, which is classified principally to chapter 68 (§ 5801 et seq.) of this title (except subchapters V (§ 5931 et seq.) and IX (§ 6001 et seq.)). For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables.

The Higher Education Act of 1965, referred to in pars. (11)(B)(viii) and (12), is Pub. L. 89–329, Nov. 8, 1965, 79 Stat. 1219, as amended. Title IV of the Act is classified generally to subchapter IV (§ 1070 et seq.) of chapter 28 of this title and part C (§ 2751 et seq.) of subchapter I of chapter 34 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

The Alaska Native Claims Settlement Act, referred to in par. (11)(B)(xiv), is Pub. L. 92–203, Dec. 18, 1971, 85 Stat. 688, as amended, which is classified generally to chapter 33 (§ 1601 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 43 and Tables.

Section 1401(a)(17) of this title, referred to in par. (15), was in the original a reference to section 602(a)(17) of the Individuals with Disabilities Education Act, Pub. L. 91–230, title VI. Section 602 of Pub. L. 91–230 was omitted in the general amendment of subchapter I of chapter 33 of this title by Pub. L. 105–17, title I, § 101, June 4, 1997, 111 Stat. 37. Pub. L. 105–17 enacted a new section 602 of Pub. L. 91–230, which is classified to section 1401 of this title, and which contains provisions defining ''related services''.

The Job Training Partnership Act, referred to in par. (20)(B), is Pub. L. 97–300, Oct. 13, 1982, 96 Stat. 1322, as amended. Part B of title IV of the Act is classified generally to part B (§ 1691 et seq.) of subchapter IV of chapter 19 of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 1501 of Title 29 and Tables.

The National Skill Standards Act of 1994, referred to in par. (22), is title V of Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 191, which is classified generally to subchapter V (§ 5931 et seq.) of chapter 68 of this title. For complete classification of this Act to the Code, see section 5931 of this title and Tables.

AMENDMENTS

1994—Par. (15). Pub. L. 103–382 substituted ''section 1401(a)(17)'' for ''section 1401(17)''.

§ 6104. Federal administration

(a) Joint administration

(1) In general

Notwithstanding the Department of Education Organization Act (20 U.S.C. 3401 et seq.), the General Education Provisions Act (20 U.S.C. 1221 et seq.), the Act entitled ''An Act To Create a Department of Labor'', approved March 4, 1913 (29 U.S.C. 551 et seq.), and section 166 of the Job Training Partnership Act (29 U.S.C. 1576), the Secretaries shall jointly provide for, and shall exercise final authority over, the administration of this chapter, and shall have final authority to jointly issue whatever procedures, guidelines, and regula-

tions, in accordance with section 553 of title 5, the Secretaries consider necessary and appropriate to administer and enforce the provisions of this chapter.

(2) Submission of plan

Not later than 120 days after May 4, 1994, the Secretaries shall prepare a plan for the joint administration of this chapter and submit such plan to Congress for review and comment.

(b) Acceptance of gifts

The Secretaries are authorized, in carrying out this chapter, to accept, purchase, or lease in the name of the Department of Labor or the Department of Education, and employ or dispose of in furtherance of the purposes of this chapter, any money or property, real, personal, or mixed, tangible or intangible, received by gift, devise, bequest, or otherwise.

(c) Use of voluntary and uncompensated services

Notwithstanding section 1342 of title 31, the Secretaries are authorized to accept voluntary and uncompensated services in furtherance of the purposes of this chapter.

(Pub. L. 103–239, § 5, May 4, 1994, 108 Stat. 575.)

REFERENCES IN TEXT

The Department of Education Organization Act, referred to in subsec. (a)(1), is Pub. L. 96–88, Oct. 17, 1979, 93 Stat. 668, which is classified principally to chapter 48 (§ 3401 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3401 of this title and Tables.

The General Education Provisions Act, referred to in subsec. (a)(1), is title IV of Pub. L. 90–247, Jan. 2, 1968, 81 Stat. 814, as amended, which is classified generally to chapter 31 (§ 1221 et seq.) of this title. For complete classification of this Act to the Code, see section 1221 of this title and Tables.

The Act entitled ''An Act To Create a Department of Labor'', approved March 4, 1913, referred to in subsec. (a)(1), is act Mar. 4, 1913, ch. 141, 37 Stat. 736, as amended, which is classified principally to sections 2, 551, and 555 to 562 of Title 29, Labor. For complete classification of this Act to the Code, see Tables.

SUBCHAPTER I—SCHOOL-TO-WORK OPPORTUNITIES BASIC PROGRAM COMPONENTS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 6126, 6192 of this title.

§ 6111. General program requirements

A School-to-Work Opportunities program under this chapter shall—

(1) integrate school-based learning and work-based learning, as provided for in sections 6112 and 6113 of this title, integrate academic and occupational learning, and establish effective linkages between secondary and postsecondary education;

(2) provide participating students with the opportunity to complete career majors;

(3) incorporate the program components provided in sections 6112 through 6114 of this title;

(4) provide participating students, to the extent practicable, with strong experience in and understanding of all aspects of the industry the students are preparing to enter; and

(5) provide all students with equal access to the full range of such program components (including both school-based and work-based learning components) and related activities, such as recruitment, enrollment, and placement activities, except that nothing in this chapter shall be construed to provide any individual with an entitlement to services under this chapter.

(Pub. L. 103–239, title I, § 101, May 4, 1994, 108 Stat. 576.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this Act'', meaning Pub. L. 103–239, May 4, 1994, 108 Stat. 568, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 6101 of this title and Tables.

§ 6112. School-based learning component

The school-based learning component of a School-to-Work Opportunities program shall include—

(1) career awareness and career exploration and counseling (beginning at the earliest possible age, but not later than the 7th grade) in order to help students who may be interested to identify, and select or reconsider, their interests, goals, and career majors, including those options that may not be traditional for their gender, race, or ethnicity;

(2) initial selection by interested students of a career major not later than the beginning of the 11th grade;

(3) a program of study designed to meet the same academic content standards the State has established for all students, including, where applicable, standards established under the Goals 2000: Educate America Act [20 U.S.C. 5801 et seq.], and to meet the requirements necessary to prepare a student for postsecondary education and the requirements necessary for a student to earn a skill certificate;

(4) a program of instruction and curriculum that integrates academic and vocational learning (including applied methodologies and team-teaching strategies), and incorporates instruction, to the extent practicable, in all aspects of an industry, appropriately tied to the career major of a participant;

(5) regularly scheduled evaluations involving ongoing consultation and problem solving with students and school dropouts to identify their academic strengths and weaknesses, academic progress, workplace knowledge, goals, and the need for additional learning opportunities to master core academic and vocational skills; and

(6) procedures to facilitate the entry of students participating in a School-to-Work Opportunities program into additional training or postsecondary education programs, as well as to facilitate the transfer of the students between education and training programs.

(Pub. L. 103–239, title I, § 102, May 4, 1994, 108 Stat. 576.)

REFERENCES IN TEXT

The Goals 2000: Educate America Act, referred to in par. (3), is Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 125 (except titles V and IX), as amended, which is classified principally to chapter 68 (§ 5801 et seq.) of this title (ex-

cept subchapters V (§ 5931 et seq.) and IX (§ 6001 et seq.)). For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6103, 6111, 6113, 6114, 6145, 6192 of this title.

§ 6113. Work-based learning component

(a) Mandatory activities

The work-based learning component of a School-to-Work Opportunities program shall include—

(1) work experience;

(2) a planned program of job training and work experiences (including training related to preemployment and employment skills to be mastered at progressively higher levels) that are coordinated with learning in the school-based learning component described in section 6112 of this title and are relevant to the career majors of students and lead to the award of skill certificates;

(3) workplace mentoring;

(4) instruction in general workplace competencies, including instruction and activities related to developing positive work attitudes, and employability and participative skills; and

(5) broad instruction, to the extent practicable, in all aspects of the industry.

(b) Permissible activities

Such component may include such activities as paid work experience, job shadowing, school-sponsored enterprises, or on-the-job training.

(Pub. L. 103–239, title I, § 103, May 4, 1994, 108 Stat. 577.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6103, 6111, 6114, 6145, 6192, 6193 of this title.

§ 6114. Connecting activities component

The connecting activities component of a School-to-Work Opportunities program shall include—

(1) matching students with the work-based learning opportunities of employers;

(2) providing, with respect to each student, a school site mentor to act as a liaison among the student and the employer, school, teacher, school administrator, and parent of the student, and, if appropriate, other community partners;

(3) providing technical assistance and services to employers, including small- and medium-sized businesses, and other parties in—

(A) designing school-based learning components described in section 6112 of this title, work-based learning components described in section 6113 of this title, and counseling and case management services; and

(B) training teachers, workplace mentors, school site mentors, and counselors;

(4) providing assistance to schools and employers to integrate school-based and work-based learning and integrate academic and occupational learning into the program;

(5) encouraging the active participation of employers, in cooperation with local education officials, in the implementation of local activities described in section 6112 of this title, section 6113 of this title, or this section;

(6)(A) providing assistance to participants who have completed the program in finding an appropriate job, continuing their education, or entering into an additional training program; and

(B) linking the participants with other community services that may be necessary to assure a successful transition from school to work;

(7) collecting and analyzing information regarding post-program outcomes of participants in the School-to-Work Opportunities program, to the extent practicable, on the basis of socioeconomic status, race, gender, ethnicity, culture, and disability, and on the basis of whether the participants are students with limited-English proficiency, school dropouts, disadvantaged students, or academically talented students; and

(8) linking youth development activities under this chapter with employer and industry strategies for upgrading the skills of their workers.

(Pub. L. 103–239, title I, § 104, May 4, 1994, 108 Stat. 577.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6103, 6111, 6145, 6192 of this title.

SUBCHAPTER II—SCHOOL-TO-WORK OPPORTUNITIES SYSTEM DEVELOPMENT AND IMPLEMENTATION GRANTS TO STATES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 6195, 6214 of this title.

PART A—STATE DEVELOPMENT GRANTS

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 6144, 6162 of this title.

§ 6121. Purpose

The purpose of this part is to assist States in planning and developing comprehensive statewide School-to-Work Opportunities systems.

(Pub. L. 103–239, title II, § 201, May 4, 1994, 108 Stat. 578.)

§ 6122. Authorization

(a) Grants to States

(1) In general

On the application of the Governor on behalf of a State in accordance with section 6123 of this title, the Secretaries may provide a development grant to the State in such amounts as the Secretaries determine to be necessary to enable such State to complete planning and development of a comprehensive statewide School-to-Work Opportunities system.

(2) Amount

The amount of a development grant under this section may not exceed $1,000,000 for any fiscal year.

(3) Completion

The Secretaries may provide such grant to complete development of a statewide School-to-Work Opportunities systems initiated with funds received under the Job Training Partnership Act (29 U.S.C. 1501 et seq.) or the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.).

(b) Grants to territories

In providing grants under this section to the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, the Virgin Islands, the Federated States of Micronesia, the Republic of the Marshall Islands, or the Republic of Palau, the Secretaries shall use amounts reserved under section 6235(b)(1) of this title.

(Pub. L. 103–239, title II, § 202, May 4, 1994, 108 Stat. 578.)

REFERENCES IN TEXT

The Job Training Partnership Act, referred to in subsec. (a)(3), is Pub. L. 97–300, Oct. 13, 1982, 96 Stat. 1322, as amended, which is classified generally to chapter 19 (§ 1501 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 1501 of Title 29 and Tables.

The Carl D. Perkins Vocational and Applied Technology Education Act, referred to in subsec. (a)(3), is Pub. L. 88–210, Dec. 18, 1963, 77 Stat. 403, as amended, which is classified generally to chapter 44 (§ 2301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2301 of this title and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6123, 6125, 6126, 6127, 6235 of this title.

§ 6123. Application

(a) In general

The Secretaries may not provide a development grant under section 6122 of this title to a State unless the Governor of the State, on behalf of the State, submits to the Secretaries an application, at such time, in such form, and containing such information as the Secretaries may reasonably require.

(b) Contents

Such application shall include—

(1) a timetable and an estimate of the amount of funding needed to complete the planning and development necessary to implement a comprehensive statewide School-to-Work Opportunities system for all students;

(2) a description of how—

(A) the Governor;

(B) the State educational agency;

(C) the State agency officials responsible for economic development;

(D) the State agency officials responsible for employment;

(E) the State agency officials responsible for job training;

(F) the State agency officials responsible for postsecondary education;

(G) the State agency officials responsible for vocational education;

(H) the State agency officials responsible for vocational rehabilitation;

(I) the individual assigned by the State under section 2321(b)(1) of this title;

(J) other appropriate officials, including the State human resource investment council established in accordance with title VII of the Job Training Partnership Act (29 U.S.C. 1792 et seq.), if the State has established such a council; and

(K) representatives of the private sector;

will collaborate in the planning and development of the statewide School-to-Work Opportunities system;

(3) a description of the manner in which the State has obtained and will continue to obtain the active and continued participation, in the planning and development of the statewide School-to-Work Opportunities system, of employers and other interested parties, such as locally elected officials, secondary schools and postsecondary educational institutions (or related agencies), business associations, industrial extension centers, employees, labor organizations or associations of such organizations, teachers, related services personnel, students, parents, community-based organizations, rehabilitation agencies and organizations, Indian tribes, registered apprenticeship agencies, vocational educational agencies, vocational student organizations, and human service agencies;

(4) a description of the manner in which the State will coordinate planning activities with any local school-to-work programs, including programs funded under subchapter III of this chapter, if any;

(5) a designation of a fiscal agent to receive and be accountable for funds provided from a grant under section 6122 of this title; and

(6) a description of how the State will provide opportunities for students from low-income families, low-achieving students, students with limited-English proficiency, students with disabilities, students living in rural communities with low population densities, school dropouts, and academically talented students to participate in School-to-Work Opportunities programs.

(c) Coordination with Goals 2000: Educate America Act

A State seeking assistance under both this part and the Goals 2000: Educate America Act [20 U.S.C. 5801 et seq.] may—

(1) submit a single application containing plans that meet the requirements of such part and such Act and ensure that the plans are coordinated and not duplicative; or

(2) if such State has already submitted its application for funds under the Goals 2000: Educate America Act, submit its application under this part as an amendment to the Goals 2000: Educate America Act application if such amendment meets the requirements of this part and is coordinated with and not duplicative of the Goals 2000: Educate America Act application.

(Pub. L. 103–239, title II, § 203, May 4, 1994, 108 Stat. 579.)

REFERENCES IN TEXT

The Job Training Partnership Act, referred to in subsec. (b)(2)(J), is Pub. L. 97–300, Oct. 13, 1982, 96 Stat. 1322, as amended. Title VII of the Act is classified to

subchapter VI (§ 1792 et seq.) of chapter 19 of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 1501 of Title 29 and Tables.

The Goals 2000: Educate America Act, referred to in subsec. (c), is Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 125 (except titles V and IX), as amended, which is classified principally to chapter 68 (§ 5801 et seq.) of this title (except subchapters V (§ 5931 et seq.) and IX (§ 6001 et seq.)). For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6122, 6124 of this title.

§ 6124. Approval of application

The Secretaries may approve an application submitted by a State under section 6123 of this title only if the State demonstrates in such application that the activities proposed to be undertaken by the State to develop a statewide School-to-Work Opportunities system are consistent with the State improvement plan for the State, if any, under the Goals 2000: Educate America Act [20 U.S.C. 5801 et seq.].

(Pub. L. 103–239, title II, § 204, May 4, 1994, 108 Stat. 580.)

REFERENCES IN TEXT

The Goals 2000: Educate America Act, referred to in text, is Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 125 (except titles V and IX), as amended, which is classified principally to chapter 68 (§ 5801 et seq.) of this title (except subchapters V (§ 5931 et seq.) and IX (§ 6001 et seq.)). For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables.

§ 6125. Use of amounts

The Secretaries may not provide a development grant under section 6122 of this title to a State unless the State agrees that the State will use all amounts received from such grant for activities to develop a statewide School-to-Work Opportunities system, which may include—

(1) identifying or establishing an appropriate State structure to administer the statewide School-to-Work Opportunities system;

(2) identifying secondary and postsecondary school-to-work programs in existence on or after May 4, 1994, that might be incorporated into such system;

(3) identifying or establishing broad-based partnerships among employers, labor, education, government, and other community-based organizations and parent organizations to participate in the design, development, and administration of School-to-Work Opportunities programs;

(4) developing a marketing plan to build consensus and support for such programs;

(5) promoting the active involvement of business (including small- and medium-sized businesses) in planning, developing, and implementing local School-to-Work Opportunities programs, and in establishing partnerships between business and elementary schools and secondary schools (including middle schools);

(6) identifying ways that local school-to-work programs in existence on or after May 4, 1994, could be coordinated with the statewide School-to-Work Opportunities system;

(7) supporting local planning and development activities to provide guidance, training and technical assistance for teachers, employers, mentors, counselors, administrators, and others in the development of School-to-Work Opportunities programs;

(8) identifying or establishing mechanisms for providing training and technical assistance to enhance the development of the statewide School-to-Work Opportunities system;

(9) developing a training and technical support system for teachers, employers, mentors, counselors, related services personnel, and others that includes specialized training and technical support for the counseling and training of women, minorities, and individuals with disabilities for high-skill, high-wage careers in nontraditional employment;

(10) initiating pilot programs for testing key components of the program design of programs under the statewide School-to-Work Opportunities system;

(11) developing a State process for issuing skill certificates that is, to the extent feasible, consistent with the skill standards certification systems endorsed under the National Skill Standards Act of 1994 [20 U.S.C. 5931 et seq.];

(12) designing challenging curricula, in cooperation with representatives of local partnerships, that take into account the diverse learning needs and abilities of the student population served by the statewide School-to-Work Opportunities system;

(13) developing a system for labor market analysis and strategic planning for local targeting of industry sectors or broad occupational clusters that can provide students with placements in high-skill workplaces;

(14) analyzing the post-high school employment experiences of recent high school graduates and school dropouts;

(15) preparing the plan described in section 6143(d) of this title;

(16) working with localities to develop strategies to recruit and retain all students in programs under this chapter through collaborations with community-based organizations, where appropriate, and other entities with expertise in working with such students;

(17) coordinating recruitment of out-of-school, at-risk, and disadvantaged youths with those organizations and institutions that have a successful history of working with such youths; and

(18) providing technical assistance to rural areas in planning, developing, and implementing local School-to-Work Opportunities programs that meet the needs of rural communities with low population densities.

(Pub. L. 103–239, title II, § 205, May 4, 1994, 108 Stat. 580.)

REFERENCES IN TEXT

The National Skill Standards Act of 1994, referred to in par. (11), is title V of Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 191, which is classified generally to subchapter V (§ 5931 et seq.) of chapter 68 of this title. For complete classification of this Act to the Code, see section 5931 of this title and Tables.

This chapter, referred to in par. (16), was in the original ''this Act'', meaning Pub. L. 103–239, May 4, 1994, 108 Stat. 568, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 6101 of this title and Tables.

§ 6126. Maintenance of effort

(a) In general

A State may receive a development grant under section 6122 of this title for a fiscal year only if the State provides assurances, satisfactory to the Secretaries, that—

(1) the amount of State funds expended per student by the State for school-to-work activities of the type described in subchapter I of this chapter for the preceding fiscal year was not less than 90 percent of the amount so expended for the second preceding fiscal year; or

(2) the aggregate amount of State funds expended by the State for such activities for the preceding fiscal year was not less than 90 percent of the amount so expended for the second preceding fiscal year.

(b) Waiver

(1) Determination

The Secretaries may jointly waive the requirements described in subsection (a) of this section for a State that requests such a waiver if the Secretaries determine that such a waiver would be equitable due to—

(A) exceptional or uncontrollable circumstances such as a natural disaster; or

(B) a precipitous decline in the financial resources of the State.

(2) Request

To be eligible to receive such a waiver, a State shall submit a request at such time, in such form, and containing such information as the Secretaries may require.

(Pub. L. 103–239, title II, § 206, May 4, 1994, 108 Stat. 581.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6144 of this title.

§ 6127. Reports

The Secretaries may not provide a development grant under section 6122 of this title to a State unless the State agrees that the State will submit to the Secretaries such reports as the Secretaries may reasonably require, relating to the use of amounts from such grant, except that the Secretaries may not require more than 1 such report during any 3-month period.

(Pub. L. 103–239, title II, § 207, May 4, 1994, 108 Stat. 582.)

PART B—STATE IMPLEMENTATION GRANTS

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 6162, 6211 of this title.

§ 6141. Purpose

The purpose of this part is to assist States in the implementation of comprehensive statewide School-to-Work Opportunities systems.

(Pub. L. 103–239, title II, § 211, May 4, 1994, 108 Stat. 582.)

§ 6142. Authorization

(a) Grants to States

On the application of the Governor on behalf of a State in accordance with section 6143 of this title, the Secretaries may provide an implementation grant to the State in such amounts as the Secretaries determine to be necessary to enable such State to implement a comprehensive statewide School-to-Work Opportunities system.

(b) Grants to territories

In providing grants under this section to the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, the Virgin Islands, the Federated States of Micronesia, the Republic of the Marshall Islands, or the Republic of Palau, the Secretaries shall use amounts reserved under section 6235(b)(1) of this title.

(c) Period of grant

The provision of payments under a grant under subsection (a) of this section shall not exceed 5 fiscal years and shall be subject to the annual approval of the Secretaries and subject to the availability of appropriations for the fiscal year involved to make the payments.

(d) Limitation

A State shall be eligible to receive only 1 implementation grant under subsection (a) of this section.

(Pub. L. 103–239, title II, § 212, May 4, 1994, 108 Stat. 582.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6143, 6144, 6145, 6146, 6147, 6148, 6172, 6235 of this title.

§ 6143. Application

(a) In general

(1) Submission by Governor on behalf of State

Subject to paragraph (2), the Secretaries may not provide an implementation grant under section 6142 of this title to a State unless the Governor of the State, on behalf of the State, submits to the Secretaries an application, at such time, in such form, and containing such information as the Secretaries may reasonably require.

(2) Review and comment by certain individuals and entities

If, after a reasonable effort, the Governor is unable in accordance with subsection (d)(4) of this section to obtain the support of the individuals and entities described in subparagraphs (A) through (J) of subsection (b)(4) of this section for the State plan described in subsection (d) of this section, then the Governor shall—

(A) provide such individuals and entities with copies of such application;

(B) allow such individuals and entities to submit to the Governor, not later than the end of the 30-day period beginning on the date on which the Governor provides such individuals and entities with copies of such

application under subparagraph (A), comments on those portions of the plan that address matters that, under State or other applicable law, are under the jurisdiction of such individuals or entities; and

(C) include any such comments in the application in accordance with subsection (b)(5) of this section.

(b) Contents

Such application shall include—

(1) a plan for a comprehensive, statewide School-to-Work Opportunities system that meets the requirements of subsection (d) of this section;

(2) a description of the manner in which the State will allocate funds made available through such a grant to local partnerships under section 6145(b)(7) of this title;

(3) a request, if the State decides to submit such a request, for 1 or more waivers of certain statutory or regulatory requirements, as provided for under subchapter V of this chapter;

(4) a description of the manner in which—

(A) the Governor;

(B) the State educational agency;

(C) the State agency officials responsible for economic development;

(D) the State agency officials responsible for employment;

(E) the State agency officials responsible for job training;

(F) the State agency officials responsible for postsecondary education;

(G) the State agency officials responsible for vocational education;

(H) the State agency officials responsible for vocational rehabilitation;

(I) the individual assigned for the State under section 111(b)(1) of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2321(b)(1));

(J) other appropriate officials, including the State human resource investment council established in accordance with title VII of the Job Training Partnership Act (29 U.S.C. 1792 et seq.), if the State has established such a council; and

(K) representatives of the private sector;

collaborated in the development of the application;

(5) the comments submitted to the Governor under subsection (a)(2) of this section, where applicable; and

(6) such other information as the Secretaries may require.

(c) Coordination with Goals 2000: Educate America Act

A State seeking assistance under both this part and the Goals 2000: Educate America Act [20 U.S.C. 5801 et seq.] may—

(1) submit a single application containing plans that meet the requirements of such part and such Act and ensure that the plans are coordinated and not duplicative; or

(2) if such State has already submitted its application for funds under the Goals 2000: Educate America Act, submit its application under this part as an amendment to the Goals 2000: Educate America Act application if such amendment meets the requirements of this part and is coordinated with and not duplicative of the Goals 2000: Educate America Act application.

(d) State plan

A State plan referred to in subsection (b)(1) of this section shall—

(1) designate the geographical areas, including urban and rural areas, to be served by local partnerships that receive grants under section 6145(b) of this title, which geographic areas shall, to the extent feasible, reflect local labor market areas;

(2) describe the manner in which the State will stimulate and support local School-to-Work Opportunities programs and the manner in which the statewide School-to-Work Opportunities system will be expanded over time to cover all geographic areas in the State, including urban and rural areas;

(3) describe the procedure by which the individuals and entities described in subsection (b)(4) of this section will collaborate in the implementation of the School-to-Work Opportunities system;

(4) demonstrate the support of individuals and entities described in subparagraphs (A) through (J) of subsection (b)(4) of this section for the plan, except in the case where the Governor is unable to obtain the support of such individuals and entities as provided in subsection (a)(2) of this section;

(5) describe the manner in which the State has obtained and will continue to obtain the active and continued involvement, in the statewide School-to-Work Opportunities system, of employers and other interested parties such as locally elected officials, secondary schools and postsecondary educational institutions (or related agencies), business associations, industrial extension centers, employees, labor organizations or associations of such organizations, teachers, related services personnel, students, parents, community-based organizations, rehabilitation agencies and organizations, registered apprenticeship agencies, local vocational educational agencies, vocational student organizations, State or regional cooperative education associations, and human service agencies;

(6) describe the manner in which the statewide School-to-Work Opportunities system will coordinate with or integrate local school-to-work programs in existence on or after May 4, 1994, including programs financed from State and private sources, with funds available from such related Federal programs as programs under—

(A) the Adult Education Act (20 U.S.C. 1201 et seq.);

(B) the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.);

(C) the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6301 et seq.];

(D) the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.);

(E) part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) relating to work activities;

(F) the Goals 2000: Educate America Act [20 U.S.C. 5801 et seq.];

(G) the National Skills[1] Standards Act of 1994 [20 U.S.C. 5931 et seq.];

(H) the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.);

(I) the Job Training Partnership Act (29 U.S.C. 1501 et seq.);

(J) the Act of August 16, 1937 (commonly known as the ''National Apprenticeship Act''; 50 Stat. 664, chapter 663; 29 U.S.C. 50 et seq.);

(K) the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.); and

(L) the National and Community Service Act of 1990 (42 U.S.C. 12501 et seq.);

(7) describe the strategy of the State for providing training for teachers, employers, mentors, counselors, related services personnel, and others, including specialized training and technical support for the counseling and training of women, minorities, and individuals with disabilities for high-skill, high-wage careers in nontraditional employment, and provide assurances of coordination with similar training and technical support under other provisions of law;

(8) describe how the State will adopt, develop, or assist local partnerships to adopt or develop model curricula and innovative instructional methodologies, to be used in the secondary, and where possible, the elementary grades, that integrate academic and vocational learning and promote career awareness, and that are consistent with academic and skill standards established pursuant to the Goals 2000: Educate America Act [20 U.S.C. 5801 et seq.] and the National Skill Standards Act of 1994 [20 U.S.C. 5931 et seq.];

(9) describe how the State will expand and improve career and academic counseling in the elementary and secondary grades, which may include linkages to career counseling and labor market information services outside of the school system;

(10) describe the strategy of the State for integrating academic and vocational education;

(11) describe the resources, including private sector resources, the State intends to employ in maintaining the statewide School-to-Work Opportunities system when funds under this chapter are no longer available;

(12) describe the extent to which the statewide School-to-Work Opportunities system will include programs that will require paid high-quality, work-based learning experiences, and the steps the State will take to generate such paid experiences;

(13) describe the manner in which the State will ensure effective and meaningful opportunities for all students in the State to participate in School-to-Work Opportunities programs;

(14) describe the goals of the State and the methods the State will use, such as awareness and outreach, to ensure opportunities for young women to participate in School-to-Work Opportunities programs in a manner that leads to employment in high-performance, high-paying jobs, including nontraditional employment, and goals to ensure an environment free from racial and sexual harassment;

(15) describe how the State will ensure opportunities for low achieving students, students with disabilities, school dropouts, and academically talented students to participate in School-to-Work Opportunities programs;

(16) describe the process of the State for assessing the skills and knowledge required in career majors, and the process for awarding skill certificates that is, to the extent feasible, consistent with the skills standards certification systems endorsed under the National Skill Standards Act of 1994 [20 U.S.C. 5931 et seq.];

(17) describe the manner in which the State will ensure that students participating in the programs are provided, to the greatest extent possible, with flexibility to develop new career goals over time and to change career majors;

(18) describe the manner in which the State will, to the extent feasible, continue programs funded under subchapter III of this chapter in the statewide School-to-Work Opportunities system;

(19) describe how the State will serve students from rural communities with low population densities;

(20) describe how local School-to-Work Opportunities programs, including those funded under subchapter III of this chapter, if any, will be integrated into the statewide School-to-Work Opportunities system;

(21) describe the performance standards that the State intends to meet in establishing and carrying out the statewide School-to-Work Opportunities system, including how such standards relate to those performance standards established under other related programs;

(22) designate a fiscal agent to receive and be accountable for funds provided from a grant under section 6142 of this title; and

(23) describe the procedures to facilitate the entry of students participating in a School-to-Work Opportunities program into additional training or postsecondary education programs, as well as to facilitate the transfer of the students between education and training programs.

(Pub. L. 103–239, title II, § 213, May 4, 1994, 108 Stat. 583; Pub. L. 104–193, title I, § 110(v), Aug. 22, 1996, 110 Stat. 2175.)

REFERENCES IN TEXT

The Job Training Partnership Act, referred to in subsecs. (b)(4)(J) and (d)(6)(I), is Pub. L. 97–300, Oct. 13, 1982, 96 Stat. 1322, as amended, which is classified generally to chapter 19 (§ 1501 et seq.) of Title 29, Labor. Title VII of the Act is classified to subchapter VI (§ 1792 et seq.) of chapter 19 of Title 29. For complete classification of this Act to the Code, see Short Title note set out under section 1501 of Title 29 and Tables.

The Goals 2000: Educate America Act, referred to in subsecs. (c) and (d)(6)(F), (8), is Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 125 (except titles V and IX), as amended, which is classified principally to chapter 68 (§ 5801 et seq.) of this title (except subchapters V (§ 5931 et seq.) and IX (§ 6001 et seq.)). For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables.

[1] So in original. Probably should be ''Skill''.

The Adult Education Act, referred to in subsec. (d)(6)(A), is title III of Pub. L. 89–750, Nov. 3, 1966, 80 Stat. 1216, as amended, which is classified generally to chapter 30 (§ 1201 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1201 of this title and Tables.

The Carl D. Perkins Vocational and Applied Technology Education Act, referred to in subsec. (d)(6)(B), is Pub. L. 88–210, Dec. 18, 1963, 77 Stat. 403, as amended, which is classified generally to chapter 44 (§ 2301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2301 of this title and Tables.

The Elementary and Secondary Education Act of 1965, referred to in subsec. (d)(6)(C), is Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, as amended generally by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519, which is classified generally to chapter 70 (§ 6301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

The Higher Education Act of 1965, referred to in subsec. (d)(6)(D), is Pub. L. 89–329, Nov. 8, 1965, 79 Stat. 1219, as amended, which is classified principally to chapter 28 (§ 1001 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

The Social Security Act, referred to in subsec. (d)(6)(E), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Part A of title IV of the Act is classified generally to part A (§ 601 et seq.) of subchapter IV of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

The National Skill Standards Act of 1994, referred to in subsec. (d)(6)(G), (8), (16), is title V of Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 191, which is classified generally to subchapter V (§ 5931 et seq.) of chapter 68 of this title. For complete classification of this Act to the Code, see section 5931 of this title and Tables.

The Individuals with Disabilities Education Act, referred to in subsec. (d)(6)(H), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, as amended, which is classified generally to chapter 33 (§ 1400 et seq.) of this title. For complete classification of this Act to the Code, see section 1400 of this title and Tables.

Act of August 16, 1937, commonly known as the National Apprenticeship Act, referred to in subsec. (d)(6)(J), is act Aug. 16, 1937, ch. 663, 50 Stat. 664, as amended, which is classified generally to chapter 4C (§ 50 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 50 of Title 29 and Tables.

The Rehabilitation Act of 1973, referred to in subsec. (d)(6)(K), is Pub. L. 93–112, Sept. 26, 1973, 87 Stat. 355, as amended, which is classified principally to chapter 16 (§ 701 et seq.) of Title 29. For complete classification of this Act to the Code, see Short Title note set out under section 701 of Title 29 and Tables.

The National and Community Service Act of 1990, referred to in subsec. (d)(6)(L), is Pub. L. 101–610, Nov. 16, 1990, 104 Stat. 3127, as amended, which is classified principally to chapter 129 (§ 12501 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 12501 of Title 42 and Tables.

AMENDMENTS

1996—Subsec. (d)(6)(E). Pub. L. 104–193 amended subpar. (E) generally. Prior to amendment, subpar. (E) read as follows: ''part F of title IV of the Social Security Act (42 U.S.C. 681 et seq.);''.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–193 effective July 1, 1997, with transition rules relating to State options to accelerate such date, rules relating to claims, actions, and proceedings commenced before such date, rules relating to closing out of accounts for terminated or substantially modified programs and continuance in office of Assistant Secretary for Family Support, and provisions relating to termination of entitlement under AFDC program, see section 116 of Pub. L. 104–193, as amended, set out as an Effective Date note under section 601 of Title 42, The Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6103, 6125, 6142, 6144, 6146, 6173, 6192, 6211, 6215 of this title.

§ 6144. Review of application

(a) Considerations

In evaluating applications submitted under section 6143 of this title, the Secretaries shall—

(1) give priority to applications that describe the highest levels of concurrence by the individuals and entities described in section 6143(b)(4) of this title with the State plan for the statewide School-to-Work Opportunities system;

(2) give priority to applications that require paid, high-quality work-based learning experiences as an integral part of such system; and

(3) take into consideration the quality of the application, including the replicability, sustainability, and innovation of School-to-Work Opportunities programs described in the application.

(b) Approval criteria

The Secretaries—

(1) shall approve only those applications submitted under section 6143 of this title that demonstrate the highest levels of collaboration by the individuals and entities described in section 6143(b)(4) of this title in the development and implementation of the statewide School-to-Work system;

(2) shall approve an application submitted under section 6143 of this title only if the State provides the assurances described in section 6126(a) of this title (relating to maintenance of effort) in accordance with such section, except that this requirement may be waived in accordance with section 6126(b) of this title; and

(3) may approve an application submitted under section 6143 of this title only if the State demonstrates in the application—

(A) that other Federal, State, and local resources will be used to implement the proposed State plan;

(B) the extent to which such plan would limit administrative costs and increase amounts spent on delivery of services to students enrolled in programs under this chapter;

(C) that the State, where appropriate, will ensure the establishment of a partnership in at least 1 urban and 1 rural area in the State; and

(D) that the State plan contained in such application is consistent with the State improvement plan for the State, if any, under the Goals 2000: Educate America Act [20 U.S.C. 5801 et seq.].

(c) Actions

(1) In general

In reviewing each application submitted under section 6143 of this title, the Secretaries

shall determine whether the application and the plan described in such application meet the approval criteria in subsection (b) of this section.

(2) Actions after affirmative determination

If the determination under paragraph (1) is affirmative, the Secretaries may take 1 or more of the following actions:

(A) Provide an implementation grant under section 6142 of this title to the State submitting the application.

(B) Approve the request of the State, if any, for a waiver in accordance with the procedures set forth in subchapter V of this chapter.

(3) Action after nonaffirmative determination

If the determination under paragraph (1) is not affirmative, the Secretaries shall inform the State of the opportunity to apply for development funds under part A of this subchapter in accordance with such part.

(d) Use of funds for review of applications

The Secretaries may use amounts reserved under section 6235(b)(4) of this title for the review of applications submitted under section 6143 of this title.

(Pub. L. 103–239, title II, §214, May 4, 1994, 108 Stat. 586.)

REFERENCES IN TEXT

The Goals 2000: Educate America Act, referred to in subsec. (b)(3)(D), is Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 125 (except titles V and IX), as amended, which is classified principally to chapter 68 (§5801 et seq.) of this title (except subchapters V (§5931 et seq.) and IX (§6001 et seq.)). For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6235 of this title.

§ 6145. Use of amounts

(a) In general

The Secretaries may not provide an implementation grant under section 6142 of this title to a State unless the State agrees that the State will use all amounts received from such grant to implement the statewide School-to-Work Opportunities system in accordance with this section.

(b) Subgrants to local partnerships

(1) Authority

(A) In general

Except as provided in subparagraph (B), the State shall provide subgrants to local partnerships, according to criteria established by the State, for the purpose of carrying out School-to-Work Opportunities programs.

(B) Prohibition

The State shall not provide subgrants to local partnerships that have received implementation grants under subchapter III of this chapter, except that this prohibition shall not apply with respect to local partnerships that are located in high poverty areas, as such term is defined in section 6177 of this title.

(2) Application

A local partnership that seeks a subgrant to carry out a local School-to-Work Opportunities program, including a program initiated under section 6172 of this title, shall submit an application to the State that—

(A) describes how the program will include the program components described in sections 6112, 6113, and 6114 of this title and otherwise meet the requirements of this chapter;

(B) sets forth measurable program goals and outcomes;

(C) describes the local strategies and timetables of the local partnership to provide opportunities for all students in the area served to participate in a School-to-Work Opportunities program;

(D) describes the extent to which the program will require paid high-quality, work-based learning experiences, and the steps the local partnerships will take to generate such paid experiences;

(E) describes the process that will be used to ensure employer involvement in the development and implementation of the local School-to-Work Opportunities program;

(F) provides assurances that, to the extent practicable, opportunities provided to students to participate in a School-to-Work Opportunities program will be in industries and occupations offering high-skill, high-wage employment opportunities;

(G) provides such other information as the State may require; and

(H) is submitted at such time and in such form as the State may require.

(3) Disapproval of application

If the State determines that an application submitted by a local partnership does not meet the criteria under paragraph (2), or that the application is incomplete or otherwise unsatisfactory, the State shall—

(A) notify the local partnership of the reasons for the failure to approve the application; and

(B) permit the local partnership to resubmit a corrected or amended application.

(4) Allowable activities

A local partnership shall expend funds provided through subgrants under this subsection only for activities undertaken to carry out local School-to-Work Opportunities programs, and such activities may include, for each such program—

(A) recruiting and providing assistance to employers, including small- and medium-size businesses, to provide the work-based learning components described in section 6113 of this title;

(B) establishing consortia of employers to support the School-to-Work Opportunities program and provide access to jobs related to the career majors of students;

(C) supporting or establishing intermediaries (selected from among the members of the local partnership) to perform the activities described in section 6114 of this title and to provide assistance to students or

school dropouts in obtaining jobs and further education and training;

(D) designing or adapting school curricula that can be used to integrate academic, vocational, and occupational learning, school-based and work-based learning, and secondary and postsecondary education for all students in the area served;

(E) providing training to work-based and school-based staff on new curricula, student assessments, student guidance, and feedback to the school regarding student performance;

(F) establishing, in schools participating in the School-to-Work Opportunities program, a graduation assistance program to assist at-risk students, low-achieving students, and students with disabilities, in graduating from high school, enrolling in postsecondary education or training, and finding or advancing in jobs;

(G) providing career exploration and awareness services, counseling and mentoring services, college awareness and preparation services, and other services (beginning at the earliest possible age, but not later than the 7th grade) to prepare students for the transition from school to work;

(H) providing supplementary and support services, including child care and transportation, when such services are necessary for participation in a local School-to-Work Opportunities program;

(I) conducting or obtaining an in-depth analysis of the local labor market and the generic and specific skill needs of employers to identify high-demand, high-wage careers to target;

(J) integrating school-based and work-based learning into job training programs that are for school dropouts and that are in existence on or after May 4, 1994;

(K) establishing or expanding school-to-apprenticeship programs in cooperation with registered apprenticeship agencies and apprenticeship sponsors;

(L) assisting participating employers, including small- and medium-size businesses, to identify and train workplace mentors and to develop work-based learning components;

(M) promoting the formation of partnerships between elementary schools and secondary schools (including middle schools) and local businesses as an investment in future workplace productivity and competitiveness;

(N) designing local strategies to provide adequate planning time and staff development activities for teachers, school counselors, related services personnel, and school site mentors, including opportunities outside the classroom that are at the worksite;

(O) enhancing linkages between after-school, weekend, and summer jobs, career exploration, and school-based learning; and

(P) obtaining the assistance of organizations and institutions that have a history of success in working with school dropouts and at-risk and disadvantaged youths in recruiting such school dropouts and youths to participate in the local School-to-Work Opportunities program.

(5) Local partnership compact

The State may not provide a subgrant under paragraph (1) to a local partnership unless the partnership agrees that the local partnership will establish a process by which the responsibilities and expectations of students, parents, employers, and schools are clearly established and agreed upon at the point of entry of the student into a career major program of study.

(6) Administrative costs

The local partnership may not use more than 10 percent of amounts received from a subgrant under paragraph (1) for any fiscal year for administrative costs associated with activities in carrying out, but not including, activities under paragraphs (4) and (5) for such fiscal year.

(7) Allocation requirements

(A) First year

In the 1st fiscal year for which a State receives amounts from a grant under section 6142 of this title, the State shall use not less than 70 percent of such amounts to provide subgrants to local partnerships under paragraph (1).

(B) Second year

In the 2d fiscal year for which a State receives amounts from a grant under section 6142 of this title, the State shall use not less than 80 percent of such amounts to provide subgrants to local partnerships under paragraph (1).

(C) Third year and succeeding years

In the 3d fiscal year for which a State receives amounts from a grant under section 6142 of this title, and in each succeeding year, the State shall use not less than 90 percent of such amounts to provide subgrants to local partnerships under paragraph (1).

(c) Additional State activities

In carrying out the statewide School-to-Work Opportunities system, the State may also—

(1) recruit and provide assistance to employers to provide work-based learning for all students;

(2) conduct outreach activities to promote and support collaboration, in School-to-Work Opportunities programs, by businesses, labor organizations, and other organizations;

(3) provide training for teachers, employers, workplace mentors, school site mentors, counselors, related services personnel, and other parties;

(4) provide labor market information to local partnerships that is useful in determining which high-skill, high-wage occupations are in demand;

(5) design or adapt model curricula that can be used to integrate academic, vocational, and occupational learning, school-based and work-based learning, and secondary and postsecondary education, for all students in the State;

(6) design or adapt model work-based learning programs and identify best practices for such programs;

(7) conduct outreach activities and provide technical assistance to other States that are

developing or implementing School-to-Work Opportunities systems;

(8) reorganize and streamline school-to-work programs in the State to facilitate the development of a comprehensive statewide School-to-Work Opportunities system;

(9) identify ways that local school-to-work programs in existence on or after May 4, 1994, could be integrated with the statewide School-to-Work Opportunities system;

(10) design career awareness and exploration activities (beginning at the earliest possible age, but not later than the 7th grade), such as job shadowing, job site visits, school visits by individuals in various occupations, and mentoring;

(11) design and implement school-sponsored work experiences, such as school-sponsored enterprises and community development projects;

(12) promote the formation of partnerships between elementary schools and secondary schools (including middle schools) and local businesses as an investment in future workplace productivity and competitiveness;

(13) obtain the assistance of organizations and institutions that have a history of success in working with school dropouts and at-risk and disadvantaged youths in recruiting such school dropouts and youths to participate in the statewide School-to-Work Opportunities system;

(14) conduct outreach to all students in a manner that most appropriately meets their needs and the needs of their communities; and

(15) provide career exploration and awareness services, counseling and mentoring services, college awareness and preparation services, and other services (beginning at the earliest possible age, but not later than the 7th grade) to prepare students for the transition from school to work.

(Pub. L. 103–239, title II, § 215, May 4, 1994, 108 Stat. 587.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6143, 6174 of this title.

§ 6146. Allocation requirement

The Secretaries shall establish the minimum and maximum amounts available for an implementation grant under section 6142 of this title, and shall determine the actual amount granted to any State under such section, based on such criteria as the scope and quality of the plan described in section 6143(d) of this title and the number of projected participants in programs carried out through the system.

(Pub. L. 103–239, title II, § 216, May 4, 1994, 108 Stat. 591.)

§ 6147. Limitation on administrative costs

A State that receives an implementation grant under section 6142 of this title may not use more than 10 percent of the amounts received through the grant for any fiscal year for administrative costs associated with implementing the statewide School-to-Work Opportunities system for such fiscal year.

(Pub. L. 103–239, title II, § 217, May 4, 1994, 108 Stat. 591.)

§ 6148. Reports

The Secretaries may not provide an implementation grant under section 6142 of this title to a State unless the State agrees that the State will submit to the Secretaries such reports as the Secretaries may reasonably require, relating to the use of amounts from such grant, except that the Secretaries may not require more than 1 such report during any 3-month period.

(Pub. L. 103–239, title II, § 218, May 4, 1994, 108 Stat. 591.)

PART C—DEVELOPMENT AND IMPLEMENTATION GRANTS FOR SCHOOL-TO-WORK PROGRAMS FOR INDIAN YOUTHS

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 6235 of this title.

§ 6161. Authorization

(a) In general

From amounts reserved under section 6235(b)(2) of this title, the Secretaries shall provide grants to establish and carry out School-to-Work Opportunities programs for Indian youths that involve Bureau funded schools (as defined in section 2019(3)[1] of title 25).

(b) Additional authorities

The Secretaries may carry out subsection (a) of this section through such means as the Secretaries find appropriate, including—

(1) the transfer of funds to the Secretary of the Interior; and

(2) the provision of financial assistance to Indian tribes and Indian organizations.

(Pub. L. 103–239, title II, § 221, May 4, 1994, 108 Stat. 592.)

REFERENCES IN TEXT

Section 2019(3) of title 25, referred to in subsec. (a), was in the original a reference to section 1139(3) of the Education Amendments of 1978, meaning section 1139(3) of Pub. L. 95–561. Section 1139 of that Act was omitted in the general amendment of chapter 22 of Title 25, Indians, by Pub. L. 103–382, title III, § 381, Oct. 20, 1994, 108 Stat. 3979. Pub. L. 103–382 enacted a new section 1139, relating to regulations, which does not contain pars., and which is classified to section 2019 of Title 25. For provisions relating to definitions, see section 2026 of Title 25.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6162 of this title.

§ 6162. Requirements

In providing grants under section 6161 of this title, the Secretaries shall require recipients of such grants to comply with requirements similar to those requirements imposed on States under parts A and B of this subchapter.

(Pub. L. 103–239, title II, § 222, May 4, 1994, 108 Stat. 592.)

[1] See References in Text note below.

SUBCHAPTER III—FEDERAL IMPLEMENTATION GRANTS TO LOCAL PARTNERSHIPS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 6123, 6143, 6145, 6195, 6214 of this title.

§ 6171. Purposes

The purposes of this subchapter are—

(1) to authorize the Secretaries to provide competitive grants directly to local partnerships in order to provide funding for communities that have built a sound planning and development base for School-to-Work Opportunities programs and are ready to begin implementing a local School-to-Work Opportunities program; and

(2) to authorize the Secretaries to provide competitive grants to local partnerships to implement School-to-Work Opportunities programs in high poverty areas of urban and rural communities to provide support for a comprehensive range of education, training, and support services for youths residing in such areas.

(Pub. L. 103–239, title III, § 301, May 4, 1994, 108 Stat. 592.)

§ 6172. Authorization

(a) Grants to local partnerships

(1) In general

Subject to paragraph (2), the Secretaries may provide implementation grants, in accordance with competitive criteria established by the Secretaries, directly to local partnerships in States in such amounts as the Secretaries determine to be necessary to enable such partnerships to implement School-to-Work Opportunities programs.

(2) Restrictions

A local partnership—

(A) shall be eligible to receive only 1 grant under this subsection; and

(B) shall not be eligible to receive a grant under this subsection if such partnership is located in a State that—

(i) has been provided an implementation grant under section 6142 of this title; and

(ii) has received amounts from such grant for any fiscal year after the 1st fiscal year under such grant.

(b) Grants to local partnerships in high poverty areas

(1) In general

Subject to paragraphs (2) and (3), the Secretaries shall, from amounts reserved under section 6235(b)(3) of this title, provide grants to local partnerships that are located in high poverty areas in States in such amounts as the Secretaries determine to be necessary to enable such partnerships to implement School-to-Work Opportunities programs in such areas.

(2) Restriction

A local partnership shall be eligible to receive only 1 grant under this subsection.

(3) Priority

In providing grants under paragraph (1), the Secretaries shall give priority to local partnerships that have a demonstrated effectiveness in the delivery of comprehensive vocational preparation programs with successful rates in job placement through cooperative activities among local educational agencies, local businesses, labor organizations, and other organizations.

(c) Period of grant

The provision of payments under a grant under subsection (a) or (b) of this section shall not exceed 5 fiscal years and shall be subject to the annual approval of the Secretaries and subject to the availability of appropriations for the fiscal year involved to make the payments.

(Pub. L. 103–239, title III, § 302, May 4, 1994, 108 Stat. 592.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6145, 6173, 6174, 6175, 6176, 6235 of this title.

§ 6173. Application

(a) In general

A local partnership that desires to receive a Federal implementation grant under section 6172 of this title shall submit an application to the Secretaries at such time and in such form as the Secretaries may require. The local partnership shall submit the application to the State for review and comment before submitting the application to the Secretaries.

(b) Time limit for State review and comment

(1) In general

The State shall provide for review and comment on the application under subsection (a) of this section not later than 30 days after the date on which the State receives the application from the local partnership.

(2) Submission without State review and comment

If the State does not provide review and comment within the 30-day time period specified in paragraph (1), the local partnership may submit the application to the Secretaries without first obtaining such review and comment.

(c) Contents

The application described in subsection (a) of this section shall include a plan for local School-to-Work Opportunities programs that—

(1) describes the manner in which the local partnership will meet the requirements of this chapter;

(2) includes the comments of the State on the plan, if any;

(3) contains information that is consistent with the information required to be submitted as part of a State plan in accordance with paragraphs (5) through (17) and paragraph (23) of section 6143(d) of this title;

(4) designates a fiscal agent to receive and be accountable for funds under this section; and

(5) provides such other information as the Secretaries may require.

(d) Use of funds for review of applications

The Secretaries may use amounts reserved under section 6235(b)(4) of this title for the re-

view of applications submitted under subsection (a) of this section.

(Pub. L. 103–239, title III, § 303, May 4, 1994, 108 Stat. 593.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (c)(1), was in the original ''this Act'', meaning Pub. L. 103–239, May 4, 1994, 108 Stat. 568, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 6101 of this title and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6235 of this title.

§ 6174. Use of amounts

The Secretaries may not provide an implementation grant under section 6172 of this title to a local partnership unless the partnership agrees that it will use all amounts from such grant to carry out activities to implement a School-to-Work Opportunities program, including the activities described in section 6145(b)(4) of this title.

(Pub. L. 103–239, title III, § 304, May 4, 1994, 108 Stat. 594.)

§ 6175. Conformity with approved State plan

The Secretaries shall not provide a grant under section 6172 of this title to a local partnership in a State that has an approved State plan unless the Secretaries determine, after consultation with the State, that the plan submitted by the partnership is in accordance with such approved State plan.

(Pub. L. 103–239, title III, § 305, May 4, 1994, 108 Stat. 594.)

§ 6176. Reports

The Secretaries may not provide an implementation grant under section 6172 of this title to a local partnership unless the partnership agrees that the local partnership will submit to the Secretaries such reports as the Secretaries may reasonably require, relating to the use of amounts from such grant, except that the Secretaries may not require more than 1 such report during any 3-month period.

(Pub. L. 103–239, title III, § 306, May 4, 1994, 108 Stat. 594.)

§ 6177. "High poverty area" defined

For purposes of this subchapter, the term ''high poverty area'' means an urban census tract, a contiguous group of urban census tracts, a block number area in a nonmetropolitan county, a contiguous group of block number areas in a nonmetropolitan county, or an Indian reservation (as defined in section 3202(9) of title 25), with a poverty rate of 20 percent or more among individuals who have not attained the age of 22, as determined by the Bureau of the Census.

(Pub. L. 103–239, title III, § 307, May 4, 1994, 108 Stat. 594.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6145 of this title.

SUBCHAPTER IV—NATIONAL PROGRAMS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 6235 of this title.

§ 6191. Research, demonstration, and other projects

(a) In general

The Secretaries shall conduct research and development projects and establish a program of experimental and demonstration projects, to further the purposes of this chapter.

(b) Additional use of funds

The Secretaries may provide assistance for programs or services authorized under any other provision of this chapter that are most appropriately administered at the national level and that will operate in, or benefit, more than 1 State.

(Pub. L. 103–239, title IV, § 401, May 4, 1994, 108 Stat. 594.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this Act'', meaning Pub. L. 103–239, May 4, 1994, 108 Stat. 568, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 6101 of this title and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6103 of this title.

§ 6192. Performance outcomes and evaluation

(a) In general

The Secretaries, in collaboration with the States, shall by grant, contract, or otherwise, establish a system of performance measures for assessing State and local programs regarding—

(1) progress in the development and implementation of State plans described in section 6143(d) of this title that include the basic program components described in sections 6112, 6113, and 6114 of this title and otherwise meet the requirements of subchapter I of this chapter;

(2) participation in School-to-Work Opportunities programs by employers, schools, students, and school dropouts, including information on the gender, race, ethnicity, socioeconomic background, limited-English proficiency, and disability of all participants and whether the participants are academically talented students;

(3) progress in developing and implementing strategies for addressing the needs of students and school dropouts;

(4) progress in meeting the goals of the State to ensure opportunities for young women to participate in School-to-Work Opportunities programs, including participation in nontraditional employment through such programs;

(5) outcomes for participating students and school dropouts, by gender, race, ethnicity, socioeconomic background, limited-English proficiency, and disability of the participants, and whether the participants are academically talented students, including information on—

(A) academic learning gains;

(B) staying in school and attaining—

(i) a high school diploma, or a general equivalency diploma, or an alternative diploma or certificate for those students with disabilities for whom such alternative diploma or certificate is appropriate;

(ii) a skill certificate; and

(iii) a postsecondary degree;

(C) attainment of strong experience in and understanding of all aspects of the industry the students are preparing to enter;

(D) placement and retention in further education or training, particularly in the career major of the student; and

(E) job placement, retention, and earnings, particularly in the career major of the student; and

(6) the extent to which the program has met the needs of employers.

(b) Evaluation

Not later than September 30, 1998, the Secretaries shall complete a national evaluation of School-to-Work Opportunities programs funded under this chapter by grants, contracts, or otherwise, that will track and assess the progress of implementation of State and local programs and their effectiveness based on measures such as those measures described in subsection (a) of this section.

(c) Reports to Secretaries

(1) In general

Each State shall prepare and submit to the Secretaries periodic reports, at such intervals as the Secretaries may determine, containing information regarding the matters described in paragraphs (1) through (6) of subsection (a) of this section.

(2) Federal programs

Each State shall prepare and submit reports to the Secretaries, at such intervals as the Secretaries may determine, containing information on the extent to which Federal programs that are in existence on the date of submission of the report and that are implemented at the State or local level may be duplicative, outdated, overly restrictive, or otherwise counterproductive to the development of comprehensive statewide School-to-Work Opportunities systems.

(Pub. L. 103–239, title IV, § 402, May 4, 1994, 108 Stat. 594.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6195, 6232 of this title.

§ 6193. Training and technical assistance

(a) Purpose

The Secretaries shall work in cooperation with the States, the individuals assigned under section 2321(b)(1) of this title, employers and their associations, secondary schools and postsecondary educational institutions, student and teacher organizations, labor organizations, and community-based organizations, to increase their capacity to develop and implement effective School-to-Work Opportunities programs.

(b) Authorized activities

The Secretaries shall provide, through grants, contracts, or otherwise—

(1) training, technical assistance, and other activities that will—

(A) enhance the skills, knowledge, and expertise of the personnel involved in planning and implementing State and local School-to-Work Opportunities programs, such as training of the personnel to assist students; and

(B) improve the quality of services provided to individuals served under this chapter;

(2) assistance to States and local partnerships involved in carrying out School-to-Work Opportunities programs in order to integrate resources available under this chapter with resources available under other Federal, State, and local authorities;

(3) assistance to States and such local partnerships, including local partnerships in rural communities with low population densities or in urban areas, to recruit employers to provide the work-based learning component, described in section 6113 of this title, of School-to-Work Opportunities programs; and

(4) assistance to States and local partnerships involved in carrying out School-to-Work Opportunities programs to design and implement school-sponsored enterprises.

(Pub. L. 103–239, title IV, § 403, May 4, 1994, 108 Stat. 596.)

§ 6194. Capacity Building and Information and Dissemination Network

The Secretaries, acting through such mechanisms as the Capacity Building and Information and Dissemination Network established under section 1733(b) of title 29, the Educational Resources Information Center Clearinghouses referred to in the Educational Research, Development, Dissemination, and Improvement Act of 1994 [20 U.S.C. 6001 et seq.], and the National Network for Curriculum Coordination in Vocational and Technical Education under section 2402(c) of this title, shall—

(1) collect and disseminate information—

(A) on successful School-to-Work Opportunities programs and innovative school- and work-based curricula;

(B) on research and evaluation conducted concerning school-to-work activities;

(C) that will assist States and local partnerships in undertaking labor market analysis, surveys, or other activities related to economic development;

(D) on skill certificates, skill standards, and related assessment technologies; and

(E) on methods for recruiting and building the capacity of employers to provide work-based learning opportunities; and

(2) facilitate communication and the exchange of information and ideas among States and local partnerships carrying out School-to-Work Opportunities programs.

(Pub. L. 103–239, title IV, § 404, May 4, 1994, 108 Stat. 596.)

REFERENCES IN TEXT

The Educational Research, Development, Dissemination, and Improvement Act of 1994, referred to in text,

is title IX of Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 212, which is classified principally to subchapter IX (§ 6001 et seq.) of chapter 68 of this title. For complete classification of this Act to the Code, see section 6001 of this title and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6235 of this title.

§ 6195. Reports to Congress

(a) In general

Not later than 24 months after May 4, 1994, and every 12 months thereafter, the Secretaries shall prepare and submit a report to the Congress on all activities carried out pursuant to this chapter.

(b) Contents

The Secretaries shall, at a minimum, include in each such report—

(1) information concerning the programs that receive assistance under this chapter;

(2) a summary of the information contained in the State and local partnership reports submitted under subchapters II and III of this chapter and section 6192(c) of this title; and

(3) information regarding the findings and actions taken as a result of any evaluation conducted by the Secretaries.

(Pub. L. 103–239, title IV, § 405, May 4, 1994, 108 Stat. 597.)

§ 6196. Funding

The Secretaries shall use funds reserved under section 6235(b)(4) of this title to carry out activities under this subchapter.

(Pub. L. 103–239, title IV, § 406, May 4, 1994, 108 Stat. 597.)

SUBCHAPTER V—WAIVER OF STATUTORY AND REGULATORY REQUIREMENTS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 6143, 6144 of this title.

§ 6211. State and local partnership requests and responsibilities for waivers

(a) State request for waiver

A State may submit to the Secretaries a request for a waiver of 1 or more requirements of the provisions of law referred to in sections 6212 and 6213 of this title, or of the regulations issued under such provisions, in order to carry out the statewide School-to-Work Opportunities system established by such State under part B of subchapter II of this chapter. The State may submit the request as a part of the application described in section 6143 of this title (or as an amendment to the application at any time after submission of the application). Such request may include a request for different waivers with respect to different areas within the State.

(b) Local partnership request for waiver

(1) In general

A local partnership that seeks a waiver of such a requirement shall submit an application for such waiver to the State, and the State shall determine whether to submit a request for a waiver to the Secretaries, as provided in subsection (a) of this section.

(2) Time limit

(A) In general

The State shall make a determination to submit or not submit the request for a waiver under paragraph (1) not later than 30 days after the date on which the State receives the application from the local partnership.

(B) Direct submission

(i) In general

If the State does not make a determination to submit or not submit the request within the 30-day time period specified in subparagraph (A), the local partnership may submit the application to the Secretaries.

(ii) Requirements

In submitting such an application, the local partnership shall obtain the agreement of the State involved to comply with the requirements of section 6212(a)(1)(C) or 6213(a)(1)(C) of this title, as appropriate, and comply with the other requirements of section 6212 or 6213 of this title, as appropriate, and of subsections (c) and (d) of this section, that would otherwise apply to a State submitting a request for a waiver. In reviewing such an application, the Secretaries shall comply with the requirements of such section and such subsections that would otherwise apply to the Secretaries with respect to review of such a request.

(c) Waiver criteria

Any such request by the State shall meet the criteria contained in section 6212 or 6213 of this title and shall specify the provisions or regulations referred to in such sections with respect to which the State seeks a waiver.

(d) Support by appropriate State agencies

In requesting such a waiver, the State shall provide evidence of support for the waiver request by the State agencies or officials with jurisdiction over the provisions or regulations that would be waived.

(Pub. L. 103–239, title V, § 501, May 4, 1994, 108 Stat. 597.)

§ 6212. Waiver authority of Secretary of Education

(a) Waiver authority

(1) In general

Except as provided in subsection (c) of this section, the Secretary of Education may waive any requirement under any provision of law referred to in subsection (b) of this section, or of any regulation issued under such provision, for a State that requests such a waiver and has an approved State plan—

(A) if, and only to the extent that, the Secretary of Education determines that such requirement impedes the ability of the State or a local partnership to carry out the purposes of this chapter;

(B) if the State provides the Secretary of Education with documentation of the neces-

sity for the waiver, including information concerning—

(i) the specific requirement that will be waived;

(ii) the specific positive outcomes expected from the waiver and why those outcomes cannot be achieved while complying with the requirement;

(iii) the process that will be used to monitor the progress of the State or local partnership in implementing the waiver; and

(iv) such other information as the Secretary of Education may require;

(C) if the State waives, or agrees to waive, similar requirements of State law; and

(D) if the State—

(i) has provided all local partnerships that carry out programs under this chapter, and local educational agencies participating in such a local partnership, in the State with notice and an opportunity to comment on the proposal of the State to seek a waiver;

(ii) provides, to the extent feasible, to students, parents, advocacy and civil rights groups, and labor and business organizations an opportunity to comment on the proposal of the State to seek a waiver; and

(iii) has submitted the comments of the local partnerships and local educational agencies to the Secretary of Education.

(2) Approval or disapproval

The Secretary of Education shall promptly approve or disapprove any request submitted pursuant to paragraph (1) and shall issue a decision that shall—

(A) include the reasons for approving or disapproving the request, including a response to comments on the proposal; and

(B) in the case of a decision to approve the request, be disseminated by the State seeking the waiver to interested parties, including educators, parents, students, advocacy and civil rights organizations, labor and business organizations, and the public.

(3) Approval criteria

In approving a request under paragraph (2), the Secretary of Education shall consider the amount of State resources that will be used to implement the approved State plan.

(4) Term

Each waiver approved pursuant to this subsection shall be for a period not to exceed 5 years, except that the Secretary of Education may extend such period if the Secretary of Education determines that the waiver has been effective in enabling the State or local partnership to carry out the purposes of this chapter.

(b) Included programs

The provisions subject to the waiver authority of this section are—

(1) title I of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6301 et seq.];

(2) part A of title II of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6621 et seq.];

(3) part A of title V of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 7201 et seq.];

(4) part B of title IX of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 7901 et seq.];

(5) title XIII of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 8601 et seq.]; and

(6) the Carl D. Perkins Vocational and Applied Technology Education Act [20 U.S.C. 2301 et seq.].

(c) Waivers not authorized

The Secretary of Education may not waive any requirement of any provision referred to in subsection (b) of this section, or of any regulation issued under such provision, relating to—

(1) the basic purposes or goals of such provision;

(2) maintenance of effort;

(3) comparability of services;

(4) the equitable participation of students attending private schools;

(5) student and parental participation and involvement;

(6) the distribution of funds to State or local educational agencies;

(7) the eligibility of an individual for participation in a program under such provision;

(8) public health or safety, labor standards, civil rights, occupational safety and health, or environmental protection; or

(9) prohibitions or restrictions relating to the construction of buildings or facilities.

(d) Termination of waivers

The Secretary of Education shall periodically review the performance of any State, local partnership, or local educational agency, for which the Secretary of Education has granted a waiver under this section and shall terminate the waiver under this section if the Secretary of Education determines that the performance of the State, local partnership, or local educational agency that is affected by the waiver has been inadequate to justify a continuation of the waiver, or the State fails to waive similar requirements of State law as required or agreed to in accordance with subsection (a)(1)(C) of this section.

(Pub. L. 103–239, title V, § 502, May 4, 1994, 108 Stat. 598; Pub. L. 103–382, title III, § 394(j)(2), Oct. 20, 1994, 108 Stat. 4029.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a)(1)(A), (D)(i), (4), was in the original ''this Act'', meaning Pub. L. 103–239, May 4, 1994, 108 Stat. 568, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 6101 of this title and Tables.

The Elementary and Secondary Education Act of 1965, referred to in subsec. (b)(1) to (5), is Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, as amended generally by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519. Title I of the Act is classified generally to subchapter I (§ 6301 et seq.) of chapter 70 of this title. Part A of title II of the Act is classified generally to part A (§ 6621 et seq.) of subchapter II of chapter 70 of this title. Part A of title V of the Act is classified generally to part A (§ 7201 et seq.) of subchapter V of chapter 70 of this title. Part B of title IX of the Act is classified generally to part

B (§ 7901 et seq.) of subchapter IX of chapter 70 of this title. Title XIII of the Act is classified generally to subchapter XIII (§ 8601 et seq.) of chapter 70 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

The Carl D. Perkins Vocational and Applied Technology Education Act, referred to in subsec. (b)(6), is Pub. L. 88–210, Dec. 18, 1963, 77 Stat. 403, as amended, which is classified generally to chapter 44 (§ 2301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2301 of this title and Tables.

AMENDMENTS

1994—Subsec. (b)(1) to (6). Pub. L. 103–382 amended pars. (1) to (6) generally. Prior to amendment, pars. (1) to (6) read as follows:

''(1) chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2701 et seq.), including the Even Start programs carried out under part B of such chapter (20 U.S.C. 2741 et seq.);

''(2) part A of chapter 2 of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2921 et seq.);

''(3) part A of title II of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2981 et seq.);

''(4) part D of title IV of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 3121 et seq.);

''(5) title V of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 3171 et seq.); and

''(6) the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.).''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6211, 6214, 6215 of this title.

§ 6213. Waiver authority of Secretary of Labor

(a) Waiver authority

(1) In general

Except as provided in subsection (b) of this section, the Secretary of Labor may waive any requirement under any provision of the Job Training Partnership Act (29 U.S.C. 1501 et seq.), or of any regulation issued under such provision, for a State that requests such a waiver and has an approved State plan—

(A) if, and only to the extent that, the Secretary of Labor determines that such requirement impedes the ability of the State or a local partnership to carry out the purposes of this chapter;

(B) if the State provides the Secretary of Labor with documentation of the necessity for the waiver, including information concerning—

(i) the specific requirement that will be waived;

(ii) the specific positive outcomes expected from the waiver and why those outcomes cannot be achieved while complying with the requirement;

(iii) the process that will be used to monitor the progress of the State or local partnership in implementing the waiver; and

(iv) such other information as the Secretary of Labor may require;

(C) if the State waives, or agrees to waive, similar requirements of State law; and

(D) if the State—

(i) has provided all local partnerships that carry out programs under this chapter in the State with notice and an opportunity to comment on the proposal of the State to seek a waiver;

(ii) provides, to the extent feasible, to students, parents, advocacy and civil rights groups, and labor and business organizations an opportunity to comment on the proposal of the State to seek a waiver; and

(iii) has submitted the comments of the local partnerships to the Secretary of Labor.

(2) Approval or disapproval

The Secretary of Labor shall promptly approve or disapprove any request submitted pursuant to paragraph (1) and shall issue a decision that shall—

(A) include the reasons for approving or disapproving the request, including a response to comments on the proposal; and

(B) in the case of a decision to approve the request, be disseminated by the State seeking the waiver to interested parties, including educators, parents, students, advocacy and civil rights organizations, labor and business organizations, and the public.

(3) Approval criteria

In approving a request under paragraph (2), the Secretary of Labor shall consider the amount of State resources that will be used to implement the approved State plan.

(4) Term

Each waiver approved pursuant to this subsection shall be for a period not to exceed 5 years, except that the Secretary of Labor may extend such period if the Secretary of Labor determines that the waiver has been effective in enabling the State or local partnership to carry out the purposes of this chapter.

(b) Waivers not authorized

The Secretary of Labor may not waive any requirement under any provision of the Job Training Partnership Act (29 U.S.C. 1501 et seq.), or of any regulation issued under such provision, relating to—

(1) the basic purposes or goals of such provision;

(2) maintenance of effort;

(3) the distribution of funds;

(4) the eligibility of an individual for participation in a program under such provision;

(5) public health or safety, labor standards, civil rights, occupational safety and health, or environmental protection; or

(6) prohibitions or restrictions relating to the construction of buildings or facilities.

(c) Termination of waivers

The Secretary of Labor shall periodically review the performance of any State or local partnership for which the Secretary of Labor has granted a waiver under this section and shall terminate the waiver under this section if the Secretary of Labor determines that the performance of the State or local partnership affected by the waiver has been inadequate to justify a continuation of the waiver, or the State fails to waive similar requirements of State law as required or agreed to in accordance with subsection (a)(1)(C) of this section.

(Pub. L. 103–239, title V, § 503, May 4, 1994, 108 Stat. 600.)

REFERENCES IN TEXT

The Job Training Partnership Act, referred to in subsecs. (a)(1) and (b), is Pub. L. 97–300, Oct. 13, 1982, 96 Stat. 1322, as amended, which is classified generally to chapter 19 (§ 1501 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 1501 of Title 29 and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6211, 6214, 6215 of this title.

§ 6214. Combination of Federal funds for high poverty schools

(a) In general

(1) Purposes

The purposes of this section are—

(A) to integrate activities under this chapter with school-to-work activities carried out under other Acts; and

(B) to maximize the effective use of resources.

(2) Combination of funds

To carry out such purposes, a local partnership that receives assistance under subchapter II or III of this chapter may carry out schoolwide school-to-work activities in schools that meet the requirements of subparagraphs (A) and (B) of section 263(g)(1) of the Job Training Partnership Act (29 U.S.C. 1643(g)(1)(A) and (B)) with funds obtained by combining—

(A) Federal funds under this chapter; and

(B) other Federal funds made available from among programs under—

(i) the provisions of law listed in paragraphs (2) through (6) of section 6212(b) of this title; and

(ii) the Job Training Partnership Act (29 U.S.C. 1501 et seq.).

(b) Use of funds

A local partnership may use the Federal funds combined under subsection (a) of this section under the requirements of this chapter, except that the provisions relating to the matters specified in paragraphs (1) through (6) and paragraphs (8) and (9) of section 6212(c) of this title, and paragraphs (1) through (3) and paragraphs (5) and (6) of section 6213(b) of this title, that relate to the program through which the funds described in subsection (a)(2)(B) of this section were made available, shall remain in effect with respect to the use of such funds.

(c) Additional information in application

A local partnership seeking to combine funds under subsection (a) of this section shall include in the application of the local partnership under subchapter II or III of this chapter—

(1) a description of the funds the local partnership proposes to combine under the requirements of this chapter;

(2) the activities to be carried out with such funds;

(3) the specific outcomes expected of participants in schoolwide school-to-work activities; and

(4) such other information as the State, or Secretaries, as the case may be, may require.

(d) Provision of information

The local partnership shall, to the extent feasible, provide information on the proposed combination of Federal funds under subsection (a) of this section to educators, parents, students, advocacy and civil rights organizations, labor and business organizations, and the public.

(Pub. L. 103–239, title V, § 504, May 4, 1994, 108 Stat. 601.)

REFERENCES IN TEXT

The Job Training Partnership Act, referred to in subsec. (a)(2)(B)(ii), is Pub. L. 97–300, Oct. 13, 1982, 96 Stat. 1322, as amended, which is classified generally to chapter 19 (§ 1501 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 1501 of Title 29 and Tables.

§ 6215. Combination of Federal funds by States for school-to-work activities

(a) In general

(1) Purposes

The purposes of this section are—

(A) to integrate activities under this chapter with State school-to-work activities carried out under other Acts; and

(B) to maximize the effective use of resources.

(2) Combination of funds

To carry out such purposes, a State that has an approved State plan may carry out activities necessary to develop and implement a statewide School-to-Work Opportunities system with funds obtained by combining—

(A) Federal funds under this chapter; and

(B) other Federal funds that are made available under—

(i) section 2312(a)(3) of this title;

(ii) section 1602(c)(1)(C) or section 1642(c)(1)(C) of title 29;

(iii) section 1602(c)(1)(B) of title 29 that would otherwise be available for the purposes described in section 1602(c)(3) of title 29; or

(iv) section 1642(c)(1)(B) of title 29 that would otherwise be available for the purposes described in section 1642(c)(3) of title 29.

(b) Use of funds

A State may use, under the requirements of this chapter, Federal funds that are made available to the State and combined under subsection (a) of this section to carry out school-to-work activities, except that the provisions relating to the matters specified in section 6212(c) of this title, and section 6213(b) of this title, that relate to the program through which the funds described in subsection (a)(2)(B) of this section were made available, shall remain in effect with respect to the use of such funds.

(c) Additional information in application

A State seeking to combine funds under subsection (a) of this section shall include in the application described in section 6143 of this title—

(1) a description of the funds the State proposes to combine under the requirements of this chapter;

(2) the activities to be carried out with such funds;

(3) the specific outcomes expected of participants in school-to-work activities;

(4) formal evidence of support for the request by the State agencies or officials with jurisdiction over the funds that would be combined; and

(5) such other information as the Secretaries may require.

(d) Extension

The authority of a State to combine funds under this section shall not exceed 5 years, except that the Secretaries may extend such period if the Secretaries determine that an extension of such authority would further the purposes of this chapter.

(e) Limitation

Nothing in this section shall be construed to relieve a State of an obligation to conduct the activities required under section 2331(b) of this title.

(Pub. L. 103–239, title V, § 505, May 4, 1994, 108 Stat. 602.)

SUBCHAPTER VI—GENERAL PROVISIONS

§ 6231. Requirements

The following requirements shall apply to programs under this chapter:

(1) Prohibition on displacement

No student participating in such a program shall displace any currently employed worker (including a partial displacement, such as a reduction in the hours of nonovertime work, wages, or employment benefits).

(2) Prohibition on impairment of contracts

No such program shall impair existing contracts for services or collective bargaining agreements, and no such program that would be inconsistent with the terms of a collective bargaining agreement shall be undertaken without the written concurrence of the labor organization and employer concerned.

(3) Prohibition on replacement

No student participating in such a program shall be employed or fill a job—

(A) when any other individual is on temporary layoff, with the clear possibility of recall, from the same or any substantially equivalent job with the participating employer; or

(B) when the employer has terminated the employment of any regular employee or otherwise reduced the workforce of the employer with the intention of filling the vacancy so created with the student.

(4) Workplaces

Students participating in such programs shall be provided with adequate and safe equipment and safe and healthful workplaces in conformity with all health and safety requirements of Federal, State, and local law.

(5) Effect on other laws

Nothing in this chapter shall be construed to modify or affect any Federal or State law prohibiting discrimination on the basis of race, religion, color, ethnicity, national origin, gender, age, or disability, or to modify or affect any right to enforcement of this chapter that may exist under other Federal laws, except as expressly provided by this chapter.

(6) Prohibition concerning wages

Funds appropriated under authority of this chapter shall not be expended for wages of students or workplace mentors participating in such programs.

(7) Other requirements

The Secretaries shall establish such other requirements as the Secretaries may determine to be appropriate, in order to ensure that participants in programs under this chapter are afforded adequate supervision by skilled adult workers, or to otherwise further the purposes of this chapter.

(Pub. L. 103–239, title VI, § 601, May 4, 1994, 108 Stat. 603.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this Act'', meaning Pub. L. 103–239, May 4, 1994, 108 Stat. 568, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 6101 of this title and Tables.

§ 6232. Sanctions

(a) Termination or suspension of assistance

(1) In general

The Secretaries may terminate or suspend any financial assistance under this chapter, in whole or in part, or not make payments under a grant awarded under this chapter, if the Secretaries determine that a recipient has failed to meet any requirements of this chapter, including—

(A) reporting requirements under section 6192(c) of this title;

(B) regulations under this chapter; or

(C) requirements of an approved State plan.

(2) Notice and opportunity for hearing

If the Secretaries terminate or suspend such financial assistance, or do not make such payments under paragraph (1), with respect to a recipient, then the Secretaries shall provide—

(A) prompt notice to such recipient; and

(B) the opportunity for a hearing to such recipient not later than 30 days after the date on which such notice is provided.

(b) Nondelegation

The Secretaries shall not delegate any of the functions or authority specified in this section, other than to an officer whose appointment is required to be made by and with the advice and consent of the Senate.

(Pub. L. 103–239, title VI, § 602, May 4, 1994, 108 Stat. 604.)

§ 6233. State authority

Nothing in this chapter shall be construed to negate or supersede the legal authority, under State law or other applicable law, of any State

agency, State entity, or State public official over programs that are under the jurisdiction of the agency, entity, or official. Nothing in this chapter shall be construed to interfere with the authority of such agency, entity, or official to enter into a contract under any provision of law.

(Pub. L. 103–239, title VI, §603, May 4, 1994, 108 Stat. 604.)

§6234. Prohibition on Federal mandates, direction, and control

Nothing in this chapter shall be construed to authorize an officer or employee of the Federal Government to mandate, direct, or control a State's, local educational agency's, or school's curriculum, program of instruction, or allocation of State or local resources or mandate a State or any subdivision thereof to spend any funds or incur any costs not paid for under this chapter.

(Pub. L. 103–239, title VI, §604, May 4, 1994, 108 Stat. 605.)

§6235. Authorization of appropriations

(a) In general

There are authorized to be appropriated to the Secretaries to carry out this chapter $300,000,000 for fiscal year 1995 and such sums as may be necessary for each of the fiscal years 1996 through 1999.

(b) Reservations

From amounts appropriated under subsection (a) of this section for any fiscal year, the Secretaries—

(1) shall reserve not more than ½ of 1 percent of such amounts for such fiscal year to provide grants under sections 6122 and 6142 of this title to the jurisdictions described in section 6122(b) of this title;

(2) shall reserve not more than ½ of 1 percent of such amounts for such fiscal year to provide grants under part C of subchapter II of this chapter to establish and carry out School-to-Work Opportunities programs for Indian youths that involve Bureau funded schools (as defined in section 2019(3)[1] of title 25);

(3) shall reserve 10 percent of such amounts for such fiscal year to provide grants under section 6172(b) of this title to local partnerships located in high poverty areas, which reserved funds may be used in conjunction with funds available under the Youth Fair Chance Program set forth in part H of title IV of the Job Training Partnership Act (29 U.S.C. 1782 et seq.); and

(4)(A) shall reserve 2.5 percent of such amounts for such fiscal year to carry out section 6194 of this title; and

(B) shall reserve not more than an additional 5 percent of such amounts for such fiscal year to carry out other activities under subchapter IV of this chapter, and activities under sections 6144(d) and 6173(d) of this title.

(c) Availability of funds

Funds appropriated for any fiscal year for programs authorized under this chapter shall remain available until expended.

[1] See References in Text note below.

(Pub. L. 103–239, title VI, §605, May 4, 1994, 108 Stat. 605.)

REFERENCES IN TEXT

Section 2019(3) of title 25, referred to in subsec. (b)(2), was in the original a reference to section 1139(3) of the Education Amendments of 1978, meaning section 1139(3) of Pub. L. 95–561. Section 1139 of that Act was omitted in the general amendment of chapter 22 of Title 25, Indians, by Pub. L. 103–382, title III, §381, Oct. 20, 1994, 108 Stat. 3979. Pub. L. 103–382 enacted a new section 1139, relating to regulations, which does not contain pars., and which is classified to section 2019 of Title 25. For provisions relating to definitions, see section 2026 of Title 25.

The Job Training Partnership Act, referred to in subsec. (b)(3), is Pub. L. 97–300, Oct. 13, 1982, 96 Stat. 1322, as amended. Part H of title IV of the Act is classified generally to part H (§1782 et seq.) of subchapter IV of chapter 19 of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 1501 of Title 29 and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6122, 6142, 6144, 6161, 6172, 6173, 6196 of this title.

SUBCHAPTER VII—TECHNICAL PROVISIONS

§6251. Sunset

The authority provided by this chapter shall terminate on October 1, 2001.

(Pub. L. 103–239, title VIII, §802, May 4, 1994, 108 Stat. 608.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this Act'', meaning Pub. L. 103–239, May 4, 1994, 108 Stat. 568, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 6101 of this title and Tables.

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CODIFICATION

The Elementary and Secondary Education Act of 1965, comprising this chapter, was originally enacted as Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, and amended by Pub. L. 89–750, Nov. 3, 1966, 80 Stat. 1191; Pub. L. 90–247, Jan. 2, 1968, 81 Stat. 783; Pub. L. 90–576, title III, §307, Oct. 16, 1968, 82 Stat. 1097; Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 121; Pub. L. 92–318, June 23, 1972, 86 Stat. 235; Pub. L. 93–380, Aug. 21, 1974, 88 Stat. 484; Pub. L. 94–193, §1(c), Dec. 31, 1975, 89 Stat. 1102; Pub. L. 94–273, §§2(12), 3(8), 49(a)–(c), Apr. 21, 1976, 90 Stat. 375, 376, 382; Pub. L. 94–482, Oct. 12, 1976, 90 Stat. 2081; Pub. L. 95–112, Aug. 24, 1977, 91 Stat. 911, and was classified to sections 241a et seq., 242 et seq., 331 et seq., 821 et seq., and 1801 et seq. of this title. The Act was subsequently extensively revised and restated by Pub. L. 95–561, Nov. 1, 1978, 92 Stat. 2143, and amended by Pub. L. 96–46, Aug. 6, 1979, 93 Stat. 338; Pub. L. 96–88, Oct. 17, 1979, 93 Stat. 668; Pub. L. 96–374, Oct. 3, 1980, 94 Stat. 1367; Pub. L. 96–470, Oct. 19, 1980, 94 Stat. 2237; Pub. L. 97–35, Aug. 13, 1981, 95 Stat. 357; Pub. L. 98–211, Dec. 8, 1983, 97 Stat. 1412; Pub. L. 98–511, Oct. 19, 1984, 98 Stat. 2366; Pub. L. 98–524, Oct. 19, 1984, 98 Stat. 2435; Pub. L. 99–159, Nov. 22, 1985, 99 Stat. 887, and was classified to section 2701 et seq. of this title. The Act was subsequently extensively revised and restated by Pub. L. 100–297, Apr. 28, 1988, 102 Stat. 130, and amended by Pub. L. 100–569, Oct. 31, 1988, 102 Stat. 2862; Pub. L. 100–570, Oct. 31, 1988, 102 Stat. 2865; Pub. L. 100–690, Nov. 18, 1988, 102 Stat. 4181; Pub. L.

101–226, Dec. 12, 1989, 103 Stat. 1928; Pub. L. 101–250, Mar. 6, 1990, 104 Stat. 96; Pub. L. 101–476, Oct. 30, 1990, 104 Stat. 1103; Pub. L. 101–589, Nov. 16, 1990, 104 Stat. 2881; Pub. L. 101–600, Nov. 16, 1990, 104 Stat. 3042; Pub. L. 101–647, Nov. 29, 1990, 104 Stat. 4789; Pub. L. 102–62, June 27, 1991, 105 Stat. 305; Pub. L. 102–73, July 25, 1991, 105 Stat. 333; Pub. L. 102–103, Aug. 17, 1991, 105 Stat. 497; Pub. L. 102–325, July 23, 1992, 106 Stat. 448; Pub. L. 102–359, Aug. 26, 1992, 106 Stat. 962; Pub. L. 102–545, Oct. 27, 1992, 106 Stat. 3586; Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 125; Pub. L. 103–252, May 18, 1994, 108 Stat. 623, and was classified to section 2701 et seq. of this title. The Act is shown, herein, however, as having been added by Pub. L. 103–382 without reference to such intervening amendments because of the extensive amendments, renumbering, reorganization of subject matter, and expansion of the basic 1965 Act's provisions by Pub. L. 103–382.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 1228c, 1453, 5893, 6041, 6143 of this title; title 8 section 1613; title 29 section 1533; title 42 sections 2000d–5, 5667e–5, 9832.

SUBCHAPTER I—HELPING DISADVANTAGED CHILDREN MEET HIGH STANDARDS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1087ee, 1087ii, 1113, 1401, 1114, 1138c, 1413, 2321, 2323, 2325, 2341, 5861, 5891, 6212, 6671, 6702, 7264, 7472, 7545, 7546, 7575, 7814, 8621, 8622, 8651, 8801, 8821, 8824, 8941 of this title; title 8 section 1255a; title 10 sections 1151, 1598, 2410; title 25 sections 2503, 2504; title 29 sections 777b, 1643; title 42 sections 9855d, 11432, 11433, 12524.

§ 6301. Declaration of policy and statement of purpose

(a) Statement of policy

(1) In general

The Congress declares it to be the policy of the United States that a high-quality education for all individuals and a fair and equal opportunity to obtain that education are a societal good, are a moral imperative, and improve the life of every individual, because the quality of our individual lives ultimately depends on the quality of the lives of others.

(2) Additional policy

The Congress further declares it to be the policy of the United States to expand the program authorized by this subchapter over the fiscal years 1996 through 1999 by increasing funding for this subchapter by at least $750,000,000 over baseline each fiscal year and thereby increasing the percentage of eligible children served in each fiscal year with the intent of serving all eligible children by fiscal year 2004.

(b) Recognition of need

The Congress recognizes that—

(1) although the achievement gap between disadvantaged children and other children has been reduced by half over the past two decades, a sizable gap remains, and many segments of our society lack the opportunity to become well educated;

(2) the most urgent need for educational improvement is in schools with high concentrations of children from low-income families and achieving the National Education Goals will not be possible without substantial improvement in such schools;

(3) educational needs are particularly great for low-achieving children in our Nation's highest-poverty schools, children with limited English proficiency, children of migrant workers, children with disabilities, Indian children, children who are neglected or delinquent, and young children and their parents who are in need of family-literacy services;

(4) while this subchapter and other programs funded under this chapter contribute to narrowing the achievement gap between children in high-poverty and low-poverty schools, such programs need to become even more effective in improving schools in order to enable all children to achieve high standards; and

(5) in order for all students to master challenging standards in core academic subjects as described in the third National Education Goal described in section 5812(3) of this title, students and schools will need to maximize the time spent on teaching and learning the core academic subjects.

(c) What has been learned since 1988

To enable schools to provide all children a high-quality education, this subchapter builds upon the following learned information:

(1) All children can master challenging content and complex problem-solving skills. Research clearly shows that children, including low-achieving children, can succeed when expectations are high and all children are given the opportunity to learn challenging material.

(2) Conditions outside the classroom such as hunger, unsafe living conditions, homelessness, unemployment, violence, inadequate health care, child abuse, and drug and alcohol abuse can adversely affect children's academic achievement and must be addressed through the coordination of services, such as health and social services, in order for the Nation to meet the National Education Goals.

(3) Use of low-level tests that are not aligned with schools' curricula fails to provide adequate information about what children know and can do and encourages curricula and instruction that focus on the low-level skills measured by such tests.

(4) Resources are more effective when resources are used to ensure that children have full access to effective high-quality regular school programs and receive supplemental help through extended-time activities.

(5) Intensive and sustained professional development for teachers and other school staff, focused on teaching and learning and on helping children attain high standards, is too often not provided.

(6) Insufficient attention and resources are directed toward the effective use of technology in schools and the role technology can play in professional development and improved teaching and learning.

(7) All parents can contribute to their children's success by helping at home and becoming partners with teachers so that children can achieve high standards.

(8) Decentralized decisionmaking is a key ingredient of systemic reform. Schools need the resources, flexibility, and authority to design and implement effective strategies for bring-

ing their children to high levels of performance.

(9) Opportunities for students to achieve high standards can be enhanced through a variety of approaches such as public school choice and public charter schools.

(10) Attention to academics alone cannot ensure that all children will reach high standards. The health and other needs of children that affect learning are frequently unmet, particularly in high-poverty schools, thereby necessitating coordination of services to better meet children's needs.

(11) Resources provided under this subchapter can be better targeted on the highest-poverty local educational agencies and schools that have children most in need.

(12) Equitable and sufficient resources, particularly as such resources relate to the quality of the teaching force, have an integral relationship to high student achievement.

(d) Statement of purpose

The purpose of this subchapter is to enable schools to provide opportunities for children served to acquire the knowledge and skills contained in the challenging State content standards and to meet the challenging State performance standards developed for all children. This purpose shall be accomplished by—

(1) ensuring high standards for all children and aligning the efforts of States, local educational agencies, and schools to help children served under this subchapter to reach such standards;

(2) providing children an enriched and accelerated educational program, including, when appropriate, the use of the arts, through schoolwide programs or through additional services that increase the amount and quality of instructional time so that children served under this subchapter receive at least the classroom instruction that other children receive;

(3) promoting schoolwide reform and ensuring access of children (from the earliest grades) to effective instructional strategies and challenging academic content that includes intensive complex thinking and problem-solving experiences;

(4) significantly upgrading the quality of instruction by providing staff in participating schools with substantial opportunities for professional development;

(5) coordinating services under all parts of this subchapter with each other, with other educational services, and, to the extent feasible, with health and social service programs funded from other sources;

(6) affording parents meaningful opportunities to participate in the education of their children at home and at school;

(7) distributing resources, in amounts sufficient to make a difference, to areas and schools where needs are greatest;

(8) improving accountability, as well as teaching and learning, by using State assessment systems designed to measure how well children served under this subchapter are achieving challenging State student performance standards expected of all children; and

(9) providing greater decisionmaking authority and flexibility to schools and teachers in exchange for greater responsibility for student performance.

(Pub. L. 89–10, title I, § 1001, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519.)

EFFECTIVE DATE

Section 3(a)(1) of Pub. L. 103–382 provided that:

''(A) Title I [amending generally Pub. L. 89–10 (formerly chapter 47 of this title, now this chapter)] and the amendment made by title I of this Act shall take effect July 1, 1995, except that those provisions of title I that apply to programs under title VIII (Impact Aid) of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 7701 et seq.], as amended by this Act, and to programs under such Act [this chapter] that are conducted on a competitive basis, shall be effective with respect to appropriations for use under such programs for fiscal year 1995 and for subsequent fiscal years.

''(B) Title VIII of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 7701 et seq.], as amended by title I of this Act, shall take effect on the date of the enactment of this Act [Oct. 20, 1994].''

SHORT TITLE OF 1994 AMENDMENTS

Section 1 of Pub. L. 103–382 provided that: ''This Act [see Tables for classification] may be cited as the 'Improving America's Schools Act of 1994'.''

Pub. L. 103–227, title X, § 1031, Mar. 31, 1994, 108 Stat. 270, provided that: ''This part [part B (§§ 1031, 1032) of title X of Pub. L. 103–227, enacting section 3351 of this title and amending sections 3381 to 3384 and 3386 of this title] may be cited as the 'Gun-Free Schools Act of 1994'.''

SHORT TITLE OF 1992 AMENDMENT

Pub. L. 102–545, § 1, Oct. 27, 1992, 106 Stat. 3586, provided that: ''This Act [see Tables for classification] may be cited as the 'Ready to Learn Act'.''

SHORT TITLE OF 1991 AMENDMENT

Pub. L. 102–103, title I, § 101, Aug. 17, 1991, 105 Stat. 497, provided that: ''This title [see Tables for classification] may be cited as the 'National Dropout Prevention Act of 1991'.''

SHORT TITLE OF 1990 AMENDMENT

Pub. L. 101–600, § 1, Nov. 16, 1990, 104 Stat. 3042, provided that: ''This Act [see Tables for classification] may be cited as the 'School Dropout Prevention and Basic Skills Improvement Act of 1990'.''

SHORT TITLE OF 1989 AMENDMENT

Pub. L. 101–226, § 1, Dec. 12, 1989, 103 Stat. 1928, provided that: ''This Act [see Tables for classification] may be cited as the 'Drug-Free Schools and Communities Act Amendments of 1989'.''

SHORT TITLE OF 1988 AMENDMENTS

Pub. L. 100–569, title II, § 201, Oct. 31, 1988, 102 Stat. 2862, provided that: ''This title [see Tables for classification] may be cited as the 'National Geography Studies Centers Act'.''

Pub. L. 100–297, § 1(a), Apr. 28, 1988, 102 Stat. 130, provided that: ''This Act [see Tables for classification] may be cited as the 'Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988'.''

SHORT TITLE OF 1984 AMENDMENT

Pub. L. 98–511, § 1, Oct. 19, 1984, 98 Stat. 2366, provided that: ''This Act [see Tables for classification] may be cited as the 'Education Amendments of 1984'.''

Pub. L. 98–511, title IV, § 401(a), Oct. 19, 1984, 98 Stat. 2389, provided that: ''This title [see Tables for classification] may be cited as the 'Women's Educational Equity Amendments of 1984'.''

SHORT TITLE OF 1978 AMENDMENT

Pub. L. 95–561, §1, Nov. 1, 1978, 92 Stat. 2143, provided: ''That this Act [see Tables for classification] may be cited as the 'Education Amendments of 1978'.''

SHORT TITLE OF 1977 AMENDMENT

Pub. L. 95–112, §1, Sept. 24, 1977, 91 Stat. 911, provided: ''That this Act [see Tables for classification] may be cited as the 'Education Amendments of 1977'.''

SHORT TITLE OF 1974 AMENDMENT

Pub. L. 93–380, §1, Aug. 21, 1974, 88 Stat. 484, provided: ''That this Act [see Tables for classification] may be cited as the 'Education Amendments of 1974'.''

SHORT TITLE OF 1970 AMENDMENT

Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 121 [see Tables for classification], is popularly known as the ''Elementary and Secondary Education Amendments of 1970''.

SHORT TITLE OF 1968 AMENDMENT

Pub. L. 90–247, §1, Jan. 2, 1968, 81 Stat. 783, provided that: ''This Act [see Tables for classification] may be cited as the 'Elementary and Secondary Education Amendments of 1967'.''

SHORT TITLE OF 1966 AMENDMENT

Pub. L. 89–750, §1, Nov. 3, 1966, 80 Stat. 1191, provided: ''That this Act [see Tables for classification] may be cited as the 'Elementary and Secondary Education Amendments of 1966'.''

SHORT TITLE

Section 1 of Pub. L. 89–10, as added by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519, provided that: ''This Act [enacting this chapter] may be cited as the 'Elementary and Secondary Education Act of 1965'.''

TRANSITION PROVISIONS

Section 3(b) of Pub. L. 103–382 provided that: ''Notwithstanding any other provision of law, a recipient of funds under the Elementary and Secondary Education Act of 1965 [Pub. L. 89–10, formerly chapter 47 (§2701 et seq.) of this title, prior to general amendment by Pub. L. 103–382, §101], as such Act was in effect on the day preceding the date of enactment of this Act [Oct. 20, 1994], may use funds available to such recipient under such predecessor authority to carry out necessary and reasonable planning and transition activities in order to ensure a smooth implementation of programs authorized by this Act [see Tables for classification].''

BUDGET COMPLIANCE

Section 561 of Pub. L. 103–382 provided that: ''Any authority or requirement to make funds available under this Act [see Tables for classification] shall be effective only to the extent provided in appropriations Acts.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6491 of this title.

§ 6302. Authorization of appropriations

(a) Local educational agency grants

For the purpose of carrying out part A of this subchapter, other than section 6321(e) of this title, there are authorized to be appropriated $7,400,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

(b) Even Start

For the purpose of carrying out part B of this subchapter, there are authorized to be appropriated $118,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

(c) Education of migratory children

For the purpose of carrying out part C of this subchapter, there are authorized to be appropriated $310,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

(d) Prevention and intervention programs for youth who are neglected, delinquent, or at risk of dropping out

For the purpose of carrying out part D of this subchapter, there are authorized to be appropriated $40,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

(e) Capital expenses

For the purpose of carrying out section 6321(e) of this title, there are authorized to be appropriated $41,434,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

(f) Additional assistance for school improvement

For the purpose of providing additional needed assistance to carry out sections 6317 and 6318 of this title, there are authorized to be appropriated such sums as may be necessary for fiscal year 1996 and each of the three succeeding fiscal years.

(g) Federal activities

(1) Section 6491

For the purpose of carrying out section 6491 of this title, there are authorized to be appropriated $9,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

(2) Sections 6492 and 6493

For the purpose of carrying out sections 6492 and 6493 of this title, there are authorized to be appropriated $50,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

(Pub. L. 89–10, title I, §1002, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3522.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6303, 6318, 6319, 6321, 6331, 6332, 6333, 6362, 6492, 6493, 6513, 6649 of this title.

§ 6303. Reservation and allocation for school improvement

(a) Payment for school improvement

(1) In general

Except as provided in paragraph (3), each State may reserve for the proper and efficient performance of its duties under subsections (c)(5) and (d) of section 6317 of this title, and section 6318 of this title, one-half of 1 percent of the funds allocated to the State under subsections (a), (c), and (d),[1] of section 6302 of this title for fiscal year 1995 and each succeeding fiscal year.

(2) Minimum

The total amount that may be reserved by each State, other than the outlying areas,

[1] So in original. The comma probably should not appear.

under this subsection for any fiscal year, when added to amounts appropriated for such fiscal year under section 6302(f) of this title that are allocated to the State under subsection (b) of this section, if any, may not be less than $200,000. The total amount that may be reserved by each outlying area under this subsection for any fiscal year, when added to amounts appropriated for such fiscal year under section 6302(f) of this title that are allocated under subsection (b) of this section to the outlying area, if any, may not be less than $25,000.

(3) Special rule

If the amount reserved under paragraph (1) when added to the amount made available under section 6302(f) of this title for a State is less than $200,000 for any fiscal year, then such State may reserve such additional funds under subsections (a), (c), and (d) of section 6302 of this title as are necessary to make $200,000 available to such State.

(b) Additional State allocations for school improvement

From the amount appropriated under section 6302(f) of this title for any fiscal year, each State shall be eligible to receive an amount that bears the same ratio to the amount appropriated as the amount allocated to the State under this part (other than section 6321(e) of this title) bears to the total amount allocated to all States under this part (other than section 6321(e) of this title).

(Pub. L. 89–10, title I, § 1003, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3522.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6318 of this title.

PART A—IMPROVING BASIC PROGRAMS OPERATED BY LOCAL EDUCATIONAL AGENCIES

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 1111a, 1113, 1401, 6302, 6362, 6368, 6394, 6396, 6422, 6491, 6493, 6642, 6643, 6645, 6647, 6648, 6649, 6650, 6841, 6894, 6895, 6896, 6952, 6974, 7111, 7713, 8272, 8801, 8826, 8857 of this title; title 29 section 1645; title 31 section 6703; title 42 section 9855b.

SUBPART 1—BASIC PROGRAM REQUIREMENTS

§ 6311. State plans

(a) Plans required

(1) In general

Any State desiring to receive a grant under this part shall submit to the Secretary a plan, developed in consultation with local educational agencies, teachers, pupil services personnel, administrators, other staff, and parents, that satisfies the requirements of this section and that is coordinated with other programs under this chapter, the Goals 2000: Educate America Act [20 U.S.C. 5801 et seq.], and other Acts, as appropriate, consistent with section 8856 of this title.

(2) Consolidation plan

A State plan submitted under paragraph (1) may be submitted as part of a consolidation plan under section 8852 of this title.

(b) Standards and assessments

(1) Challenging standards

(A) Each State plan shall demonstrate that the State has developed or adopted challenging content standards and challenging student performance standards that will be used by the State, its local educational agencies, and its schools to carry out this part, except that a State shall not be required to submit such standards to the Secretary.

(B) If a State has State content standards or State student performance standards developed under title III of the Goals 2000: Educate America Act [20 U.S.C. 5881 et seq.] and an aligned set of assessments for all students developed under such title, or, if not developed under such title, adopted under another process, the State shall use such standards and assessments, modified, if necessary, to conform with the requirements of subparagraphs (A) and (D) of this paragraph, and paragraphs (2) and (3).

(C) If a State has not adopted State content standards and State student performance standards for all students, the State plan shall include a strategy and schedule for developing State content standards and State student performance standards for elementary and secondary school children served under this part in subjects as determined by the State, but including at least mathematics and reading or language arts by the end of the one-year period described in paragraph (6), which standards shall include the same knowledge, skills, and levels of performance expected of all children.

(D) Standards under this paragraph shall include—

(i) challenging content standards in academic subjects that—

(I) specify what children are expected to know and be able to do;

(II) contain coherent and rigorous content; and

(III) encourage the teaching of advanced skills;

(ii) challenging student performance standards that—

(I) are aligned with the State's content standards;

(II) describe two levels of high performance, proficient and advanced, that determine how well children are mastering the material in the State content standards; and

(III) describe a third level of performance, partially proficient, to provide complete information about the progress of the lower performing children toward achieving to the proficient and advanced levels of performance.

(E) For the subjects in which students will be served under this part, but for which a State is not required by subparagraphs (A), (B), and (C) to develop, and has not otherwise developed such standards, the State plan shall describe a strategy for ensuring that such students are taught the same knowledge and skills and held to the same expectations as are all children.

(2) Yearly progress

(A) Each State plan shall demonstrate, based on assessments described under paragraph (3), what constitutes adequate yearly progress of—

(i) any school served under this part toward enabling children to meet the State's student performance standards; and

(ii) any local educational agency that received funds under this part toward enabling children in schools receiving assistance under this part to meet the State's student performance standards.

(B) Adequate yearly progress shall be defined in a manner—

(i) that is consistent with guidelines established by the Secretary that result in continuous and substantial yearly improvement of each local educational agency and school sufficient to achieve the goal of all children served under this part meeting the State's proficient and advanced levels of performance, particularly economically disadvantaged and limited English proficient children; and

(ii) that links progress primarily to performance on the assessments carried out under this section while permitting progress to be established in part through the use of other measures.

(3) Assessments

Each State plan shall demonstrate that the State has developed or adopted a set of high-quality, yearly student assessments, including assessments in at least mathematics and reading or language arts, that will be used as the primary means of determining the yearly performance of each local educational agency and school served under this part in enabling all children served under this part to meet the State's student performance standards. Such assessments shall—

(A) be the same assessments used to measure the performance of all children, if the State measures the performance of all children;

(B) be aligned with the State's challenging content and student performance standards and provide coherent information about student attainment of such standards;

(C) be used for purposes for which such assessments are valid and reliable, and be consistent with relevant, nationally recognized professional and technical standards for such assessments;

(D) measure the proficiency of students in the academic subjects in which a State has adopted challenging content and student performance standards and be administered at some time during—

(i) grades 3 through 5;

(ii) grades 6 through 9; and

(iii) grades 10 through 12;

(E) involve multiple up-to-date measures of student performance, including measures that assess higher order thinking skills and understanding;

(F) provide for—

(i) the participation in such assessments of all students;

(ii) the reasonable adaptations and accommodations for students with diverse learning needs, necessary to measure the achievement of such students relative to State content standards; and

(iii) the inclusion of limited English proficient students who shall be assessed, to the extent practicable, in the language and form most likely to yield accurate and reliable information on what such students know and can do, to determine such students' mastery of skills in subjects other than English;

(G) include students who have attended schools in a local educational agency for a full academic year but have not attended a single school for a full academic year, however the performance of students who have attended more than one school in the local educational agency in any academic year shall be used only in determining the progress of the local educational agency;

(H) provide individual student interpretive and descriptive reports, which shall include scores, or other information on the attainment of student performance standards; and

(I) enable results to be disaggregated within each State, local educational agency, and school by gender, by each major racial and ethnic group, by English proficiency status, by migrant status, by students with disabilities as compared to nondisabled students, and by economically disadvantaged students as compared to students who are not economically disadvantaged.

(4) Special rule

Assessment measures that do not meet the requirements of paragraph (3)(C) may be included as one of the multiple measures, if a State includes in the State plan information regarding the State's efforts to validate such measures.

(5) Language assessments

Each State plan shall identify the languages other than English that are present in the participating student population and indicate the languages for which yearly student assessments are not available and are needed. The State shall make every effort to develop such assessments and may request assistance from the Secretary if linguistically accessible assessment measures are needed. Upon request, the Secretary shall assist with the identification of appropriate assessment measures in the needed languages through the Office of Bilingual Education and Minority Languages Affairs.

(6) Standard and assessment development

(A) A State that does not have challenging State content standards and challenging State student performance standards, in at least mathematics and reading or language arts, shall develop such standards within one year of receiving funds under this part after the first fiscal year for which such State receives such funds after October 20, 1994.

(B) A State that does not have assessments that meet the requirements of paragraph (3) in at least mathematics and reading or language

arts shall develop and test such assessments within four years (one year of which shall be used for field testing such assessment), of receiving funds under this part after the first fiscal year for which such State receives such funds after October 20, 1994, and shall develop benchmarks of progress toward the development of such assessments that meet the requirements of paragraph (3), including periodic updates.

(C) The Secretary may extend for one additional year the time for testing new assessments under subparagraph (B) upon the request of the State and the submission of a strategy to correct problems identified in the field testing of such new assessments.

(D) If, after the one-year period described in subparagraph (A), a State does not have challenging State content and challenging student performance standards in at least mathematics and reading or language arts, a State shall adopt a set of standards in these subjects such as the standards and assessments contained in other State plans the Secretary has approved.

(E) If, after the four-year period described in subparagraph (B), a State does not have assessments, in at least mathematics and reading or language arts, that meet the requirement of paragraph (3), and is denied an extension under subparagraph (C), a State shall adopt an assessment that meets the requirement of paragraph (3) such as one contained in other State plans the Secretary has approved.

(7) Transitional assessments

(A) If a State does not have assessments that meet the requirements of paragraph (3) and proposes to develop such assessments under paragraph (6)(B), the State may propose to use a transitional set of yearly statewide assessments that will assess the performance of complex skills and challenging subject matter.

(B) For any year in which a State uses transitional assessments, the State shall devise a procedure for identifying local educational agencies under paragraphs (3) and (7) of section 6317(d) of this title, and schools under paragraphs (1) and (7) of section 6317(c) of this title, that rely on accurate information about the academic progress of each such local educational agency and school.

(8) Requirement

Each State plan shall describe—

(A) how the State educational agency will help each local educational agency and school affected by the State plan develop the capacity to comply with each of the requirements of sections 6312(c)(1)(D), 6314(b), and 6315(c) of this title that is applicable to such agency or school; and

(B) such other factors the State deems appropriate to provide students an opportunity to achieve the knowledge and skills described in the challenging content standards adopted by the State.

(c) Other provisions to support teaching and learning

Each State plan shall contain assurances that—

(1)(A) the State educational agency will implement a system of school support teams under section 6318(c) of this title, including provision of necessary professional development for those teams;

(B) the State educational agency will work with other agencies, including educational service agencies or other local consortia, and institutions to provide technical assistance to local educational agencies and schools to carry out the State educational agency's responsibilities under this part, including technical assistance in providing professional development under section 6320 of this title and technical assistance under section 6318 of this title; and

(C)(i) where educational service agencies exist, the State educational agency will consider providing professional development and technical assistance through such agencies; and

(ii) where educational service agencies do not exist, the State educational agency will consider providing professional development and technical assistance through other cooperative agreements such as through a consortium of local educational agencies;

(2) the State educational agency will notify local educational agencies and the public of the standards and assessments developed under this section, and of the authority to operate schoolwide programs, and will fulfill the State educational agency's responsibilities regarding local educational agency improvement and school improvement under section 6317 of this title, including such corrective actions as are necessary;

(3) the State educational agency will provide the least restrictive and burdensome regulations for local educational agencies and individual schools participating in a program assisted under this part;

(4) the State educational agency will encourage the use of funds from other Federal, State, and local sources for schoolwide reform in schoolwide programs under section 6314 of this title;

(5) the Committee of Practitioners established under section 6513(b) of this title will be substantially involved in the development of the plan and will continue to be involved in monitoring the plan's implementation by the State; and

(6) the State will coordinate activities funded under this part with school-to-work, vocational education, cooperative education and mentoring programs, and apprenticeship programs involving business, labor, and industry, as appropriate.

(d) Peer review and secretarial approval

(1) In general

The Secretary shall—

(A) establish a peer review process to assist in the review and recommendations for revision of State plans;

(B) appoint individuals to the peer review process who are representative of State educational agencies, local educational agencies, teachers, and parents;

(C) following an initial peer review, approve a State plan the Secretary determines

meets the requirements of subsections (a), (b), and (c) of this section;

(D) if the Secretary determines that the State plan does not meet the requirements of subsection (a), (b), or (c) of this section, immediately notify the State of such determination and the reasons for such determination;

(E) not decline to approve a State's plan before—

(i) offering the State an opportunity to revise its plan;

(ii) providing technical assistance in order to assist the State to meet the requirements under subsections (a), (b), and (c) of this section; and

(iii) providing a hearing; and

(F) have the authority to disapprove a State plan for not meeting the requirements of this part, but shall not have the authority to require a State, as a condition of approval of the State plan, to include in, or delete from, such plan one or more specific elements of the State's content standards or to use specific assessment instruments or items.

(2) Withholding

The Secretary may withhold funds for State administration and activities under section 6318 of this title until the Secretary determines that the State plan meets the requirements of this section.

(e) Duration of plan

(1) In general

Each State plan shall—

(A) remain in effect for the duration of the State's participation under this part; and

(B) be periodically reviewed and revised by the State, as necessary, to reflect changes in the State's strategies and programs under this part.

(2) Additional information

If the State makes significant changes in its plan, such as the adoption of new State content standards and State student performance standards, new assessments, or a new definition of adequate progress, the State shall submit such information to the Secretary.

(f) Limitation on conditions

Nothing in this part shall be construed to authorize an officer or employee of the Federal Government to mandate, direct, or control a State, local educational agency, or school's specific instructional content or student performance standards and assessments, curriculum, or program of instruction, as a condition of eligibility to receive funds under this part.

(g) Special rule

If the aggregate State expenditure by a State educational agency for the operation of elementary and secondary education programs in the State is less than such agency's aggregate Federal expenditure for the State operation of all Federal elementary and secondary education programs, then the State plan shall include assurances and specific provisions that such State will provide State expenditures for the operation of elementary and secondary education programs equal to or exceeding the level of Federal expenditures for such operation by October 1, 1998.

(Pub. L. 89–10, title I, §1111, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3523; amended Pub. L. 104–134, title I, §101(d) [title VII, §703(b)(1)], Apr. 26, 1996, 110 Stat. 1321–211, 1321–254; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327.)

REFERENCES IN TEXT

The Goals 2000: Educate America Act, referred to in subsecs. (a)(1) and (b)(1)(B), is Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 125 (except titles V and IX), as amended, which is classified principally to chapter 68 (§5801 et seq.) of this title (except subchapters V (§5931 et seq.) and IX (§6001 et seq.)). Title III of the Act is classified generally to subchapter III (§5881 et seq.) of chapter 68 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables.

AMENDMENTS

1996—Subsec. (b)(8)(B). Pub. L. 104–134, §101(d) [title VII, §703(b)(1)(A)], struck out ''(which may include opportunity-to-learn standards or strategies developed under the Goals 2000: Educate America Act)'' after ''the State deems appropriate''.

Subsec. (f). Pub. L. 104–134, §101(d) [title VII, §703(b)(1)(B)], struck out ''opportunity-to-learn standards or strategies,'' before ''curriculum''.

Subsecs. (g), (h). Pub. L. 104–134, §101(d) [title VII, §703(b)(1)(C), (D)], redesignated subsec. (h) as (g) and struck out heading and text of former subsec. (g). Text read as follows: ''Nothing in this chapter shall be construed to require any State educational agency, local educational agency, or school, to implement opportunity-to-learn standards or strategies developed by such State under the Goals 2000: Educate America Act.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6312, 6314, 6316, 6317, 6318, 6319, 6434, 7421, 7426, 7476, 7814, 8857 of this title.

§ 6312. Local educational agency plans

(a) Plans required

(1) Subgrants

A local educational agency may receive a subgrant under this part for any fiscal year only if such agency has on file with the State educational agency a plan, approved by the State educational agency, that is coordinated with other programs under this chapter, the Goals 2000: Educate America Act [20 U.S.C. 5801 et seq.], and other Acts, as appropriate, as specified in section 8856 of this title.

(2) Consolidated application

The plan may be submitted as part of a consolidated application under section 8854 of this title.

(b) Plan provisions

Each local educational agency plan shall include—

(1) a description of additional high-quality student assessments, if any, other than the assessments described in the State plan under section 6311 of this title, that the local educational agency and schools served under this part will use to—

(A) determine the success of children served under this part in meeting the State's student performance standards and provide information to teachers, parents, and students on the progress being made toward meeting the State student performance standards described in section 6311(b)(1)(D)(ii) of this title;

(B) assist in diagnosis, teaching, and learning in the classroom in ways that best enable children served under this part to meet State standards and do well in the local curriculum; and

(C) determine what revisions are needed to projects under this part so that such children will meet the State's student performance standards;

(2) at the local educational agency's discretion, a description of any other indicators that will be used in addition to the assessments described in paragraph (1) for the uses described in such paragraph;

(3) a description of the strategy the local educational agency will use to provide professional development for teachers, and, where appropriate, pupil services personnel, administrators, parents and other staff, including local educational agency level staff in accordance with section 6320 of this title;

(4) a description of how the local educational agency will coordinate and integrate services provided under this part with other educational services at the local educational agency or individual school level, such as—

(A) Even Start, Head Start, and other preschool programs, including plans for the transition of participants in such programs to local elementary school programs, vocational education programs, and school-to-work transition programs; and

(B) services for children with limited English proficiency or with disabilities, migratory children served under part C of this subchapter or who were formerly eligible for services under part C of this subchapter in the two-year period preceding October 20, 1994, neglected or delinquent youth and youth at risk of dropping out served under part D of this subchapter, homeless children, and immigrant children in order to increase program effectiveness, eliminate duplication, and reduce fragmentation of the instructional program;

(5) a description of the poverty criteria that will be used to select school attendance areas under section 6313 of this title;

(6) a description of how teachers, in consultation with parents, administrators, and pupil services personnel, in targeted assistance schools under section 6315 of this title, will identify the eligible children most in need of services under this part;

(7) a general description of the nature of the programs to be conducted by such agency's schools under sections 6314 and 6315 of this title and, where appropriate, educational services outside such schools for children living in local institutions for neglected or delinquent children, for neglected and delinquent children in community day school programs, and for eligible homeless children;

(8) a description of how the local educational agency will ensure that migratory children and formerly migratory children who are eligible to receive services under this part are selected to receive such services on the same basis as other children who are selected to receive services under this part;

(9) where appropriate, a description of how the local educational agency will use funds under this part to support preschool programs for children, particularly children participating in a Head Start or Even Start program, which services may be provided directly by the local educational agency or through a subcontract with the local Head Start agency designated by the Secretary of Health and Human Services under section 9836 of title 42, agencies operating Even Start programs, or another comparable public early childhood development program.

(c) Assurances

(1) In general

Each local educational agency plan shall provide assurances that the local educational agency will—

(A) inform eligible schools and parents of schoolwide project authority;

(B) provide technical assistance and support to schoolwide programs;

(C) work in consultation with schools as the schools develop the schools' plans pursuant to section 6314 of this title and assist schools as the schools implement such plans or undertake activities pursuant to section 6315 of this title so that each school can make adequate yearly progress toward meeting the State content standards and State student performance standards;

(D) fulfill such agency's school improvement responsibilities under section 6317 of this title, including taking corrective actions under section 6317(c)(4)[1] of this title;

(E) coordinate and collaborate, to the extent feasible and necessary as determined by the local educational agency, with other agencies providing services to children, youth, and families, including health and social services;

(F) provide services to eligible children attending private elementary and secondary schools in accordance with section 6321 of this title, and timely and meaningful consultation with private school officials regarding such services;

(G) take into account the experience of model programs for the educationally disadvantaged, and the findings of relevant research indicating that services may be most effective if focused on students in the earliest grades at schools that receive funds under this part; and

(H) beginning in fiscal year 1997 and in the case that a local educational agency chooses to use funds under this part to provide early childhood development services to low-income children below the age of compulsory school attendance, ensure that such services comply with the performance standards es-

[1] So in original. Probably should be section ''6317(c)(5)''.

tablished under section 9836a(a) of title 42 or under section 9846 of title 42, as such section 9846 of title 42 was in effect on the day preceding May 18, 1994.

(2) Special rule

In carrying out subparagraph (H) of paragraph (1) the Secretary—

(A) in fiscal year 1995, shall consult with the Secretary of Health and Human Services on the implementation of such subparagraph and shall establish procedures (taking into consideration existing State and local laws, and local teacher contracts) to assist local educational agencies to comply with such subparagraph; and

(B) in fiscal year 1996, shall disseminate to local educational agencies the Head Start Performance Standards revised pursuant to section 9836a(a) of title 42, and such agencies effected[2] by such subparagraph shall plan for the implementation of such subparagraph (taking into consideration existing State and local laws, and local teacher contracts), including pursuing the availability of other Federal, State, and local funding sources to assist in compliance with such subparagraph.

(3) Inapplicability

The provisions of this subsection shall not apply to preschool programs using the Even Start model or to Even Start programs which are expanded through the use of funds under this part.

(d) Plan development and duration

Each local educational agency plan shall—

(1) be developed in consultation with teachers, including vocational teachers, and pupil services personnel, where appropriate, and parents of children in schools served under this part; and

(2)(A) remain in effect for the duration of the local educational agency's participation under this part; and

(B) periodically be reviewed and revised, as necessary, to reflect changes in the local educational agency's strategies and programs.

(e) State approval

(1) In general

Each local educational agency plan shall be filed according to a schedule established by the State educational agency, except that a local educational agency shall have not more than one year after October 20, 1994, to have such plan provisionally approved by the State educational agency and not more than two years after October 20, 1994, to have such plan finally approved by the State educational agency.

(2) Approval

The State educational agency shall approve a local educational agency's plan only if the State educational agency determines that the local educational agency's plan will enable schools served under this part to substantially help all children served under this part meet the standards expected of all children described in section 6311(b)(1) of this title.

(3) Review

The State educational agency shall review the local educational agency's plan to determine if such agency's professional development activities are in accordance with section 6320 of this title.

(f) Program responsibility

The local educational agency plan shall reflect the shared responsibility of schools, teachers, and the local educational agency in making decisions regarding activities under sections 6314 and 6315 of this title.

(Pub. L. 89–10, title I, §1112, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3529.)

REFERENCES IN TEXT

The Goals 2000: Educate America Act, referred to in subsec. (a)(1), is Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 125 (except titles V and IX), as amended, which is classified principally to chapter 68 (§5801 et seq.) of this title (except subchapters V (§5931 et seq.) and IX (§6001 et seq.)). For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables.

Section 9846 of title 42, referred to in subsec. (c)(1)(H), was in the original a reference to section 651 of the Head Start Act, which was amended and renumbered as section 650 by Pub. L. 103–252, title I, §118, May 18, 1994, 108 Stat. 648.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6311, 6313, 6314, 6317, 6319, 6320, 7814, 8857 of this title.

§6313. Eligible school attendance areas

(a) Determination

(1) In general

A local educational agency shall use funds received under this part only in eligible school attendance areas.

(2) Eligible school attendance areas

For the purposes of this part—

(A) the term ''school attendance area'' means, in relation to a particular school, the geographical area in which the children who are normally served by that school reside; and

(B) the term ''eligible school attendance area'' means a school attendance area in which the percentage of children from low-income families is at least as high as the percentage of children from low-income families in the local educational agency as a whole.

(3) Ranking order

If funds allocated in accordance with subsection (c) of this section are insufficient to serve all eligible school attendance areas, a local educational agency shall—

(A) annually rank, without regard to grade spans, such agency's eligible school attendance areas in which the concentration of children from low-income families exceeds 75 percent from highest to lowest according to the percentage of children from low-income families; and

(B) serve such eligible school attendance areas in rank order.

[2] So in original. Probably should be ''affected''.

(4) Remaining funds

If funds remain after serving all eligible school attendance areas under paragraph (3), a local educational agency shall—

(A) annually rank such agency's remaining eligible school attendance areas from highest to lowest either by grade span or for the entire local educational agency according to the percentage of children from low-income families; and

(B) serve such eligible school attendance areas in rank order either within each grade-span grouping or within the local educational agency as a whole.

(5) Measures

The local educational agency shall use the same measure of poverty, which measure shall be the number of children ages 5 through 17 in poverty counted in the most recent census data approved by the Secretary, the number of children eligible for free and reduced priced lunches under the National School Lunch Act [42 U.S.C. 1751 et seq.], the number of children in families receiving assistance under the State program funded under part A of title IV of the Social Security Act [42 U.S.C. 601 et seq.], or the number of children eligible to receive medical assistance under the Medicaid program, or a composite of such indicators, with respect to all school attendance areas in the local educational agency—

(A) to identify eligible school attendance areas;

(B) to determine the ranking of each area; and

(C) to determine allocations under subsection (c) of this section.

(6) Exception

This subsection shall not apply to a local educational agency with a total enrollment of less than 1,000 children.

(7) Waiver for desegregation plans

The Secretary may approve a local educational agency's written request for a waiver of the requirements of subsections (a) and (c) of this section, and permit such agency to treat as eligible, and serve, any school that children attend with a State-ordered or a court-ordered school desegregation plan or a plan that continues to be implemented in accordance with a State-ordered or court-ordered desegregation plan, if (A) the number of economically disadvantaged children enrolled in the school is at least 25 percent of the school's total enrollment; and (B) the Secretary determines on the basis of a written request from such agency and in accordance with such criteria as the Secretary establishes, that approval of that request would further the purposes of this part.

(b) Local educational agency discretion

(1) In general

Notwithstanding subsection (a)(2) of this section, a local educational agency may—

(A) designate as eligible any school attendance area or school in which at least 35 percent of the children are from low-income families;

(B) use funds received under this part in a school that is not in an eligible school attendance area, if the percentage of children from low-income families enrolled in the school is equal to or greater than the percentage of such children in a participating school attendance area of such agency; and

(C) elect not to serve an eligible school attendance area or eligible school that has a higher percentage of children from low-income families if—

(i) the school meets the comparability requirements of section 6322(c) of this title;

(ii) the school is receiving supplemental funds from other State or local sources that are spent according to the requirements of section 6314 or 6315 of this title; and

(iii) the funds expended from such other sources equal or exceed the amount that would be provided under this part.

(2) Special rule

Notwithstanding paragraph (1)(C), the number of children attending private elementary and secondary schools who are to receive services, and the assistance such children are to receive under this part, shall be determined without regard to whether the public school attendance area in which such children reside is assisted under paragraph (1).

(c) Allocations

(1) In general

A local educational agency shall allocate funds received under this part to eligible school attendance areas or eligible schools, identified under subsection (a) or (b) of this section, in rank order, on the basis of the total number of children from low-income families in each area or school.

(2) Special rule

(A) Except as provided in subparagraph (B), the per pupil amount of funds allocated to each school attendance area or school under paragraph (1) shall be at least 125 percent of the per pupil amount of funds a local educational agency received for that year under the poverty criteria described by the local educational agency in the plan submitted under section 6312 of this title, except that this paragraph shall not apply to a local educational agency that only serves schools in which the percentage of such children is 35 percent or greater.

(B) A local educational agency may reduce the amount of funds allocated under subparagraph (A) for a school attendance area or school by the amount of any supplemental State and local funds expended in that school attendance area or school for programs that meet the requirements of section 6314 or 6315 of this title.

(3) Reservation

A local educational agency shall reserve such funds as are necessary under this part to provide services comparable to those provided to children in schools funded under this part to serve—

(A) where appropriate, eligible homeless children who do not attend participating schools, including providing educationally related support services to children in shelters;

(B) children in local institutions for neglected or delinquent children; and

(C) where appropriate, neglected and delinquent children in community day school programs.

(Pub. L. 89–10, title I, §1113, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3532; amended Pub. L. 104–193, title I, §110(j)(1), Aug. 22, 1996, 110 Stat. 2172.)

REFERENCES IN TEXT

The National School Lunch Act, referred to in subsec. (a)(5), is act June 4, 1946, ch. 281, 60 Stat. 230, as amended, which is classified generally to chapter 13 (§1751 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1751 of Title 42 and Tables.

The Social Security Act, referred to in subsec. (a)(5), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Part A of title IV of the Act is classified generally to part A (§601 et seq.) of subchapter IV of chapter 7 of Title 42. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

AMENDMENTS

1996—Subsec. (a)(5). Pub. L. 104–193 substituted ''State program funded under part A of title IV of the Social Security Act'' for ''Aid to Families with Dependent Children program''.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–193 effective July 1, 1997, with transition rules relating to State options to accelerate such date, rules relating to claims, actions, and proceedings commenced before such date, rules relating to closing out of accounts for terminated or substantially modified programs and continuance in office of Assistant Secretary for Family Support, and provisions relating to termination of entitlement under AFDC program, see section 116 of Pub. L. 104–193, as amended, set out as an Effective Date note under section 601 of Title 42, The Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6312, 6315 of this title.

§ 6314. Schoolwide programs

(a) Use of funds for schoolwide programs

(1) In general

A local educational agency may use funds under this part, in combination with other Federal, State, and local funds, in order to upgrade the entire educational program in a school described in subparagraph (A) or (B) if, for the initial year of the schoolwide program, the school meets either of the following criteria:

(A) For the school year 1995–1996—

(i) the school serves an eligible school attendance area in which not less than 60 percent of the children are from low-income families; or

(ii) not less than 60 percent of the children enrolled in the school are from such families.

(B) For the school year 1996–1997 and subsequent years—

(i) the school serves an eligible school attendance area in which not less than 50 percent of the children are from low-income families; or

(ii) not less than 50 percent of the children enrolled in the school are from such families.

(2) State assurances

(A) A local educational agency may start new schoolwide programs under this section only after the State educational agency provides written information to each local educational agency in the State that demonstrates that such State agency has established the statewide system of support and improvement required by subsections (c)(1) and (e) of section 6318 of this title.

(B) A school that desires to initiate a schoolwide program under this section prior to the establishment of the statewide system of support and improvement required in subsections (c)(1) and (e) of section 6318 of this title shall demonstrate to the local educational agency that such school has received high quality technical assistance and support from other providers of assistance such as comprehensive technical assistance centers, regional laboratories, institutions of higher education, educational service agencies, or other local consortia.

(3) Identification

(A) No school participating in a schoolwide program shall be required to identify particular children under this part as eligible to participate in a schoolwide program or to provide supplemental services to such children.

(B) A school participating in a schoolwide program shall use funds available to carry out this section only to supplement the amount of funds that would, in the absence of funds under this part, be made available from non-Federal sources for the school, including funds needed to provide services that are required by law for children with disabilities and children with limited English proficiency.

(4) Special rule

(A) Except as provided in subsection (b) of this section, the Secretary may, through publication of a notice in the Federal Register, exempt schoolwide programs under this section from statutory or regulatory provisions of any other noncompetitive formula grant program administered by the Secretary, or any discretionary grant program administered by the Secretary (other than formula or discretionary grant programs under the Individuals with Disabilities Education Act [20 U.S.C. 1400 et seq.]), to support schoolwide programs, if the intent and purposes of such other programs are met.

(B) A school that chooses to use funds from such other programs shall not be relieved of the requirements relating to health, safety, civil rights, gender equity, student and parental participation and involvement, services to private school children, maintenance of effort, comparability of services, uses of Federal funds to supplement, not supplant non-Federal funds, or the distribution of funds to State or

local educational agencies that apply to the receipt of funds from such programs.

(5) Professional development

Each school receiving funds under this part for any fiscal year shall devote sufficient resources to effectively carry out the activities described in subsection (b)(1)(D) of this section in accordance with section 6320 of this title for such fiscal year, except that a school may enter into a consortium with another school to carry out such activities.

(b) Components of schoolwide program

(1) In general

A schoolwide program shall include the following components:

(A) A comprehensive needs assessment of the entire school that is based on information on the performance of children in relation to the State content standards and the State student performance standards described in section 6311(b)(1) of this title.

(B) Schoolwide reform strategies that—

(i) provide opportunities for all children to meet the State's proficient and advanced levels of student performance described in section 6311(b)(1)(D) of this title;

(ii) are based on effective means of improving the achievement of children;

(iii) use effective instructional strategies, which may include the integration of vocational and academic learning (including applied learning and team teaching strategies), that—

(I) increase the amount and quality of learning time, such as providing an extended school year and before- and after-school and summer programs and opportunities, and help provide an enriched and accelerated curriculum; and

(II) include strategies for meeting the educational needs of historically underserved populations, including girls and women;

(iv)(I) address the needs of all children in the school, but particularly the needs of children who are members of the target population of any program that is included in the schoolwide program, which may include—

(aa) counseling, pupil services, and mentoring services;

(bb) college and career awareness and preparation, such as college and career guidance, comprehensive career development, occupational information, enhancement of employability skills and occupational skills, personal finance education, job placement services, and innovative teaching methods which may include applied learning and team teaching strategies;

(cc) services to prepare students for the transition from school to work, including the formation of partnerships between elementary, middle, and secondary schools and local businesses, and the integration of school-based and work-based learning; and

(dd) incorporation of gender-equitable methods and practices; and

(II) address how the school will determine if such needs have been met; and

(vii)[1] are consistent with, and are designed to implement, the State and local improvement plans, if any, approved under title III of the Goals 2000: Educate America Act [20 U.S.C. 5881 et seq.].

(C) Instruction by highly qualified professional staff.

(D) In accordance with section 6320 of this title and subsection (a)(5) of this section, professional development for teachers and aides, and, where appropriate, pupil services personnel, parents, principals, and other staff to enable all children in the school to meet the State's student performance standards.

(E) Strategies to increase parental involvement, such as family literary services.

(F) Plans for assisting preschool children in the transition from early childhood programs, such as Head Start, Even Start, or a State-run preschool program, to local elementary school programs.

(G) Measures to include teachers in the decisions regarding the use of assessments described in section 6312(b)(1) of this title in order to provide information on, and to improve, the performance of individual students and the overall instructional program.

(H) Activities to ensure that students who experience difficulty mastering any of the standards required by section 6311(b) of this title during the course of the school year shall be provided with effective, timely additional assistance, which shall include—

(i) measures to ensure that students' difficulties are identified on a timely basis and to provide sufficient information on which to base effective assistance;

(ii) to the extent the school determines feasible using funds under this part, periodic training for teachers in how to identify such difficulties and to provide assistance to individual students; and

(iii) for any student who has not met such standards, teacher-parent conferences, at which time the teacher and parents shall discuss—

(I) what the school will do to help the student meet such standards;

(II) what the parents can do to help the student improve the student's performance; and

(III) additional assistance which may be available to the student at the school or elsewhere in the community.

(2) Plan

(A) Any eligible school that desires to operate a schoolwide program shall first develop (or amend a plan for such a program that was in existence before October 20, 1994), in consultation with the local educational agency and its school support team or other technical assistance provider under subsections (c)(1) and (e) of section 6318 of this title, a comprehensive plan for reforming the total instructional program in the school that—

[1] So in original. No cls. (v) and (vi) have been enacted.

(i) incorporates the components described in paragraph (1);

(ii) describes how the school will use resources under this part and from other sources to implement those components;

(iii) includes a list of State and local educational agency programs and other Federal programs under subsection (a)(4) of this section that will be included in the schoolwide program;

(iv) describes how the school will provide individual student assessment results, including an interpretation of those results, to the parents of a child who participates in the assessment required by section 6311(b)(3) of this title;

(v) provides for the collection of data on the achievement and assessment results of students disaggregated by gender, major ethnic or racial groups, limited English proficiency status, migrant students, and by children with disabilities as compared to other students, and by economically disadvantaged students as compared to students who are not economically disadvantaged;

(vi) seeks to produce statistically sound results for each category for which assessment results are disaggregated through the use of oversampling or other means; and

(vii) provides for the public reporting of disaggregated data only when such reporting is statistically sound.

(B) Plans developed before a State has adopted standards and a set of assessments that meet the criteria in paragraphs (1) and (3) of section 6311(b) of this title shall be based on an analysis of available data on the achievement of students in the school and effective instructional and school improvement practices.

(C) The comprehensive plan shall be—

(i) developed during a one-year period, unless—

(I) the local educational agency, after considering the recommendation of the technical assistance providers under subsections (c) and (e) of section 6318 of this title, determines that less time is needed to develop and implement the schoolwide program; or

(II) the school is operating a schoolwide program on the day preceding the date of enactment of the Improving America's Schools Act of 1994 [Oct. 20, 1994], in which case such school may continue to operate such program, but shall develop a new plan during the first year of assistance under such Act to reflect the provisions of this section;

(ii) developed with the involvement of the community to be served and individuals who will carry out such plan, including teachers, principals, other staff, and, where appropriate, pupil services personnel, and parents, and, if the plan relates to a secondary school, students from such school;

(iii) in effect for the duration of the school's participation under this part and reviewed and revised, as necessary, by the school;

(iv) available to the local educational agency, parents, and the public, and the information contained in such plan shall be translated, to the extent feasible, into any language that a significant percentage of the parents of participating children in the school speak as their primary language; and

(v) where appropriate, developed in coordination with programs under the School-to-Work Opportunities Act of 1994 [20 U.S.C. 6101 et seq.], the Carl D. Perkins Vocational and Applied Technology Education Act [20 U.S.C. 2301 et seq.], and the National and Community Service Act of 1990 [42 U.S.C. 12501 et seq.].

(c) Accountability

A schoolwide program under this section shall be subject to the school improvement provisions of section 6317 of this title.

(Pub. L. 89–10, title I, §1114, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3534.)

REFERENCES IN TEXT

The Individuals with Disabilities Education Act, referred to in subsec. (a)(4)(A), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, as amended, which is classified generally to chapter 33 (§1400 et seq.) of this title. For complete classification of this Act to the Code, see section 1400 of this title and Tables.

The Goals 2000: Educate America Act, referred to in subsec. (b)(1)(B)(vii), is Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 125 (except titles V and IX), as amended. Title III of the Act is classified generally to subchapter III (§5881 et seq.) of chapter 68 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables.

The Improving America's Schools Act of 1994, referred to in subsec. (b)(2)(C)(i)(II), is Pub. L. 103–382, Oct. 20, 1994, 108 Stat. 3518. For complete classification of this Act to the Code, see Short Title of 1994 Amendment note set out under section 6301 of this title and Tables.

The School-to-Work Opportunities Act of 1994, referred to in subsec. (b)(2)(C)(v), is Pub. L. 103–239, May 4, 1994, 108 Stat. 568, as amended, which is classified principally to chapter 69 (§6101 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6101 of this title and Tables.

The Carl D. Perkins Vocational and Applied Technology Education Act, referred to in subsec. (b)(2)(C)(v), is Pub. L. 88–210, Dec. 18, 1963, 77 Stat. 403, as amended, which is classified generally to chapter 44 (§2301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2301 of this title and Tables.

The National and Community Service Act of 1990, referred to in subsec. (b)(2)(C)(v), is Pub. L. 101–610, Nov. 16, 1990, 104 Stat. 3127, as amended, which is classified principally to chapter 129 (§12501 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 12501 of Title 42 and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1413, 6311, 6312, 6313, 6315, 6319, 6320, 6394, 6396, 6493, 6672, 7815, 8102, 8622, 8651, 8941 of this title; title 42 sections 3030g–12, 9855c.

§ 6315. Targeted assistance schools

(a) In general

In all schools selected to receive funds under section 6313(c) of this title that are ineligible for a schoolwide program under section 6314 of this

title, or that choose not to operate such a schoolwide program, a local educational agency may use funds received under this part only for programs that provide services to eligible children under subsection (b) of this section identified as having the greatest need for special assistance.

(b) Eligible children

(1) Eligible population

(A) The eligible population for services under this part is—

(i) children not older than age 21 who are entitled to a free public education through grade 12; and

(ii) children who are not yet at a grade level where the local educational agency provides a free public education, yet are of an age at which such children can benefit from an organized instructional program provided in a school or other educational setting.

(B) From the population described in subparagraph (A), eligible children are children identified by the school as failing, or most at risk of failing, to meet the State's challenging student performance standards on the basis of multiple, educationally related, objective criteria established by the local educational agency and supplemented by the school, except that children from preschool through grade two shall be selected solely on the basis of such criteria as teacher judgment, interviews with parents, and developmentally appropriate measures.

(2) Children included

(A)(i) Children who are economically disadvantaged, children with disabilities, migrant children or limited English proficient children, are eligible for services under this part on the same basis as other children selected to receive services under this part.

(ii) Funds received under this part may not be used to provide services that are otherwise required by law to be made available to such children but may be used to coordinate or supplement such services.

(B) A child who, at any time in the two years preceding the year for which the determination is made, participated in a Head Start or Even Start program, is eligible for services under this part.

(C)(i) A child who, at any time in the two years preceding the year for which the determination is made, received services under the program for youth who are neglected, delinquent, or at risk of dropping out under part D of this subchapter (or its predecessor authority) may be eligible for services under this part.

(ii) A child in a local institution for neglected or delinquent children or attending a community day program for such children may be eligible for services under this part.

(D) A child who is homeless and attending any school in the local educational agency may be eligible for services under this part.

(c) Components of targeted assistance school program

(1) In general

To assist targeted assistance schools and local educational agencies to meet their responsibility to provide for all their students served under this part the opportunity to meet the State's student performance standards in subjects as determined by the State, each targeted assistance program under this section shall—

(A) use such program's resources under this part to help participating children meet such State student performance standards expected for all children;

(B) be based on effective means for improving achievement of children;

(C) ensure that planning for students served under this part is incorporated into existing school planning;

(D) use effective instructional strategies that—

(i) give primary consideration to providing extended learning time such as an extended school year, before- and after-school, and summer, programs and opportunities;

(ii) help provide an accelerated, high-quality curriculum, including applied learning; and

(iii) minimize removing children from the regular classroom during regular school hours for instruction provided under this part;

(E) coordinate with and support the regular education program, which may include—

(i) counseling, mentoring, and other pupil services;

(ii) college and career awareness and preparation, such as college and career guidance, comprehensive career development, occupational information, enhancement of employability skills and occupational skills, personal finance education, job placement services, and innovative teaching methods which may include applied learning and team teaching strategies;

(iii) services to prepare students for the transition from school to work, including the formation of partnerships between elementary, middle, and secondary schools and local businesses, and the integration of school-based and work-based learning; and

(iv) services to assist preschool children in the transition from early childhood programs to elementary school programs;

(F) provide instruction by highly qualified staff;

(G) in accordance with subsection (e)(3) of this section and section 6320 of this title, provide opportunities for professional development with resources provided under this part, and from other sources to the extent feasible, for administrators and for teachers and other school staff who work with participating children in programs under this section or in the regular education program; and

(H) provide strategies to increase parental involvement, such as family literary services.

(2) Requirements

Each school conducting a program under this section shall assist participating children selected in accordance with subsection (b) of this section to meet the State's proficient and advanced levels of performance by—

(A) the coordination of resources provided under this part with other resources to enable the children served to meet the State content standards and State student performance standards; and

(B) reviewing, on an ongoing basis, the progress of participating children and revising the targeted assistance program, if necessary, to provide additional assistance to enable such children to meet the State's challenging student performance standards, such as an extended school year, before- and after-school, and summer, programs and opportunities, training for teachers regarding how to identify students that require additional assistance, and training for teachers regarding how to implement student performance standards in the classroom.

(d) Assignment of personnel

To promote the integration of staff supported with funds under this part and children served under this part into the regular school program and overall school planning and improvement efforts, public school personnel who are paid with funds received under this part may—

(1) assume limited duties that are assigned to similar personnel who are not so paid, including duties beyond classroom instruction or that do not benefit participating children, so long as the amount of time spent on such duties is the same proportion of total work time as prevails with respect to similar personnel at the same school;

(2) participate in general professional development and school planning activities; and

(3) collaboratively teach with regular classroom teachers, if such collaborative teaching directly benefits participating children.

(e) Special rules

(1) Simultaneous service

Nothing in this section shall be construed to prohibit a school from serving students served under this section simultaneously with students with similar educational needs, in the same educational settings where appropriate.

(2) Comprehensive services

If health, nutrition, and other social services are not otherwise available to eligible children in a targeted assistance school and such school, if appropriate, has engaged in a comprehensive needs assessment and established a collaborative partnership with local service providers, and if funds are not reasonably available from other public or private sources to provide services under this part, then a portion of the funds provided under this part may be used as a last resort to provide such services, including—

(A) the provision of basic medical equipment, such as eyeglasses and hearing aids;

(B) compensation of a coordinator; and

(C) professional development necessary to assist teachers, pupil services personnel, other staff, and parents in identifying and meeting the comprehensive needs of eligible children.

(3) Professional development

Each school receiving funds under this part for any fiscal year shall devote sufficient resources to effectively carry out the professional development activities described in subparagraph (G) of subsection (c)(1) of this section in accordance with section 6320 of this title, for such fiscal year, except that a school may enter into a consortium with another school to carry out such activities.

(Pub. L. 89–10, title I, §1115, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3539.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6311, 6312, 6313, 6321, 6394 of this title.

§ 6316. School choice

(a) Choice programs

A local educational agency may use funds under this part, in combination with State, local, and private funds, to develop and implement choice programs, for children eligible for assistance under this part, which permit parents to select the public school that their children will attend.

(b) Choice plan

A local educational agency that chooses to implement a school choice plan shall first develop a comprehensive plan that includes assurances that—

(1) all eligible students across grade levels will have equal access to the program;

(2) the program does not include schools which follow a racially discriminatory policy;

(3) describe how the school will use resources under this part and from other sources to implement the plan;

(4) describe how the school will provide individual student assessment results, including an interpretation of such results, to the parents of a child who participates in the assessment required by section 6311(b)(3) of this title;

(5) the plan will be developed with the involvement of the community to be served and individuals who will carry out the plan, including teachers, principals, and other staff, parents, and, if the plan relates to a secondary school, students from the school;

(6) the plan will be made available to parents and the public;

(7) the program will not include schools that do not receive funds under this part;

(8) the program will not use funds under this part to pay for transportation costs;

(9) both the sending and receiving schools agree to the student transfer; and

(10) such local educational agency will comply with the other requirements of this part.

(Pub. L. 89–10, title I, §1115A, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3542.)

§ 6317. Assessment and local educational agency and school improvement

(a) Local review

Each local educational agency receiving funds under this part shall—

(1) use the State assessments described in the State plan;

(2) use any additional measures or indicators described in the local educational agency's plan to review annually the progress of each school served under this part to determine whether the school is meeting, or making adequate progress as defined in section 6311(b)(2)(A)(i) of this title toward enabling its students to meet the State's student performance standards described in the State plan;

(3) publicize and disseminate to teachers and other staff, parents, students, and the community, the results of the annual review under paragraph (2) of all schools served under this part in individual school performance profiles that include statistically sound disaggregated results as required by section 6311(b)(3)(I) of this title; and

(4) provide the results of the local annual review to schools so that the schools can continually refine the program of instruction to help all children served under this part in those schools meet the State's student performance standards.

(b) Designation of distinguished schools

Each State educational agency and local educational agency receiving funds under this part shall designate distinguished schools in accordance with section 6318 of this title.

(c) School improvement

(1) In general

A local educational agency shall identify for school improvement any school served under this part that—

(A) has been in program improvement under section 1020 of the Elementary and Secondary Education Act of 1965 (as such section was in effect on the day preceding October 20, 1994), for at least two consecutive school years prior to such day;

(B) has not made adequate progress as defined in the State's plan under section 6311(b)(2)(A)(i) of this title for two consecutive school years, except that—

(i) this subparagraph shall not apply to a school if almost every student in such school is meeting the State's advanced level of performance; or

(ii) in the case of a targeted assistance school, such school may be reviewed on the progress of only those students that have been or are served under this part; or

(C) has failed to meet the criteria established by the State through the State's transitional procedure under section 6311(b)(7)(B) of this title for two consecutive years.

(2) Requirement

(A) Each school identified under paragraph (1) shall—

(i) in consultation with parents, the local educational agency, and the school support team, develop or revise a school plan in ways that have the greatest likelihood of improving the performance of participating children in meeting the State's student performance standards; and

(ii) submit the plan or revised plan to the local educational agency for approval.

(B) Before identifying a school for school improvement under paragraph (1), the local educational agency shall provide the school with an opportunity to review the school-level data, including assessment data, on which such identification is based. If the school believes that such identification for school improvement is in error for statistical or other substantive reasons, such school may provide evidence to the local educational agency to support such belief.

(C) During the first year immediately following such identification, the school shall implement such school's plan or revised plan.

(3) Professional development

(A) Each school identified under paragraph (1) shall, as part of the school plan under paragraph (2), improve the skills of its staff by providing effective professional development activities. A school shall demonstrate such school's compliance with this paragraph by—

(i) devoting to such activities, over two consecutive years, an amount equivalent to at least 10 percent of the funds received by the school under this part during one fiscal year; or

(ii) otherwise demonstrating that such school is effectively carrying out professional development activities.

(B) A school may use funds from any source to meet the requirements of this subsection.

(C) Decisions about how to use the funds made available under this part which the school makes available for professional development shall be made by teachers, principals, and other school staff in that school.

(4) Technical assistance

(A) For each school identified under paragraph (1), the local educational agency shall provide technical or other assistance as the school develops and implements such school's plan or revised plan, such as a joint plan between the local educational agency and school that addresses specific elements of student performance problems and that specifies school and local educational agency responsibilities under the plan, and waivers or modifications of requirements of local educational agency policy or regulation that impede the ability of the school to educate students.

(B) Such technical assistance may be provided directly by the local educational agency, through mechanisms authorized under section 6318 of this title, or with the local educational agency's approval, by an institution of higher education, a private nonprofit organization, an educational service agency, a comprehensive regional assistance center under part A of subchapter XIII of this chapter, or other entities with experience in helping schools improve achievement.

(5) Corrective action

(A) Except as provided in subparagraph (C), after providing technical assistance pursuant to paragraph (4) and taking other remediation measures, the local educational agency may take corrective action at any time against a school that has been identified under paragraph (1), but, during the third year following identification under paragraph (1), shall take such action against any school that still fails to make adequate progress.

(B)(i) Corrective actions are those, consistent with State and local law, determined and made public and disseminated by the local educational agency, which may include—

(I) withholding funds;

(II) interagency collaborative agreements between the school and other public agencies to provide health, counseling, and other social services needed to remove barriers to learning;

(III) revoking authority for a school to operate a schoolwide program;

(IV) decreasing decisionmaking authority at the school level;

(V) making alternative governance arrangements such as the creation of a public charter school;

(VI) reconstituting the school staff; and

(VII) authorizing students to transfer, including transportation costs, to other public schools served by the local educational agency.

(ii) Notwithstanding clause (i), corrective actions taken pursuant to this part shall not include the actions described in subclause (I), (III), (IV), (VI), or (VII) of clause (i) until the State has developed assessments that meet the requirements of subparagraph (C) of section 6311(b)(3) of this title.

(C) Prior to implementing any corrective action, the local educational agency may refrain from such corrective action for one additional year to the extent that the failure to make progress can be attributed to extenuating circumstances as determined by the local educational agency.

(D) A school that is no longer operating its schoolwide program due to a corrective action may not resume operation of such a program until the local educational agency determines that the school has adequately reformed its schoolwide program plan to enable the school to make adequate progress toward meeting the State's challenging student performance standards.

(6) State educational agency responsibilities

The State educational agency shall—

(A) make technical assistance under section 6318 of this title available to the schools farthest from meeting the State's challenging student performance standards, if requested by the school or local educational agency; and

(B) if such agency determines that a local educational agency failed to carry out the local educational agency's responsibilities under paragraphs (4) and (5), take such corrective actions as the State educational agency deems appropriate and which are in compliance with State law.

(7) Special rule

Schools that, for at least two of the three years following identification under paragraph (1), make adequate progress toward meeting the State's proficient and advanced levels of performance shall no longer need to be identified for school improvement.

(d) State review and local educational agency improvement

(1) In general

A State educational agency shall—

(A) annually review the progress of each local educational agency receiving funds under this part to determine whether schools receiving assistance under this part are making adequate progress as defined in section 6311(b)(2)(A)(ii) of this title toward meeting the State's student performance standards; and

(B) publicize and disseminate to local educational agencies, teachers and other staff, parents, students, and the community the results of the State review, including statistically sound disaggregated results, as required by section 6311(b)(3)(I) of this title.

(2) Rewards

In the case of a local educational agency that for three consecutive years has met or exceeded the State's definition of adequate progress as defined in section 6311(b)(2)(A)(ii) of this title, the State may make institutional and individual rewards of the kinds described for individual schools in paragraph (2) of section 6318(c) of this title.

(3) Identification

(A) A State educational agency shall identify for improvement any local educational agency that—

(i) for two consecutive years, is not making adequate progress as defined in section 6311(b)(2)(A)(ii) of this title in schools served under this part toward meeting the State's student performance standards, except that schools served by the local educational agency that are operating targeted assistance programs may be reviewed on the basis of the progress of only those students served under this part; or

(ii) has failed to meet the criteria established by the State through such State's transitional procedure under section 6311(b)(7)(B) of this title for two consecutive years.

(B) Before identifying a local educational agency for improvement under paragraph (1), the State educational agency shall provide the local educational agency with an opportunity to review the school-level data, including assessment data, on which such identification is based. If the local educational agency believes that such identification for improvement is in error due to statistical or other substantive reasons, such local educational agency may provide evidence to the State educational agency to support such belief.

(4) Local educational agency revisions

(A) Each local educational agency identified under paragraph (3) shall, in consultation with

schools, parents, and educational experts, revise its local educational agency plan under section 6312 of this title in ways that have the greatest likelihood of improving the performance of schools served by the local educational agency under this part in meeting the State's student performance standards.

(B) Such revision shall include determining why the local educational agency's plan failed to bring about increased achievement.

(5) State educational agency responsibility

(A) For each local educational agency identified under paragraph (3), the State educational agency shall—

(i) provide technical or other assistance, if requested, as authorized under section 6318 of this title, to better enable the local educational agency to—

(I) develop and implement the local educational agency's revised plan; and

(II) work with schools needing improvement; and

(ii) make available to the local educational agencies farthest from meeting the State's standards, if requested, assistance under section 6318 of this title.

(B) Technical or other assistance may be provided by the State educational agency directly, or by an institution of higher education, a private nonprofit organization, an educational service agency or other local consortium, a technical assistance center, or other entities with experience in assisting local educational agencies improve achievement, and may include—

(i) interagency collaborative agreements between the local educational agency and other public agencies to provide health, pupil services, and other social services needed to remove barriers to learning; and

(ii) waivers or modification of requirements of State law or regulation (in States in which such waivers are permitted) that impede the ability of a local educational agency to educate students.

(6) Corrective action

(A) Except as provided in subparagraph (C), after providing technical assistance pursuant to paragraph (5) and taking other remediation measures, the State educational agency may take corrective action at any time against a local educational agency that has been identified under paragraph (3), but, during the fourth year following identification under paragraph (3), shall take such action against any local educational agency that still fails to make adequate progress.

(B)(i) Corrective actions are those actions, consistent with State law, determined and made public and disseminated by the State educational agency, which may include—

(I) the withholding of funds;

(II) reconstitution of school district personnel;

(III) removal of particular schools from the jurisdiction of the local educational agency and establishment of alternative arrangements for public governance and supervision of such schools;

(IV) appointment by the State educational agency of a receiver or trustee to administer the affairs of the local educational agency in place of the superintendent and school board;

(V) the abolition or restructuring of the local educational agency;

(VI) the authorizing of students to transfer from a school operated by one local educational agency to a school operated by another local educational agency; and

(VII) a joint plan between the State and the local educational agency that addresses specific elements of student performance problems and that specifies State and local responsibilities under the plan.

(ii) Notwithstanding clause (i), corrective actions taken pursuant to this part shall not include the actions described in subclauses (I), (II), and (III) of clause (i) until the State has developed assessments that meet the requirements of paragraph (3)(C) of section 6311(b) of this title.

(C) Prior to implementing any corrective action, the State educational agency shall provide due process and a hearing (if State law provides for such due process and a hearing) to any local educational agency identified under paragraph (3) and may refrain from such corrective action for one year after the four-year period described in subparagraph (A) to the extent that the failure to make progress can be attributed to such extenuating circumstances as determined by the State educational agency.

(7) Special rule

Local educational agencies that for at least two of the three years following identification under paragraph (3) make adequate progress toward meeting the State's standards no longer need to be identified for local educational agency improvement.

(e) Construction

Nothing in this section shall be construed to alter or otherwise affect the rights, remedies, and procedures afforded school or school district employees under Federal, State, or local laws (including applicable regulations or court orders) or under the terms of collective bargaining agreements, memoranda of understanding, or other agreements between such employees and their employers.

(Pub. L. 89–10, title I, § 1116, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3542; amended Pub. L. 104–134, title I, § 101(d) [title VII, § 703(b)(2)], Apr. 26, 1996, 110 Stat. 1321–211, 1321–255; renumbered title I, Pub. L. 104–140, § 1(a), May 2, 1996, 110 Stat. 1327.)

REFERENCES IN TEXT

Section 1020 of the Elementary and Secondary Education Act of 1965 (as such section was in effect on the day preceding October 20, 1994), referred to in subsec. (c)(1)(A), means section 1020 of Pub. L. 89–10, as added by Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 164, which was classified to section 2730 of this title prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519.

AMENDMENTS

1996—Subsec. (c)(2)(A)(i). Pub. L. 104–134, § 101(d) [title VII, § 703(b)(2)(A)(i)], struck out ‘‘, which may include

reviewing the schools' plan in the context of the opportunity-to-learn standards or strategies developed by such State under the Goals 2000: Educate America Act'' after ''student performance standards''.

Subsec. (c)(5)(B)(i)(VI) to (VIII). Pub. L. 104–134, §101(d) [title VII, §703(b)(2)(A)(ii)], inserted ''and'' at end of subcl. (VI), substituted period for ''; and'' at end of subcl. (VII), and struck out subcl. (VIII) which read as follows: ''implementing opportunity-to-learn standards or strategies developed by such State under the Goals 2000: Educate America Act.''

Subsec. (d)(4)(B). Pub. L. 104–134, §101(d) [title VII, §703(b)(2)(B)(i)], struck out '', and may include reviewing the local educational agency's plan in the context of the opportunity-to-learn standards or strategies developed by such State under the Goals 2000: Educate America Act'' after ''achievement''.

Subsec. (d)(6)(B)(i)(IV) to (VIII). Pub. L. 104–134, §101(d) [title VII, §703(b)(2)(B)(ii)], redesignated subcls. (V) to (VIII) as (IV) to (VII), respectively, and struck out former subcl. (IV) which read as follows: ''implementation of the opportunity-to-learn standards or strategies developed by such State under the Goals 2000: Educate America Act;''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6302, 6303, 6311, 6312, 6314, 6318, 6319, 6320, 7351 of this title.

§ 6318. State assistance for school support and improvement

(a) System for support

(1) State support

Each State educational agency shall establish a statewide system of intensive and sustained support and improvement for schools receiving funds under this part, including schoolwide programs and schools in need of program improvement, in order to increase the opportunity for all students in such schools to meet the State's content standards and student performance standards.

(2) Meeting requirements

Funds reserved under section 6303(a) of this title or appropriated under section 6302(f) of this title shall be used to meet the requirements of this section. In addition to such funds a State educational agency may use State administrative funds reserved under section 6513(c) of this title to meet such requirements.

(b) Regional centers

Such a statewide system shall work with and receive support and assistance from the comprehensive regional technical assistance centers under part A of subchapter XIII of this chapter and the educational regional laboratories under section 6041(h) of this title.

(c) Provisions

The system shall include at a minimum, the following:

(1) School support teams

(A) Each State educational agency, in consultation with local educational agencies and schools, shall establish a system of school support teams to provide information and assistance to schoolwide programs and to assist such programs in providing an opportunity to all students to meet the State's student performance standards.

(B) If funds are sufficient, school support teams shall provide information and assistance to—

(i) schools—

(I) in which the number of students in poverty is equal to or greater than 75 percent of the total number of students enrolled in such school; and

(II) identified as in need of improvement under section 6317(c)(1) of this title; and

(ii) other schools in need of improvement.

(C) Each such team shall be composed of persons, including teachers, pupil services personnel, representatives of organizations knowledgeable about successful schoolwide projects or comprehensive school reform (especially distinguished educators described in paragraph (3)), and other persons who are knowledgeable about research and practice on teaching and learning, particularly about strategies for improving the educational opportunities for low-achieving students (including alternative and applied learning), such as representatives of institutions of higher education, regional educational laboratories or research centers, and outside consultant groups.

(D) A school support team shall work cooperatively with each school and make recommendations as the school develops the school's schoolwide program plan or school improvement plan, review each plan, and make recommendations to the school and the local educational agency.

(E) During the operation of the schoolwide program or during school improvement activities, a school support team shall—

(i) periodically review the progress of the school in enabling children in the school to meet the State's student performance standards under this part;

(ii) identify problems in the design and operation of the instructional program; and

(iii) make recommendations for improvement to the school and the local educational agency.

(2) Distinguished schools

(A) Each State shall designate as a distinguished school any school served under this part which, for three consecutive years, has exceeded the State's definition of adequate progress as defined in section 6311(b)(2)(A)(i) of this title, and, any school in which—

(i) virtually all students have met the State's advanced level of student performance; and

(ii) equity in participation and achievement of students by sex has been achieved or significantly improved.

(B) Schools designated under this paragraph may serve as models and provide support to other schools, especially schoolwide programs and schools in school improvement, to assist such schools in meeting the State's student performance standards.

(C) States shall use funds reserved under section 6303(a) of this title and funds made available under section 6302(f) of this title to allow schools identified under this paragraph to

carry out the activities described in subparagraph (B) and may use such funds to provide awards to such schools to further such school's education programs under this part, provide additional incentives for continued success, and reward individuals or groups in the school for exemplary performance.

(D) A local educational agency may also recognize the success of a distinguished school by providing additional institutional and individual rewards, such as greater decisionmaking authority at the school building level, increased access to resources or supplemental services such as summer programs that may be used to sustain or increase success, additional professional development opportunities, opportunities to participate in special projects, and individual financial bonuses.

(3) Distinguished educators

(A) In order to provide assistance to schools and local educational agencies identified as needing improvement and schools participating in schoolwide programs, each State, in consultation with local educational agencies and using funds reserved under section 6303(a) of this title and made available under section 6302(f) of this title, shall establish a corps of distinguished educators.

(B) When possible, distinguished educators shall be chosen from schools served under this part that have been especially successful in enabling children to meet or make outstanding progress toward meeting the State's student performance standards, such as the schools described in paragraph (2).

(C) Distinguished educators shall provide, as part of the statewide system, intensive and sustained assistance to the schools and local educational agencies farthest from meeting the State's student performance standards and to schoolwide programs as such programs develop and implement their plans, including participation in the support teams described in paragraph (1).

(d) Implementation

In order to implement this section funds reserved under section 6303(a) of this title and funds made available under section 6302(f) of this title may be used by a State for release time for teachers and administrators, travel, training, and other related costs.

(e) Alternatives

The State may devise additional approaches to providing the assistance described in paragraphs (1) and (3) of subsection (c) of this section, such as providing assistance through institutions of higher education and educational service agencies or other local consortia, and the State may seek approval from the Secretary to use funds reserved under section 6303 of this title and funds made available under section 6302(f) of this title for such approaches as part of the State plan.

(Pub. L. 89–10, title I, §1117, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3548.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6302, 6303, 6311, 6314, 6317, 7351 of this title.

§ 6319. Parental involvement

(a) Local educational agency policy

(1) In general

A local educational agency may receive funds under this part only if such agency implements programs, activities, and procedures for the involvement of parents in programs assisted under this part consistent with the provisions of this section. Such activities shall be planned and implemented with meaningful consultation with parents of participating children.

(2) Written policy

Each local educational agency that receives funds under this part shall develop jointly with, agree upon with, and distribute to, parents of participating children a written parent involvement policy that is incorporated into the local educational agency's plan developed under section 6312 of this title, establishes the expectations for parent involvement, and describes how the local educational agency will—

(A) involve parents in the joint development of the plan under section 6312 of this title, and the process of school review and improvement under section 6317 of this title;

(B) provide the coordination, technical assistance, and other support necessary to assist participating schools in planning and implementing effective parent involvement;

(C) build the schools' and parents' capacity for strong parent involvement as described in subsection (e) of this section;

(D) coordinate and integrate parental involvement strategies under this part with parental involvement strategies under other programs, such as Head Start, Even Start, the Parents as Teachers Program, the Home Instruction Program for Preschool Youngsters, and State-run preschool programs;

(E) conduct, with the involvement of parents, an annual evaluation of the content and effectiveness of the parental involvement policy developed under this section—

(i) to determine the effectiveness of the policy in increasing the participation of parents; and

(ii) to identify barriers to greater participation by parents in activities authorized by this section, giving particular attention to parents who are economically disadvantaged, are disabled, have limited English proficiency, have limited literacy, or are of any racial or ethnic minority background; and

(F) use the findings of the evaluations described in subparagraph (E) in designing strategies for school improvement and revising, if necessary, the parental involvement policies described in this subsection and subsection (b)(1) of this section.

(3) Reservation

(A) Each local educational agency shall reserve not less than 1 percent of such agency's allocation under this part to carry out this section, including family literacy and parenting skills, except that this paragraph shall not

apply if 1 percent of such agency's allocation under this part (other than funds allocated under section 6302(e) of this title) for the fiscal year for which the determination is made is $5,000 or less.

(B) Parents of children receiving services under this part shall be involved in the decisions regarding how funds reserved under subparagraph (A) are allotted for parental involvement activities.

(b) School parental involvement policy

(1) In general

Each school served under this part shall jointly develop with, and distribute to, parents of participating children a written parental involvement policy, agreed upon by such parents, that shall describe the means for carrying out the requirements of subsections (c) through (f) of this section. Such policy shall be updated periodically to meet the changing needs of parents and the school.

(2) Special rule

If the school has a parental involvement policy that applies to all parents, such school may amend that policy, if necessary, to meet the requirements of this subsection.

(3) Amendment

If the local educational agency has a school district-level parental involvement policy that applies to all parents, such agency may amend that policy, if necessary, to meet the requirements of this subsection.

(4) Parental comments

If the plan under section 6312 of this title is not satisfactory to the parents of participating children, the local educational agency shall submit any parent comments with such plan when such local educational agency submits the plan to the State.

(c) Policy involvement

Each school served under this part shall—

(1) convene an annual meeting, at a convenient time, to which all parents of participating children shall be invited and encouraged to attend, to inform parents of their school's participation under this part and to explain this part, its requirements, and their right to be involved;

(2) offer a flexible number of meetings, such as meetings in the morning or evening, and may provide, with funds provided under this part, transportation, child care, or home visits, as such services relate to parental involvement;

(3) involve parents, in an organized, ongoing, and timely way, in the planning, review, and improvement of programs under this part, including the school parental involvement policy and the joint development of the schoolwide program plan under section 6314(b) of this title, except that if a school has in place a process for involving parents in the joint planning and design of its programs, the school may use that process, if such process includes an adequate representation of parents of participating children;

(4) provide parents of participating children—

(A) timely information about programs under this part;

(B) school performance profiles required under section 6317(a)(3) of this title and their child's individual student assessment results, including an interpretation of such results, as required under section 6311(b)(3)(H) of this title;

(C) a description and explanation of the curriculum in use at the school, the forms of assessment used to measure student progress, and the proficiency levels students are expected to meet;

(D) opportunities for regular meetings to formulate suggestions, share experiences with other parents, and participate as appropriate in decisions relating to the education of their children if such parents so desire; and

(E) timely responses to parents' suggestions under subparagraph (D); and

(5) if the schoolwide program plan under section 6314(b)(2) of this title is not satisfactory to the parents of participating children, submit any parent comments on the plan when the school makes the plan available to the local educational agency.

(d) Shared responsibilities for high student performance

As a component of the school-level parental involvement policy developed under subsection (b) of this section, each school served under this part shall jointly develop with parents for all children served under this part a school-parent compact that outlines how parents, the entire school staff, and students will share the responsibility for improved student achievement and the means by which the school and parents will build and develop a partnership to help children achieve the State's high standards. Such compact shall—

(1) describe the school's responsibility to provide high-quality curriculum and instruction in a supportive and effective learning environment that enables the children served under this part to meet the State's student performance standards, and the ways in which each parent will be responsible for supporting their children's learning, such as monitoring attendance, homework completion, and television watching; volunteering in their child's classroom; and participating, as appropriate, in decisions relating to the education of their children and positive use of extracurricular time; and

(2) address the importance of communication between teachers and parents on an ongoing basis through, at a minimum—

(A) parent-teacher conferences in elementary schools, at least annually, during which the compact shall be discussed as the compact relates to the individual child's achievement;

(B) frequent reports to parents on their children's progress; and

(C) reasonable access to staff, opportunities to volunteer and participate in their child's class, and observation of classroom activities.

(e) Building capacity for involvement

To ensure effective involvement of parents and to support a partnership among the school, parents, and the community to improve student achievement, each school and local educational agency—

(1) shall provide assistance to participating parents in such areas as understanding the National Education Goals, the State's content standards and State student performance standards, the provisions of section 6311(b)(8) of this title, State and local assessments, the requirements of this part, and how to monitor a child's progress and work with educators to improve the performance of their children as well as information on how parents can participate in decisions relating to the education of their children;

(2) shall provide materials and training, such as—

(A) coordinating necessary literacy training from other sources to help parents work with their children to improve their children's achievement; and

(B) training to help parents to work with their children to improve their children's achievement;

(3) shall educate teachers, pupil services personnel, principals and other staff, with the assistance of parents, in the value and utility of contributions of parents, and in how to reach out to, communicate with, and work with parents as equal partners, implement and coordinate parent programs, and build ties between home and school;

(4) shall coordinate and integrate parent involvement programs and activities with Head Start, Even Start, the Home Instruction Programs for Preschool Youngsters, the Parents as Teachers Program, and public preschool programs and other programs, to the extent feasible and appropriate;

(5) shall develop appropriate roles for community-based organizations and businesses in parent involvement activities, including providing information about opportunities for organizations and businesses to work with parents and schools, and encouraging the formation of partnerships between elementary, middle, and secondary schools and local businesses that include a role for parents;

(6) shall conduct other activities, as appropriate and feasible, such as parent resource centers and providing opportunities for parents to learn about child development and child rearing issues beginning at the birth of a child, that are designed to help parents become full partners in the education of their children;

(7) shall ensure, to the extent possible, that information related to school and parent programs, meetings, and other activities is sent to the homes of participating children in the language used in such homes;

(8) may involve parents in the development of training for teachers, principals, and other educators to improve the effectiveness of such training in improving instruction and services to the children of such parents;

(9) may provide necessary literacy training from funds received under this part if the local educational agency has exhausted all other reasonably available sources of funding for such activities;

(10) may pay reasonable and necessary expenses associated with local parental involvement activities, including transportation and child care costs, to enable parents to participate in school-related meetings and training sessions;

(11) may train and support parents to enhance the involvement of other parents;

(12) may arrange meetings at a variety of times, such as in the mornings and evenings, in order to maximize the opportunities for parents to participate in school related activities;

(13) may arrange for teachers or other educators, who work directly with participating children, to conduct in-home conferences with parents who are unable to attend such conferences at school;

(14) may adopt and implement model approaches to improving parental involvement, such as Even Start; and

(15) shall provide such other reasonable support for parental involvement activities under this section as parents may request.

(f) Accessibility

In carrying out the parental involvement requirements of this part, local educational agencies and schools, to the extent practicable, shall provide full opportunities for the participation of parents with limited English proficiency or with disabilities, including providing information and school profiles in a language and form such parents understand.

(g) Parental information and resource centers

In States where parental information and resource centers have been established pursuant to section 5911 of this title (to provide training, information, and support to parents and individuals who work with parents), local educational agencies and schools receiving assistance under this part shall assist parents and parent organizations by informing such parents and organizations of the existence and purpose of such centers, providing such parents and organizations with a description of the services and programs provided by such centers, advising parents on how to use such centers, and helping parents to contact such centers.

(Pub. L. 89–10, title I, § 1118, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3550.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6394 of this title.

§ 6320. Professional development

(a) Program requirements

(1) In general

Each local educational agency receiving assistance under this part shall provide high-quality professional development that will improve the teaching of the academic subjects, consistent with the State content standards, in order to enable all children to meet the State's student performance standards.

(2) Program design

Such professional development activities shall be designed by principals, teachers, and

other school staff in schools receiving assistance under this part.

(b) Professional development activities

(1) Required activities

Such professional development activities shall—

(A) support instructional practices that are geared to challenging State content standards and create a school environment conducive to high achievement in the academic subjects;

(B) support local educational agency plans under section 6312 of this title and school plans under section 6314 of this title;

(C) draw on resources available under this part, title III of the Goals 2000: Educate America Act [20 U.S.C. 5881 et seq.], subchapter II of this chapter, and from other sources;

(D) where appropriate, as determined by the local educational agency, include strategies for developing curricula and teaching methods that integrate academic and vocational instruction (including applied learning and team teaching strategies); and

(E) include strategies for identifying and eliminating gender and racial bias in instructional materials, methods, and practices.

(2) Optional activities

Such professional development activities may include—

(A) instruction in the use of assessments;

(B) instruction in ways that teachers, principals, pupil services personnel, and school administrators may work more effectively with parents;

(C) the forming of partnerships with institutions of higher education to establish school-based teacher training programs that provide prospective teachers and novice teachers with an opportunity to work under the guidance of experienced teachers and college faculty;

(D) instruction in the use of technology;

(E) the creation of career ladder programs for paraprofessionals (assisting teachers under this part) to obtain the education necessary for such paraprofessionals to become licensed and certified teachers;

(F) instruction in ways to teach special needs children;

(G) instruction in gender-equitable education methods, techniques, and practices;

(H) joint professional development activities involving programs under this part, Head Start, Even Start, or State-run preschool program personnel; and

(I) instruction in experiential-based teaching methods such as service learning.

(c) Program participation

Each local educational agency receiving assistance under this part is encouraged to design professional development programs so that—

(1) all school staff in schools participating in a schoolwide program under section 6314 of this title can participate in professional development activities; and

(2) all school staff in targeted assistance schools may participate in professional development activities if such participation will result in better addressing the needs of students served under this part.

(d) Parental participation

Parents may participate in professional development activities under this part if the school determines that parental participation is appropriate.

(e) Consortia

In carrying out such professional development programs, local educational agencies may provide services through consortia arrangements with other local educational agencies, educational service agencies or other local consortia, institutions of higher education, or other public or private institutions or organizations.

(f) Effective teaching strategies

Knowledge of effective teaching strategies that is gained through professional development activities under this section may be shared with teachers who are not participating in targeted assistance programs under this part.

(g) Combinations of funds

Funds provided under this part that are used for professional development purposes may be combined with funds provided under subchapter II of this chapter, title III of the Goals 2000: Educate America Act [20 U.S.C. 5881 et seq.], and other sources.

(h) State review

(1) In general

The State educational agency shall review the local educational agency's plan under section 6312(b) of this title to determine if such agency's professional development activities—

(A) are tied to challenging State student content and student performance standards;

(B) reflect research on teaching and learning where possible;

(C) are designed to have a positive impact on the teacher's performance in the classroom;

(D) contribute to continuous improvement in the classroom or throughout the school;

(E) include methods to teach children with special needs;

(F) are developed with the extensive participation of teachers; and

(G) include gender-equitable education methods, techniques, and practices.

(2) Technical assistance

If a local educational agency's plan for professional development does not include the activities described in paragraph (1), the State educational agency shall provide technical assistance to such local educational agencies to enable such agencies to make progress toward inclusion of such activities in the local educational agency's professional development activities.

(3) Special rule

No State educational agency shall require a school or a local educational agency to expend a specific amount of funds for professional development activities under this part, except that this paragraph shall not apply with re-

spect to requirements under section 6317(d)(6) of this title.

(i) Instructional aides

(1) In general

If a local educational agency uses funds received under this part to employ instructional aides, the local educational agency shall ensure that such aides—

(A) possess the knowledge and skills sufficient to assist participating children in meeting the educational goals of this part;

(B) have a secondary school diploma, or its recognized equivalent, or earn either within two years of employment, except that a local educational agency may employ an instructional aide that does not meet the requirement of this subparagraph if such aide possesses proficiency in a language other than English that is needed to enhance the participation of children in programs under this part; and

(C) are under the direct supervision of a teacher who has primary responsibility for providing instructional services to eligible children.

(2) Inclusion in activities

Each local educational agency receiving funds under this part, when feasible, shall include instructional aides in professional development activities.

(Pub. L. 89–10, title I, § 1119, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3555.)

REFERENCES IN TEXT

The Goals 2000: Educate America Act, referred to in subsecs. (b)(1)(C) and (g), is Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 125 (except titles V and IX), as amended. Title III of the Act is classified generally to subchapter III (§ 5881 et seq.) of chapter 68 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6311, 6312, 6314, 6315 of this title.

§ 6321. Participation of children enrolled in private schools

(a) General requirement

(1) In general

To the extent consistent with the number of eligible children identified under section 6315(b) of this title in a local educational agency who are enrolled in private elementary and secondary schools, a local educational agency shall, after timely and meaningful consultation with appropriate private school officials, provide such children, on an equitable basis, special educational services or other benefits under this part (such as dual enrollment, educational radio and television, computer equipment and materials, other technology, and mobile educational services and equipment).

(2) Secular, neutral, nonideological

Such educational services or other benefits, including materials and equipment, shall be secular, neutral, and nonideological.

(3) Equity

Educational services and other benefits for such private school children shall be equitable in comparison to services and other benefits for public school children participating under this part.

(4) Expenditures

Expenditures for educational services and other benefits to eligible private school children shall be equal to the proportion of funds allocated to participating school attendance areas based on the number of children from low-income families who attend private schools.

(5) Provision of services

The local educational agency may provide such services directly or through contracts with public and private agencies, organizations, and institutions.

(b) Consultation

(1) In general

To ensure timely and meaningful consultation, a local educational agency shall consult with appropriate private school officials during the design and development of such agency's programs under this part, on issues such as—

(A) how the children's needs will be identified;

(B) what services will be offered;

(C) how and where the services will be provided;

(D) how the services will be assessed; and

(E) the size and scope of the equitable services to be provided to the eligible private school children, and what is the proportion of funds allocated under subsection (a)(4) of this section for such services.

(2) Timing

Such consultation shall occur before the local educational agency makes any decision that affects the opportunities of eligible private school children to participate in programs under this part.

(3) Discussion

Such consultation shall include a discussion of service delivery mechanisms a local educational agency can use to provide equitable services to eligible private school children.

(c) Public control of funds

(1) In general

The control of funds provided under this part, and title to materials, equipment, and property purchased with such funds, shall be in a public agency, and a public agency shall administer such funds and property.

(2) Provision of services

(A) The provision of services under this section shall be provided—

(i) by employees of a public agency; or

(ii) through contract by such public agency with an individual, association, agency, or organization.

(B) In the provision of such services, such employee, person, association, agency, or or-

ganization shall be independent of such private school and of any religious organization, and such employment or contract shall be under the control and supervision of such public agency.

(d) Standards for a bypass

If a local educational agency is prohibited by law from providing for the participation on an equitable basis of eligible children enrolled in private elementary and secondary schools or if the Secretary determines that a local educational agency has substantially failed or is unwilling to provide for such participation, as required by this section, the Secretary shall—

(1) waive the requirements of this section for such local educational agency; and

(2) arrange for the provision of services to such children through arrangements that shall be subject to the requirements of this section and sections 8895 and 8896 of this title.

(e) Capital expenses

(1) In general

(A) From the amount appropriated for this subsection under section 6302(e) of this title for any fiscal year, each State is eligible to receive an amount that bears the same ratio to the amount so appropriated as the number of private school children who received services under this part in the State in the most recent year for which data satisfactory to the Secretary are available bears to the number of such children in all States in that same year.

(B) The Secretary shall reallocate any amounts allocated under subparagraph (A) that are not used by a State for the purpose of this subsection to other States on the basis of their respective needs, as determined by the Secretary.

(2) Capital expenses

(A) A local educational agency may apply to the State educational agency for payments for capital expenses consistent with this subsection.

(B) State educational agencies shall distribute such funds under this subsection to local educational agencies based on the degree of need set forth in their respective applications for assistance under this subsection.

(3) Uses of funds

Any funds appropriated to carry out this subsection shall be used only for capital expenses incurred to provide equitable services for private school children under this section.

(4) "Capital expenses" defined

For the purpose of this subsection, the term ''capital expenses'' means—

(A) expenditures for noninstructional goods and services, such as the purchase, lease, or renovation of real and personal property, including mobile educational units and leasing of neutral sites or spaces;

(B) insurance and maintenance costs;

(C) transportation; and

(D) other comparable goods and services.

(Pub. L. 89–10, title I, §1120, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3557.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5890, 6302, 6303, 6312, 6394, 7545 of this title.

§ 6322. Fiscal requirements

(a) Maintenance of effort

A local educational agency may receive funds under this part for any fiscal year only if the State educational agency finds that the local educational agency has maintained its fiscal effort in accordance with section 8891 of this title.

(b) Federal funds to supplement, not supplant, non-Federal funds

(1) In general

A State or local educational agency shall use funds received under this part only to supplement the amount of funds that would, in the absence of such Federal funds, be made available from non-Federal sources for the education of pupils participating in programs assisted under this part, and not to supplant such funds.

(2) Special rule

No local educational agency shall be required to provide services under this part through a particular instructional method or in a particular instructional setting in order to demonstrate such agency's compliance with paragraph (1).

(c) Comparability of services

(1) In general

(A) Except as provided in paragraphs (4) and (5), a local educational agency may receive funds under this part only if State and local funds will be used in schools served under this part to provide services that, taken as a whole, are at least comparable to services in schools that are not receiving funds under this part.

(B) If the local educational agency is serving all of such agency's schools under this part, such agency may receive funds under this part only if such agency will use State and local funds to provide services that, taken as a whole, are substantially comparable in each school.

(C) A local educational agency may meet the requirements of subparagraphs (A) and (B) on a grade-span by grade-span basis or a school-by-school basis.

(2) Written assurance

(A) A local educational agency shall be considered to have met the requirements of paragraph (1) if such agency has filed with the State educational agency a written assurance that such agency has established and implemented—

(i) a local educational agency-wide salary schedule;

(ii) a policy to ensure equivalence among schools in teachers, administrators, and other staff; and

(iii) a policy to ensure equivalence among schools in the provision of curriculum materials and instructional supplies.

(B) For the purpose of subparagraph (A), in the determination of expenditures per pupil from State and local funds, or instructional salaries per pupil from State and local funds, staff salary differentials for years of employ-

ment shall not be included in such determinations.

(C) A local educational agency need not include unpredictable changes in student enrollment or personnel assignments that occur after the beginning of a school year in determining comparability of services under this subsection.

(3) Procedures and records

Each local educational agency assisted under this part shall—

(A) develop procedures for compliance with this subsection; and

(B) maintain records that are updated biennially documenting such agency's compliance with this subsection.

(4) Inapplicability

This subsection shall not apply to a local educational agency that does not have more than one building for each grade span.

(5) Compliance

For the purpose of determining compliance with paragraph (1), a local educational agency may exclude State and local funds expended for—

(A) bilingual education for children of limited English proficiency; and

(B) excess costs of providing services to children with disabilities as determined by the local educational agency.

(d) Exclusion of funds

For the purpose of complying with subsections (b) and (c) of this section, a State or local educational agency may exclude supplemental State or local funds expended in any school attendance area or school for programs that meet the intent and purposes of this part.

(Pub. L. 89–10, title I, § 1120A, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3559; amended Pub. L. 104–134, title I, § 101(b) [title II, § 2754], Apr. 26, 1996, 110 Stat. 1321–77, 1321–150; renumbered title I, Pub. L. 104–140, § 1(a), May 2, 1996, 110 Stat. 1327.)

AMENDMENTS

1996—Subsec. (b)(1). Pub. L. 104–134, § 101(b) [title II, § 2754(1)], substituted ''A State'' for ''(A) Except as provided in subparagraph (B), a State'' and struck out subpar. (B) which read as follows: ''For the purpose of complying with subparagraph (A), a State or local educational agency may exclude supplemental State and local funds expended in any eligible school attendance area or school for programs that meet the requirements of section 6314 or 6315 of this title.''

Subsec. (d). Pub. L. 104–134, § 101(b) [title II, § 2754(2)], added subsec. (d).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6313, 6394, 6435 of this title.

§ 6323. Coordination requirements

(a) In general

Each local educational agency receiving assistance under this part shall carry out the activities described in subsection (b) of this section to the extent feasible and appropriate to the circumstances, including the extent to which such local educational agency is able to secure the cooperation of parents and local Head Start agencies and, if feasible, other early childhood development programs.

(b) Activities

The activities referred to in subsection (a) of this section are activities that increase coordination between the local educational agency and a Head Start agency, and, if feasible, other early childhood development programs, serving children who will attend the schools of such agency, including—

(1) developing and implementing a systematic procedure for receiving records regarding such children transferred with parental consent from a Head Start program or, where applicable, other early childhood development programs;

(2) establishing channels of communication between school staff and their counterparts in such Head Start agencies (including teachers, social workers, and health staff) or other early childhood development programs, as appropriate, to facilitate coordination of programs;

(3) conducting meetings involving parents, kindergarten or elementary school teachers, and Head Start teachers or, if appropriate, teachers from other early childhood development programs, to discuss the developmental and other needs of individual children; and

(4) organizing and participating in joint transition related training of school staff, Head Start staff, and, where appropriate, other early childhood staff.

(c) Coordination of regulations

The Secretary shall work with the Secretary of Health and Human Services to coordinate regulations promulgated under this part with regulations promulgated under the Head Start Act Amendments of 1994.

(Pub. L. 89–10, title I, § 1120B, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3560.)

REFERENCES IN TEXT

The Head Start Act Amendments of 1994, referred to in subsec. (c), is title I of Pub. L. 103–252, May 18, 1994, 108 Stat. 624. For complete classification of this Act to the Code, see Short Title of 1994 Amendment note set out under section 9801 of Title 42, The Public Health and Welfare, and Tables.

SUBPART 2—ALLOCATIONS

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in sections 8505, 8512 of this title.

§ 6331. Grants for outlying areas and Secretary of the Interior

(a) Reservation of funds

From the amount appropriated for payments to States for any fiscal year under section 6302(a) of this title, the Secretary shall reserve a total of 1 percent to provide assistance to—

(1) the outlying areas on the basis of their respective need for such assistance according to such criteria as the Secretary determines will best carry out the purpose of this part; and

(2) the Secretary of the Interior in the amount necessary to make payments pursuant to subsection (c) of this section.

(b) Assistance to outlying areas

(1) In general

From amounts made available under subsection (a) of this section in each fiscal year the Secretary shall make grants to local educational agencies in the outlying areas (other than the outlying areas assisted under paragraph (3)).

(2) Competitive grants

(A) The Secretary shall reserve $5,000,000 from the amounts made available under subsection (a) of this section in each fiscal year to award grants on a competitive basis, to local educational agencies in the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau. The Secretary shall award such grants according to the recommendations of the Pacific Region Educational Laboratory which shall conduct a competition for such grants.

(B) Except as provided in subparagraph (D), grant funds awarded under this part only may be used for programs described in this chapter, including teacher training, curriculum development, instructional materials, or general school improvement and reform.

(C) Grant funds awarded under this paragraph only may be used to provide direct educational services.

(D) The Secretary may provide 5 percent of the amount made available for grants under this paragraph to pay the administrative costs of the Pacific Region Educational Laboratory regarding activities assisted under this paragraph.

(c) Allotment to Secretary of the Interior

(1) In general

The amount allotted for payments to the Secretary of the Interior under subsection (a)(2) of this section for any fiscal year shall be, as determined pursuant to criteria established by the Secretary, the amount necessary to meet the special educational needs of—

(A) Indian children on reservations served by elementary and secondary schools for Indian children operated or supported by the Department of the Interior; and

(B) out-of-State Indian children in elementary and secondary schools in local educational agencies under special contracts with the Department of the Interior.

(2) Payments

From the amount allotted for payments to the Secretary of the Interior under subsection (a)(2) of this section, the Secretary of the Interior shall make payments to local educational agencies, upon such terms as the Secretary determines will best carry out the purposes of this part, with respect to out-of-State Indian children described in paragraph (1). The amount of such payment may not exceed, for each such child, the greater of—

(A) 40 percent of the average per pupil expenditure in the State in which the agency is located; or

(B) 48 percent of such expenditure in the United States.

(Pub. L. 89–10, title I, §1121, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3561.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6895, 8801 of this title.

§ 6332. Allocations to States

(a) In general

(1) Fiscal year 1995

For fiscal year 1995, appropriations for this part shall be allocated according to the provisions of sections 1005, except subsection (a)(3), and 1006, part A of chapter 1 of title I, Elementary and Secondary Education Act of 1965, as in effect on September 30, 1994, except that the State minimum for section 1005 shall be the lesser of 0.25 percent of total appropriations or the average of 0.25 percent of total appropriations and 150 percent of the national average grant per child counted for grants under section 1005 multiplied by the State's number of children counted for such grants, and for grants under section 1006, the State minimum shall be the lesser of—

(A) 0.25 percent of total appropriations; and

(B) the average of—

(i) 0.25 percent of total appropriations; and

(ii) the greater of 150 percent of the national average grant per child counted for grants under such section 1006 multiplied by the State[1] total number of such children, or $340,000.

(2) Succeeding fiscal years

For fiscal years 1996 through 1999, an amount of the appropriations for this part equal to the appropriation for fiscal year 1995 for section 1005, shall be allocated in accordance with section 6333 of this title, and an amount equal to the appropriation for fiscal year 1995 for section 1006 shall be allocated in accordance with section 6334 of this title. Any additional appropriations under section 6302(a) of this title for any fiscal year, after application of the preceding sentence, shall be allocated in accordance with section 6335 of this title.

(b) Adjustments where necessitated by appropriations

(1) In general

If the sums available under this part for any fiscal year are insufficient to pay the full amounts that all local educational agencies in States are eligible to receive under sections 6333, 6334, and 6335 of this title for such year, the Secretary shall ratably reduce the allocations to such local educational agencies, subject to subsections (c) and (d) of this section.

(2) Additional funds

If additional funds become available for making payments under sections 6333, 6334, and 6335 of this title for such fiscal year, allocations that were reduced under paragraph (1) shall be increased on the same basis as they were reduced.

(c) Hold-harmless amounts

(1) In general

For fiscal year 1995, notwithstanding subsection (b) of this section and without regard

[1] So in original. Probably should be ''State's''.

to amounts available for delinquent children under subpart 2 of part D of this subchapter, the amount made available to each local educational agency under such section 1005 shall be at least 85 percent of the amount such local educational agency received for the preceding year under such section 1005.

(2) Fiscal year 1996

Notwithstanding subsection (b) of this section and without regard to amounts available for delinquent children under subpart 2 of part D of this subchapter, for fiscal year 1996 the total amount made available to each local educational agency under each of sections 6333 and 6334 of this title for any fiscal year shall be at least 100 percent of the total amount such local educational agency was allocated under such sections (or their predecessor authorities) for the preceding fiscal year.

(3) Fiscal years 1997 through 1999

For fiscal years 1997 through 1999, notwithstanding subsection (b) of this section and without regard to amounts available for delinquent children under subpart 2 of part D of this subchapter, the amount made available to each local educational agency under each of sections 6333 and 6335 of this title shall be at least 95 percent of the previous year's amount if the number of children counted for grants under section 6333 of this title is at least 30 percent of the total number of children aged 5 to 17 years, inclusive, in the local educational agency, 90 percent of the previous year amount if this percentage is between 15 percent and 30 percent, and 85 percent if this percentage is below 15 percent. For fiscal years 1997 and 1998, in calculating grants on the basis of population data for counties, the Secretary shall apply the hold-homeless[2] percentages in the preceding sentence to counties. For fiscal years 1996 through 1998, if the Secretary's allocation for a county is not sufficient to meet the hold-harmless requirements of this paragraph for every local educational agency within that county, then the State educational agency shall reallocate funds proportionately from all other local educational agencies in the State that are receiving funds in excess of the hold-harmless amounts specified in this paragraph.

(d) Ratable reductions

(1) In general

If the sums made available under this part for any fiscal year are insufficient to pay the full amounts that all States are eligible to receive under subsection (c) of this section for such year, the Secretary shall ratably reduce such amounts for such year.

(2) Additional funds

If additional funds become available for making payments under subsection (c) of this section for such fiscal year, amounts that were reduced under paragraph (1) shall be increased on the same basis as such amounts reduced.

(e) "State" defined

For the purpose of this section and sections 6333 and 6335 of this title, the term State means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

(Pub. L. 89–10, title I, § 1122, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3562.)

REFERENCES IN TEXT

Sections 1005 and 1006 of part A of chapter 1 of title I of the Elementary and Secondary Education Act of 1965, as in effect on September 30, 1994, referred to in subsecs. (a) and (c)(1), mean sections 1005 and 1006 of Pub. L. 89–10, as added by Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 141, 146, as amended, which were classified to sections 2711 and 2712, respectively, of this title prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6333, 6334, 6335 of this title; title 42 section 11432.

§ 6333. Basic grants to local educational agencies

(a) Amount of grants

(1) Grants for local educational agencies and Puerto Rico

The grant which a local educational agency in a State is eligible to receive under this subpart for a fiscal year shall (except as provided in section 6337 of this title), be determined by multiplying the number of children counted under subsection (c) of this section by 40 percent of the amount determined under the next sentence. The amount determined under this sentence shall be the average per pupil expenditure in the State except that—

(A) if the average per pupil expenditure in the State is less than 80 percent of the average per pupil expenditure in the United States, such amount shall be 80 percent of the average per pupil expenditure in the United States; or

(B) if the average per pupil expenditure in the State is more than 120 percent of the average per pupil expenditure in the United States, such amount shall be 120 percent of the average per pupil expenditure in the United States.

(2) Basis for calculating grants

For fiscal years 1995 through 1998, grants shall be calculated by the Secretary on the basis of the number of children counted under subsection (c) of this section for counties, and State educational agencies shall suballocate county amounts to local educational agencies, in accordance with regulations published by the Secretary. In any State in which a large number of local educational agencies overlap county boundaries, the State educational agency may apply to the Secretary for authority during any particular fiscal year to make the allocations under this part (other than section 6334 of this title) directly to local educational agencies without regard to the counties. If the Secretary approves an application of a State educational agency for a particular year under this subparagraph, the State educational agency shall provide assurances that—

(A) such allocations will be made using precisely the same factors for determining a grant as are used under this part;

[2] So in original. Probably should be ''hold-harmless''.

(B) such allocations will be made using alternative data approved by the Secretary that the State determines best reflects the distribution of children in poor families and is adjusted to be equivalent in proportion to the number of children determined in accordance with subsection (c) of this section; or

(C) such allocations will be made using data that the State educational agency submits to the Secretary for approval that more accurately target poverty.

In addition, the State educational agency shall provide assurances that a procedure will be established through which local educational agencies dissatisfied with the determinations made by the State educational agency may appeal directly to the Secretary for a final determination. Beginning in fiscal year 1999, grants shall be calculated by the Secretary on the basis of population data compiled for local educational agencies, unless the Secretary and the Secretary of Commerce determine that use of the updated population data would be inappropriate or unreliable taking into consideration the recommendations of the study to be conducted by the National Academy of Sciences. If the Secretary and the Secretary of Commerce determine that some or all of the data referred to in this paragraph are inappropriate or unreliable, the Secretaries shall jointly issue a report setting forth their reasons in detail. In years when grants are calculated by the Secretary on the basis of local educational agency data, for each local educational agency serving an area with a total population of at least 20,000 persons, the grant under this section shall be the amount determined by the Secretary. For local educational agencies serving areas with total populations of fewer than 20,000 persons, the State educational agency may either—

(i) distribute to such local educational agencies grants under this section equal to the amounts determined by the Secretary; and

(ii) use an alternative method, approved by the Secretary, to distribute the share of the State's total grants under this section that is based on local educational agencies with total populations of fewer than 20,000 persons. Such an alternative method of distributing grants under this section among a State's local educational agencies serving areas with total populations of fewer than 20,000 persons shall be based upon population data that the State educational agency determines best reflect the current distribution of children in poor families among the State's local educational agencies serving areas with total populations of fewer than 20,000 persons. If a local educational agency serving an area with total population of less than 20,000 persons is dissatisfied with the determination of its grant by the State education agency, then such local educational agency may appeal this determination to the Secretary. The Secretary must respond to this appeal within 45 days of receipt.

(3) Puerto Rico

For each fiscal year, the Secretary shall determine the percentage which the average per pupil expenditure in the Commonwealth of Puerto Rico is of the lowest average per pupil expenditure of any of the 50 States. The grant which the Commonwealth of Puerto Rico shall be eligible to receive under this section for a fiscal year shall be the amount arrived at by multiplying the number of children counted under subsection (c) of this section for the Commonwealth of Puerto Rico by the product of—

(A) the percentage determined under the preceding sentence; and

(B) 32 percent of the average per pupil expenditure in the United States.

(4) "State" defined

For purposes of this subsection, the term ''State'' does not include Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and Palau.

(b) Minimum number of children to qualify

Subject to the succeeding sentence, a local educational agency shall be eligible for a basic grant for a fiscal year under this subpart only if the number of children counted under subsection (c) of this section in the school district of such local educational agency is at least 10. Beginning in fiscal year 1996, no local educational agency shall be eligible for a grant under this section if the number of children counted for grants under this section is equal to 2 percent or less of the total school age population in the local educational agency. For fiscal years 1996 through 1998, grants not made as a result of applying the preceding sentence shall be reallocated by the State educational agency to other eligible local educational agencies in the State in proportion to the distribution of other funds under this section.

(c) Children to be counted

(1) Categories of children

The number of children to be counted for purposes of this section is the aggregate of—

(A) the number of children aged 5 to 17, inclusive, in the school district of the local educational agency from families below the poverty level as determined under paragraph (2);

(B) the number of children aged 5 to 17, inclusive, in the school district of such agency from families above the poverty level as determined under paragraph (5); and

(C) the number of children aged 5 to 17, inclusive, in the school district of such agency in institutions for neglected and delinquent children (other than such institutions operated by the United States), but not counted pursuant to subpart 1 of part D of this subchapter for the purposes of a grant to a State agency, or being supported in foster homes with public funds.

(2) Determination of number of children

For the purposes of this section, the Secretary shall determine the number of children aged 5 to 17, inclusive, from families below the poverty level on the basis of the most recent

satisfactory data, described in paragraph (3), available from the Department of Commerce. For fiscal year 1999 and beyond, the District of Columbia and the Commonwealth of Puerto Rico shall be treated as individual local educational agencies. If a local educational agency contains two or more counties in their entirety, then each county will be treated as if such county were a separate local educational agency for purposes of calculating grants under this part. The total of grants for such counties shall be allocated to such a local educational agency, which local educational agency shall distribute to schools in each county within such agency a share of the local educational agency's total grant that is no less than the county's share of the population counts used to calculate the local educational agency's grant.

(3) Population updates

In fiscal year 1997 and every 2 years thereafter, the Secretary shall use updated data on the number of children, aged 5 to 17, inclusive, from families below the poverty level for counties or local educational agencies, published by the Department of Commerce, unless the Secretary and the Secretary of Commerce determine that use of the updated population data would be inappropriate or unreliable, taking into consideration the recommendations of the study to be conducted by the National Academy of Sciences. If the Secretary and the Secretary of Commerce determine that some or all of the data referred to in this paragraph are inappropriate or unreliable, they shall jointly issue a report setting forth their reasons in detail. In determining the families which are below the poverty level, the Secretary shall utilize the criteria of poverty used by the Bureau of the Census in compiling the most recent decennial census, in such form as those criteria have been updated by increases in the Consumer Price Index for all urban consumers, published by the Bureau of Labor Statistics.

(4) Study

(A) The Secretary of Education shall, within 30 days after October 20, 1994, contract with the National Academy of Sciences (hereafter in this section referred to as the ''Academy'') to study the program to produce intercensal poverty data for small geographic areas and certain age cohorts being developed by the Bureau of the Census.

(B) In conducting its study, the Academy shall consider such matters as—

(i) the methodology used to produce and publish intercensal poverty data, and possible alternative methods to improve the usefulness of the data for Federal program purposes;

(ii) the availability of alternative indicators of poverty for small geographic areas, against which the poverty data produced and published by the Bureau of the Census could be compared;

(iii) the reliability of the poverty data produced and published by the Bureau of the Census, particularly for less populous geographic areas;

(iv) the reliability of intercensal poverty data produced and published by the Bureau of the Census, as compared over time to similar data produced by the Bureau of the Census during the most recent decennial census; and

(v) the usefulness of poverty data produced and published by the Bureau of the Census for Federal programs that allocate funds to State and sub-State areas based, in whole or in part, on such data.

(C) The Academy shall submit to the Secretary and the Secretary of Commerce, as well as to the Committee on Education and Labor and the Committee on Post Office and Civil Service of the House of Representatives and the Committee on Labor and Human Resources and the Committee on Governmental Affairs of the Senate—

(i) not later than 18 months after the date on which a contract is entered into under subsection (a) of this section, and not later than every 18 months thereafter, such interim reports on the Academy's activities under this chapter that the Academy deems appropriate, including a detailed statement of the Academy's findings and conclusions with respect to any poverty data which the Bureau of the Census publishes and produces, within 90 days of such publication; and

(ii) not later than December 31, 1998, a final report which shall include a more detailed statement of the Academy's findings and conclusions with respect to the use of any intercensal poverty data produced and published by the Bureau of the Census as the basis for allocating Federal funds under this chapter.

(D) Of the funds appropriated under section 6302(f) of this title, the Secretary shall use such sums as are necessary in each of fiscal years 1995, 1996, 1997, 1998, and 1999 to carry out the provisions of this paragraph.

(5) Other children to be counted

For purposes of this section, the Secretary shall determine the number of children aged 5 to 17, inclusive, from families above the poverty level on the basis of the number of such children from families receiving an annual income, in excess of the current criteria of poverty, from payments under a State program funded under part A of title IV of the Social Security Act [42 U.S.C. 601 et seq.]; and in making such determinations the Secretary shall utilize the criteria of poverty used by the Bureau of the Census in compiling the most recent decennial census for a family of 4 in such form as those criteria have been updated by increases in the Consumer Price Index for all urban consumers, published by the Bureau of Labor Statistics. The Secretary shall determine the number of such children and the number of children of such ages living in institutions for neglected or delinquent children, or being supported in foster homes with public funds, on the basis of the caseload data for the month of October of the preceding fiscal year (using, in the case of children described in the

preceding sentence, the criteria of poverty and the form of such criteria required by such sentence which were determined for the calendar year preceding such month of October) or, to the extent that such data are not available to the Secretary before January of the calendar year in which the Secretary's determination is made, then on the basis of the most recent reliable data available to the Secretary at the time of such determination. The Secretary of Health and Human Services shall collect and transmit the information required by this subparagraph to the Secretary not later than January 1 of each year.

(6) Estimate

When requested by the Secretary, the Secretary of Commerce shall make a special updated estimate of the number of children of such ages who are from families below the poverty level (as determined under subparagraph (A) of this paragraph[1]) in each school district, and the Secretary is authorized to pay (either in advance or by way of reimbursement) the Secretary of Commerce the cost of making this special estimate. The Secretary of Commerce shall give consideration to any request of the chief executive of a State for the collection of additional census information. For purposes of this section, the Secretary shall consider all children who are in correctional institutions to be living in institutions for delinquent children.

(d) State minimum

Notwithstanding subsection (b)(1) or (d) of section 6332 of this title, the aggregate amount allotted for all local educational agencies within a State may not be less than the lesser of—

(1) 0.25 percent of total grants under this section; or

(2) the average of—

(A) one-quarter of 1 percent of the total amount available for such fiscal year under this section; and

(B) the number of children in such State counted under subsection (c) of this section in the fiscal year multiplied by 150 percent of the national average per pupil payment made with funds available under this section for that year.

(Pub. L. 89–10, title I, §1124, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3564; amended Pub. L. 104–193, title I, §110(j)(2), Aug. 22, 1996, 110 Stat. 2172.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (c)(5), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Part A of title IV of the Act is classified generally to part A (§601 et seq.) of subchapter IV of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

AMENDMENTS

1996—Subsec. (c)(5). Pub. L. 104–193 substituted ''a State program funded under part A of'' for ''the program of aid to families with dependent children under a State plan approved under''.

[1] So in original. Probably should be ''paragraph (2) of this subsection''.

CHANGE OF NAME

Committee on Education and Labor of House of Representatives treated as referring to Committee on Economic and Educational Opportunities of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Economic and Educational Opportunities of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Fifth Congress, Jan. 7, 1997.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–193 effective July 1, 1997, with transition rules relating to State options to accelerate such date, rules relating to claims, actions, and proceedings commenced before such date, rules relating to closing out of accounts for terminated or substantially modified programs and continuance in office of Assistant Secretary for Family Support, and provisions relating to termination of entitlement under AFDC program, see section 116 of Pub. L. 104–193, as amended, set out as an Effective Date note under section 601 of Title 42, The Public Health and Welfare.

ABOLITION OF HOUSE COMMITTEE ON POST OFFICE AND CIVIL SERVICE

Committee on Post Office and Civil Service of House of Representatives abolished by House Resolution No. 6, One Hundred Fourth Congress, Jan. 4, 1995. References to Committee on Post Office and Civil Service treated as referring to Committee on Government Reform and Oversight of House of Representatives, see section 1(b) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2341, 6332, 6334, 6335, 6336, 6337 of this title.

§ 6334. Concentration grants to local educational agencies

(a) Eligibility for and amount of grants

(1) In general

(A) Except as otherwise provided in this paragraph, each local educational agency, in a State other than Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, and Palau, which is eligible for a grant under this part for any fiscal year shall be eligible for an additional grant under this section for that fiscal year if—

(i) the number of children counted under section 6333(c) of this title in the county (for fiscal years 1996 through 1998), or local educational agency (for fiscal years beginning with 1999) for the fiscal year exceeds 6,500; or

(ii) the number of children counted under section 6333(c) of this title exceeds 15 percent of the total number of children aged 5 to 17, inclusive, in the county (for fiscal years 1996 through 1998), or local educational agency (for fiscal years beginning with 1999) in that fiscal year.

(B) Notwithstanding such subsections (b)(1) and (d) of section 6332 of this title, no State described in subparagraph (A) shall receive less than the lesser of—

(i) 0.25 percent of total grants; or

(ii) the average of—

(I) one-quarter of 1 percent of the sums available to carry out this section for such fiscal year; and

(II) the greater of—

(aa) $340,000; or

(bb) the number of children in such State counted for purposes of this section in that fiscal year multiplied by 150 percent of the national average per pupil payment made with funds available under this section for that year.

(2) Special rule

For each county or local educational agency eligible to receive an additional grant under this section for any fiscal year the Secretary shall determine the product of—

(A) the number of children counted under section 6333(c) of this title for that fiscal year; and

(B) the quotient resulting from the division of the amount determined for those agencies under section 6333(a)(1) of this title for the fiscal year for which the determination is being made divided by the total number of children counted under section 6333(c) of this title for that agency for fiscal year.

(3) Amount

The amount of the additional grant for which an eligible local educational agency or county is eligible under this section for any fiscal year shall be an amount which bears the same ratio to the amount available to carry out this section for that fiscal year as the product determined under paragraph (2) for such local educational agency for that fiscal year bears to the sum of such products for all local educational agencies in the United States for that fiscal year.

(4) Suballocation

For fiscal years 1996 through 1998, county amounts shall be suballocated to local educational agencies meeting the criteria of paragraph (1)(A) by State educational agencies, in accordance with regulations published by the Secretary. For fiscal years 1995 through 1998, grants shall be calculated by the Secretary on the basis of the number of children counted under section 6333(c) of this title for counties, and State educational agencies shall suballocate county amounts to local educational agencies, in accordance with regulations published by the Secretary. In any State in which a large number of local educational agencies overlap county boundaries, the State educational agency may apply to the Secretary for authority during any particular fiscal year to make the allocations under this part (other than this section) directly to local educational agencies without regard to the counties. If the Secretary approves an application of a State educational agency for a particular year under this paragraph, the State educational agency shall provide assurances that—

(A) such allocations will be made using precisely the same factors for determining a grant as are used under this part;

(B) such allocations will be made using alternative data approved by the Secretary that the State determines best reflects the distribution of children in poor families and is adjusted to be equivalent in proportion to the number of children determined in accordance with section 6333(c) of this title; or

(C) such allocations will be made using data that the State educational agency submits to the Secretary for approval that more accurately target poverty.

In addition, the State educational agency shall provide assurances that a procedure will be established through which local educational agencies dissatisfied with the determinations made by the State educational agency may appeal directly to the Secretary for a final determination. A State may reserve not more than 2 percent of its allocations in fiscal years 1996 through 1998 under this section for the purpose of making grants to local educational agencies that meet the criteria of clause (i) or (ii) of paragraph (1)(A), but are in ineligible counties. For fiscal years beginning with 1999, for each local educational agency serving an area with a total population of at least 20,000 persons, the grant under this section shall be the amount determined by the Secretary. For local educational agencies serving areas with total populations of fewer than 20,000 persons, the State educational agency may either (i) distribute to such local educational agencies grants under this section equal to the amounts determined by the Secretary; or (ii) use an alternative method, approved by the Secretary, to distribute the share of the State's total grants under this section that is based on local educational agencies with total populations of fewer than 20,000 persons. Such an alternative method of distributing grants under this section among a State's local educational agencies serving areas with total populations of fewer than 20,000 persons shall be based upon population data that the State educational agency determines best reflects the current distribution of children in poor families among the State's local educational agencies serving areas with total populations of fewer than 20,000 persons and meeting the eligibility criteria of paragraph (1)(A). If a local educational agency serving an area with total population of less than 20,000 persons is dissatisfied with the determination of its grant by the State educational agency, then such local educational agency may appeal this determination to the Secretary. The Secretary shall respond to this appeal within 45 days of receipt. The Secretary shall consult with the Secretary of Commerce regarding whether available data on population for local educational agencies serving areas with total populations of fewer than 20,000 persons are sufficiently reliable to be used to determine final grants to such areas meeting the eligibility criteria of paragraph (1)(A).

(b) Reservation of funds

Of the total amount of funds available for this section and sections 6333 and 6335 of this title, an amount equal to the appropriation for fiscal year 1995 for section 1006 of this Act (as such section was in effect on the day preceding October 20, 1994) shall be available to carry out this section.

(c) Ratable reduction rule

If the sums available under subsection (b) of this section for any fiscal year for making pay-

ments under this section are not sufficient to pay in full the total amounts which all States are eligible to receive under subsection (a) of this section for such fiscal year, the maximum amounts which all States are eligible to receive under subsection (a) of this section for such fiscal year shall be ratably reduced. In the case that additional funds become available for making such payments for any fiscal year during which the preceding sentence is applicable, such reduced amounts shall be increased on the same basis as they were reduced.

(d) States receiving minimum grants

In States that receive the minimum grant under subsection (a)(1)(B) of this section, the State educational agency shall allocate such funds among the local educational agencies in each State either—

(1) in accordance with paragraphs (2) and (4) of subsection (a) of this section; or

(2) based on their respective concentrations and numbers of children counted under section 6333(c) of this title, except that only those local educational agencies with concentrations or numbers of children counted under section 6333(c) of this title that exceed the statewide average percentage of such children or the statewide average number of such children shall receive any funds on the basis of this paragraph.

(Pub. L. 89–10, title I, §1124A, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3569.)

REFERENCES IN TEXT

Section 1006 of this Act (as such section was in effect on the day preceding October 20, 1994), referred to in subsec. (b), means section 1006 of Pub. L. 89–10, as added by Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 146, as amended, which was classified to section 2712 of this title prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519.

CODIFICATION

October 20, 1994, referred to in subsec. (b), was in the original ''the date of enactment of this Act'', which was translated as meaning the date of enactment of Pub. L. 103–382, which enacted this section, to reflect the probable intent of Congress.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6332, 6333, 6335, 6336, 6337 of this title.

§ 6335. Targeted grants to local educational agencies

(a) Eligibility of local educational agencies

A local educational agency in a State is eligible to receive a targeted grant under this section for any fiscal year if the number of children in the local educational agency counted under subsection[1] 6333(c) of this title, before application of the weighting factor described in subsection (c) of this section, is at least 10, and if the number of children counted for grants under section 6333 of this title is at least 5 percent of the total population aged 5 to 17 years, inclusive, in the local educational agency. Funds made available as a result of applying this subsection shall be reallocated by the State educational agency to other eligible local educational agencies in the State in proportion to the distribution of other funds under this section.

(b) Grants for local educational agencies, the District of Columbia, and Puerto Rico

(1) In general

The amount of the grant that a local educational agency in a State or that the District of Columbia is eligible to receive under this section for any fiscal year shall be the product of—

(A) the weighted child count determined under subsection (c) of this section; and

(B) the amount in the second sentence of subparagraph 6333(a)(1)(A)[2] of this title.

(2) Puerto Rico

For each fiscal year, the amount of the grant for which the Commonwealth of Puerto Rico is eligible under this section shall be equal to the number of children counted under subsection (c) of this section for Puerto Rico, multiplied by the amount determined in subparagraph[1] 6333(a)(3) of this title.

(c) Weighted child count

(1) Fiscal years 1966 to 1998

(A) In general

The weighted child count used to determine a county's allocation under this section is the larger of the two amounts determined under clause (i) or (ii), as follows:

(i) By percentage of children

This amount is determined by adding—

(I) the number of children determined under section 6333(c) of this title for that county constituting up to 12.20 percent, inclusive, of the county's total population aged 5 to 17, inclusive, multiplied by 1.0;

(II) the number of such children constituting more than 12.20 percent, but not more than 17.70 percent, of such population, multiplied by 1.75;

(III) the number of such children constituting more than 17.70 percent, but not more than 22.80 percent, of such population, multiplied by 2.5;

(IV) the number of such children constituting more than 22.80 percent, but not more than 29.70 percent, of such population, multiplied by 3.25; and

(V) the number of such children constituting more than 29.70 percent of such population, multiplied by 4.0.

(ii) By number of children

This amount is determined by adding—

(I) the number of children determined under section 6333(c) of this title constituting up to 1,917, inclusive, of the county's total population aged 5 to 17, inclusive, multiplied by 1.0;

(II) the number of such children between 1,918 and 5,938, inclusive, in such population, multiplied by 1.5;

[1] So in original. Probably should be ''section''.

[2] So in original. Probably should be ''section 6333(a)(1)''.

(III) the number of such children between 5,939 and 20,199, inclusive, in such population, multiplied by 2.0;

(IV) the number of such children between 20,200 and 77,999, inclusive, in such population, multiplied by 2.5; and

(V) the number of such children in excess of 77,999 in such population, multiplied by 3.0.

(B) Puerto Rico

Notwithstanding subparagraph (A), the weighting factor for Puerto Rico under this paragraph shall not be greater than the total number of children counted under subsection[3] 6333(c) of this title multiplied by 1.72.

(2) Fiscal years after 1999

(A) In general

For each fiscal year beginning with fiscal year 1999 for which the Secretary uses local educational agency data, the weighted child count used to determine a local educational agency's grant under this section is the larger of the two amounts determined under clauses (i) and (ii), as follows:

(i) By percentage of children

This amount is determined by adding—

(I) the number of children determined under section 6333(c) of this title for that local educational agency constituting up to 14.265 percent, inclusive, of the agency's total population aged 5 to 17, inclusive, multiplied by 1.0;

(II) the number of such children constituting more than 14.265 percent, but not more than 21.553 percent, of such population, multiplied by 1.75;

(III) the number of such children constituting more than 21.553 percent, but not more than 29.223 percent, of such population, multiplied by 2.5;

(IV) the number of such children constituting more than 29.223 percent, but not more than 36.538 percent, of such population, multiplied by 3.25; and

(V) the number of such children constituting more than 36.538 percent of such population, multiplied by 4.0.

(ii) By number of children

This amount is determined by adding—

(I) the number of children determined under section 6333(c) of this title constituting up to 575, inclusive, of the agency's total population aged 5 to 17, inclusive, multiplied by 1.0;

(II) the number of such children between 576 and 1,870, inclusive, in such population, multiplied by 1.5;

(III) the number of such children between 1,871 and 6,910, inclusive, in such population, multiplied by 2.0;

(IV) the number of such children between 6,911 and 42,000, inclusive, in such population, multiplied by 2.5; and

(V) the number of such children in excess of 42,000 in such population, multiplied by 3.0.

(B) Puerto Rico

Notwithstanding subparagraph (A), the weighting factor for Puerto Rico under this paragraph shall not be greater than the total number of children counted under section 6333(c) of this title multiplied by 1.72.

(d) Local educational agency allocations

For fiscal years 1995 through 1998, grants shall be calculated by the Secretary on the basis of the number of children counted under section 6333 of this title for counties, and State educational agencies shall suballocate county amounts to local educational agencies, in accordance with regulations published by the Secretary. In any State in which a large number of local educational agencies overlap county boundaries, the State educational agency may apply to the Secretary for authority during any particular fiscal year to make the allocations under this part (other than section 6334 of this title) directly to local educational agencies without regard to the counties. If the Secretary approves an application of a State educational agency for a particular year under this subparagraph, the State educational agency shall provide assurances that—

(1) such allocations will be made using precisely the same factors for determining a grant as are used under this part;

(2) such allocations will be made using alternative data approved by the Secretary that the State determines best reflects the distribution of children in poor families and is adjusted to be equivalent in proportion to the number of children determined in accordance with section 6333(c) of this title; or

(3) such allocations will be made using data that the State educational agency submits to the Secretary for approval that more accurately target poverty.

In addition, the State educational agency shall provide assurances that a procedure will be established through which local educational agencies dissatisfied with the determinations made by the State educational agency may appeal directly to the Secretary for a final determination. For fiscal years beginning in 1999, for each local educational agency serving an area with a total population of at least 20,000 persons, the grant under this section shall be the amount determined by the Secretary. For local educational agencies serving areas with total populations of fewer than 20,000 persons, the State educational agency may either (1) distribute to such local educational agencies grants under this section equal to the amounts determined by the Secretary; or (2) use an alternative method, approved by the Secretary, to distribute the share of the State's total grants under this section that is based on local educational agencies with total populations of fewer than 20,000 persons. Such an alternative method of distributing grants under this section among a State's local educational agencies serving areas with total populations of fewer than 20,000 persons shall be based upon population data that the State educational agency determines best reflects the current distribution of children in poor families among the State's local educational agencies serving areas with total populations of fewer

[3] So in original. Probably should be ''section''.

than 20,000 persons. If a local educational agency serving an area with total populations of less than 20,000 persons is dissatisfied with the determination of its grant by the State educational agency, then the local educational agency may appeal this determination to the Secretary. The Secretary shall respond to this appeal within 45 days of receipt.

(e) State minimum

Notwithstanding any other provision of this section or subsection (b)(1) or (d) of section 6332 of this title, from the total amount available for any fiscal year to carry out this section, each State shall be allotted at least the lesser of—

(1) 0.25 percent of total appropriations; or

(2) the average of—

(A) one-quarter of 1 percent of the total amount available to carry out this section; and

(B) 150 percent of the national average grant under this section per child described in section 6333(c) of this title, without application of a weighting factor, multiplied by the State's total number of children described in section 6333(c) of this title, without application of a weighting factor.

(Pub. L. 89–10, title I, §1125, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3571.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6332, 6334, 6336, 6337 of this title.

§ 6336. Education finance incentive program

(a) Grants

The Secretary is authorized to make grants to States from the sums appropriated pursuant to subsection (e) of this section to carry out the purposes of this part.

(b) Distribution based upon fiscal effort and equity

(1) In general

Funds appropriated pursuant to subsection (e) of this section shall be allotted to each State based upon the number of children aged 5 to 17, inclusive, of such State multiplied by the product of—

(A) such State's effort factor described in paragraph (2); multiplied by

(B) 1.30 minus such State's equity factor described in paragraph (3),

except that for each fiscal year no State shall receive less than one-quarter of 1 percent of the total amount appropriated pursuant to subsection (e) of this section for such fiscal year.

(2) Effort factor

(A) Except as provided in subparagraph (B), the effort factor for a State shall be determined in accordance with the succeeding sentence, except that such factor shall not be less than .95 nor greater than 1.05. The effort factor determined under this sentence shall be a fraction the numerator of which is the product of the three-year average per-pupil expenditure in the State multiplied by the three-year average per capita income in the United States and the denominator of which is the product of the three-year average per capita income in such State multiplied by the three-year average per-pupil expenditure in the United States.

(B) The effort factor for the Commonwealth of Puerto Rico shall be equal to the lowest effort factor calculated under subparagraph (A) for any State.

(3) Equity factor

(A)(i) Except as provided in subparagraph (B), the Secretary shall determine the equity factor under this section for each State in accordance with clause (ii).

(ii)(I) For each State, the Secretary shall compute a weighted coefficient of variation for the per-pupil expenditures of local educational agencies in accordance with subclauses (II), (III), (IV), and (V).

(II) In computing coefficients of variation, the Secretary shall weigh the variation between per-pupil expenditures in each local educational agency and the average per-pupil expenditures in the State according to the number of pupils in the local educational agency.

(III) In determining the number of pupils under this paragraph in each local educational agency and each State, the Secretary shall multiply the number of children from low-income families by 1.4 under this paragraph.

(IV) In computing coefficients of variation, the Secretary shall include only those local educational agencies with an enrollment of more than 200 students.

(V) The Secretary shall compute separate coefficients of variation for elementary, secondary, and unified local educational agencies and shall combine such coefficients into a single weighted average coefficient for the State by multiplying each coefficient by the total enrollments of the local educational agencies in each group, adding such products, and dividing such sum by the total enrollments of the local educational agencies in the State.

(B) The equity factor for a State that meets the disparity standard described in section 222.63 of title 34, Code of Federal Regulations (as such section was in effect on the day preceding October 20, 1994) or a State with only one local educational agency shall be not greater than .10.

(C) The Secretary may revise each State's equity factor as necessary based on the advice of independent education finance scholars to reflect other need-based costs of local educational agencies in addition to low-income student enrollment, such as differing geographic costs, costs associated with students with disabilities, children with limited-English proficiency or other meaningful educational needs, which deserve additional support. In addition and also with the advice of independent education finance scholars, the Secretary may revise each State's equity factor to incorporate other valid and accepted methods to achieve adequacy of educational opportunity that may not be reflected in a coefficient of variation method.

(c) Use of funds

All funds awarded to each State under this section shall be allocated to local educational agencies and schools on a basis consistent with the distribution of other funds to such agencies and schools under sections 6333, 6334, and 6335 of this title to carry out activities under this part.

(d) Maintenance of effort

(1) In general

Except as provided in paragraph (2), a State is entitled to receive its full allotment of funds under this part for any fiscal year if the Secretary finds that either the combined fiscal effort per student or the aggregate expenditures within the State with respect to the provision of free public education for the fiscal year preceding the fiscal year for which the determination is made was not less than 90 percent of such combined fiscal effort or aggregate expenditures for the second fiscal year preceding the fiscal year for which the determination is made.

(2) Reduction of funds

The Secretary shall reduce the amount of the of[1] funds awarded to any State under this section in any fiscal year in the exact proportion to which the State fails to meet the requirements of paragraph (1) by falling below 90 percent of both the fiscal effort per student and aggregate expenditures (using the measure most favorable to the State), and no such lesser amount shall be used for computing the effort required under paragraph (1) for subsequent years.

(3) Waivers

The Secretary may waive, for one fiscal year only, the requirements of this subsection if the Secretary determines that such a waiver would be equitable due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the State.

(e) Authorization of appropriations

For the purpose of making grants under this section, there are authorized to be appropriated $200,000,000 for fiscal year 1996 and such sums as may be necessary for each of the three succeeding fiscal years.

(Pub. L. 89–10, title I, § 1125A, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3575.)

CODIFICATION

October 20, 1994, referred to in subsec. (b)(3)(B), was in the original ''the date of enactment of this Act'', which was translated as meaning the date of enactment of Pub. L. 103–382, which enacted this section, to reflect the probable intent of Congress.

§ 6337. Special allocation procedures

(a) Allocations for neglected children

(1) In general

If a State educational agency determines that a local educational agency in the State is unable or unwilling to provide for the special educational needs of children who are living in institutions for neglected children as described in subparagraph 6333(c)(1)(C) of this title, the State educational agency shall, if such agency assumes responsibility for the special educational needs of such children, receive the portion of such local educational agency's allocation under sections 6333, 6334, and 6335 of this title that is attributable to such children.

(2) Special rule

If the State educational agency does not assume such responsibility, any other State or local public agency that does assume such responsibility shall receive that portion of the local educational agency's allocation.

(b) Allocations among local educational agencies

The State educational agency may allocate the amounts of grants under sections 6333, 6334, and 6335 of this title among the affected local educational agencies—

(1) if two or more local educational agencies serve, in whole or in part, the same geographical area;

(2) if a local educational agency provides free public education for children who reside in the school district of another local educational agency; or

(3) to reflect the merger, creation, or change of boundaries of one or more local educational agencies.

(c) Reallocation

If a State educational agency determines that the amount of a grant a local educational agency would receive under sections 6333, 6334, and 6335 of this title is more than such local agency will use, the State educational agency shall make the excess amount available to other local educational agencies in the State that need additional funds in accordance with criteria established by the State educational agency.

(Pub. L. 89–10, title I, § 1126, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3577.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6333 of this title.

§ 6338. Carryover and waiver

(a) Limitation on carryover

Notwithstanding section 1225 of this title or any other provision of law, not more than 15 percent of the funds allocated to a local educational agency for any fiscal year under this subpart (but not including funds received through any reallocation under this subpart) may remain available for obligation by such agency for one additional fiscal year.

(b) Waiver

A State educational agency may, once every three years, waive the percentage limitation in subsection (a) of this section if—

(1) the agency determines that the request of a local educational agency is reasonable and necessary; or

(2) supplemental appropriations for this subpart become available.

(c) Exclusion

The percentage limitation under subsection (a) of this section shall not apply to any local

[1] So in original. The word ''of'' probably should not appear.

educational agency that receives less than $50,000 under this subpart for any fiscal year.

(Pub. L. 89–10, title I, §1127, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3577.)

PART B—EVEN START FAMILY LITERACY PROGRAMS

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 6302, 8852, 8857 of this title; title 29 section 1645; title 31 section 6703; title 42 section 9855d.

§ 6361. Statement of purpose

It is the purpose of this part to help break the cycle of poverty and illiteracy by improving the educational opportunities of the Nation's low-income families by integrating early childhood education, adult literacy or adult basic education, and parenting education into a unified family literacy program, to be referred to as ''Even Start''. The program shall—

(1) be implemented through cooperative projects that build on existing community resources to create a new range of services;

(2) promote achievement of the National Education Goals; and

(3) assist children and adults from low-income families to achieve to challenging State content standards and challenging State student performance standards.

(Pub. L. 89–10, title I, §1201, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3578.)

§ 6362. Program authorized

(a) Reservation for migrant programs, outlying areas, and Indian tribes

(1) In general

For each fiscal year, the Secretary shall reserve 5 percent of the amount appropriated under section 6302(b) of this title for programs, under such terms and conditions as the Secretary shall establish, that are consistent with the purpose of this part, and according to their relative needs, for—

(A) children of migratory workers;

(B) the outlying areas; and

(C) Indian tribes and tribal organizations.

(2) Special rule

If the amount of funds made available under this subsection exceeds $4,600,000, the Secretary shall award a grant, on a competitive basis, of sufficient size and for a period of sufficient duration to demonstrate the effectiveness of a family literacy program in a prison that houses women and their preschool age children and that has the capability of developing a program of high quality.

(b) Reservation for Federal activities

From amounts appropriated under section 6302(b) of this title, the Secretary may reserve not more than three percent of such amounts or the amount reserved to carry out the activities described in paragraphs (1) and (2) of subsection (a) of this section for the fiscal year 1994, whichever is greater, for purposes of—

(1) carrying out the evaluation required by section 6369 of this title; and

(2) providing, through grants or contracts with eligible organizations, technical assistance, program improvement, and replication activities.

(c) Reservation for grants

(1) Grants authorized

In any fiscal year in which the amount appropriated to carry out this part exceeds the amount appropriated to carry out this part for the preceding fiscal year, the Secretary may reserve such funds in excess of the amount appropriated for such preceding fiscal years as do not exceed $1,000,000 to award grants, on a competitive basis, to States to enable such States to plan and implement, statewide family literacy initiatives to coordinate and integrate existing Federal, State, and local literacy resources consistent with the purposes of this part. Such coordination and integration shall include funds available under the Adult Education Act [20 U.S.C. 1201 et seq.], Head Start, Even Start, and the Family Support Act of 1988.

(2) Matching requirement

The Secretary shall not make a grant to a State under paragraph (1) unless the State agrees that, with respect to the costs to be incurred by the eligible consortium in carrying out the activities for which the grant was awarded, the State will make available non-Federal contributions in an amount equal to not less than the Federal funds provided under the grant.

(d) State allocation

(1) In general

From amounts appropriated under section 6302(b) of this title and not reserved under subsections (a), (b), and (c) of this section, the Secretary shall make grants to States from allocations under paragraph (2).

(2) Allocations

Except as provided in paragraph (3), from the total amount available for allocation to States in any fiscal year, each State shall be eligible to receive a grant under paragraph (1) in an amount that bears the same ratio to such total amount as the amount allocated under part A of this subchapter to that State bears to the total amount allocated under that section to all the States.

(3) Minimum

No State shall receive a grant under paragraph (1) in any fiscal year in an amount which is less than $250,000, or one-half of 1 percent of the amount appropriated under section 6302(b) of this title and not reserved under subsections (a), (b), and (c) of this section for such year, whichever is greater.

(e) Definitions

For the purpose of this part—

(1) the term ''eligible entity'' means a partnership composed of both—

(A) a local educational agency; and

(B) a nonprofit community-based organization, a public agency other than a local educational agency, an institution of higher

education, or a public or private nonprofit organization other than a local educational agency, of demonstrated quality;

(2) the term ''eligible organization'' means any public or private nonprofit organization with a record of providing effective services to family literacy providers, such as the National Center for Family Literacy, Parents as Teachers, Inc., the Home Instruction Program for Preschool Youngsters, and the Home and School Institute, Inc.;

(3) the terms ''Indian tribe'' and ''tribal organization'' have the meanings given such terms in section 450b of title 25; and

(4) the term ''State'' includes each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

(Pub. L. 89–10, title I, § 1202, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3578.)

REFERENCES IN TEXT

The Adult Education Act, referred to in subsec. (c)(1), is title III of Pub. L. 89–750, Nov. 3, 1966, 80 Stat. 1216, as amended, which is classified generally to chapter 30 (§ 1201 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1201 of this title and Tables.

The Family Support Act of 1988, referred to in subsec. (c)(1), is Pub. L. 100–485, Oct. 13, 1988, 102 Stat. 2343, as amended. For complete classification of this Act to the Code, see Short Title of 1988 Amendments note set out under section 1305 of Title 42, The Public Health and Welfare, and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6363, 6364, 6369 of this title.

§ 6363. State programs

(a) State level activities

Each State that receives a grant under section 6362(d)(1) of this title may use not more than 5 percent of the grant funds for the costs of—

(1) administration; and

(2) providing, through one or more subgrants or contracts, technical assistance for program improvement and replication, to eligible entities that receive subgrants under subsection (b) of this section.

(b) Subgrants for local programs

(1) In general

Each State shall use the grant funds received under section 6362(d)(1) of this title and not reserved under subsection (a) of this section to award subgrants to eligible entities to carry out Even Start programs.

(2) Minimum

No State shall award a subgrant under paragraph (1) in an amount less than $75,000, except that a State may award one subgrant in each fiscal year of sufficient size, scope, and quality to be effective in an amount less than $75,000 if, after awarding subgrants under paragraph (1) for such fiscal year in amounts of $75,000 or greater, less than $75,000 is available to the State to award such subgrants.

(Pub. L. 89–10, title I, § 1203, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3579.)

§ 6364. Uses of funds

(a) In general

In carrying out an Even Start program under this part, a recipient of funds under this part shall use such funds to pay the Federal share of the cost of providing intensive family-centered education programs that involve parents and children, from birth through age seven, in a cooperative effort to help parents become full partners in the education of their children and to assist children in reaching their full potential as learners.

(b) Federal share limitation

(1) In general

(A) Except as provided in paragraph (2), the Federal share under this part may not exceed—

(i) 90 percent of the total cost of the program in the first year that such program receives assistance under this part or its predecessor authority;

(ii) 80 percent in the second such year;

(iii) 70 percent in the third such year;

(iv) 60 percent in the fourth such year; and

(v) 50 percent in any subsequent such year.

(B) The remaining cost of a program assisted under this part may be provided in cash or in kind, fairly evaluated and may be obtained from any source, including other Federal funds under this chapter.

(2) Waiver

The State educational agency may waive, in whole or in part, the cost-sharing requirement described in paragraph (1) for an eligible entity if such entity—

(A) demonstrates that such entity otherwise would not be able to participate in the program assisted under this part; and

(B) negotiates an agreement with the State educational agency with respect to the amount of the remaining cost to which the waiver will be applicable.

(3) Prohibition

Federal funds provided under this part may not be used for the indirect costs of a program assisted under this part, except that the Secretary may waive this paragraph if an eligible recipient of funds reserved under section 6362(a)(1)(C) of this title demonstrates to the Secretary's satisfaction that such recipient otherwise would not be able to participate in the program assisted under this part.

(Pub. L. 89–10, title I, § 1204, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3580; amended Pub. L. 104–134, title I, § 101(b) [title II, § 2755(a)], Apr. 26, 1996, 110 Stat. 1321–77, 1321–151; renumbered title I, Pub. L. 104–140, § 1(a), May 2, 1996, 110 Stat. 1327.)

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–134 inserted ''intensive'' after ''cost of providing''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6368 of this title.

§ 6365. Program elements

Each program assisted under this part shall—

(1) include the identification and recruitment of families most in need of services provided under this part, as indicated by a low level of income, a low level of adult literacy or English language proficiency of the eligible parent or parents, and other need-related indicators;

(2) include screening and preparation of parents, including teenage parents and children to enable such parents to participate fully in the activities and services provided under this part, including testing, referral to necessary counselling, other developmental and support services, and related services;

(3) be designed to accommodate the participants' work schedule and other responsibilities, including the provision of support services, when such services are unavailable from other sources, necessary for participation in the activities assisted under this part, such as—

(A) scheduling and locating of services to allow joint participation by parents and children;

(B) child care for the period that parents are involved in the program provided under this part; and

(C) transportation for the purpose of enabling parents and their children to participate in programs authorized by this part;

(4) include high-quality, intensive instructional programs that promote adult literacy and empower parents to support the educational growth of their children, developmentally appropriate early childhood educational services, and preparation of children for success in regular school programs;

(5) include special training of staff, including child care staff, to develop the skills necessary to work with parents and young children in the full range of instructional services offered through this part;

(6) provide and monitor integrated instructional services to participating parents and children through home-based programs;

(7) operate on a year-round basis, including the provision of some program services, instructional or enrichment, during the summer months;

(8) be coordinated with—

(A) programs assisted under other parts of this subchapter and this chapter;

(B) any relevant programs under the Adult Education Act [20 U.S.C. 1201 et seq.], the Individuals with Disabilities Education Act [20 U.S.C. 1400 et seq.], and the Job Training Partnership Act [29 U.S.C. 1501 et seq.]; and

(C) the Head Start program, volunteer literacy programs, and other relevant programs;

(9) ensure that the programs will serve those families most in need of the activities and services provided by this part; and

(10) provide for an independent evaluation of the program.

(Pub. L. 89–10, title I, §1205, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3580; amended Pub. L. 104–134, title I, §101(b) [title II, §2755(b)], Apr. 26, 1996, 110 Stat. 1321–77, 1321–151; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327.)

REFERENCES IN TEXT

The Adult Education Act, referred to in par. (8)(B), is title III of Pub. L. 89–750, Nov. 3, 1966, 80 Stat. 1216, as amended, which is classified generally to chapter 30 (§1201 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1201 of this title and Tables.

The Individuals with Disabilities Education Act, referred to in par. (8)(B), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, as amended, which is classified generally to chapter 33 (§1400 et seq.) of this title. For complete classification of this Act to the Code, see section 1400 of this title and Tables.

The Job Training Partnership Act, referred to in par. (8)(B), is Pub. L. 97–300, Oct. 13, 1982, 96 Stat. 1322, as amended, which is classified generally to chapter 19 (§1501 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 1501 of Title 29 and Tables.

AMENDMENTS

1996—Par. (4). Pub. L. 104–134 inserted '', intensive'' after ''high-quality''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6367, 6368 of this title.

§ 6366. Eligible participants

(a) In general

Except as provided in subsection (b) of this section, eligible participants in an Even Start program are—

(1) a parent or parents—

(A) who are eligible for participation in an adult basic education program under the Adult Education Act [20 U.S.C. 1201 et seq.]; or

(B) who are within the State's compulsory school attendance age range, so long as a local educational agency provides (or ensures the availability of) the basic education component required under this part; and

(2) the child or children, from birth through age seven, of any individual described in paragraph (1).

(b) Eligibility for certain other participants

(1) In general

Family members of eligible participants described in subsection (a) of this section may participate in activities and services provided under this part, when appropriate to serve the purpose of this part.

(2) Special rule

Any family participating in a program assisted under this part that becomes ineligible for such participation as a result of one or more members of the family becoming ineligible for such participation may continue to participate in the program until all members of the family become ineligible for such participation, which—

(A) in the case of a family in which ineligibility was due to the child or children of such family attaining the age of eight, shall be in two years or when the parent or parents become ineligible due to educational advancement, whichever occurs first; and

(B) in the case of a family in which ineligibility was due to the educational advance-

ment of the parent or parents of such family, shall be when all children in the family attain the age of eight.

(Pub. L. 89–10, title I, § 1206, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3581.)

REFERENCES IN TEXT

The Adult Education Act, referred to in subsec. (a)(1)(A), is title III of Pub. L. 89–750, Nov. 3, 1966, 80 Stat. 1216, as amended, which is classified generally to chapter 30 (§ 1201 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1201 of this title and Tables.

§ 6367. Applications

(a) Submission

To be eligible to receive a subgrant under this part, an eligible entity shall submit an application to the State educational agency in such form and containing or accompanied by such information as the State educational agency shall require.

(b) Required documentation

Each application shall include documentation, satisfactory to the State educational agency, that the eligible entity has the qualified personnel needed—

(1) to develop, administer, and implement an Even Start program under this part; and

(2) to provide access to the special training necessary to prepare staff for the program, which may be offered by an eligible organization.

(c) Plan

(1) In general

Such application shall also include a plan of operation for the program which shall include—

(A) a description of the program goals;

(B) a description of the activities and services that will be provided under the program, including a description of how the program will incorporate the program elements required by section 6365 of this title;

(C) a description of the population to be served and an estimate of the number of participants to be served;

(D) as appropriate, a description of the applicant's collaborative efforts with institutions of higher education, community-based organizations, the State educational agency, private elementary schools, or other eligible organizations in carrying out the program for which assistance is sought;

(E) a statement of the methods that will be used—

(i) to ensure that the programs will serve families most in need of the activities and services provided by this part;

(ii) to provide services under this part to individuals with special needs, such as individuals with limited English proficiency and individuals with disabilities; and

(iii) to encourage participants to remain in the program for a time sufficient to meet the program's purpose; and

(F) a description of how the plan is integrated with other programs under this chapter, the Goals 2000: Educate America Act [20 U.S.C. 5801 et seq.], or other Acts, as appropriate, consistent with section 8856 of this title.

(2) Duration of the plan

Each plan submitted under paragraph (1)(A) shall—

(A) remain in effect for the duration of the eligible entity's participation under this part; and

(B) be periodically reviewed and revised by the eligible entity as necessary.

(d) Consolidated application

The plan described in subsection (c)(1)(F) of this section may be submitted as part of a consolidated application under section 8852 of this title.

(Pub. L. 89–10, title I, § 1207, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3582.)

REFERENCES IN TEXT

The Goals 2000: Educate America Act, referred to in subsec. (c)(1)(F), is Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 125 (except titles V and IX), as amended, which is classified principally to chapter 68 (§ 5801 et seq.) of this title (except subchapters V (§ 5931 et seq.) and IX (§ 6001 et seq.)). For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables.

§ 6368. Award of subgrants

(a) Selection process

(1) In general

The State educational agency shall establish a review panel in accordance with paragraph (3) that will approve applications that—

(A) are most likely to be successful in—

(i) meeting the purpose of this part; and

(ii) effectively implementing the program elements required under section 6365 of this title;

(B) demonstrate that the area to be served by such program has a high percentage or a large number of children and families who are in need of such services as indicated by high levels of poverty, illiteracy, unemployment, limited-English proficiency, or other need-related indicators, including a high percentage of children to be served by the program who reside in a school attendance area eligible for participation in programs under part A of this subchapter;

(C) provide services for at least a three-year age range, which may begin at birth;

(D) demonstrate the greatest possible cooperation and coordination between a variety of relevant service providers in all phases of the program;

(E) include cost-effective budgets, given the scope of the application;

(F) demonstrate the applicant's ability to provide the Federal share required by section 6364(b) of this title;

(G) are representative of urban and rural regions of the State; and

(H) show the greatest promise for providing models that may be adopted by other local educational agencies.

(2) Priority for subgrants

The State educational agency shall give priority for subgrants under this subsection to applications that—

(A) target services primarily to families described in paragraph (1)(B); or

(B) are located in areas designated as empowerment zones or enterprise communities.

(3) Review panel

A review panel shall consist of at least three members, including one early childhood professional, one adult education professional, and one or more of the following individuals:

(A) A representative of a parent-child education organization.

(B) A representative of a community-based literacy organization.

(C) A member of a local board of education.

(D) A representative of business and industry with a commitment to education.

(E) An individual who has been involved in the implementation of programs under this subchapter in the State.

(b) Duration

(1) In general

Subgrants under this part may be awarded for a period not to exceed four years.

(2) Startup period

The State educational agency may provide subgrant funds to an eligible recipient, at such recipient's request, for a three- to six-month startup period during the first year of the four-year grant period, which may include staff recruitment and training, and the coordination of services, before requiring full implementation of the program.

(3) Continuing eligibility

In awarding subgrant funds to continue a program under this part for the second, third, or fourth year, the State educational agency shall review the progress being made toward meeting the objectives of the program after the conclusion of the startup period, if any.

(4) Insufficient progress

The State educational agency may refuse to award subgrant funds if such agency finds that sufficient progress has not been made toward meeting such objectives, but only after affording the applicant notice and an opportunity for a hearing.

(5) Grant renewal

(A) An eligible entity that has previously received a subgrant under this part may reapply under this part for additional subgrants. An eligible recipient may receive funds under this part for a period not to exceed eight years.

(B) The Federal share of any subgrant renewed under subparagraph (A) shall not exceed 50 percent in any fiscal year.

(Pub. L. 89–10, title I, §1208, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3583.)

§ 6369. Evaluation

From funds reserved under section 6362(b)(1) of this title, the Secretary shall provide for an independent evaluation of programs assisted under this part—

(1) to determine the performance and effectiveness of programs assisted under this part; and

(2) to identify effective Even Start programs assisted under this part that can be duplicated and used in providing technical assistance to Federal, State, and local programs.

(Pub. L. 89–10, title I, §1209, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3584.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6362 of this title.

§ 6370. Construction

Nothing in this part shall be construed to prohibit a recipient of funds under this part from serving students participating in Even Start simultaneously with students with similar educational needs, in the same educational settings where appropriate.

(Pub. L. 89–10, title I, §1210, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3584.)

PART C—EDUCATION OF MIGRATORY CHILDREN

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 1070d–2, 1113, 3414, 6302, 6312, 6493, 6512, 8801, 8857, 8893 of this title; title 29 section 1645.

§ 6391. Program purpose

It is the purpose of this part to assist States to—

(1) support high-quality and comprehensive educational programs for migratory children to help reduce the educational disruptions and other problems that result from repeated moves;

(2) ensure that migratory children are provided with appropriate educational services (including supportive services) that address their special needs in a coordinated and efficient manner;

(3) ensure that migratory children have the opportunity to meet the same challenging State content standards and challenging State student performance standards that all children are expected to meet;

(4) design programs to help migratory children overcome educational disruption, cultural and language barriers, social isolation, various health-related problems, and other factors that inhibit the ability of such children to do well in school, and to prepare such children to make a successful transition to postsecondary education or employment; and

(5) ensure that migratory children benefit from State and local systemic reforms.

(Pub. L. 89–10, title I, §1301, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3585.)

§ 6392. Program authorized

In order to carry out the purpose of this part, the Secretary shall make grants to State educational agencies, or combinations of such agencies, to establish or improve, directly or through local operating agencies, programs of education

for migratory children in accordance with this part.

(Pub. L. 89–10, title I, § 1302, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3585.)

§ 6393. State allocations

(a) State allocations

Each State (other than the Commonwealth of Puerto Rico) is entitled to receive under this part, for each fiscal year, an amount equal to—

(1) the sum of the estimated number of migratory children aged three through 21 who reside in the State full time and the full-time equivalent of the estimated number of migratory children aged three through 21 who reside in the State part time, as determined in accordance with subsection (e) of this section; multiplied by

(2) 40 percent of the average per-pupil expenditure in the State, except that the amount determined under this paragraph shall not be less than 32 percent, nor more than 48 percent, of the average expenditure per pupil in the United States.

(b) Allocation to Puerto Rico

For each fiscal year, the amount for which the Commonwealth of Puerto Rico is eligible under this section shall be equal to—

(1) the number of migratory children in Puerto Rico, determined under subsection (a)(1) of this section; multiplied by

(2) the product of—

(A) the percentage that the average per-pupil expenditure in Puerto Rico is of the lowest average per-pupil expenditure of any of the 50 States; and

(B) 32 percent of the average per-pupil expenditure in the United States.

(c) Ratable reductions; reallocations

(1) In general

(A) If, after the Secretary reserves funds under section 6398(c) of this title, the amount appropriated to carry out this part for any fiscal year is insufficient to pay in full the amounts for which all States are eligible, the Secretary shall ratably reduce each such amount.

(B) If additional funds become available for making such payments for any fiscal year, the Secretary shall allocate such funds to States in amounts that the Secretary determines will best carry out the purpose of this part.

(2) Special rule

(A) The Secretary shall further reduce the amount of any grant to a State under this part for any fiscal year if the Secretary determines, based on available information on the numbers and needs of migratory children in the State and the program proposed by the State to address such needs, that such amount exceeds the amount required under section 6394 of this title.

(B) The Secretary shall reallocate such excess funds to other States whose grants under this part would otherwise be insufficient to provide an appropriate level of services to migratory children, in such amounts as the Secretary determines are appropriate.

(d) Consortium arrangements

(1) In general

In the case of a State that receives a grant of $1,000,000 or less under this section, the Secretary shall consult with the State educational agency to determine whether consortium arrangements with another State or other appropriate entity would result in delivery of services in a more effective and efficient manner.

(2) Proposals

Any State, regardless of the amount of such State's allocation, may submit a consortium arrangement to the Secretary for approval.

(3) Approval

The Secretary shall approve a consortium arrangement under paragraph (1) or (2) if the proposal demonstrates that the arrangement will—

(A) reduce administrative costs or program function costs for State programs; and

(B) make more funds available for direct services to add substantially to the welfare or educational attainment of children to be served under this part.

(e) Determining numbers of eligible children

In order to determine the estimated number of migratory children residing in each State for purposes of this section, the Secretary shall—

(1) use such information as the Secretary finds most accurately reflects the actual number of migratory children;

(2) develop and implement a procedure for more accurately reflecting cost factors for different types of summer and intersession program designs;

(3) adjust the full-time equivalent number of migratory children who reside in each State to take into account—

(A) the special needs of those children participating in special programs provided under this part that operate during the summer and intersession periods; and

(B) the additional costs of operating such programs; and

(4) conduct an analysis of the options for adjusting the formula so as to better direct services to the child whose education has been interrupted.

(Pub. L. 89–10, title I, § 1303, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3585.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6394, 6398 of this title.

§ 6394. State applications; services

(a) Application required

Any State desiring to receive a grant under this part for any fiscal year shall submit an application to the Secretary at such time and in such manner as the Secretary may require.

(b) Program information

Each such application shall include—

(1) a description of how, in planning, implementing, and evaluating programs and

projects assisted under this part, the State and its local operating agencies will ensure that the special educational needs of migratory children, including preschool migratory children, are identified and addressed through a comprehensive plan for needs assessment and service delivery that meets the requirements of section 6396 of this title;

(2) a description of the steps the State is taking to provide all migratory students with the opportunity to meet the same challenging State content standards and challenging State student performance standards that all children are expected to meet;

(3) a description of how the State will use funds received under this part to promote interstate and intrastate coordination of services for migratory children, including how, consistent with procedures the Secretary may require, the State will provide for educational continuity through the timely transfer of pertinent school records, including information on health, when children move from one school to another, whether or not such move occurs during the regular school year;

(4) a description of the State's priorities for the use of funds received under this part, and how such priorities relate to the State's assessment of needs for services in the State;

(5) a description of how the State will determine the amount of any subgrants the State will award to local operating agencies, taking into account the requirements of paragraph (1); and

(6) such budgetary and other information as the Secretary may require.

(c) Assurances

Each such application shall also include assurances, satisfactory to the Secretary, that—

(1) funds received under this part will be used only—

(A) for programs and projects, including the acquisition of equipment, in accordance with section 6396(b)(1) of this title; and

(B) to coordinate such programs and projects with similar programs and projects within the State and in other States, as well as with other Federal programs that can benefit migratory children and their families;

(2) such programs and projects will be carried out in a manner consistent with the objectives of section 6314 of this title, subsections (b) and (d) of section 6315 of this title, section 6321 of this title, and subsections (b) and (c) of section 6322 of this title, and part F of this subchapter;

(3) in the planning and operation of programs and projects at both the State and local operating agency level, there is appropriate consultation with parent advisory councils for programs of one school year in duration, and that all such programs and projects are carried out, to the extent feasible, in a manner consistent with section 6319 of this title;

(4) in planning and carrying out such programs and projects, there has been, and will be, adequate provision for addressing the unmet education needs of preschool migratory children;

(5) the effectiveness of such programs and projects will be determined, where feasible, using the same approaches and standards that will be used to assess the performance of students, schools, and local educational agencies under part A of this subchapter;

(6) to the extent feasible, such programs and projects will provide for—

(A) advocacy and outreach activities for migratory children and their families, including informing such children and families of, or helping such children and families gain access to, other education, health, nutrition, and social services;

(B) professional development programs, including mentoring, for teachers and other program personnel;

(C) family literacy programs, including such programs that use models developed under Even Start;

(D) the integration of information technology into educational and related programs; and

(E) programs to facilitate the transition of secondary school students to postsecondary education or employment; and

(7) the State will assist the Secretary in determining the number of migratory children under section 6393(e) of this title, through such procedures as the Secretary may require.

(d) Priority for services

In providing services with funds received under this part, each recipient of such funds shall give priority to migratory children who are failing, or most at risk of failing, to meet the State's challenging State content standards and challenging State student performance standards, and whose education has been interrupted during the regular school year.

(e) Continuation of services

Notwithstanding any other provision of this part—

(1) a child who ceases to be a migratory child during a school term shall be eligible for services until the end of such term;

(2) a child who is no longer a migratory child may continue to receive services for one additional school year, but only if comparable services are not available through other programs; and

(3) secondary school students who were eligible for services in secondary school may continue to be served through credit accrual programs until graduation.

(Pub. L. 89–10, title I, §1304, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3587.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6393 of this title.

§ 6395. Secretarial approval; peer review

(a) Secretarial approval

The Secretary shall approve each State application that meets the requirements of this part.

(b) Peer review

The Secretary may review any such application with the assistance and advice of State officials and other individuals with relevant expertise.

(Pub. L. 89–10, title I, § 1305, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3588.)

§ 6396. Comprehensive needs assessment and service-delivery plan; authorized activities

(a) Comprehensive plan

(1) In general

Each State that receives assistance under this part shall ensure that the State and its local operating agencies identify and address the special educational needs of migratory children in accordance with a comprehensive State plan that—

(A) is integrated with other programs under this chapter, the Goals 2000: Educate America Act [20 U.S.C. 5801 et seq.], or other Acts, as appropriate, consistent with section 8856 of this title;

(B) may be submitted as a part of consolidated application under section 8852 of this title;

(C) provides that migratory children will have an opportunity to meet the same challenging State content standards and challenging State student performance standards, set out in such plans, that all children are expected to meet;

(D) specifies measurable program goals and outcomes;

(E) encompasses the full range of services that are available for migratory children from appropriate local, State, and Federal educational programs;

(F) is the product of joint planning among such local, State, and Federal programs, including programs under part A of this subchapter, early childhood programs, and bilingual education programs under part A of subchapter VII of this chapter; and

(G) provides for the integration of services available under this part with services provided by such other programs.

(2) Duration of the plan

Each such comprehensive State plan shall—

(A) remain in effect for the duration of the State's participation under this part; and

(B) be periodically reviewed and revised by the State, as necessary, to reflect changes in the State's strategies and programs under this part.

(b) Authorized activities

(1) In general

In implementing the comprehensive plan described in subsection (a) of this section, each local operating agency shall have the flexibility to determine the activities to be provided with funds made available under this part, except that—

(A) before funds under this part are used to provide services described in subparagraph (B), such funds shall be used to meet the identified needs of migratory children that—

(i) result from the effects of their migratory lifestyle, or are needed to permit migratory children to participate effectively in school; and

(ii) are not addressed by services provided under other programs, including programs under part A of this subchapter; and

(B) all migratory children who are eligible to receive services under part A of this subchapter shall receive such services with funds provided under this part or under part A of this subchapter.

(2) Construction

Nothing in this part shall be construed to prohibit a local operating agency from serving migrant students simultaneously with students with similar educational needs, in the same educational settings where appropriate.

(3) Special rule

Notwithstanding section 6314 of this title, a school that receives funds under this part shall continue to address the identified needs described in paragraph (1)(A).

(Pub. L. 89–10, title I, § 1306, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3589.)

REFERENCES IN TEXT

The Goals 2000: Educate America Act, referred to in subsec. (a)(1)(A), is Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 125 (except titles V and IX), as amended, which is classified principally to chapter 68 (§ 5801 et seq.) of this title (except subchapters V (§ 5931 et seq.) and IX (§ 6001 et seq.)). For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6394 of this title.

§ 6397. Bypass

The Secretary may use all or part of any State's allocation under this part to make arrangements with any public or private nonprofit agency to carry out the purpose of this part in such State if the Secretary determines that—

(1) the State is unable or unwilling to conduct educational programs for migratory children;

(2) such arrangements would result in more efficient and economic administration of such programs; or

(3) such arrangements would add substantially to the welfare or educational attainment of such children.

(Pub. L. 89–10, title I, § 1307, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3590.)

§ 6398. Coordination of migrant education activities

(a) Improvement of coordination

(1) In general

The Secretary, in consultation with the States, may make grants to, or enter into contracts with, State educational agencies, local educational agencies, institutions of higher education, and other public and private nonprofit entities to improve the interstate and intrastate coordination among such agencies' educational programs, including the establishment or improvement of programs for credit accrual and exchange, available to migratory students.

(2) Duration

Grants under this subpart[1] may be awarded for not more than five years.

[1] So in original. Probably should be ''this part''.

(b) Assistance and reporting

(1) Student records

(A) The Secretary shall solicit information on how student records are transferred from one school to another and shall solicit recommendations on whether new procedures and technologies for record transfer should be employed to better meet the needs of the migrant population.

(B) The Secretary shall also seek recommendations on the most effective means for determining the number of students or full-time equivalent students in each State for the purpose of allocating funds under this part.

(2) Report to Congress

(A) Not later than April 30, 1995, the Secretary shall report to the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives the Secretary's findings and recommendations, and shall include in this report, recommendations for interim measures that may be taken to ensure continuity of services in this program.

(B) The Secretary shall assist States in developing effective methods for the transfer of student records and in determining the number of students or full-time equivalent students in each State if such interim measures are required.

(c) Availability of funds

For the purpose of carrying out this section in any fiscal year, the Secretary shall reserve not more than $6,000,000 of the amount appropriated to carry out this part for such year.

(d) Incentive grants

(1) In general

From the amounts made available to carry out this section, the Secretary shall reserve not more than $1,500,000 to award, on a competitive basis, grants in the amount of not more than $250,000 to State educational agencies with consortium agreements under section 6393(d) of this title.

(2) Limitation

Not less than 10 of such grants shall be awarded to States which receive allocations of less than $1,000,000 if such States have approved agreements.

(Pub. L. 89–10, title I, §1308, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3590.)

CHANGE OF NAME

Committee on Education and Labor of House of Representatives treated as referring to Committee on Economic and Educational Opportunities of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Economic and Educational Opportunities of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Fifth Congress, Jan. 7, 1997.

EXTENSION OF OPERATION OF MIGRANT STUDENT RECORD TRANSFER SYSTEM

Pub. L. 103–59, Aug. 2, 1993, 107 Stat. 281, provided that:

''(a) PROGRAM EXTENSION.—Notwithstanding any other provision of Federal law, the Secretary of Education shall extend the contract for the operation of the migrant student record transfer system under section 1203(a)(2)(A) of the Elementary and Secondary Education Act of 1965 [formerly 20 U.S.C. 2783(a)(2)(A)] to operate such system until such time as the Secretary of Education determines is necessary, but shall not extend such contract beyond June 30, 1995, without conducting a competition.

''(b) PROGRAM MODIFICATION.—Major modification of such system may be made only after consultation with the Committee on Education and Labor [now Committee on Education and the Workforce] of the House of Representatives and the Committee on Labor and Human Resources of the Senate.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6393 of this title.

§ 6399. Definitions

As used in this part:

(1) Local operating agency

The term ''local operating agency'' means—

(A) a local educational agency to which a State educational agency makes a subgrant under this part;

(B) a public or nonprofit private agency with which a State educational agency or the Secretary makes an arrangement to carry out a project under this part; or

(C) a State educational agency, if the State educational agency operates the State's migrant education program or projects directly.

(2) Migratory child

The term ''migratory child'' means a child who is, or whose parent, spouse, or guardian is, a migratory agricultural worker, including a migratory dairy worker, or a migratory fisher, and who, in the preceding 36 months, in order to obtain, or accompany such parent, spouse, or guardian in order to obtain, temporary or seasonal employment in agricultural or fishing work—

(A) has moved from one school district to another;

(B) in a State that is comprised of a single school district, has moved from one administrative area to another within such district; or

(C) resides in a school district of more than 15,000 square miles, and migrates a distance of 20 miles or more to a temporary residence to engage in a fishing activity.

(Pub. L. 89–10, title I, §1309, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3591.)

PART D—PREVENTION AND INTERVENTION PROGRAMS FOR CHILDREN AND YOUTH WHO ARE NEGLECTED, DELINQUENT, OR AT RISK OF DROPPING OUT

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 6302, 6312, 6315, 6512, 8852, 8857 of this title.

§ 6421. Findings; purpose; program authorized

(a) Findings

Congress finds the following:

(1) A large percentage of youth in the juvenile justice system have poor academic

achievement, are a year or more behind grade level, and have dropped out of school.

(2) There is a strong correlation between academic failure and involvement in delinquent activities.

(3) Preventing students from dropping out of local schools and addressing the educational needs of delinquent youth can help reduce the dropout rate and involvement in delinquent activities at the same time.

(4) Many schools and correctional facilities fail to communicate regarding a youth's academic needs and students often return to their home school ill-prepared to meet current curriculum requirements.

(5) Schools are often reluctant to deal with youth returning from facilities and receive no funds to deal with the unique educational and other needs of such youth.

(6) A continuing need exists for activities and programs to reduce the incidence of youth dropping out of school.

(7) Federal dropout prevention programs have demonstrated effectiveness in keeping children and youth in school.

(8) Pregnant and parenting teens are a high at-risk group for dropping out of school and should be targeted by dropout prevention programs.

(9) Such youth need a strong dropout prevention program which provides such youth with high level skills and which provides supports to youth returning from correctional facilities in order to keep such youth in school.

(b) Purpose

It is the purpose of this part—

(1) to improve educational services to children in local and State institutions for neglected or delinquent children and youth so that such children and youth have the opportunity to meet the same challenging State content standards and challenging State student performance standards that all children in the State will be expected to meet;

(2) to provide such children and youth the services needed to make a successful transition from institutionalization to further schooling or employment; and

(3) to prevent at-risk youth from dropping out of school and to provide dropouts and youth returning from institutions with a support system to ensure their continued education.

(c) Program authorized

In order to carry out the purpose of this part the Secretary shall make grants to State educational agencies to enable such agencies to award subgrants to State agencies and local educational agencies to establish or improve programs of education for neglected or delinquent children and youth at risk of dropping out of school before graduation.

(Pub. L. 89–10, title I, §1401, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3591.)

§ 6422. Payments for programs under this part

(a) Agency subgrants

Based on the allocation amount computed under section 6432 of this title, the Secretary shall allocate to each State educational agency amounts necessary to make subgrants to State agencies.

(b) Local subgrants

Each State shall retain, for purposes of subpart 2 of this part, funds generated throughout the State under part A of this subchapter based on youth residing in local correctional facilities, or attending community day programs for delinquent children and youth.

(c) Use of remaining funds

Each State shall use any funds remaining after allocations are made under subsection (a) of this section.

(Pub. L. 89–10, title I, §1402, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3592.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6452 of this title.

SUBPART 1—STATE AGENCY PROGRAMS

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in sections 6333, 6471 of this title.

§ 6431. Eligibility

A State agency is eligible for assistance under this subpart if such State agency is responsible for providing free public education for children—

(1) in institutions for neglected or delinquent children;

(2) attending community day programs for neglected or delinquent children; or

(3) in adult correctional institutions.

(Pub. L. 89–10, title I, §1411, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3592.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6432 of this title.

§ 6432. Allocation of funds

(a) Subgrants to State agencies

(1) In general

Each State agency described in section 6431 of this title (other than an agency in the Commonwealth of Puerto Rico) is eligible to receive a subgrant under this part, for each fiscal year, an amount equal to the product of—

(A) the number of neglected or delinquent children and youth described in section 6431 of this title who—

(i) are enrolled for at least 15 hours per week in education programs in adult correctional institutions; and

(ii) are enrolled for at least 20 hours per week—

(I) in education programs in institutions for neglected or delinquent children; or

(II) in community day programs for neglected or delinquent children; and

(B) 40 percent of the average per-pupil expenditure in the State, except that the amount determined under this paragraph shall not be less than 32 percent, or more than 48 percent, of the average per-pupil expenditure in the United States.

(2) Special rule

The number of neglected or delinquent children and youth determined under paragraph (1) shall—

(A) be determined by the State agency by a deadline set by the Secretary, except that no State agency shall be required to determine the number of such children on a specific date set by the Secretary; and

(B) be adjusted, as the Secretary determines is appropriate, to reflect the relative length of such agency's annual programs.

(b) Subgrants to State agencies in Puerto Rico

For each fiscal year, the amount of the subgrant for which a State agency in the Commonwealth of Puerto Rico is eligible under this part shall be equal to—

(1) the number of children and youth counted under subsection (a)(1) of this section for the Commonwealth of Puerto Rico; multiplied by

(2) the product of—

(A) the percentage that the average per-pupil expenditure in the Commonwealth of Puerto Rico is of the lowest average per-pupil expenditure of any of the 50 States; and

(B) 32 percent of the average per-pupil expenditure in the United States.

(c) Ratable reductions in case of insufficient appropriations

If the amount appropriated for any fiscal year for subgrants under subsections (a) and (b) of this section is insufficient to pay the full amount for which all agencies are eligible under such subsections, the Secretary shall ratably reduce each such amount.

(Pub. L. 89–10, title I, §1412, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3592.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6422 of this title.

§ 6433. State reallocation of funds

If a State educational agency determines that a State agency does not need the full amount of the subgrant for which such State agency is eligible under this part for any fiscal year, the State educational agency may reallocate the amount that will not be needed to other eligible State agencies that need additional funds to carry out the purpose of this part, in such amounts as the State educational agency shall determine.

(Pub. L. 89–10, title I, §1413, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3593.)

§ 6434. State plan and State agency applications

(a) State plan

(1) In general

Each State educational agency that desires to receive a grant under this part shall submit, for approval by the Secretary, a plan for meeting the needs of neglected and delinquent youth and, where applicable, youth at risk of dropping out of school which is integrated with other programs under this chapter, the Goals 2000: Educate America Act [20 U.S.C. 5801 et seq.], or other Acts, as appropriate, consistent with section 8856 of this title.

(2) Contents

Each such State plan shall—

(A) describe the program goals, objectives, and performance measures established by the State that will be used to assess the effectiveness of the program in improving academic and vocational skills of children in the program;

(B) provide that, to the extent feasible, such children will have the same opportunities to learn as such children would have if such children were in the schools of local educational agencies in the State; and

(C) contain assurances that the State educational agency will—

(i) ensure that programs assisted under this part will be carried out in accordance with the State plan described in this subsection;

(ii) carry out the evaluation requirements of section 6436 of this title;

(iii) ensure that the State agencies receiving subgrants under this subpart comply with all applicable statutory and regulatory requirements; and

(iv) provide such other information as the Secretary may reasonably require.

(3) Duration of the plan

Each such State plan shall—

(A) remain in effect for the duration of the State's participation under this part; and

(B) be periodically reviewed and revised by the State, as necessary, to reflect changes in the State's strategies and programs under this part.

(b) Secretarial approval; peer review

(1) In general

The Secretary shall approve each State plan that meets the requirements of this part.

(2) Peer review

The Secretary may review any State plan with the assistance and advice of individuals with relevant expertise.

(c) State agency applications

Any State agency that desires to receive funds to carry out a program under this part shall submit an application to the State educational agency that—

(1) describes the procedures to be used, consistent with the State plan under section 6311 of this title, to assess the educational needs of the children to be served;

(2) provides assurances that in making services available to youth in adult correctional facilities, priority will be given to such youth who are likely to complete incarceration within a 2-year period;

(3) describes the program, including a budget for the first year of the program, with annual updates to be provided to the State educational agency;

(4) describes how the program will meet the goals and objectives of the State plan under this subpart;

(5) describes how the State agency will consult with experts and provide the necessary training for appropriate staff, to ensure that the planning and operation of institution-wide projects under section 6436 of this title are of high quality;

(6) describes how the agency will carry out the evaluation requirements of section 8941 of this title and how the results of the most recent evaluation are used to plan and improve the program;

(7) includes data showing that the agency has maintained fiscal effort required of a local educational agency, in accordance with section 8891 of this title;

(8) describes how the programs will be coordinated with other appropriate State and Federal programs, such as programs under the Job Training Partnership Act [29 U.S.C. 1501 et seq.], vocational education programs, State and local dropout prevention programs, and special education programs;

(9) describes how appropriate professional development will be provided to teachers and other staff;

(10) designates an individual in each affected institution to be responsible for issues relating to the transition of children and youth from the institution to locally operated programs;

(11) describes how the agency will,[1] endeavor to coordinate with businesses for training and mentoring for participating youth;

(12) provides assurances that the agency will assist in locating alternative programs through which students can continue their education if students are not returning to school after leaving the correctional facility;

(13) provides assurances that the agency will work with parents to secure parents' assistance in improving the educational achievement of their children and preventing their children's further involvement in delinquent activities;

(14) provides assurances that the agency works with special education youth in order to meet an existing individualized education program and an assurance that the agency will notify the youth's local school if such youth—

(A) is identified as in need of special education services while the youth is in the facility; and

(B) intends to return to the local school;

(15) provides assurances that the agency will work with youth who dropped out of school before entering the facility to encourage the youth to reenter school once the term of the youth has been completed or provide the youth with the skills necessary to gain employment, continue the education of the youth, or achieve a secondary school diploma or the recognized equivalent if the youth does not intend to return to school;

(16) provides assurances that teachers and other qualified staff are also trained to work with children with disabilities and other students with special needs taking into consideration the unique needs of such students;

(17) describes any additional services provided to youth, such as career counseling, and assistance in securing student loans and grants; and

(18) provides assurances that the program under this subpart will be coordinated with any programs operated under the Juvenile Justice and Delinquency Prevention Act of 1974 [42 U.S.C. 5601 et seq.] or other comparable programs, if applicable.

(Pub. L. 89–10, title I, § 1414, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3593.)

REFERENCES IN TEXT

The Goals 2000: Educate America Act, referred to in subsec. (a)(1), is Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 125 (except titles V and IX), as amended, which is classified principally to chapter 68 (§ 5801 et seq.) of this title (except subchapters V (§ 5931 et seq.) and IX (§ 6001 et seq.)). For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables.

The Job Training Partnership Act, referred to in subsec. (c)(8), is Pub. L. 97–300, Oct. 13, 1982, 96 Stat. 1322, as amended, which is classified generally to chapter 19 (§ 1501 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 1501 of Title 29 and Tables.

The Juvenile Justice and Delinquency Prevention Act of 1974, referred to in subsec. (c)(18), is Pub. L. 93–415, Sept. 7, 1974, 88 Stat. 1109, as amended, which is classified principally to chapter 72 (§ 5601 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5601 of Title 42 and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6435 of this title.

§ 6435. Use of funds

(a) In general

(1) Uses

A State agency shall use funds received under this subpart only for programs and projects that—

(A) are consistent with the State plan under section 6434(a) of this title; and

(B) concentrate on providing participants with the knowledge and skills needed to make a successful transition to secondary school completion, further education, or employment.

(2) Programs and projects

Such programs and projects—

(A) may include the acquisition of equipment;

(B) shall be designed to support educational services that—

(i) except for institution-wide projects under section 6436 of this title, are provided to children identified by the State agency as failing, or most at risk of failing, to meet the State's challenging State content standards and challenging State student performance standards;

(ii) supplement and improve the quality of the educational services provided to such children by the State agency; and

(iii) afford such children an opportunity to learn to such challenging State standards;

[1] So in original. The comma probably should not appear.

(C) shall be carried out in a manner consistent with section 6322 of this title and part F of this subchapter; and

(D) may include the costs of meeting the evaluation requirements of section 8941 of this title.

(b) Supplement, not supplant

A program under this subpart that supplements the number of hours of instruction students receive from State and local sources shall be considered to comply with the supplement, not supplant requirement of section 6322 of this title without regard to the subject areas in which instruction is given during those hours.

(Pub. L. 89–10, title I, §1415, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3596.)

§ 6436. Institution-wide projects

A State agency that provides free public education for children and youth in an institution for neglected or delinquent children (other than an adult correctional institution) or attending a community-day program for such children may use funds received under this part to serve all children in, and upgrade the entire educational effort of, that institution or program if the State agency has developed, and the State educational agency has approved, a comprehensive plan for that institution or program that—

(1) provides for a comprehensive assessment of the educational needs of all youth in the institution or program serving juveniles;

(2) provides for a comprehensive assessment of the educational needs of youth aged 20 and younger in adult facilities who are expected to complete incarceration within a two-year period;

(3) describes the steps the State agency has taken, or will take, to provide all children under age 21 with the opportunity to meet challenging State content standards and challenging State student performance standards in order to improve the likelihood that the students will complete secondary school, attain secondary diploma or its recognized equivalent, or find employment after leaving the institution;

(4) describes the instructional program, pupil services, and procedures that will be used to meet the needs described in paragraph (1), including, to the extent feasible, the provision of mentors for students;

(5) specifically describes how such funds will be used;

(6) describes the measures and procedures that will be used to assess student progress;

(7) describes how the agency has planned, and will implement and evaluate, the institution-wide or program-wide project in consultation with personnel providing direct instructional services and support services in institutions or community-day programs for neglected or delinquent children and personnel from the State educational agency; and

(8) includes an assurance that the State agency has provided for appropriate training for teachers and other instructional and administrative personnel to enable such teachers and personnel to carry out the project effectively.

(Pub. L. 89–10, title I, §1416, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3596.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6434, 6435 of this title.

§ 6437. Three-year programs or projects

If a State agency operates a program or project under this subpart in which individual children are likely to participate for more than one year, the State educational agency may approve the State agency's application for a subgrant under this part for a period of not more than three years.

(Pub. L. 89–10, title I, §1417, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3597.)

§ 6438. Transition services

(a) Transition services

Each State agency shall reserve not more than 10 percent of the amount such agency receives under this subpart for any fiscal year to support projects that facilitate the transition of children from State-operated institutions to local educational agencies.

(b) Conduct of projects

A project supported under this section may be conducted directly by the State agency, or through a contract or other arrangement with one or more local educational agencies, other public agencies, or private nonprofit organizations.

(c) Limitation

Any funds reserved under subsection (a) of this section shall be used only to provide transitional educational services, which may include pupil services and mentoring, to neglected and delinquent children in schools other than State-operated institutions.

(d) Construction

Nothing in this section shall be construed to prohibit a school that receives funds under subsection (a) of this section from serving neglected and delinquent children simultaneously with students with similar educational needs, in the same educational settings where appropriate.

(Pub. L. 89–10, title I, §1418, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3597.)

SUBPART 2—LOCAL AGENCY PROGRAMS

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in sections 6332, 6422, 6471 of this title.

§ 6451. Purpose

The purpose of this subpart is to support the operation of local educational agency programs which involve collaboration with locally operated correctional facilities to—

(1) carry out high quality education programs to prepare youth for secondary school completion, training, and employment, or further education;

(2) provide activities to facilitate the transition of such youth from the correctional program to further education or employment; and

(3) operate dropout prevention programs in local schools for youth at risk of dropping out of school and youth returning from correctional facilities.

(Pub. L. 89–10, title I, § 1421, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3597.)

§ 6452. Programs operated by local educational agencies

(a) Local subgrants

With funds retained made available under section 6422(b) of this title, the State educational agency shall award subgrants to local educational agencies with high numbers or percentages of youth residing in locally operated (including county operated) correctional facilities for youth (including facilities involved in day programs).

(b) Special rule

A local educational agency which includes a correctional facility that operates a school is not required to operate a dropout prevention program if more than 30 percent of the youth attending such facility will reside outside the boundaries of the local educational agency upon leaving such facility.

(c) Notification

A State educational agency shall notify local educational agencies within the State of the eligibility of such agencies to receive a subgrant under this subpart.

(Pub. L. 89–10, title I, § 1422, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3598.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6455 of this title.

§ 6453. Local educational agency applications

Eligible local educational agencies desiring assistance under this section shall submit an application to the State educational agency, containing such information as the State educational agency may require. Each such application shall include—

(1) a description of the program to be assisted;

(2) a description of formal agreements between—

(A) the local educational agency; and

(B) correctional facilities and alternative school programs serving youth involved with the juvenile justice system to operate programs for delinquent youth;

(3) as appropriate, a description of how participating schools will coordinate with facilities working with delinquent youth to ensure that such youth are participating in an education program comparable to one operating in the local school such youth would attend;

(4) as appropriate, a description of the dropout prevention program operated by participating schools and the types of services such schools will provide to at-risk youth in participating schools and youth returning from correctional facilities;

(5) as appropriate, a description of the youth expected to be served by the dropout prevention program and how the school will be coordinating existing educational programs to meet unique education needs;

(6) as appropriate, a description of how schools will coordinate with existing social and health services to meet the needs of students at risk of dropping out of school and other participating students, including prenatal health care and nutrition services related to the health of the parent and child, parenting and child development classes, child care, targeted re-entry and outreach programs, referrals to community resources, and scheduling flexibility;

(7) as appropriate, a description of any partnerships with local businesses to develop training and mentoring services for participating students;

(8) as appropriate, a description of how the program will involve parents in efforts to improve the educational achievement of their children, assist in dropout prevention activities, and prevent the involvement of their children in delinquent activities;

(9) a description of how the program under this subpart will be coordinated with other Federal, State, and local programs, such as programs under the Job Training and[1] Partnership Act [29 U.S.C. 1501 et seq.] and vocational education programs serving this at-risk population of youth;

(10) a description of how the program will be coordinated with programs operated under the Juvenile Justice and Delinquency Prevention Act of 1974 [42 U.S.C. 5601 et seq.] and other comparable programs, if applicable;

(11) as appropriate, a description of how schools will work with probation officers to assist in meeting the needs of youth returning from correctional facilities;

(12) a description of efforts participating schools will make to ensure correctional facilities working with youth are aware of a child's existing individualized education program; and

(13) as appropriate, a description of the steps participating schools will take to find alternative placements for youth interested in continuing their education but unable to participate in a regular public school program.

(Pub. L. 89–10, title I, § 1423, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3598.)

REFERENCES IN TEXT

The Job Training Partnership Act, referred to in par. (9), is Pub. L. 97–300, Oct. 13, 1982, 96 Stat. 1322, as amended, which is classified generally to chapter 19 (§ 1501 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 1501 of Title 29 and Tables.

The Juvenile Justice and Delinquency Prevention Act of 1974, referred to in par. (10), is Pub. L. 93–415, Sept. 7, 1974, 88 Stat. 1109, as amended, which is classified principally to chapter 72 (§ 5601 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5601 of Title 42 and Tables.

[1] So in original. The word ''and'' probably should not appear.

§ 6454. Uses of funds

Funds provided to local educational agencies under this subpart may be used, where appropriate, for—

(1) dropout prevention programs which serve youth at educational risk, including pregnant and parenting teens, youth who have come in contact with the juvenile justice system, youth at least one year behind their expected grade level, migrant youth, immigrant youth, students with limited-English proficiency and gang members;

(2) the coordination of health and social services for such individuals if there is a likelihood that the provision of such services, including day care and drug and alcohol counseling, will improve the likelihood such individuals will complete their education; and

(3) programs to meet the unique education needs of youth at risk of dropping out of school, which may include vocational education, special education, career counseling, and assistance in securing student loans or grants.

(Pub. L. 89–10, title I, § 1424, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3599.)

§ 6455. Program requirements for correctional facilities receiving funds under this section

Each correctional facility entering into an agreement with a local educational agency under section 6452(a) of this title to provide services to youth under this section shall—

(1) where feasible, ensure educational programs in juvenile facilities are coordinated with the student's home school, particularly with respect to special education students with an individualized education program;

(2) notify the local school of a youth if the youth is identified as in need of special education services while in the facility;

(3) where feasible, provide transition assistance to help the youth stay in school, including coordination of services for the family, counseling, assistance in accessing drug and alcohol abuse prevention programs, tutoring, and family counseling;

(4) provide support programs which encourage youth who have dropped out to reenter school once their term has been completed or provide such youth with the skills necessary for such youth to gain employment or seek a secondary school diploma or its recognized equivalent;

(5) work to ensure such facilities are staffed with teachers and other qualified staff who are trained to work with children with disabilities and other students with special needs taking into consideration the unique needs of such children and students;

(6) ensure educational programs in correctional facilities are related to assisting students meet high educational standards;

(7) use, to the extent possible, technology to assist in coordinating educational programs between the juvenile facility and the community school;

(8) where feasible, involve parents in efforts to improve the educational achievement of their children and prevent the further involvement of such children in delinquent activities;

(9) coordinate funds received under this program with other local, State, and Federal funds available to provide services to participating youth, such as funds under the Job Training Partnership Act [29 U.S.C. 1501 et seq.], and vocational education funds;

(10) coordinate programs operated under this subpart with activities funded under the Juvenile Justice and Delinquency Prevention Act of 1974 [42 U.S.C. 5601 et seq.] and other comparable programs, if applicable; and

(11) if appropriate, work with local businesses to develop training and mentoring programs for participating youth.

(Pub. L. 89–10, title I, § 1425, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3599.)

REFERENCES IN TEXT

The Job Training Partnership Act, referred to in par. (9), is Pub. L. 97–300, Oct. 13, 1982, 96 Stat. 1322, as amended, which is classified generally to chapter 19 (§ 1501 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 1501 of Title 29 and Tables.

The Juvenile Justice and Delinquency Prevention Act of 1974, referred to in par. (10), is Pub. L. 93–415, Sept. 7, 1974, 88 Stat. 1109, as amended, which is classified principally to chapter 72 (§ 5601 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5601 of Title 42 and Tables.

§ 6456. Accountability

The State educational agency may—

(1) reduce or terminate funding for projects under this section[1] if a local educational agency does not show progress in reducing dropout rates for male students and for female students over a 3-year period; and

(2) require juvenile facilities to demonstrate, after receiving assistance under this subpart for 3 years, that there has been an increase in the number of youth returning to school, obtaining a secondary school diploma or its recognized equivalent, or obtaining employment after such youth are released.

(Pub. L. 89–10, title I, § 1426, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3600.)

SUBPART 3—GENERAL PROVISIONS

§ 6471. Program evaluations

(a) Scope of evaluation

Each State agency or local educational agency that conducts a program under subpart 1 or 2 of this part shall evaluate the program, disaggregating data on participation by sex, and if feasible, by race, ethnicity, and age, not less than once every three years to determine the program's impact on the ability of participants to—

(1) maintain and improve educational achievement;

(2) accrue school credits that meet State requirements for grade promotion and secondary school graduation;

(3) make the transition to a regular program or other education program operated by a local educational agency; and

[1] So in original. Probably should be ''subpart''.

(4) complete secondary school (or secondary school equivalency requirements) and obtain employment after leaving the institution.

(b) Evaluation measures

In conducting each evaluation under subsection (a) of this section, a State agency or local educational agency shall use multiple and appropriate measures of student progress.

(c) Evaluation results

Each State agency and local educational agency shall—

(1) submit evaluation results to the State educational agency; and

(2) use the results of evaluations under this section to plan and improve subsequent programs for participating children and youth.

(Pub. L. 89–10, title I, § 1431, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3600.)

§ 6472. Definitions

For the purpose of this part:

(1) The term ''adult correctional institution'' means a facility in which persons are confined as a result of a conviction for a criminal offense, including persons under 21 years of age.

(2) The term ''at-risk youth'' means school aged youth who are at risk of academic failure, have drug or alcohol problems, are pregnant or are parents, have come into contact with the juvenile justice system in the past, are at least one year behind the expected grade level for the age of the youth, have limited-English proficiency, are gang members, have dropped out of school in the past, or have high absenteeism rates at school.

(3) The term ''community day program'' means a regular program of instruction provided by a State agency at a community day school operated specifically for neglected or delinquent children.

(4) The term ''institution for delinquent children and youth'' means a public or private residential facility for the care of children who have been adjudicated to be delinquent or in need of supervision.

(5) The term ''institution for neglected children'' means a public or private residential facility, other than a foster home, that is operated for the care of children who have been committed to the institution or voluntarily placed in the institution under applicable State law, due to abandonment, neglect, or death of their parents or guardians.

(Pub. L. 89–10, title I, § 1432, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3601.)

PART E—FEDERAL EVALUATIONS, DEMONSTRATIONS, AND TRANSITION PROJECTS

§ 6491. Evaluations

(a) National assessment

(1) In general

The Secretary shall conduct a national assessment of programs assisted under this subchapter, in coordination with the ongoing National Evaluation under subsection (b) of this section that shall be planned, reviewed, and conducted in consultation with an independent panel of researchers, State practitioners, local practitioners, and other appropriate individuals.

(2) Examination

The assessment shall examine how well schools, local educational agencies, and States are—

(A) progressing toward the goal of all children served under this subchapter reaching the State's challenging State content standards and challenging State student performance standards; and

(B) accomplishing the purpose set forth in section 6301(d) of this title to achieve the goal described in paragraph (1), including—

(i) ensuring challenging State content standards and challenging State student performance standards for all children served under this subchapter and aligning the efforts of States, local educational agencies, and schools to help such children reach such standards;

(ii) providing children served under this subchapter an enriched and accelerated educational program through schoolwide programs or through additional services that increase the amount and quality of instructional time that such children receive;

(iii) promoting schoolwide reform and access for all children served under this subchapter to effective instructional strategies and challenging academic content;

(iv) significantly upgrading the quality of the curriculum and instruction by providing staff in participating schools with substantial opportunities for professional development;

(v) coordinating services provided under all parts of this subchapter with each other, with other educational and pupil services, including preschool services, and, to the extent feasible, with health and social service programs funded from other sources;

(vi) affording parents of children served under this subchapter meaningful opportunities to participate in the education of their children at home and at school, such as the provision of family literacy services;

(vii) distributing resources to areas where needs are greatest;

(viii) improving accountability, as well as teaching and learning, by making assessments under this subchapter congruent with State assessment systems; and

(ix) providing greater decisionmaking authority and flexibility to schools in exchange for greater responsibility for student performance.

(3) NAEP information

Where feasible, the Secretary shall use information gathered from a variety of sources, including the National Assessment of Educational Progress, State evaluations, and available research studies, in carrying out this subsection.

(4) Interim and final reports

The Secretary shall submit to the President and the appropriate committees of the Congress an interim report by January 1, 1996, summarizing the preliminary findings of the assessment and a final report of the findings of the assessment by January 1, 1999.

(b) Studies and data collection

(1) In general

The Secretary may collect such data, as necessary, at the State, local, and school levels and conduct studies and evaluations, including national studies and evaluations, to assess on an ongoing basis the effectiveness of programs under this subchapter and to report on such effectiveness on a periodic basis. The Secretary shall report not later than December 31, 1997 to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate on how schoolwide programs are meeting the needs of children from migratory families.

(2) Minimum information

At a minimum, the Secretary shall collect trend information on the effect of programs under this subchapter. Such data shall complement the data collected and reported under subsections (a) and (c) of this section.

(c) National evaluation of part A of this subchapter

(1) In general

The Secretary shall carry out an ongoing evaluation of the program assisted under part A of this subchapter in order to provide the public, the Congress, and educators involved in such program, an accurate description of the short- and long-term effectiveness of such program and to provide information that can be used to improve such program's effectiveness in enabling students to meet challenging State content standards and challenging State student performance standards, graduate from secondary school, and make successful transitions to postsecondary education and work. Such evaluation shall—

(A) have a longitudinal design that tracks cohorts of students within schools of differing poverty concentrations for at least three years which, when the cohorts are taken as a whole, provides a picture of such program's effectiveness over the elementary and secondary grades;

(B) be separate and independent from State and local assessments and evaluations as required under this subchapter;

(C) utilize the highest available content standards that are generally accepted as national in scope;

(D) provide information on all students, students served under part A of this subchapter, and, if funds are sufficient, information on students from low-income families, limited-English-proficient students, and students with disabilities; and

(E) when feasible, collect, cross-tabulate, and report data by sex within race or ethnicity and socioeconomic status.

(2) Use

The Secretary shall use the results of the evaluation described in paragraph (1) as part of the national assessment required by subsection (a) of this section and shall report the data from such evaluation to the Congress and the public at least as frequently as reports are made under subsection (a)(4) of this section.

(d) Developmentally appropriate measures

In conducting the national assessment under subsection (a) of this section and the national ongoing evaluation under subsection (c) of this section, the Secretary shall use developmentally appropriate measures to assess student performance and progress.

(e) Parental involvement, study, report and dissemination

(1) In general

The Secretary, through the Office of Education Research and Improvement, shall conduct a study to identify and describe—

(A) common barriers to effective parental involvement in the education of participating children; and

(B) successful local policies and programs which improve parental involvement and the performance of participating children.

(2) Duties of Secretary

The Secretary shall—

(A) complete such study by December 31, 1996;

(B) report the findings of such study to the Committee on Education and Labor of the House of Representatives and to the Committee on Labor and Human Resources of the Senate; and

(C) disseminate the findings, relating to the successful local policies and programs which improve parental involvement and the performance of participating children, to local educational agencies.

(Pub. L. 89–10, title I, §1501, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3601; amended Pub. L. 104–134, title I, §101(d) [title VII, §703(b)(3)], Apr. 26, 1996, 110 Stat. 1321–211, 1321–255; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327; Pub. L. 105–18, title VI, §60002, June 12, 1997, 111 Stat. 214.)

AMENDMENTS

1997—Subsec. (a)(4). Pub. L. 105–18 substituted ''January 1, 1999'' for ''January 1, 1998''.

1996—Subsec. (a)(2)(B)(v) to (x). Pub. L. 104–134 redesignated cls. (vi) to (x) as (v) to (ix), respectively, and struck out former cl. (v) which read as follows: ''using and evaluating the usefulness of opportunity-to-learn standards or strategies in improving learning in schools receiving assistance under this part;''.

CHANGE OF NAME

Committee on Education and Labor of House of Representatives treated as referring to Committee on Economic and Educational Opportunities of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Economic and Educational Opportunities of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Fifth Congress, Jan. 7, 1997.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6302 of this title.

§ 6492. Demonstrations of innovative practices

(a) Demonstration programs to improve achievement

(1) In general

From the funds appropriated for any fiscal year under section 6302(g)(2) of this title, the Secretary may make grants to State educational agencies, local educational agencies, other public agencies, nonprofit organizations, public or private partnerships involving business and industry organizations, and consortia of such entities to carry out demonstration projects that show the most promise of enabling children served under this subchapter to meet challenging State content standards and challenging State student performance standards. Such projects shall include promising strategies such as—

(A) accelerated curricula, the application of new technologies to improve teaching and learning, extended learning time, and a safe and enriched full-day environment for children to provide children the opportunity to reach such standards;

(B) integration of education services with each other and with health, family, and other social services such as mentoring programs, particularly in empowerment zones and enterprise communities;

(C) effective approaches to whole school reform;

(D) programs that have been especially effective with limited-English-proficient children, migratory children and other highly mobile students, children leaving institutions for neglected or delinquent children and returning to school, and homeless children and youth;

(E) programs which are especially effective in recruiting, inducting, and retaining highly qualified teachers for service in schools with low student achievement; and

(F) programs that are built upon partnerships developed between elementary and middle schools, employers, and the community, which emphasize the integration of high quality academic and vocational learning, stress excellence and high expectations for success in academic subjects, instill responsibility, decisionmaking, problem solving, interpersonal skills, and other compentencies[1] in students, and make school relevant to the workplace and the community, through applied and interactive teaching methodologies, team teaching strategies, learning opportunities connecting school, the workplace, and the community, and career exploration, awareness, and career guidance opportunities.

(2) Evaluation

The Secretary shall evaluate the demonstration projects supported under this subchapter, using rigorous methodological designs and techniques, including control groups and random assignment, to the extent feasible, to produce reliable evidence of effectiveness.

[1] So in original.

(b) Partnerships

From funds appropriated under section 6302(g)(2) of this title for any fiscal year, the Secretary may, directly or through grants or contracts, work in partnership with State educational agencies, local educational agencies, other public agencies, and nonprofit organizations to disseminate and use the highest quality research and knowledge about effective practices to improve the quality of teaching and learning in schools assisted under this subchapter.

(Pub. L. 89–10, title I, § 1502, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3604.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6302 of this title.

§ 6493. Innovative elementary school transition projects

(a) In general

From the amount appropriated under section 6302(g)(2) of this title, the Secretary shall provide not less than $10,000,000, but not more than $40,000,000 to support innovative transition projects in elementary schools authorized under this section.

(b) Grants

(1) Local programs

The Secretary shall award grants to local educational agencies (including such agencies that operate Follow Through programs, Even Start, and other comparable programs) that have formed consortia with early childhood programs (including Head Start, where available) for the purpose of supporting projects, for children from low-income families who previously attended a Head Start program, Even Start program, or similar preschool program, which provide education and other services in early elementary grades.

(2) Purposes of projects

The purposes of projects assisted under this section are to—

(A) assist eligible children and their families in making a successful transition from preschool through the early elementary grades;

(B) enable eligible children to achieve challenging academic standards through a model, developmentally appropriate, instructional program; and

(C) support the active involvement of parents in the education of their children.

(3) Components

A program assisted under this subsection—

(A) shall provide transition to elementary school activities, such as—

(i) development of a transition plan for each child which provides for instruction, support, and assistance through the third grade;

(ii) transfer of each child's preschool records to the elementary school (with parental consent);

(iii) formal meetings between a child's parent, preschool teacher, and kindergarten or first grade teacher; and

(iv) kindergarten visits and other orientation activities for preschool children prior to enrollment in elementary school;

(B) shall use an instructional approach which—

(i) has been shown to be effective in providing transition services; or

(ii) shows promise of providing effective transition services;

(C) shall provide for the direct participation of the parents of such children in the development, operation, and evaluation of such program;

(D) shall provide directly or through referral comprehensive educational, health, nutritional, social, and other services that aid in the continued development of eligible children to their full potential;

(E) shall ensure that each supportive services team developed pursuant to subsection (c)(8) of this section includes a sufficient number of family service coordinators to adequately meet the needs of eligible children and their families; and

(F) may provide for the use of mentors who are secondary school students to assist elementary and secondary students who were formerly enrolled in Head Start or Even Start programs.

(c) Applications

An application for a grant under subsection (b) of this section shall—

(1) describe the goals which the applicant plans to achieve;

(2) describe the instructional approach the applicant will use, and the manner in which the applicant will implement such approach;

(3) describe the transition to elementary school activities for which assistance is sought;

(4) describe the members of the consortium required by subsection (b)(1) of this section;

(5) shall include evidence that the consortium members each have performed assessments of their programs to ensure that such members have the capacity to address the health, immunization, mental health, nutrition, parenting education, literacy, social service (including substance abuse, education, and prevention), and educational needs of low-income students and their families whom the consortium members plan to serve;

(6) describe how the project will be coordinated with this subchapter, subchapter VII of this chapter, and other programs under this chapter;

(7) provide evidence that the proposed transition activities, instruction, and other services to be provided by the applicant have been specifically designed to build upon, and coordinate with, the services provided to eligible children and their parents by local Head Start, Even Start, and other similar preschool programs;

(8) include—

(A) a plan for the development of a support services team, including a family service coordinator, to—

(i) assist families, administrators, and teachers to respond to health, immunization, mental health, nutrition, social service, and educational needs of eligible students;

(ii) conduct home visits and help students and their families to obtain health, immunization, mental health, nutrition, parenting education, literacy, education (including tutoring and remedial services), and social services (including substance abuse treatment, education, and prevention), for which students and their families are eligible;

(iii) coordinate a family outreach and support program, including a plan for involving parents in the management of the program under subsection (b) of this section, in cooperation with parental involvement efforts undertaken pursuant to this part, the Head Start Act [42 U.S.C. 9831 et seq.], and the Individuals with Disabilities Education Act [20 U.S.C. 1400 et seq.], including school-parent compacts, parent volunteer activities, parent education services and training such as the services and training provided through the Even Start program, and regular meetings; and

(iv) assist families, administrators, and teachers in enhancing developmental continuity between the programs assisted under the Head Start Act [42 U.S.C. 9831 et seq.], other early childhood development programs, and elementary school classes; or

(B) a description of the comprehensive, coordinated services currently provided to children eligible for services under this section;

(9) designate a member of the support services team described in paragraph (8) who will serve as the supervisor of such support services team;

(10) contain assurances that State agencies, local agencies, and community-based organizations that provide support services to low-income students served by the local educational agency consortium have been consulted in the preparation of the plan described in paragraph (8);

(11) contain assurances that State agencies, local agencies, and community-based organizations served by the local educational agency consortium will designate an individual who will act as a liaison to the support services team described in paragraph (8);

(12) describe the target population to be served by the support services team described in paragraph (8), including families previously served under part C of[1] the Head Start Act [42 U.S.C. 9831 et seq.], or other comparable early childhood development program;

(13) describe the support services to be provided, directly or through referral;

(14) describe the Federal and non-Federal resources that will be used to carry out the program;

(15) contain assurances that the support services described in paragraph (8) will be equipped to assist children and families with

[1] So in original. The word ''of'' probably should be a comma.

limited-English proficiency or with disabilities;

(16) include a plan describing how the program assisted under this section will be sustained, with funding received under part A of this subchapter or other Federal and non-Federal funding sources, after the grant has expired; and

(17) contain such other information as the Secretary may reasonably require.

(d) National activities

(1) In general

Of the amount provided under subsection (a) of this section to carry out this section, the Secretary shall use not less than $3,000,000 but not more than $5,000,000 to carry out national activities to evaluate and improve the use of innovative transition programs.

(2) Technical assistance and training

Of the amount reserved under paragraph (1), the Secretary shall use not less than $3,000,000 to award grants to public and private nonprofit agencies, institutions, and organizations to provide to consortia which receive grants under subsection (b)(1) of this section and, to the extent feasible, to schools that are designated schoolwide programs under section 6314 of this title—

(A) technical assistance in the implementation and expanded use of model transition and instructional approaches, including the use of appropriate pedagogy, efforts to increase parental involvement and providing access to coordinated services; and

(B) training in conjunction with the implementation and operation of such model approaches.

(3) Coordination and dissemination

The Secretary, in cooperation with the Secretary of Health and Human Services, may promote coordination of activities assisted under this section with the projects funded under the Head Start Transition Projects Act [42 U.S.C. 9855 et seq.], including a process to—

(A) collect information on program activities and results; and

(B) disseminate information on successful transition programs.

(4) Evaluation

(A) The Secretary, in cooperation with the Secretary of Health and Human Services, is authorized to award grants, or enter into contracts or cooperative agreements, to provide for the evaluation of the programs assisted under this section.

(B) To the extent practicable, such evaluations shall be conducted jointly with evaluations of Head Start Transition Projects.

(5) Other activities

The Secretary may undertake other activities to promote the replication of successful transition programs.

(e) Coordination of regulations

The Secretary shall work with the Secretary of Health and Human Services to coordinate regulations promulgated under this section with regulations promulgated under the Head Start Act Amendments of 1994.

(f) General provisions

(1) Priority

In awarding grants under subsection (b)(1) of this section, the Secretary shall give priority to applicants that—

(A) will operate a project under this section at a school designated as a schoolwide program under section 6314 of this title;

(B) serve local educational agencies that have the highest numbers or percentages of poor children; and

(C) demonstrate a significant commitment by the community to the proposed program, as evidenced by the level of resources, both cash and in-kind, from other public and private sources available to the consortium.

(2) Supplement

An application for assistance under this section may not be approved unless the Secretary is satisfied that the services to be provided by the applicant will supplement, and not supplant, services that previously provided other Federal assistance.

(3) Sufficient size

A grant under subsection (b)(1) of this section shall be of sufficient size and scope to enable the grantee to operate a project which meets the requirements of this section.

(4) Urban and rural grants

To the extent practicable, the Secretary shall award grants under subsection (b)(1) of this section to consortia in both urban and rural areas.

(5) Renewal grant

To be eligible to renew a grant under the section, an applicant that received assistance under subsection (b)(1) of this section shall demonstrate that the project achieved the purposes described in subsection (b)(2) of this section.

(g) Definitions

As used in this section:

(1) Family services coordinator

The term ''family services coordinator'' means an individual who has the skills necessary to assist families in obtaining support services and may be an existing employee of a local educational agency or Head Start agency.

(2) Head Start agency

The term ''Head Start agency'' means any agency designated as a Head Start agency under the Head Start Act (42 U.S.C. 9831 et seq.).

(3) Support services

The term ''support services'' means services that enhance the physical, social, emotional, and intellectual development of low-income children, including the provision of necessary support to the parents and other family members of such children.

(Pub. L. 89–10, title I, § 1503, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3605.)

REFERENCES IN TEXT

The Head Start Act, referred to in subsecs. (c)(8)(A)(iii), (iv), (12) and (g)(2), is subchapter B

(§§ 635–657) of chapter 8 of subtitle A of title VI of Pub. L. 97–35, Aug. 13, 1981, 95 Stat. 499, as amended, which is classified generally to subchapter II (§ 9831 et seq.) of chapter 105 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 9801 of Title 42 and Tables.

The Individuals with Disabilities Education Act, referred to in subsec. (c)(8)(A)(iii), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, as amended, which is classified generally to chapter 33 (§ 1400 et seq.) of this title. For complete classification of this Act to the Code, see section 1400 of this title and Tables.

The Head Start Transition Projects Act, referred to in subsec. (d)(3), probably means the Head Start Transition Project Act which is subtitle B (§§ 131–140) of title I of Pub. L. 101–501, Nov. 3, 1990, 104 Stat. 1238, and is classified generally to subchapter II–A (§ 9855 et seq.) of chapter 105 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title of 1990 Amendment note set out under section 9801 of Title 42 and Tables.

The Head Start Act Amendments of 1994, referred to in subsec. (e), is title I of Pub. L. 103–252, May 18, 1994, 108 Stat. 624. For complete classification of this Act to the Code, see Short Title of 1994 Amendment note set out under section 9801 of Title 42 and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6302 of this title.

PART F—GENERAL PROVISIONS

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 6394, 6435 of this title.

§ 6511. Federal regulations

(a) In general

The Secretary is authorized to issue such regulations as are necessary to reasonably ensure that there is compliance with this subchapter.

(b) Negotiated rulemaking process

(1) In general

Prior to publishing in the Federal Register proposed regulations to carry out this subchapter, the Secretary shall obtain the advice and recommendations of representatives of Federal, State, and local administrators, parents, teachers, and members of local boards of education involved with the implementation and operation of programs under this subchapter.

(2) Meetings and electronic exchange

Such advice and recommendation may be obtained through such mechanisms as regional meetings and electronic exchanges of information.

(3) Proposed regulations

After obtaining such advice and recommendations, and prior to publishing proposed regulations, the Secretary shall—

(A) establish a negotiated rulemaking process on a minimum of two key issues, including—

(i) schoolwide programs; and

(ii) standards and assessment;

(B) select individuals to participate in such process from among individuals or groups which provided advice and recommendations, including representation from all geographic regions of the United States; and

(C) prepare a draft of proposed policy options that shall be provided to the individuals selected by the Secretary under subparagraph (A) not less than 15 days prior to the first meeting under such process.

(4) Process

Such process—

(A) shall be conducted in a timely manner to ensure that final regulations are issued by the Secretary not later than July 1, 1995; and

(B) shall not be subject to the Federal Advisory Committee Act but shall otherwise follow the provisions of the Negotiated Rulemaking Act of 1990 (5 U.S.C. 561 et seq.).

(5) Emergency situation

In an emergency situation in which regulations to carry out this subchapter must be issued with a very limited time to assist State and local educational agencies with the operation of a program under this subchapter, the Secretary may issue proposed regulations without following such process but shall, immediately thereafter and prior to issuing final regulations, conduct regional meetings to review such proposed regulations.

(c) Limitation

Regulations to carry out this part may not require local programs to follow a particular instructional model, such as the provision of services outside the regular classroom or school program.

(Pub. L. 89–10, title I, § 1601, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3609.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (b)(4)(B), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

The Negotiated Rulemaking Act of 1990, referred to in subsec. (b)(4)(B), is Pub. L. 101–648, Nov. 29, 1990, 104 Stat. 4969, which enacted subchapter III (§ 561 et seq.) of chapter 5 of Title 5 and provisions set out as notes under section 561 of Title 5. For complete classification of this Act to the Code, see Short Title note set out under section 561 of Title 5 and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 8941 of this title.

§ 6512. Coordination of Federal, State, and local administration

(a) Program assistance manual

The Secretary shall, not later than six months after the publication of final regulations under this subchapter, prepare and distribute to State educational agencies, State agencies operating programs under parts C and D of this subchapter, and local educational agencies, and shall make available to parents and other interested individuals, organizations, and agencies, a manual for this subchapter to—

(1) assist such agencies in—

(A) enhancing the quality, increasing the depth, or broadening the scope of activities for programs under this subchapter;

(B) applying for program funds under this subchapter; and

(C) meeting the program objectives under this subchapter;

(2) assist State educational agencies in achieving proper and efficient administration of programs funded under this subchapter;

(3) assist parents to become involved in the planning for, and implementation and evaluation of, programs and projects under this subchapter; and

(4) ensure that officers and employees of the Department, including officers and employees of the Secretary and officers and employees of the Department charged with auditing programs carried on under this subchapter, uniformly interpret, apply, and enforce requirements under this subchapter throughout the United States.

(b) Contents of policy manual

The policy manual shall, with respect to programs carried out under this subchapter, contain descriptions, statements, procedural and substantive rules, opinions, policy statements and interpretations and indices to and amendments of the foregoing, and in particular, whether or not such descriptions, statements, procedural and substantive rules, opinions, policy statements and interpretations and indices are required under section 552 of title 5 to be published or made available. The manual shall include—

(1) a statement of the requirements applicable to the programs carried out under this subchapter, including such requirements contained in this subchapter, the General Education Provisions Act [20 U.S.C. 1221 et seq.], other applicable statutes, and regulations issued under the authority of such statutes;

(2) an explanation of the purpose of each requirement and its interrelationship with other applicable requirements; and

(3) model forms and instructions developed by the Secretary for use by State and local educational agencies, at the discretion of such agencies, including, application forms, application review checklists, and instruments for monitoring programs under this subchapter.

(c) Response to inquiries

The Secretary shall respond with written guidance not later than 90 days after any written request (return receipt requested) from a State or local educational agency regarding a policy, question, or interpretation under this subchapter is received. In the case of a request from a local educational agency, such agency is required to address its request to the State educational agency first.

(Pub. L. 89–10, title I, § 1602, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3610.)

REFERENCES IN TEXT

The General Education Provisions Act, referred to in subsec. (b)(1), is title IV of Pub. L. 90–247, Jan. 2, 1968, 81 Stat. 814, as amended, which is classified generally to chapter 31 (§ 1221 et seq.) of this title. For complete classification of this Act to the Code, see section 1221 of this title and Tables.

§ 6513. State administration

(a) Rulemaking

(1) In general

Each State that receives funds under this subchapter shall—

(A) ensure that any State rules, regulations, and policies relating to this subchapter conform to the purposes of this subchapter and provide any such proposed rules, regulations, and policies to the committee of practitioners under subsection (b) of this section for their review and comment;

(B) minimize such rules, regulations, and policies to which their local educational agencies and schools are subject; and

(C) identify any such rule, regulation, or policy as a State-imposed requirement.

(2) Support and facilitation

State rules, regulations, and policies under this subchapter shall support and facilitate local educational agency and school-level systemic reform designed to enable all children to meet the challenging State content standards and challenging State student performance standards.

(b) Committee of practitioners

(1) In general

Each State educational agency shall create a State committee of practitioners to advise the State in carrying out its responsibilities under this subchapter.

(2) Membership

Each such committee shall include—

(A) as a majority of its members, representatives from local educational agencies;

(B) administrators;

(C) teachers, including vocational educators;

(D) parents;

(E) members of local boards of education;

(F) representatives of private school children; and

(G) pupil services personnel.

(3) Duties

The duties of such committee shall include a review, prior to publication, of any proposed or final State rule or regulation pursuant to this subchapter. In an emergency situation where such rule or regulation must be issued within a very limited time to assist local educational agencies with the operation of the program under this subchapter, the State educational agency may issue a regulation without prior consultation, but shall immediately thereafter convene the State committee of practitioners to review the emergency regulation prior to issuance in final form.

(c) Payment for State administration

Each State may reserve for the proper and efficient performance of its duties under this subchapter the greater of—

(1) 1.00 percent of the funds received under subsections (a), (c), and (d) of section 6302 of this title; or

(2) $400,000, or $50,000 in the case of the outlying areas.

(Pub. L. 89–10, title I, § 1603, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3611.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6311, 6318, 8824 of this title.

§ 6514. Construction

(a) Prohibition of Federal mandates, direction, or control

Nothing in this subchapter shall be construed to authorize an officer or employee of the Federal Government to mandate, direct, or control a State, local educational agency, or school's specific instructional content or pupil performance standards and assessments, curriculum, or program of instruction as a condition of eligibility to receive funds under this subchapter.

(b) Equalized spending

Nothing in this subchapter shall be construed to mandate equalized spending per pupil for a State, local educational agency, or school.

(c) Building standards

Nothing in this subchapter shall be construed to mandate national school building standards for a State, local educational agency, or school.

(Pub. L. 89–10, title I, § 1604, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3612.)

SUBCHAPTER II—DWIGHT D. EISENHOWER PROFESSIONAL DEVELOPMENT PROGRAM

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 6320, 7472, 8332, 8801, 8857, 8893 of this title.

§ 6601. Findings

The Congress finds as follows:

(1) Reaching the National Education Goals, particularly the third, fourth, and fifth National Education Goals, requires a comprehensive educational reform strategy that involves parents, schools, government, communities, and other public and private organizations at all levels.

(2) A crucial component of the strategy for achieving such goals is ensuring, through sustained and intensive high-quality professional development, that all teachers will provide challenging learning experiences in the core academic subjects for their students.

(3) Decisionmaking as to what activities a State or local educational agency should undertake to improve teaching and learning are best made by individuals in the schools closest to the classroom and most knowledgeable about the needs of schools and students.

(4) The potential positive impact of high-quality professional development is underscored by recent research findings that—

(A) professional development must be focused on teaching and learning in order to improve the opportunities of all students to achieve higher standards;

(B) effective professional development focuses on discipline-based knowledge and effective subject-specific pedagogical skills, involves teams of teachers, and, where appropriate, administrators and pupil services personnel, in a school and, through professional networks of teachers, and, where appropriate, teacher educators, administrators, pupil services personnel, and parents, is interactive and collaborative, motivates by its intrinsic content and relationship to practice, builds on experience and learning-by-doing, and becomes incorporated into the everyday life of the school;

(C) professional development can dramatically improve classroom instruction and learning when teachers, and, where appropriate, administrators, pupil services personnel, and parents, are partners in the development and implementation of such professional development; and

(D) new and innovative strategies for teaching to high standards will require time for teachers, outside of the time spent teaching, for instruction, practice, and collegial collaboration.

(5) Special attention must be given in professional development activities to ensure that education professionals are knowledgeable of, and make use of, strategies for serving populations that historically have lacked access to equal opportunities for advanced learning and career advancement.

(6) Professional development is often a victim of budget reductions in fiscally difficult times.

(7) The Federal Government has a vital role in helping States and local educational agencies to make sustained and intensive high-quality professional development in the core academic subjects become an integral part of the elementary and secondary education system.

(8) Professional development activities must prepare teachers, pupil services personnel, paraprofessionals and other staff in the collaborative skills needed to appropriately teach children with disabilities, in the core academic subjects.

(9) Parental involvement is an important aspect of school reform and improvement. There is a need for special attention to ensure the effective involvement of parents in the education of their children. Professional development should include methods and strategies to better prepare teachers and, where appropriate, administrators, to enable parents to participate fully and effectively in their children's education.

(Pub. L. 89–10, title II, § 2001, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3612.)

§ 6602. Purposes

The purposes of this subchapter are to provide assistance to State and local educational agencies and to institutions of higher education with teacher education programs so that such agencies and institutions can determine how best to improve the teaching and learning of all students by—

(1) helping to ensure that teachers, and, where appropriate, other staff and administrators, have access to sustained and intensive high-quality professional development that is aligned to challenging State content stand-

ards and challenging State student performance standards, and to support the development and implementation of sustained and intensive high-quality professional development activities in the core academic subjects; and

(2) helping to ensure that teachers, and, where appropriate, administrators, other staff, pupil services personnel, and parents, have access to professional development that—

(A) is tied to challenging State content standards and challenging State student performance standards;

(B) reflects recent research on teaching and learning;

(C) includes strong academic content and pedagogical components;

(D) incorporates effective strategies, techniques, methods, and practices for meeting the educational needs of diverse student populations, including females, minorities, individuals with disabilities, limited-English-proficient individuals, and economically disadvantaged individuals, in order to ensure that all students have the opportunity to achieve challenging State student performance standards;

(E) is of sufficient intensity and duration to have a positive and lasting impact on the teacher's performance in the classroom; and

(F) is part of the everyday life of the school and creates an orientation toward continuous improvement throughout the school.

(Pub. L. 89–10, title II, § 2002, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3613.)

§ 6603. Authorization of appropriations; allocation between parts

(a) Authorization of appropriations

For the purpose of carrying out this subchapter, there are authorized to be appropriated $800,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

(b) Allocation between parts

Of the amounts appropriated to carry out this subchapter for any fiscal year, the Secretary shall make available—

(1) 5 percent of such amounts to carry out subpart 1,[1] of which 5 percent of such 5 percent shall be available to carry out section 6623 of this title;

(2) 94 percent of such amounts to carry out part B of this subchapter; and

(3) 1 percent of such amounts to carry out part C of this subchapter except that such 1 percent shall not exceed $3,200,000 in any fiscal year.

(Pub. L. 89–10, title II, § 2003, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3614.)

PART A—FEDERAL ACTIVITIES

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 1102b, 5891, 6212, 6303 of this title.

[1] So in original. Probably should be ''part A,''.

§ 6621. Program authorized

(a) In general

The Secretary is authorized to make grants to, and enter into contracts and cooperative agreements with, local educational agencies, educational service agencies, State educational agencies, State agencies for higher education, institutions of higher education, and other public and private agencies, organizations, and institutions to—

(1) support activities of national significance that the Secretary determines will contribute to the development and implementation of high-quality professional development activities in the core academic subjects; and

(2) evaluate activities carried out under this part and parts B and C of this subchapter, in accordance with section 8941 of this title.

(b) Requirements

In carrying out the activities described in subsection (a) of this section, the Secretary shall coordinate professional development programs within the Department, particularly with those programs within the Office of Educational Research and Improvement and the Office of Special Education and Rehabilitative Services, and shall consult and coordinate with the National Science Foundation, the National Endowment for the Humanities, the National Endowment for the Arts, the Institute of Museum and Library Services, and other appropriate Federal agencies and entities.

(Pub. L. 89–10, title II, § 2101, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3614; amended Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 709(b)(3)(A)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–313.)

AMENDMENTS

1996—Subsec. (b). Pub. L. 104–208 substituted ''the Institute of Museum and Library Services'' for ''the Institute of Museum Services''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6622 of this title.

§ 6622. Authorized activities

(a) Activities

The Secretary shall use funds available to carry out this part for—

(1) providing seed money to the entities described in section 6621(a) of this title to develop the capacity of such entities to offer sustained and intensive high-quality professional development;

(2) awarding a grant or contract, in consultation with the Director of the National Science Foundation, to establish an Eisenhower National Clearinghouse for Mathematics and Science Education (hereafter in this section referred to as the ''Clearinghouse''); and

(3) evaluating programs assisted under this part and parts B and C of this subchapter, in accordance with section 8941 of this title.

(b) Clearinghouse

(1) Application and award basis

Each entity desiring to establish and operate the Clearinghouse authorized by sub-

section (a)(2) of this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require. The grant or contract awarded pursuant to subsection (a)(2) of this section shall be made on a competitive, merit basis.

(2) Duration

The grant or contract awarded under subsection (a)(2) of this section shall be awarded for a period of five years and shall be reviewed by the Secretary not later than 30 months from the date the grant or contract is awarded.

(3) Use of funds

The grant or contract awarded under subsection (a)(2) of this section shall be used to—

(A) maintain a permanent repository of mathematics and science education instructional materials and programs for elementary and secondary schools, including middle schools (including, to the extent practicable, all materials and programs developed with Federal and non-Federal funds, such as instructional materials developed by the Department, materials developed by State and national mathematics and science programs assisted under this part, and other instructional materials) for use by the regional consortia established under part C of subchapter XIII of this chapter and by the general public;

(B) compile information on all mathematics and science education programs administered by each Federal agency or department;

(C) disseminate information, programs, and instructional materials to the public, dissemination networks, and the regional consortia established under part C of subchapter XIII of this chapter;

(D) coordinate with identifiable and existing data bases containing mathematics and science curriculum and instructional materials, including Federal, non-Federal, and, where feasible, international, data bases;

(E) participate in collaborative meetings of representatives of the Clearinghouse and the regional consortia established under part C of subchapter XIII of this chapter to discuss issues of common interest and concern, to foster effective collaboration and cooperation in acquiring and distributing curriculum materials and programs, and to coordinate computer network access to the Clearinghouse and the resources of the regional consortia, except that not more than 3 percent of the funds awarded under subsection (a)(2) of this section shall be used to carry out this subparagraph; and

(F) gather qualitative and evaluative data on submissions to the Clearinghouse.

(4) Submission to Clearinghouse

Each Federal agency or department which develops mathematics or science education instructional material or programs, including the National Science Foundation and the Department, shall submit to the Clearinghouse copies of such material or programs.

(5) Peer review

The Secretary shall establish a peer review process to select the recipient of the award under subsection (a)(2) of this section.

(6) Steering committee

The Secretary may appoint a steering committee to recommend policies and activities for the Clearinghouse.

(7) Application of copyright laws

Nothing in this subsection shall be construed to allow the use or copying, in any media, of any material collected by the Clearinghouse that is protected under the copyright laws of the United States unless the permission of the owner of the copyright is obtained. The Clearinghouse, in carrying out the provisions of this subsection, shall ensure compliance with title 17.

(8) Dissemination of information

The Secretary shall disseminate information concerning the grant or contract awarded under this section to State and local educational agencies and institutions of higher education. Such dissemination of information shall include examples of exemplary national programs in mathematics and science instruction and necessary technical assistance for the establishment of similar programs.

(c) Uses of funds

The Secretary may use funds available to carry out this part for—

(1) the development and maintenance of national clearinghouses for core academic subjects as the Secretary determines are needed and which shall be administered as adjunct clearinghouses of the Educational Resources Information Center Clearinghouses system of clearinghouses supported by the Office of Educational Research and Improvement;

(2) professional development institutes that provide teachers or teams of teachers, and, where appropriate, administrators, pupil services personnel and other staff, from individual schools, with professional development that contains strong and integrated disciplinary and pedagogical components;

(3) encouraging the development of local and national professional networks, such as the Teacher Research Dissemination Demonstration Program under section 6041(j) of this title, that provide a forum for interaction among teachers of the core academic subjects and that allow the exchange of information on advances in content and pedagogy;

(4) efforts to train teachers in the innovative uses and applications of technology to enhance student learning;

(5) the development and dissemination of model teaching standards in the core academic subjects;

(6) disseminating standards in the core academic subjects, including information on voluntary national content standards and voluntary national student performance standards and related models of high-quality professional development;

(7) the dissemination of information about voluntary national content standards, State

content standards, voluntary national student performance standards and State student performance standards, and related models of high-quality professional development;

(8) efforts to train teachers in innovative instructional methodologies designed to meet the diverse learning needs of individual students, including methodologies which integrate academic and vocational learning and applied learning, interactive, interdisciplinary team teaching, and other alternative teaching strategies, such as service learning, experiential learning, career-related education, and environmental education, that integrate real world applications into the core academic subjects;

(9) disseminating models of high-quality professional development activities that train educators in strategies, techniques, methods, and practices for meeting the educational needs of historically underserved populations, including females, minorities, individuals with disabilities, limited-English-proficient individuals, and economically disadvantaged individuals, in order to ensure that all students have the opportunity to achieve challenging State student performance standards;

(10) promoting the transferability of licensure and certification of teachers and administrators among State and local jurisdictions;

(11) supporting the National Board for Professional Teaching Standards;

(12) developing activities to prepare teachers, and, where appropriate, paraprofessionals, pupil services personnel, and other staff in the collaborative skills needed to appropriately teach children with disabilities in the core academic subjects;

(13) encouraging the development of innovative models for recruitment, induction, retention, and assessment of new, highly qualified teachers, especially such teachers from historically underrepresented groups; and

(14) joint activities with other Federal agencies and entities engaged in or supporting similar professional development efforts.

(Pub. L. 89–10, title II, § 2102, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3615.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 8672 of this title.

§ 6623. National Teacher Training Project

(a) Short title; findings; definitions

(1) Short title

This section may be cited as the ''National Teacher Training Project Act of 1994''.

(2) Findings

The Congress finds that—

(A) teachers must be major players in educational reform in the United States;

(B) teachers are isolated from their peers and have virtually no time during the school day to consult with other teachers;

(C) there is a shortage of sustained, year-round professional development programs for teachers;

(D) successful teaching methods are not adequately shared among teachers;

(E) teachers are the best teachers of other teachers because practicing classroom teachers have experience that no outside consultant can match;

(F) it is important for universities and schools to collaborate on teacher development programs if teaching and learning are to be improved;

(G) pertinent research is not shared among teachers in a professional setting;

(H) exemplary teachers should be recognized for their abilities and contributions and encouraged to refine their teaching methods;

(I) each State should support a nationally based teacher training program, that is modeled after the National Writing Project, for teachers of early childhood education, and for teachers of core academic subjects including teachers of mathematics, science, English, civics and government, foreign languages, and arts;

(J) the National Writing Project is a nationally recognized and honored nonprofit organization that recognizes there are teachers in every region of the United States who have developed successful methods for teaching writing and that such teachers can be trained and encouraged to train other teachers;

(K) the National Writing Project is a collaborative university-school program which offers summer and school year inservice teacher training programs and a dissemination network to inform and teach teachers regarding developments in the field of writing;

(L) each year, over 125,000 teachers voluntarily seek training in National Writing Project intensive summer institutes and workshops and school year inservice programs through one of the 155 sites located within the United States, and in 18 sites located outside of the United States;

(M) in the 20 years of its existence, over 1,100,000 teachers, administrators, and parents have participated in National Writing Project programs;

(N) less than $16 per teacher was the average cost in Federal dollars for all teacher training at writing projects in academic year 1991–1992;

(O) for every dollar in Federal support, the National Writing Project provides over $5 in matching funds from States, local universities and schools, and the private sector;

(P) private foundation resources, although generous in the past concerning National Writing Project programs, are inadequate to fund all of the National Teacher Training Project sites needed, and the future of the program is in jeopardy without secure financial support;

(Q) the National Writing Project has become a model for programs in other fields, such as science, mathematics, history, literature, foreign languages, and the performing arts, and the development of programs in other fields should continue with the support of Federal funds; and

(R) each of the 50 States should participate in the National Teacher Training Project by

establishing regional teacher training sites in early childhood development, mathematics, science, English, civics and government, foreign languages, and arts to serve all teachers within the State.

(3) Definitions

For the purpose of this section—

(A) the term ''contractor'' means—

(i) a local educational agency;

(ii) an educational service agency; or

(iii) an institution of higher education that awards a bachelor's degree; and

(B) the term ''eligible recipient'' means a nonprofit educational organization which has as its primary purpose the improvement of student learning in one of the core academic subjects described in subsection (b)(2) of this section.

(b) Grants authorized

(1) Grants to eligible recipients

The Secretary is authorized to award a grant to an eligible recipient to enable such recipient—

(A) to support and promote the establishment of teacher training programs in early childhood development and one of the nine core subject areas described in paragraph (2), including the dissemination of effective practices and research findings regarding teacher training, and administrative activities;

(B) to support classroom research on effective teaching practices in such area; and

(C) to pay the Federal share of the cost of such programs and research.

(2) Core subject areas

To the extent feasible, the Secretary shall award a grant under paragraph (1) for the establishment of a National Teacher Training Project in early childhood development and each of the following core subject areas:

(A) Mathematics.

(B) Science.

(C) English.

(D) Civics and government.

(E) Foreign languages.

(F) Arts.

(G) Geography.

(H) History.

(I) Economics.

(3) Number of grants and eligible recipients

The Secretary shall award not more than ten grants under paragraph (1) to ten different eligible recipients.

(4) Equitable distribution

The Secretary shall award grants under paragraph (1) to eligible recipients from different geographic areas of the United States.

(5) Special rule

Each grant under paragraph (1) shall be of sufficient size, scope, and quality to be effective.

(6) Administrative costs and technical assistance

Each eligible recipient receiving a grant under paragraph (1) may use not more than a total of 5 percent of the grant funds for administrative costs and the costs of providing technical assistance to a contractor.

(c) Grant requirements

Each eligible recipient receiving a grant under subsection (b) of this section shall—

(1) enter into a contract with a contractor under which such contractor agrees—

(A) to establish, operate, and provide the non-Federal share of the cost of teacher training programs in effective approaches and processes for the teaching of the core academic subjects for which such eligible recipient was awarded a grant, including approaches and processes to obtain parental involvement in a child's education; and

(B) to use funds received from the eligible recipient to pay the Federal share of the cost of establishing and operating teacher training programs described in subparagraph (A);

(2) to submit annual reports to the Secretary and be responsible for oversight of the funds expended at each teacher training program described in subparagraph (A); and

(3) meet such other conditions and standards as the Secretary determines to be necessary to ensure compliance with this section and provide such technical assistance as may be necessary to carry out this section.

(d) Teacher training programs

The teacher training programs described in subsection (b) of this section shall—

(1) be conducted during the school year and during the summer months;

(2) train teachers who teach grades kindergarten through college;

(3) select teachers to become members of a National Teacher Training Project, which members shall conduct inservice workshops for other teachers in the area subject matter served by the National Teacher Training Project site;

(4) use teacher training principles and receive technical assistance from the National Writing Project; and

(5) encourage teachers from all disciplines to participate in such teacher training programs.

(e) Federal share

The term ''Federal share'' means, with respect to the costs of teacher training programs described in subsection (b) of this section, 50 percent of such costs to the contractor.

(f) Application

Each eligible recipient desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

(g) Participants and selection process

The selection process for participation in a teacher training program described in subsection (b) of this section shall—

(1) reward exemplary teachers with varying levels of teaching experience who are nominated by other teachers and administrators;

(2) involve an application process to select participants for a summer program;

(3) ensure the selection of a geographically and ethnically diverse group of teachers by soliciting applications from teachers of both public and private institutions in rural, urban, and suburban settings in each State; and

(4) automatically offer a place in a summer program to the ''Teacher of the Year'' chosen pursuant to a Federal or State teacher recognition program.

(h) Limitation

A contractor entering into a contract under subsection (c)(1) of this section shall not spend more than 5 percent of funds received under the contract for administrative costs.

(Pub. L. 89–10, title II, § 2103, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3617.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6603, 8801, 8893 of this title.

PART B—STATE AND LOCAL ACTIVITIES

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 6603, 6621, 6622 of this title.

§ 6641. Program authorized

The Secretary is authorized to make grants to State educational agencies for the improvement of teaching and learning through sustained and intensive high-quality professional development activities in the core academic subjects at the State and local levels.

(Pub. L. 89–10, title II, § 2201, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3621.)

§ 6642. Allocation of funds

(a) Reservation of funds

From the amount available to carry out this part for any fiscal year, the Secretary shall reserve—

(1) ½ of 1 percent for the outlying areas, to be distributed among the outlying areas on the basis of their relative need, as determined by the Secretary in accordance with the purposes of this part; and

(2) ½ of 1 percent for the Secretary of the Interior for programs under this part for professional development activities for teachers, other staff, and administrators in schools operated or funded by the Bureau of Indian Affairs.

(b) State allocations

The Secretary shall allocate the amount available to carry out this part and not reserved under subsection (a) of this section to each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico as follows, except that no State shall receive less than ½ of 1 percent of such amount:

(1) Fifty percent shall be allocated among such jurisdictions on the basis of their relative populations of individuals aged five through 17, as determined by the Secretary on the basis of the most recent satisfactory data.

(2) Fifty percent shall be allocated among such jurisdictions in accordance with the relative amounts such jurisdictions received under part A of subchapter I of this chapter for the preceding fiscal year, or for fiscal year 1995 only, such part's predecessor authority.

(c) Reallocation

If any jurisdiction does not apply for an allotment under subsection (b) of this section for any fiscal year, the Secretary shall reallocate such amount to the remaining jurisdictions in accordance with such subsection.

(Pub. L. 89–10, title II, § 2202, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3621.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6646 of this title.

§ 6643. Within-State allocations

Of the amounts received by a State under this part for any fiscal year—

(1) 84 percent shall be available for local allowable activities under section 6650(b) of this title, of which—

(A) not more than 5 percent may be used for the administrative costs of the State educational agency and for State-level activities described in section 6647 of this title; and

(B) of the remaining amount—

(i) 50 percent shall be distributed to local educational agencies—

(I) for use in accordance with section 6650 of this title; and

(II) in accordance with the relative enrollments in public and private nonprofit elementary and secondary schools within the boundaries of such agencies; and

(ii) 50 percent of such amount shall be distributed to local educational agencies—

(I) for use in accordance with section 6650 of this title; and

(II) in accordance with the relative amount such agencies received under part A of subchapter I of this chapter or for fiscal year 1995 for the preceding fiscal year, such part's predecessor authority; and

(2) 16 percent shall be available to the State agency for higher education for activities under section 6651 of this title, of which not more than 5 percent may be used for the administrative costs of the State agency for higher education.

(Pub. L. 89–10, title II, § 2203, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3621.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6646, 6647, 6651 of this title.

§ 6644. Consortium requirement

(a) In general

A local educational agency receiving a grant under this part of less than $10,000 shall form a consortium with another local educational agency or an educational service agency serving another local educational agency to be eligible to participate in programs assisted under this part.

(b) Waiver

The State educational agency may waive the application of paragraph (1) in the case of any

local educational agency that demonstrates that the amount of its allocation under this part is sufficient to provide a program of sufficient size, scope, and quality to be effective. In granting waivers under the preceding sentence, the State educational agency shall—

(1) give special consideration to local educational agencies serving rural areas if distances or traveling time between schools make formation of the consortium more costly or less effective; and

(2) consider cash or in-kind contributions provided from State or local sources that may be combined with the local educational agency's allocation for the purpose of providing services under this part.

(c) Special rule

Each consortium shall rely, as much as possible, on technology or other arrangements to provide staff development programs tailored to the needs of each school or school district participating in a consortium described in subsection (a) of this section.

(Pub. L. 89–10, title II, § 2204, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3622.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6648 of this title.

§ 6645. State applications

(a) Applications required

Each State educational agency that wishes to receive an allotment under this part for any fiscal year shall submit an application to the Secretary at such time, in such form, and containing such information as the Secretary may require.

(b) State plan to improve teaching and learning

(1) In general

Each application under this section shall include a State plan that is coordinated with the State's plan under other programs assisted under this chapter, the Goals 2000: Educate America Act [20 U.S.C. 5801 et seq.], and other Acts, as appropriate, consistent with the provisions of section 8856 of this title.

(2) Contents

Each such State plan shall—

(A) be developed in conjunction with the State agency for higher education, community-based and other nonprofit organizations of demonstrated effectiveness, institutions of higher education or schools of education, and with the extensive participation of local teachers, administrators and pupil services personnel and show the role of each such entity in implementation of the plan;

(B) be designed to give teachers, and, where appropriate, administrators and pupil services personnel in the State, the knowledge and skills necessary to provide all students the opportunity to meet challenging State content standards and challenging State student performance standards;

(C) include an assessment of State and local needs for professional development specifically related to subparagraph (B);

(D) include a description of how the plan has assessed the needs of local educational agencies serving rural and urban areas, and what actions are planned to meet such needs;

(E) include a description of how the activities assisted under this part will address the needs of teachers in schools receiving assistance under part A of subchapter I of this chapter;

(F) a description of how programs in all core academic subjects, but especially in mathematics and science, will take into account the need for greater access to, and participation in, such disciplines by students from historically underrepresented groups, including females, minorities, individuals with limited English proficiency, the economically disadvantaged, and individuals with disabilities, by incorporating pedagogical strategies and techniques which meet such individuals' educational needs;

(G) be consistent with the State's needs assessment under subparagraph (C), and describe how the State will work with teachers, including teachers in schools receiving assistance under part A of subchapter I of this chapter, administrators, parents, local educational agencies, schools, educational service agencies, institutions of higher education, and nonprofit organizations of demonstrated effectiveness, to ensure that such individuals develop the capacity to support sustained and intensive, high-quality professional development programs in the core academic subjects;

(H) describe how the State requirements for licensure of teachers and administrators, including certification and recertification, support challenging State content standards and challenging State student performance standards and whether such requirements are aligned with such standards;

(I) address the need for improving teaching and learning through teacher development beginning with recruitment, preservice, and induction, and continuing throughout the professional teaching career, taking into account the need, as determined by the State, for greater access to and participation in the teaching profession by individuals from historically underrepresented groups;

(J) describe how the State will prepare all teachers to teach children with diverse learning needs, including children with disabilities;

(K) describe how the State will prepare teachers, and, where appropriate, paraprofessionals, pupil services personnel, and other staff in the collaborative skills needed to appropriately teach children with disabilities, in the core academic subjects;

(L) describe how the State will use technology, including the emerging national information infrastructure, to enhance the professional development of teachers, and, where appropriate, administrators and pupil services personnel;

(M) describe how the State will provide incentives to teachers and administrators to focus their professional development on preparing such teachers and administrators to provide instruction consistent with chal-

lenging State content standards and challenging State student performance standards;

(N) set specific performance indicators for professional development; and

(O) describe how parents can be involved in professional development programs to enhance the participation of parents in the education of their children.

(3) Duration of the plan

Each such State plan shall—

(A) remain in effect for the duration of the State's participation under this part; and

(B) be periodically reviewed and revised by the State, as necessary, to reflect changes in the State's strategies and programs under this part.

(c) Additional material

Each State application shall include—

(1) a description of how the activities assisted under this part will be coordinated, as appropriate, with—

(A) other activities conducted with Federal funds, especially activities supported under part A of subchapter I of this chapter and the Individuals with Disabilities Education Act [20 U.S.C. 1400 et seq.];

(B) programs supported by State and local funds;

(C) resources from business and industry, museums, libraries, educational television stations, and public and private nonprofit organizations of demonstrated experience; and

(D) funds received from other Federal agencies, such as the National Science Foundation, the Departments of Commerce, Energy, and Health and Human Services, the National Endowment for the Arts, the Institute of Museum and Library Services, and the National Endowment for the Humanities; and

(2) a description of the activities to be sponsored under the State-level activities under section 6647 of this title and the higher education activities under section 6651 of this title.

(d) Peer review and secretarial approval

(1) In general

The Secretary shall approve an application of a State educational agency under this section if such application meets the requirements of this section and holds reasonable promise of achieving the purposes of this part.

(2) Review

In reviewing applications under this section, the Secretary shall obtain the advice of non-Federal experts on education in the core academic subjects and on teacher education, including teachers and administrators.

(Pub. L. 89–10, title II, § 2205, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3622; amended Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 709(b)(3)(A)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–313.)

REFERENCES IN TEXT

The Goals 2000: Educate America Act, referred to in subsec. (b)(1), is Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 125 (except titles V and IX), as amended, which is classified principally to chapter 68 (§ 5801 et seq.) of this title (except subchapters V (§ 5931 et seq.) and IX (§ 6001 et seq.)). For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables.

The Individuals with Disabilities Education Act, referred to in subsec. (c)(1)(A), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, as amended, which is classified generally to chapter 33 (§ 1400 et seq.) of this title. For complete classification of this Act to the Code, see section 1400 of this title and Tables.

AMENDMENTS

1996—Subsec. (c)(1)(D). Pub. L. 104–208 substituted ''the Institute of Museum and Library Services'' for ''the Institute of Museum Services''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6647 of this title.

§ 6646. Priority for professional development in mathematics and science

(a) Appropriation of less than $250,000,000

In any fiscal year for which the amount appropriated for this subchapter is less than $250,000,000, each State shall ensure that all funds distributed in accordance with section 6643(1)(C)[1] of this title are used for professional development in mathematics and science.

(b) Appropriation equal to or above $250,000,000

In any fiscal year for which the amount appropriated for this subchapter is equal to or exceeds $250,000,000, each State and local educational agency shall use for professional development activities in mathematics and science the amount of funds that would have been made available to each such agency in accordance with sections 6642 and 6643 of this title if the amount appropriated was $250,000,000, consistent with subsection (a) of this section, and are permitted and encouraged to use the amount of funds in excess of $250,000,000 that is made available in accordance with sections 6642 and 6643 of this title for professional development activities in mathematics and science.

(Pub. L. 89–10, title II, § 2206, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3625.)

§ 6647. State-level activities

Each State may use funds made available under section 6643(1)(A) of this title to carry out activities described in the plan under section 6645(b) of this title, such as—

(1) reviewing and reforming State requirements for teacher and administrator licensure, including certification and recertification, to align such requirements with the State's challenging State content standards and ensure that teachers and administrators have the knowledge and skills necessary to help students meet challenging State student performance standards;

(2) developing performance assessments and peer review procedures, as well as other methods, for licensing teachers and administrators;

(3) providing technical assistance to schools and local educational agencies, especially schools and local educational agencies that re-

[1] So in original. Probably should be section ''6643(1)(B)''.

ceive assistance under part A of subchapter I of this chapter, to help such schools and agencies provide effective professional development in the core academic subjects;

(4) developing or supporting professional development networks, either within a State or in a regional consortium of States, that provide a forum for interaction among teachers and that allow exchange of information on advances in content and pedagogy;

(5) supporting partnerships between schools, consortia of schools, or local educational agencies and institutions of higher education, including schools of education, which encourage—

(A) teachers to participate in intensive, ongoing professional development programs, both academic and pedagogical, at institutions of higher education; and

(B) students at institutions of higher education studying to become teachers to have direct, practical experience at the schools;

(6) providing professional development in the effective use of educational technology as an instructional tool for increasing student understanding of the core academic subjects, including efforts to train teachers in methods of achieving gender equity both in students' access to computers and other educational technology and in teaching practices used in the application of educational technology;

(7) providing incentives for teachers to be involved in assessment, curriculum development, and technical assistance processes for teachers and students;

(8) providing professional development to enable teachers, and, where appropriate, pupil services personnel, and other school staff, to ensure that girls and young women, minorities, limited English proficient students, individuals with disabilities, and economically disadvantaged students have the full opportunity to achieve challenging State content standards and challenging State student performance standards in the core academic subjects by, for example, encouraging girls and young women and minorities to pursue advanced courses in mathematics and science;

(9) professional development and recruitment activities designed to increase the numbers of minorities, individuals with disabilities, and women teaching in the core academic subjects in which such individuals are underrepresented;

(10) providing financial or other incentives for teachers to become certified by nationally recognized professional teacher enhancement organizations;

(11) providing professional development activities which prepare teachers, and where appropriate, pupil services personnel, paraprofessionals, and other staff in the collaborative skills needed to appropriately teach children with disabilities, in the core academic subjects;

(12) identifying, developing, or supporting professional development strategies to better equip parents to assist their children in raising their children's achievement in the core academic subjects; and

(13) professional development activities designed to increase the number of women and other underrepresented groups in the administration of schools.

(Pub. L. 89–10, title II, § 2207, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3625.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6643, 6645 of this title.

§ 6648. Local plan and application for improving teaching and learning

(a) Local application

(1) In general

Each local educational agency that wishes to receive a subgrant under this part shall submit an application (singly or as a consortium as described in section 6644 of this title) to the State educational agency at such time as the State educational agency shall require, but not less frequently than every three years, that is coordinated with other programs under this chapter, the Goals 2000: Educate America Act [20 U.S.C. 5801 et seq.], or other Acts, as appropriate, consistent with the provisions of section 8856 of this title.

(2) Indicators

A local educational agency shall set specific performance indicators for improving teaching and learning through professional development.

(b) Needs assessment

(1) In general

A local educational agency that wishes to receive a subgrant under this part shall include in its application an assessment of local needs for professional development as identified by the local educational agency and school staff.

(2) Requirements

Such needs assessment shall be carried out with the involvement of teachers, including teachers in schools receiving assistance under part A of subchapter I of this chapter, and shall take into account what activities need to be conducted in order to give teachers and, where appropriate, administrators, the means, including the knowledge and skills, to provide students with the opportunity to meet challenging State or local student performance standards.

(c) Application contents

Each application under this section shall include the local educational agency's plan for professional development that—

(1) focuses on teaching and learning in the core academic subjects; and

(2) has been developed with the extensive participation of administrators, staff, and pupil services personnel, which teachers shall also be representative of the grade spans within schools to be served and of schools which receive assistance under part A of subchapter I of this chapter.

(d) Plan contents

(1) In general

Based on the needs assessment required under subsection (b) of this section, the local educational agency's plan shall—

(A) include a description of how the plan contributes to the local educational agency's overall efforts for school reform and educational improvement;

(B) include a description of how the activities funded under this section will address the needs of teachers in schools receiving assistance under part A of subchapter I of this chapter;

(C) be aligned with the State's challenging State content standards and challenging State student performance standards;

(D) describe a strategy, tied to challenging State content standards and challenging State student performance standards, consistent with the needs assessment under subsection (b) of this section;

(E) be of sufficient intensity and duration to have a positive and lasting impact on the student's performance in the classroom;

(F) describe how programs in all core academic subjects, but especially in mathematics and science, will take into account the need for greater access to, and participation in, such disciplines by students from historically underrepresented groups, including girls and women, minorities, individuals with limited English proficiency, the economically disadvantaged, and individuals with disabilities, by incorporating pedagogical strategies and techniques which meet such individuals' educational need;

(G) contain an assurance that the activities conducted with funds received under this part will be assessed at least every three years using the performance indicators;

(H) describe how the program funded under this part will be coordinated, as appropriate, with—

(i) activities conducted under section 2131[1] and other services of institutions of higher education;

(ii) similar State and local activities;

(iii) resources provided under part A of subchapter I of this chapter and other provisions of this chapter;

(iv) resources from business, industry, public and private nonprofit organizations (including museums, libraries, educational television stations, community-based organizations, professional organizations and associations specializing in, or with a demonstrated expertise in the core academic subjects);

(v) funds or programming from other Federal agencies, such as the National Science Foundation, the Department of Energy, the Department of Health and Human Services, the Institute of Museum and Library Services, the National Endowment for the Humanities, and the National Endowment for the Arts;

(vi) services of educational service agencies; and

(vii) resources provided under the Individuals with Disabilities Education Act [20 U.S.C. 1400 et seq.];

(I) identify the sources of funding that will provide the local educational agency's contribution under section 6649 of this title; and

(J) describe the professional development strategies to be employed to more fully and effectively involve parents in the education of their children.

(2) Duration of the plan

Each local plan described in subsection (b)(1) of this section shall—

(A) remain in effect for the duration of the local educational agency's participation under this part; and

(B) be periodically reviewed and revised by the local educational agency, as necessary, to reflect changes in the local educational agency's strategies and programs under this part.

(Pub. L. 89–10, title II, § 2208, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3626; amended Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 709(b)(3)(A)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–313.)

REFERENCES IN TEXT

The Goals 2000: Educate America Act, referred to in subsec. (a)(1), is Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 125 (except titles V and IX), as amended, which is classified principally to chapter 68 (§ 5801 et seq.) of this title (except subchapters V (§ 5931 et seq.) and IX (§ 6001 et seq.)). For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables.

Section 2131, referred to in subsec. (d)(1)(H)(i), means section 2131 of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10. However, Pub. L. 89–10, which is classified to this chapter, does not contain a section 2131. See section 2211 of Pub. L. 89–10 which is classified to section 6651 of this title.

The Individuals with Disabilities Education Act, referred to in subsec. (d)(1)(H)(vii), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, as amended, which is classified generally to chapter 33 (§ 1400 et seq.) of this title. For complete classification of this Act to the Code, see section 1400 of this title and Tables.

AMENDMENTS

1996—Subsec. (d)(1)(H)(v). Pub. L. 104–208 substituted ''the Institute of Museum and Library Services'' for ''the Institute of Museum Services''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6650 of this title.

§ 6649. Local cost-sharing

(a) In general

Each local educational agency shall provide not less than 33 percent of the cost of the activities assisted under this part, excluding the cost of services provided to private school teachers.

(b) Available resources for cost-sharing

(1) In general

A local educational agency may meet the requirement of subsection (a) of this section through one or more of the following:

(A) Cash expenditures from non-Federal sources, including private contributions, directed toward professional development activities.

(B) Release time for teachers participating in professional development assisted under this part.

(C) Funds received under one or more of the following programs, so long as such

[1] See References in Text note below.

funds are used for professional development activities consistent with this part and the statutes under which such funds were received, and are used to benefit students and teachers in schools that otherwise would have been served with such funds:

(i) Helping disadvantaged children meet high standards under part A of subchapter I of this chapter.

(ii) The Safe and Drug-Free Schools and Communities program under subchapter IV of this chapter.

(iii) Bilingual Education Programs under part A of subchapter VII of this chapter.

(iv) Programs under the Women's Educational Equity Act of 1994 [20 U.S.C. 7231 et seq.].

(v) Programs under title III of the Goals 2000: Educate America Act [20 U.S.C. 5881 et seq.].

(vi) Programs that are related to the purposes of this chapter that are administered by other Federal agencies, including the National Science Foundation, the National Endowment for the Humanities, the National Endowment for the Arts, the Institute of Museum and Library Services, and the Department of Energy.

(vii) Programs under the Individuals with Disabilities Education Act [20 U.S.C. 1400 et seq.].

(2) Special rule

A local educational agency may meet the requirement of subsection (a) of this section through contributions described in paragraph (1) that are provided in cash or in kind, fairly evaluated.

(c) Waiver

The State educational agency may approve an application which has not fully met the requirements of subsection (a) of this section and waive the requirements of subsection (a) of this section if a local educational agency can demonstrate that such agency is unable to meet the requirements of subsection (a) of this section due to economic hardship and that compliance with such requirements would preclude such agency's participation in the program.

(Pub. L. 89–10, title II, § 2209, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3628; amended Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 709(b)(3)(A)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–313.)

REFERENCES IN TEXT

The Women's Educational Equity Act of 1994, referred to in subsec. (b)(1)(C)(iv), is part B (§§ 5201–5208) of title V of Pub. L. 89–10, as added by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3695, which is classified generally to part B (§ 7231 et seq.) of subchapter V of this chapter. For complete classification of this Act to the Code, see section 7231 of this title and Tables.

The Goals 2000: Educate America Act, referred to in subsec. (b)(1)(C)(v), is Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 125 (except titles V and IX), as amended. Title III of the Act is classified generally to subchapter III (§ 5881 et seq.) of chapter 68 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables.

The Individuals with Disabilities Education Act, referred to in subsec. (b)(1)(C)(vii), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, as amended, which is classified generally to chapter 33 (§ 1400 et seq.) of this title. For complete classification of this Act to the Code, see section 1400 of this title and Tables.

AMENDMENTS

1996—Subsec. (b)(1)(C)(vi). Pub. L. 104–208, which directed the amendment of subsec. (b)(1)(C)(iv) by substituting ''the Institute of Museum and Library Services'' for ''the Institute of Museum Services'', was executed to subsec. (b)(1)(C)(vi) of this section to reflect the probable intent of Congress.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6648 of this title.

§ 6650. Local allocation of funds and allowable activities

(a) Local allocation of funds

Each local educational agency that receives funds under this part for any fiscal year—

(1) shall use not less than 80 percent of such funds for professional development of teachers, and, where appropriate, administrators, and, where appropriate, pupil services personnel, parents, and other staff of individual schools in a manner that—

(A) is determined by such teachers and staff;

(B) to the extent practicable, takes place at the individual school site; and

(C) is consistent with the local educational agency's application under section 6648 of this title, any school plan under part A of subchapter I of this chapter, and any other plan for professional development carried out with Federal, State, or local funds that emphasizes sustained, ongoing activities; and

(2) may use not more than 20 percent of such funds for school district-level professional development activities, including, where appropriate, the participation of administrators, policymakers, and parents, if such activities directly support instructional personnel.

(b) Authorized activities

(1) In general

Each local educational agency and school that receives funds under this part shall use such funds for activities that give teachers and administrators the knowledge and skills to provide students with the opportunity to meet challenging State or local content standards and student performance standards.

(2) Professional development activities

Professional development activities funded under this part shall—

(A) be tied to challenging State content standards or challenging local content standards, and challenging State student performance standards or challenging local student performance standards;

(B) take into account recent research on teaching and learning;

(C) provide professional development which incorporates effective strategies, techniques, methods, and practices for meeting the educational needs of diverse groups of students, including girls and women, mi-

norities, individuals with disabilities, limited English proficient individuals, and economically disadvantaged individuals;

(D) include strong academic content and pedagogical components; and

(E) be of sufficient intensity and duration to have a positive and lasting impact on the teacher's performance in the classroom.

(3) Activities

Funds under this part may be used for professional development activities such as—

(A) professional development for teams of teachers, and, where appropriate, administrators, pupil services personnel, or other staff from individual schools, to support teaching consistent with challenging State content standards and challenging State student performance standards;

(B) support and time, which in the case of teachers may include release time with pay, for teachers, and, where appropriate, pupil services personnel and other school staff to enable such teachers, personnel, and staff to participate in professional development in the core academic subjects that are offered through professional associations, universities, community-based organizations, and other providers, such as educational partnership organizations, science centers, and museums;

(C) activities that provide followup for teachers who have participated in professional development activities that are designed to ensure that the knowledge and skills learned by the teacher are implemented in the classroom;

(D) support for partnerships between schools, consortia of schools, or local educational agencies, and institutions of higher education, including schools of education, which partnerships shall encourage—

(i) teachers to participate in intensive, ongoing professional development programs, both academic and pedagogical, at institutions of higher education; and

(ii) students at institutions of higher education studying to become teachers to have direct, practical experience at schools;

(E) the establishment and maintenance of local professional networks that provide a forum for interaction among teachers and that allow exchange of information on advances in content and pedagogy;

(F) preparing teachers in the effective use of educational technology and assistive technology as instructional tools for increasing student understanding of the core academic subjects;

(G) professional development to enable teachers, and, where appropriate, pupil services personnel and other school staff, to ensure that girls and young women, minorities, limited English proficient students, individuals with disabilities, and the economically disadvantaged have full opportunity to achieve the challenging State content standards and challenging State student performance standards in the core academic subjects;

(H) professional development and recruitment activities designed—

(i) to increase the number of minorities, individuals with disabilities, and females teaching in the core academic subjects in which such individuals are underrepresented; and

(ii) to increase the numbers of women and members of other underrepresented groups who are science and mathematics teachers, through such programs as career ladder programs that assist educational paraprofessionals to obtain teaching credentials in the core academic subjects;

(I) providing financial or other incentives for teachers to become certified by nationally recognized professional teacher enhancement programs;

(J) support and time for teachers, and, where appropriate, pupil services personnel, and other school staff to learn and implement effective collaboration for the instruction of children with disabilities in the core academic subject areas;

(K) preparing teachers, and, where appropriate, pupil services personnel to work with parents and families on fostering student achievement in the core academic subjects;

(L) professional development activities and other support for new teachers as such teachers move into the classroom to provide such teachers with practical support and to increase the retention of such teachers;

(M) professional development for teachers, parents, early childhood educators, administrators, and other staff to support activities and services related to preschool transition programs to raise student performance in the core academic subjects;

(N) professional development activities to train teachers in innovative instructional methodologies designed to meet the diverse learning needs of individual students, including methodologies which integrate academic and vocational learning and applied learning, interactive and interdisciplinary team teaching, and other alternative teaching strategies such as service learning, experiential learning, career-related education, and environmental education, that integrate real world applications into the core academic subjects;

(O) developing professional development strategies and programs to more effectively involve parents in helping their children achieve in the core academic subjects;

(P) professional development activities designed to increase the number of women and other underrepresented groups in the administration of schools; and

(Q) release time with pay for teachers.

(Pub. L. 89–10, title II, § 2210, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3629.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6643 of this title.

§ 6651. Higher education activities

(a) Activities

(1) In general

From amounts made available under section 6643(2) of this title, the State agency for higher education, working in conjunction with the State educational agency (if such agencies are separate), shall make grants to, or enter into contracts or cooperative agreements with, institutions of higher education and nonprofit organizations of demonstrated effectiveness, including museums and educational partnership organizations, which must work in conjunction with a local educational agency, consortium of local educational agencies, or schools, for—

(A) professional development activities in the core academic subjects that contribute to the State plan for professional development;

(B) developing and providing assistance to local educational agencies, and the teachers and staff of each such agency, for sustained, high-quality professional development activities; and

(C) improving teacher education programs in order to promote further innovation in teacher education programs within an institution of higher education and to better meet the needs of the local educational agencies for well-prepared teachers.

(2) Competitive basis

Each grant, contract, or cooperative agreement described in paragraph (1) shall be awarded on a competitive basis.

(3) Special rule

No institution of higher education may receive assistance under (a)(1)[1] of this subsection unless the institution enters into an agreement with a local educational agency, or consortium of such agencies, to provide sustained, high-quality professional development for the elementary and secondary school teachers in the schools of each such agency.

(4) Joint efforts

Each activity assisted under this section, where applicable, shall involve the joint effort of the institution of higher education's school or department of education, if any, and the schools or departments in the specific disciplines in which such professional development will be provided.

(b) Allowable activities

A recipient of funds under this section shall use such funds for—

(1) sustained and intensive high-quality professional development for teams of teachers, or teachers, and, where appropriate, pupil services personnel and administrators from individual schools or school districts;

(2) other sustained and intensive professional development activities related to achievement of the State plan for professional development; and

(3) preservice training activities.

[1] So in original. Probably should be ''paragraph (1)''.

(c) Partnerships

Each institution of higher education receiving a grant under this section may also enter into a partnership with a private industry, museum, library, educational television station, or public or private nonprofit organization of demonstrated experience to carry out professional development activities assisted under this section.

(Pub. L. 89–10, title II, § 2211, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3632.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6643, 6645 of this title.

PART C—PROFESSIONAL DEVELOPMENT DEMONSTRATION PROJECT

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 6603, 6621, 6622, 8801, 8893 of this title.

§ 6671. Findings and purpose

(a) Findings

The Congress finds that—

(1) underlying the standards-driven framework of the Goals 2000: Educate America Act [20 U.S.C. 5801 et seq.] and the high academic standards for eligible students under subchapter I of this chapter is a widespread need to prepare teachers to teach to higher standards;

(2) prospective and current teachers need knowledge and skills beyond what such teachers currently possess;

(3) while both the Goals 2000: Educate America Act [20 U.S.C. 5801 et seq.] and subchapters I and II of this chapter have extensive references to professional development of teachers, there are no provisions to incorporate ''on-the-ground'' planning and implementation to serve as models for local educational agencies across the Nation; and

(4) better prepared teachers can lead to improved student achievement, especially for students who are furthest from reaching high standards.

(b) Purpose

It is the purpose of this part—

(1) to address the need for professional development with a primary focus on teachers;

(2) to provide both prospective teachers and current teachers opportunities to learn both the content and the pedagogy needed to teach to high standards; and

(3) to build models, in a few cities and States, that demonstrate new organizational arrangements and deep investments in teachers necessary to better prepare teachers for new standards and assessments.

(Pub. L. 89–10, title II, § 2301, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3633.)

REFERENCES IN TEXT

The Goals 2000: Educate America Act, referred to in subsec. (a)(1), (3), is Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 125 (except titles V and IX), as amended, which is classified principally to chapter 68 (§ 5801 et seq.) of this title (except subchapters V (§ 5931 et seq.) and IX (§ 6001

et seq.)). For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables.

§ 6672. Demonstration program authorized

(a) General authority

(1) In general

The Secretary shall carry out a demonstration project under which the Secretary awards grants in accordance with this part to eligible partnerships to enable such partnerships to plan and implement professional development programs.

(2) Program requirements

The programs described in paragraph (1)—

(A) shall focus on increasing teachers' knowledge and understanding of content by providing teachers opportunities to improve their knowledge and to improve their classroom practice in order to help students meet high academic standards;

(B) shall include teachers at all career stages, from student teachers or interns through senior team leaders or department chairs; and

(C) may incorporate professional development for principals, pupil services personnel, aides, other school-based staff, and parents.

(b) Eligible partnerships

For the purpose of this part, the term ''eligible partnership'' means a partnership consisting of—

(1) a local educational agency, a subunit of such agency, or a consortium of such agencies, in which not less than 50 percent of the schools served by such agency, subunit, or consortium are eligible to participate in schoolwide programs under section 6314 of this title; or

(2) other partners that—

(A) shall include, at a minimum, a teachers' union (if appropriate), one or more institutions of higher education which may include faculty from schools of education and faculty from schools of arts and sciences, and a local parent or community council; and

(B) may include a business partner or a nonprofit organization with a demonstrated record in staff development.

(Pub. L. 89–10, title II, § 2302, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3633.)

§ 6673. Grants

(a) Authority

(1) In general

The Secretary shall award grants for planning, and grants for the implementation of, professional development programs under this part.

(2) Distribution

The Secretary shall award not less than 75 percent of the funds available for grants under this part to eligible partnerships serving the schools with the greatest number of poor students. To the extent possible, such grants shall be awarded to eligible partnerships serving both rural and urban school districts and in a manner that reflects geographic and racial diversity.

(3) Number of grants

In the first year that the Secretary awards grants under this part, the Secretary shall award at least twice as many planning grants as implementation grants in order to receive well-developed plans for long-term funding under this part.

(b) Grant requirements

(1) Duration

The Secretary shall award—

(A) planning grants under this part for a period of not less than six months and not more than nine months; and

(B) implementation grants under this part for a period of four fiscal years.

(2) Amount

The Secretary shall award grants under this part in an amount determined on the basis of the size of the program and the level of investment the eligible partnership is making in teacher development in the area served by the eligible partnership, including local, State, and Federal funds and existing higher education resources, except that no grant under this part shall exceed $500,000 in any one fiscal year.

(Pub. L. 89–10, title II, § 2303, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3634.)

§ 6674. Plan

Each eligible partnership desiring assistance under this part shall develop a plan for the program to be assisted under this part. Such plan shall—

(1) identify clearly how such plan will support an overall systemic reform strategy giving special attention to the role of teacher preparation for new standards and assessment;

(2) describe the eligible partnership's instructional objectives and how the professional development activities will support such objectives;

(3) specify the organizational arrangements and delivery strategies to be used, such as teacher centers, professional development schools, teacher networks, and academic alliances, as well as the curriculum for teachers;

(4) specify the commitments the local educational agencies, teacher's union, institutions of higher education, or any other entity participating in such partnership are prepared to make, not only to support program activities such as release time, contractual flexibility, support for interns or student teachers if applicable, but also to sustain the central aspects of the plan after the expiration of the grant; and

(5) describe how the activities described under this part will lead to districtwide policy and budget changes.

(Pub. L. 89–10, title II, § 2304, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3634.)

§ 6675. Technical assistance

The Secretary is authorized to enter into an arrangement with an intermediary organization

to enable such organization to provide technical assistance to eligible partnerships receiving assistance under this part.

(Pub. L. 89–10, title II, § 2305, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3635.)

§ 6676. Matching funds

The Secretary shall give special priority to awarding grants under this part to eligible partnerships that demonstrate such partnership's ability to raise matching funds from private sources.

(Pub. L. 89–10, title II, § 2306, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3635.)

PART D—GENERAL PROVISIONS

§ 6701. Reporting and accountability

(a) States

Each State that receives funds under this part shall submit a report to the Secretary every three years, beginning with fiscal year 1997, on the State's progress toward the performance indicators identified in such State's plan, as well as on the effectiveness of State and local activities assisted under this part.

(b) Local educational agencies

Each local educational agency that receives funds under this part shall submit a report to the State every three years, beginning with fiscal year 1997, regarding the progress of such agency toward performance indicators identified in such agency's local plan, as well as on the effectiveness of such agency's activities under this part.

(c) Federal evaluation

The Secretary shall report to the President and the Congress on the effectiveness of programs and activities assisted under this part in accordance with section 8941 of this title.

(d) Prohibition on funds being used for construction or renovation

Funds received under this part shall not be used for construction or renovation of buildings, rooms, or any other facilities.

(Pub. L. 89–10, title II, § 2401, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3635.)

§ 6702. Definitions

As used in this part—

(1) the term ''core academic subjects'' means those subjects listed in the State plan under title III of the Goals 2000: Educate America Act [20 U.S.C. 5881 et seq.] or under the third National Education Goal as set forth in section 102(3) of such Act [20 U.S.C. 5812(3)];

(2) the term ''performance indicators'' means measures of specific outcomes that the State or local educational agency identifies as assessing progress toward the goal of ensuring that all teachers have the knowledge and skills necessary to assist their students to meet challenging State content standards and challenging State student performance standards in the core academic subjects, such as—

(A) the degree to which licensure requirements are tied to challenging State content standards and challenging State student performance standards;

(B) specific increases in the number of elementary and secondary teachers with strong content backgrounds in the core academic subjects;

(C) incorporating effective strategies, techniques, methods, and practices for meeting the educational needs of diverse students, including females, minorities, individuals with disabilities, limited English proficient individuals, and economically disadvantaged individuals, in order to ensure that all students have the opportunity to achieve challenging student performance standards;

(D) specific increases in the number of teachers who are certified by the National Board for Professional Teaching Standards or other nationally recognized professional teacher enhancement organizations; and

(E) specific increases in the number of teachers licensed in each core academic subject;

(3) the term ''sustained and intensive high-quality professional development'' means professional development activities that—

(A) are tied to challenging State content standards, challenging State student performance standards, voluntary national content standards or voluntary national student performance standards;

(B) reflect up-to-date research in teaching and learning and include integrated content and pedagogical components appropriate for students with diverse learning needs;

(C) incorporate effective strategies, techniques, methods, and practices for meeting the educational needs of diverse students, including females, minorities, individuals with disabilities, limited English proficient individuals, and economically disadvantaged individuals, in order to ensure that all students have the opportunity to achieve challenging student performance standards;

(D) are of sufficient intensity and duration to have a positive and lasting impact on the teacher's performance in the classroom or the administrator's performance on the job; and

(E) recognize teachers as an important source of knowledge that should inform and help shape professional development; and

(4) the term ''local'', when used with respect to standards, means challenging content and student performance standards in the core academic subjects (in addition to challenging State content and student performance standards approved by the State for subchapter I of this chapter).

(Pub. L. 89–10, title II, § 2402, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3635.)

REFERENCES IN TEXT

The Goals 2000: Educate America Act, referred to in par. (1), is Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 125 (except titles V and IX), as amended. Title III of the Act is classified generally to subchapter III (§ 5881 et seq.) of chapter 68 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables.

SUBCHAPTER III—TECHNOLOGY FOR EDUCATION

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 8893 of this title.

§ 6801. Short title

This subchapter may be cited as the ''Technology for Education Act of 1994''.

(Pub. L. 89–10, title III, § 3101, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3636.)

PART A—TECHNOLOGY FOR EDUCATION OF ALL STUDENTS

§ 6811. Findings

The Congress finds that—

(1) technology can produce far greater opportunities for all students to learn to high standards, promote efficiency and effectiveness in education, and help propel our Nation's school systems into very immediate and dramatic reform, without which our Nation will not meet the National Education Goals by the target year 2000;

(2) the use of technology as a tool in the teaching and learning process is essential to the development and maintenance of a technologically literate citizenry and an internationally competitive workforce;

(3) the acquisition and use of technology in education throughout the United States has been inhibited by—

(A) the absence of Federal leadership;

(B) the inability of many State and local educational agencies to invest in and support needed technologies;

(C) the limited exposure of students and teachers to the power of technology as a cost-effective tool to improve student learning and achievement;

(D) the lack of appropriate electrical and telephone connections in the classroom; and

(E) the limited availability of appropriate technology-enhanced curriculum, instruction, professional development, and administrative support resources and services in the educational marketplace;

(4) policies at the Federal, State, and local levels concerning technology in education must address disparities in the availability of technology to different groups of students, give priority to serving students in greatest need, and recognize that educational telecommunications and technology can address educational equalization concerns and school restructuring needs by providing universal access to high-quality teaching and programs, particularly in urban and rural areas;

(5) the increasing use of new technologies and telecommunications systems in business has increased the gap between schooling and work force preparation, and underscores the need for technology policies at the Federal, State, tribal, and local levels that address preparation for school-to-work transitions;

(6) technology can enhance the ongoing professional development of teachers and administrators by providing constant access to updated research in teaching and learning by means of telecommunications, and, through exposure to technology advancements, keep teachers and administrators excited and knowledgeable about unfolding opportunities for the classroom;

(7) planned and creative uses of technology, combined with teachers adequately trained in the use of technology, can reshape our Nation's traditional method of providing education and empower teachers to create an environment in which students are challenged through rigorous, rich classroom instruction provided at a pace suited to each student's learning style, and in which students have increased opportunities to develop higher order thinking and technical skills;

(8) schools need new ways of financing the acquisition and maintenance of educational technology;

(9) the needs for educational technology differ from State to State;

(10) technology can provide students, parents, teachers, other education professionals, communities, and industry with increased opportunities for partnerships and with increased access to information, instruction, and educational services in schools and other settings, including homes, libraries, preschool and child-care facilities, adult and family education programs, and postsecondary institutions;

(11) the Department, consistent with the overall national technology policy established by the President, must assume a vital leadership and coordinating role in developing the national vision and strategy to infuse advanced technology throughout all educational programs;

(12) Federal support can ease the burden at the State and local levels by enabling the acquisition of advanced technology and initiating the development of teacher training and support as well as new educational products;

(13) leadership at the Federal level should consider guidelines to ensure that educational technology is accessible to all users with maximum interoperability nationwide;

(14) the rapidly changing nature of technology requires coordination and flexibility in Federal leadership; and

(15) technology has the potential to assist and support the improvement of teaching and learning in schools and other settings.

(Pub. L. 89–10, title III, § 3111, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3637.)

§ 6812. Statement of purpose

The purpose of this part is to support a comprehensive system for the acquisition and use by elementary and secondary schools in the United States of technology and technology-enhanced curricula, instruction, and administrative support resources and services to improve the delivery of educational services. Such system shall include—

(1) national leadership with respect to the need for, and the provision of, appropriate technology-enhanced curriculum, instruction, and administrative programs to improve

learning in the United States, and to promote equal access for all students to educational opportunities in order to achieve the National Education Goals by the year 2000;

(2) funding mechanisms which will support the development, interconnection, implementation, improvement, and maintenance of an effective educational technology infrastructure, including activities undertaken by State and local educational agencies to promote and provide equipment, training for teachers and school library and media personnel, and technical support;

(3) support for technical assistance, professional development, information and resource dissemination, in order to help States, local educational agencies, teachers, school library and media personnel, and administrators successfully integrate technology into kindergarten through 12th grade classrooms and library media centers;

(4) support for the development of educational and instructional programming in core subject areas, which shall address the National Education Goals;

(5) strengthening and building upon, but not duplicating, existing telecommunications infrastructures dedicated to educational purposes;

(6) development and evaluation of new and emerging educational technologies, telecommunications networks, and state-of-the-art educational technology products that promote the use of advanced technologies in the classroom and school library media center;

(7) assessment data regarding state-of-the-art uses of technologies in United States education upon which commercial and noncommercial telecommunications entities, and governments can rely for decisionmaking about the need for, and provision of, appropriate technologies for education in the United States;

(8) ensuring that uses of educational technology are consistent with the overall national technology policy established by the President, and ensuring that Federal technology-related policies and programs will facilitate the use of technology in education;

(9) ensuring that activities supported under this part will form the basis for sound State and local decisions about investing in, sustaining, and expanding uses of technology in education;

(10) establishing working guidelines to ensure maximum interoperability nationwide and ease of access for the emerging technologies so that no school system will be excluded from the technological revolution;

(11) ensuring that, as technological advances are made, the educational uses of these advances are considered and their applications are developed; and

(12) encouragement of collaborative relationships among the State agency for higher education, the State library administrative agency, the State telecommunications agency, and the State educational agency, in the area of technology support to strengthen the system of education.

(Pub. L. 89–10, title III, §3112, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3638.)

§ 6813. Definitions

For purposes of this subchapter—

(1) the term ''adult education'' has the same meaning given such term by section 1201a of this title;

(2) the term ''all students'' means students from a broad range of backgrounds and circumstances, including disadvantaged students, students with diverse racial, ethnic, and cultural backgrounds, students with disabilities, students with limited English proficiency, students who have dropped out of school, and academically talented students;

(3) the term ''information infrastructure'' means a network of communication systems designed to exchange information among all citizens and residents of the United States;

(4) the term ''instructional programming'' means the full range of audio and video data, text, graphics, or additional state-of-the-art communications, including multimedia based resources distributed through interactive, command and control, or passive methods for the purpose of education and instruction;

(5) the terms ''interoperable'' and ''interoperability'' mean the ability to exchange easily data with, and connect to, other hardware and software in order to provide the greatest accessibility for all students and other users;

(6) the term ''Office'' means the Office of Educational Technology;

(7) the term ''public telecommunications entity'' has the same meaning given to such term by section 397(12) of title 47;

(8) the term ''regional educational laboratory'' means a regional educational laboratory supported under section 6041(h) of this title;

(9) the term ''State educational agency'' includes the Bureau of Indian Affairs for purposes of serving schools funded by the Bureau of Indian Affairs in accordance with this part;

(10) the term ''State library administrative agency'' has the same meaning given to such term in section 9122 of this title; and

(11) the term ''technology'' means state-of-the-art technology products and services, such as closed circuit television systems, educational television and radio programs and services, cable television, satellite, copper and fiber optic transmission, computer hardware and software, video and audio laser and CD-ROM discs, and video and audio tapes.

(Pub. L. 89–10, title III, §3113, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3639; amended Pub. L. 104–208, div. A, title I, §101(e) [title VII, §709(a)(1), (3)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–312.)

AMENDMENTS

1996—Par. (10). Pub. L. 104–208, §101(e) [title VII, §709(a)(1), (3)], amended par. (10) identically, substituting ''section 9122 of this title'' for ''section 351a of this title''.

§ 6814. Authorization of appropriations; funding rule

(a) Authorization of appropriations

(1) Subparts 1, 2, and 3

There are authorized to be appropriated $200,000,000 for fiscal year 1995 and such sums

as may be necessary for each of the four succeeding fiscal years to carry out subparts 1, 2, and 3 of this part, of which—

(A)(i) $3,000,000 shall be available to carry out subpart 1 of this part (National Programs for Technology in Education) for any such year for which the amount appropriated under this subsection is less than $75,000,000; and

(ii) $5,000,000 shall be available to carry out subpart 1 of this part for any such year for which the amount appropriated under this subsection is equal to or greater than $75,000,000;

(B) $10,000,000 shall be available to carry out subpart 3 of this part (Regional Technical Support and Professional Development) for each such year; and

(C) the remainder shall be available to carry out subpart 2 of this part (State and Local Programs for School Technology Resources) for each such year.

(2) Subpart 4

For the purpose of carrying out subpart 4 of this part, there are authorized to be appropriated $50,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

(b) Funding rule

(1) Appropriations of less than $75,000,000

For any fiscal year for which the amount appropriated under subsection (a)(1) of this section is less than $75,000,000, from the remainder of funds made available under subsection (a)(1)(C) of this section the Secretary shall award grants for the National Challenge Grants in accordance with section 6846 of this title.

(2) Appropriations equal to or greater than $75,000,000

For any fiscal year for which the amount appropriated under subsection (a)(1) of this section is equal to or greater than $75,000,000, from the remainder of funds made available under subsection (a)(1)(C) of this section the Secretary shall award grants to State educational agencies from allotments under section 6841 of this title, except that the Secretary may reserve, from such remainder, such funds as the Secretary determines necessary to meet outstanding obligations for such fiscal year to continue the National Challenge Grants for Technology awarded under section 6846 of this title.

(Pub. L. 89–10, title III, § 3114, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3640.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6841, 6846 of this title.

§ 6815. Limitation on costs

Not more than 5 percent of the funds under this part that are made available to a recipient of funds under this part for any fiscal year may be used by such recipient for administrative costs or technical assistance.

(Pub. L. 89–10, title III, § 3115, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3641.)

SUBPART 1—NATIONAL PROGRAMS FOR TECHNOLOGY IN EDUCATION

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in section 6814 of this title.

§ 6831. National long-range technology plan

(a) In general

The Secretary shall develop and publish not later than 12 months after October 20, 1994, and update when the Secretary determines appropriate, a national long-range plan that supports the overall national technology policy and carries out the purposes of this part.

(b) Plan requirements

The Secretary shall—

(1) develop the national long-range plan in consultation with other Federal departments or agencies, State and local education practitioners and policymakers, experts in technology and the applications of technology to education, representatives of distance learning consortia, representatives of telecommunications partnerships receiving assistance under the Star Schools Act [20 U.S.C. 6891 et seq.], and providers of technology services and products;

(2) transmit such plan to the President and to the appropriate committees of the Congress; and

(3) publish such plan in a form that is readily accessible to the public.

(c) Contents of plan

The national long-range plan shall describe the Secretary's activities to promote the purposes of this subchapter, including—

(1) how the Secretary will encourage the effective use of technology to provide all students the opportunity to achieve State content standards and State student performance standards, especially through programs administered by the Department;

(2) joint activities in support of the overall national technology policy with other Federal departments or agencies, such as the Office of Science and Technology Policy, the National Endowment for the Humanities, the National Endowment for the Arts, the National Institute for Literacy, the National Aeronautics and Space Administration, the National Science Foundation, the Bureau of Indian Affairs, and the Departments of Commerce, Energy, Health and Human Services, and Labor—

(A) to promote the use of technology in education, training, and lifelong learning, including plans for the educational uses of a national information infrastructure; and

(B) to ensure that the policies and programs of such departments or agencies facilitate the use of technology for educational purposes, to the extent feasible;

(3) how the Secretary will work with educators, State and local educational agencies, and appropriate representatives of the private sector to facilitate the effective use of technology in education;

(4) how the Secretary will promote—

(A) higher achievement of all students through the integration of technology into the curriculum;

(B) increased access to the benefits of technology for teaching and learning for schools with a high number or percentage of children from low-income families;

(C) the use of technology to assist in the implementation of State systemic reform strategies;

(D) the application of technological advances to use in education;

(E) increased access to high quality adult and family education services through the use of technology for instruction and professional development; and

(F) increased opportunities for the professional development of teachers in the use of new technologies;

(5) how the Secretary will determine, in consultation with appropriate individuals, organizations, industries, and agencies, the feasibility and desirability of establishing guidelines to facilitate an easy exchange of data and effective use of technology in education;

(6) how the Secretary will promote the exchange of information among States, local educational agencies, schools, consortia, and other entities concerning the effective use of technology in education;

(7) how the Secretary will utilize the outcomes of the evaluation undertaken pursuant to section 6833 of this title to promote the purposes of this part; and

(8) the Secretary's long-range measurable goals and objectives relating to the purposes of this part.

(Pub. L. 89–10, title III, § 3121, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3641.)

REFERENCES IN TEXT

The Star Schools Act, referred to in subsec. (b)(1), is part B (§§ 3201–3210) of title III of Pub. L. 89–10, as added by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3654, which is classified generally to part B (§ 6891 et seq.) of this subchapter. For complete classification of this Act to the Code, see section 6891 of this title and Tables.

§ 6832. Federal leadership

(a) Program authorized

In order to provide Federal leadership in promoting the use of technology in education, the Secretary, in consultation with the National Science Foundation, the Department of Commerce, the United States National Commission on Libraries and Information Sciences, and other appropriate Federal agencies, may carry out activities designed to achieve the purposes of this part directly or by awarding grants or contracts competitively and pursuant to a peer review process to, or entering into contracts with, State educational agencies, local educational agencies, institutions of higher education, or other public and private nonprofit or for-profit agencies and organizations.

(b) Assistance

(1) In general

The Secretary shall provide assistance to the States to enable such States to plan effectively for the use of technology in all schools throughout the State in accordance with the purpose and requirements of section 5897 of this title.

(2) Other Federal agencies

For the purpose of carrying out coordinated or joint activities consistent with the purposes of this part, the Secretary may accept funds from, and transfer funds to, other Federal agencies.

(c) Uses of funds

The Secretary shall use funds made available to carry out this section for activities designed to carry out the purpose of this part, such as—

(1) providing assistance to technical assistance providers to enable such providers to improve substantially the services such providers offer to educators regarding the uses of technology for education, including professional development;

(2) providing development grants to technical assistance providers, to enable such providers to improve substantially the services such providers offer to educators on the educational uses of technology, including professional development;

(3) consulting with representatives of industry, elementary and secondary education, higher education, adult and family education, and appropriate experts in technology and educational applications of technology in carrying out activities under this subpart;

(4) research on, and the development of, guidelines to facilitate maximum interoperability, efficiency and easy exchange of data for effective use of technology in education;

(5) research on, and the development of, applications for education of the most advanced and newly emerging technologies which research shall be coordinated, when appropriate, with the Office of Educational Research and Improvement, and other Federal agencies;

(6) the development, demonstration, and evaluation of the educational aspects of high performance computing and communications technologies and of the national information infrastructure, in providing professional development for teachers, school librarians, and other educators; enriching academic curricula for elementary and secondary schools; facilitating communications among schools, local educational agencies, libraries, parents, and local communities and in other such areas as the Secretary deems appropriate;

(7) the development, demonstration, and evaluation of applications of existing technology in preschool education, elementary and secondary education, training and lifelong learning, and professional development of educational personnel;

(8) the development and evaluation of software and other products, including multimedia television programming, that incorporate advances in technology and help achieve the National Education Goals, State content standards and State student performance standards;

(9) the development, demonstration, and evaluation of model strategies for preparing teachers and other personnel to use technology effectively to improve teaching and learning;

(10) the development of model programs that demonstrate the educational effectiveness of technology in urban and rural areas and economically distressed communities;

(11) research on, and the evaluation of, the effectiveness and benefits of technology in education;

(12) a biennial assessment of, and report to the public regarding, the uses of technology in elementary and secondary education throughout the United States upon which private businesses and Federal, State, tribal, and local governments may rely for decisionmaking about the need for, and provision of, appropriate technologies in schools, which assessment and report shall use, to the extent possible, existing information and resources;

(13) conferences on, and dissemination of information regarding, the uses of technology in education;

(14) the development of model strategies to promote gender equity concerning access to, and the use of, technology in the classroom;

(15) encouraging collaboration between the Department and other Federal agencies in the development, implementation, evaluation and funding of applications of technology for education, as appropriate; and

(16) such other activities as the Secretary determines will meet the purposes of this subpart.

(d) Non-Federal share

(1) In general

Subject to paragraphs (2) and (3), the Secretary may require any recipient of a grant or contract under this section to share in the cost of the activities assisted under such grant or contract, which non-Federal share shall be announced through a notice in the Federal Register and may be in the form of cash or in-kind contributions, fairly valued.

(2) Increase

The Secretary may increase the non-Federal share that is required of a recipient of a grant or contract under this section after the first year such recipient receives funds under such grant or contract.

(3) Maximum

The non-Federal share required under this section shall not exceed 50 percent of the cost of the activities assisted pursuant to a grant or contract under this section.

(Pub. L. 89–10, title III, § 3122, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3642.)

§ 6833. Study, evaluation and report of funding alternatives

The Secretary, through the Office of Educational Technology, shall conduct a study to evaluate, and report to the Congress on, the feasibility of several alternative models for providing sustained and adequate funding for schools throughout the United States so that such schools are able to acquire and maintain technology-enhanced curriculum, instruction, and administrative support resources and services. Such report shall be submitted to the Congress not later than one year after October 20, 1994.

(Pub. L. 89–10, title III, § 3123, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3644.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6831 of this title.

SUBPART 2—STATE AND LOCAL PROGRAMS FOR SCHOOL TECHNOLOGY RESOURCES

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in sections 6814, 8801 of this title.

§ 6841. Allotment and reallotment

(a) Allotment

(1) In general

Except as provided in paragraph (2), each State educational agency shall be eligible to receive a grant under this subpart for a fiscal year in an amount which bears the same relationship to the amount made available under section 6814(a)(1)(C) of this title for such year as the amount such State received under part A of subchapter I of this chapter for such year bears to the amount received for such year under such part by all States.

(2) Minimum

No State educational agency shall be eligible to receive a grant under paragraph (1) in any fiscal year in an amount which is less than one-half of one percent of the amount made available under section 6814(a)(1)(C)[1] of this title for such year.

(b) Reallotment of unused funds

(1) In general

The amount of any State educational agency's allotment under subsection (a) of this section for any fiscal year which the Secretary determines will not be required for such fiscal year to carry out this subpart shall be available for reallotment from time to time, on such dates during such year as the Secretary may determine, to other State educational agencies in proportion to the original allotments to such State educational agencies under subsection (a) of this section for such year, but with such proportionate amount for any of such other State educational agencies being reduced to the extent such amount exceeds the sum the Secretary estimates such State needs and will be able to use for such year.

(2) Other reallotments

The total of reductions under paragraph (1) shall be similarly reallotted among the State educational agencies whose proportionate amounts were not so reduced. Any amounts reallotted to a State educational agency under this subsection during a year shall be deemed a subpart of such agencies allotment under subsection (a) of this section for such year.

(Pub. L. 89–10, title III, § 3131, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3644.)

REFERENCES IN TEXT

Section 6814(a)(1)(C) of this title, referred to in subsec. (a)(2), was in the original ''section 3115(a)(1)(C)'',

[1] See References in Text note below.

meaning section 3115(a)(1)(C) of Pub. L. 89–10, which was translated as reading section 3114(a)(1)(C) of that Act to reflect the probable intent of Congress because section 3115 does not contain subsections, and section 3114(a)(1)(C) makes amounts available for allotment under this section.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6814, 6842 of this title.

§ 6842. School technology resource grants

(a) Grants to States

(1) In general

From amounts made available under section 6841 of this title, the Secretary, through the Office of Educational Technology, shall award grants to State educational agencies having applications approved under section 6843 of this title.

(2) Use of grants

(A) Each State educational agency receiving a grant under paragraph (1) shall use such grant funds to award grants, on a competitive basis, to local educational agencies to enable such local educational agencies to carry out the activities described in section 6844 of this title.

(B) In awarding grants under subparagraph (A), each State educational agency shall ensure that each such grant is of sufficient duration, and of sufficient size, scope, and quality, to carry out the purposes of this part effectively.

(b) Technical assistance

Each State educational agency receiving a grant under paragraph (1) shall—

(1) identify the local educational agencies served by the State educational agency that—

(A) have the highest number or percentage of children in poverty; and

(B) demonstrate to such State educational agency the greatest need for technical assistance in developing the application under section 6843 of this title; and

(2) offer such technical assistance to such local educational agencies.

(Pub. L. 89–10, title III, § 3132, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3645.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6844, 6845 of this title.

§ 6843. State application

To receive funds under this subpart, each State educational agency shall submit a statewide educational technology plan which may include plans submitted under the Goals 2000: Educate America Act [20 U.S.C. 5801 et seq.] or other statewide technology plans which meet the requirements of this section. Such application shall be submitted to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require. Each such application shall contain a systemic statewide plan that—

(1) outlines long-term strategies for financing technology education in the State and describes how business, industry, and other public and private agencies, including libraries, library literacy programs, and institutions of higher education, can participate in the implementation, ongoing planning, and support of the plan; and

(2) meets such other criteria as the Secretary may establish in order to enable such agency to provide assistance to local educational agencies that have the highest numbers or percentages of children in poverty and demonstrate the greatest need for technology, in order to enable such local educational agencies, for the benefit of school sites served by such local educational agencies, to carry out activities such as—

(A) purchasing quality technology resources;

(B) installing various linkages necessary to acquire connectivity;

(C) integrating technology into the curriculum in order to improve student learning and achievement;

(D) providing teachers and library media personnel with training or access to training;

(E) providing administrative and technical support and services that improve student learning through enriched technology-enhanced resources, including library media resources;

(F) promoting in individual schools the sharing, distribution, and application of educational technologies with demonstrated effectiveness;

(G) assisting schools in promoting parent involvement;

(H) assisting the community in providing literacy-related services;

(I) establishing partnerships with private or public educational providers or other entities to serve the needs of children in poverty; and

(J) providing assurances that financial assistance provided under this part shall supplement, not supplant, State and local funds.

(Pub. L. 89–10, title III, § 3133, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3646.)

REFERENCES IN TEXT

The Goals 2000: Educate America Act, referred to in text, is Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 125 (except titles V and IX), as amended, which is classified principally to chapter 68 (§ 5801 et seq.) of this title (except subchapters V (§ 5931 et seq.) and IX (§ 6001 et seq.)). For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6842 of this title.

§ 6844. Local uses of funds

Each local educational agency, to the extent possible, shall use the funds made available under section 6842(a)(2) of this title for—

(1) developing, adapting, or expanding existing and new applications of technology to support the school reform effort;

(2) funding projects of sufficient size and scope to improve student learning and, as ap-

propriate, support professional development, and provide administrative support;

(3) acquiring connectivity linkages, resources, and services, including the acquisition of hardware and software, for use by teachers, students and school library media personnel in the classroom or in school library media centers, in order to improve student learning by supporting the instructional program offered by such agency to ensure that students in schools will have meaningful access on a regular basis to such linkages, resources and services;

(4) providing ongoing professional development in the integration of quality educational technologies into school curriculum and long-term planning for implementing educational technologies;

(5) acquiring connectivity with wide area networks for purposes of accessing information and educational programming sources, particularly with institutions of higher education and public libraries; and

(6) providing educational services for adults and families.

(Pub. L. 89–10, title III, § 3134, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3646.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6842, 6846 of this title.

§ 6845. Local applications

(a) Application requirements [1]

Each local educational agency desiring assistance from a State educational agency under section 6842(a)(2) of this title shall submit an application, consistent with the objectives of the systemic statewide plan, to the State educational agency at such time, in such manner and accompanied by such information as the State educational agency may reasonably require. Such application, at a minimum, shall—

(1) include a strategic, long-range (three- to five-year), plan that includes—

(A) a description of the type of technologies to be acquired, including specific provisions for interoperability among components of such technologies and, to the extent practicable, with existing technologies;

(B) an explanation of how the acquired technologies will be integrated into the curriculum to help the local educational agency enhance teaching, training, and student achievement;

(C) an explanation of how programs will be developed in collaboration with existing adult literacy services providers to maximize the use of such technologies;

(D)(i) a description of how the local educational agency will ensure ongoing, sustained professional development for teachers, administrators, and school library media personnel served by the local educational agency to further the use of technology in the classroom or library media center; and

(ii) a list of the source or sources of ongoing training and technical assistance available to schools, teachers and administrators served by the local educational agency, such as State technology offices, intermediate educational support units, regional educational laboratories or institutions of higher education;

(E) a description of the supporting resources, such as services, software and print resources, which will be acquired to ensure successful and effective use of technologies acquired under this section;

(F) the projected timetable for implementing such plan in schools;

(G) the projected cost of technologies to be acquired and related expenses needed to implement such plan; and

(H) a description of how the local educational agency will coordinate the technology provided pursuant to this subpart with other grant funds available for technology from State and local sources;

(2) describe how the local educational agency will involve parents, public libraries, business leaders and community leaders in the development of such plan;

(3) describe how the acquired instructionally based technologies will help the local educational agency—

(A) promote equity in education in order to support State content standards and State student performance standards that may be developed; and

(B) provide access for teachers, parents and students to the best teaching practices and curriculum resources through technology; and

(4) describe a process for the ongoing evaluation of how technologies acquired under this section—

(A) will be integrated into the school curriculum; and

(B) will affect student achievement and progress toward meeting the National Education Goals and any challenging State content standards and State student performance standards that may be developed.

(d) [2] Formation of consortia

A local educational agency for any fiscal year may apply for financial assistance as part of a consortium with other local educational agencies, institutions of higher education, intermediate educational units, libraries, or other educational entities appropriate to provide local programs. The State educational agency may assist in the formation of consortia among local educational agencies, providers of educational services for adults and families, institutions of higher education, intermediate educational units, libraries, or other appropriate educational entities to provide services for the teachers and students in a local educational agency at the request of such local educational agency.

(e) [3] Coordination of application requirements

If a local educational agency submitting an application for assistance under this section has developed a comprehensive education improve-

[1] Designation ''(a)'' and heading editorially supplied.

[2] So in original. Probably should be ''(b)''.

[3] So in original. Probably should be ''(c)''.

ment plan, in conjunction with requirements under this chapter or the Goals 2000: Educate America Act [20 U.S.C. 5801 et seq.], the State educational agency may approve such plan, or a component of such plan, notwithstanding the requirements of subsection (e)[4] if the State educational agency determines that such approval would further the purposes of this subpart.

(Pub. L. 89–10, title III, § 3135, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3647.)

REFERENCES IN TEXT

The Goals 2000: Educate America Act, referred to in subsec. (e), is Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 125 (except titles V and IX), as amended, which is classified principally to chapter 68 (§ 5801 et seq.) of this title (except subchapters V (§ 5931 et seq.) and IX (§ 6001 et seq.)). For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables.

§ 6846. National challenge grants for technology in education

(a) Grants authorized

(1) In general

From amounts made available under section 6814(b)(1)[1] of this title for any fiscal year the Secretary is authorized to award grants, on a competitive basis, to consortia having applications approved under subsection (d) of this section, which consortia shall include at least one local educational agency with a high percentage or number of children living below the poverty line and may include other local educational agencies, State educational agencies, institutions of higher education, businesses, academic content experts, software designers, museums, libraries, or other appropriate entities.

(2) Duration

Grants under this section shall be awarded for a period of 5 years.

(b) Use of grants

Grants awarded under subsection (a) of this section shall be used for activities similar to the activities described in section 6844 of this title.

(c) Priority

In awarding grants under this section, the Secretary shall give priority to consortia which demonstrate in the application submitted under subsection (d) of this section that—

(1) the project for which assistance is sought is designed to serve areas with a high number or percentage of disadvantaged students or the greatest need for educational technology;

(2) the project will directly benefit students by, for example, integrating the acquired technologies into curriculum to help the local educational agency enhance teaching, training, and student achievement;

(3) the project will ensure ongoing, sustained professional development for teachers, administrators, and school library media personnel served by the local educational agency to further the use of technology in the classroom or library media center;

(4) the project will ensure successful, effective, and sustainable use of technologies acquired under this subsection; and

(5) members of the consortia or other appropriate entities will contribute substantial financial and other resources to achieve the goals of the project.

(d) Application

Each local educational agency desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

(Pub. L. 89–10, title III, § 3136, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3648.)

REFERENCES IN TEXT

Section 6814(b)(1) of this title, referred to in subsec. (a)(1), was in the original ''section 3115(b)(1)'', meaning section 3115(b)(1) of Pub. L. 89–10, which was translated as reading section 3114(b)(1) of that Act to reflect the probable intent of Congress because section 3115 does not contain subsections, and section 3114(b)(1) makes amounts available for grants under this section.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6814 of this title.

§ 6847. Federal administration

(a) Evaluation procedures

The Secretary shall develop procedures for State and local evaluations of the programs under this subpart.

(b) Evaluation summary

The Secretary shall submit to the Congress four years after October 20, 1994, a summary of the State evaluations of programs under this subpart in accordance with the provisions of section 8941 of this title.

(Pub. L. 89–10, title III, § 3137, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3649.)

SUBPART 3—REGIONAL TECHNICAL SUPPORT AND PROFESSIONAL DEVELOPMENT

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in sections 6814, 6896, 8651 of this title.

§ 6861. Regional technical support and professional development

(a) Grants authorized

(1) Authority

The Secretary, through the Office of Educational Technology, shall make grants in accordance with the provisions of this section, to regional entities such as the Eisenhower Mathematics and Science Regional Consortia under part C of subchapter XIII of this chapter, the regional education laboratories, the comprehensive regional assistance centers, or such other regional entities as may be designated or established by the Secretary. In awarding grants under this section, the Secretary shall give priority to such consortia and shall ensure that each geographic region of the United States shall be served by such a consortium.

[4] So in original. Probably should be subsection ''(a)''.

[1] See References in Text note below.

(2) Requirements

Each consortium receiving a grant under this section shall—

(A) be composed of State educational agencies, institutions of higher education, nonprofit organizations, or a combination thereof;

(B) in cooperation with State and local educational agencies, develop a regional program that addresses professional development, technical assistance, and information resource dissemination, with special emphasis on meeting the documented needs of educators and learners in the region; and

(C) foster regional cooperation and resource and coursework sharing.

(b) Functions

(1) Technical assistance

Each consortium receiving a grant under this section shall, to the extent practicable—

(A) collaborate with State educational agencies and local educational agencies requesting collaboration, particularly in the development of strategies for assisting those schools with the highest numbers or percentages of disadvantaged students with little or no access to technology in the classroom;

(B) provide information, in coordination with information available from the Secretary, to State educational agencies, local educational agencies, schools and adult education programs, on the types and features of various educational technology equipment and software available, evaluate and make recommendations on equipment and software that support the National Education Goals and are suited for a school's particular needs, and compile and share information regarding creative and effective applications of technology in the classroom and school library media centers in order to support the purposes of this part;

(C) collaborate with such State educational agencies, local educational agencies, or schools requesting to participate in the tailoring of software programs and other supporting materials to meet challenging State content standards or challenging State student performance standards that may be developed; and

(D) provide technical assistance to facilitate use of the electronic dissemination networks by State and local educational agencies and schools throughout the region.

(2) Professional development

Each consortium receiving a grant under this section shall, to the extent practicable—

(A) develop and implement, in collaboration with State educational agencies and institutions of higher education, technology-specific, ongoing professional development, such as—

(i) intensive school year and summer workshops that use teachers, school librarians, and school library personnel to train other teachers, school librarians, and other school library media personnel; and

(ii) distance professional development, including—

(I) interactive training tele-courses using researchers, educators, and telecommunications personnel who have experience in developing, implementing, or operating educational and instructional technology as a learning tool;

(II) onsite courses teaching teachers to use educational and instructional technology and to develop their own instructional materials for effectively incorporating technology and programming in their own classrooms;

(III) methods for successful integration of instructional technology into the curriculum in order to improve student learning and achievement;

(IV) video conferences and seminars which offer professional development through peer interaction with experts as well as other teachers using technologies in their classrooms; and

(V) mobile education technology and training resources;

(B) develop training resources that—

(i) are relevant to the needs of the region and schools within the region;

(ii) are relevant to the needs of adult literacy staff and volunteers, including onsite courses on how to—

(I) use instructional technology; and

(II) develop instructional materials for adult learning; and

(iii) are aligned with the needs of teachers and administrators in the region;

(C) establish a repository of professional development and technical assistance resources;

(D) identify and link technical assistance providers to State and local educational agencies, as needed;

(E) ensure that training, professional development, and technical assistance meet the needs of educators, parents, and students served by the region;

(F) assist colleges and universities within the region to develop and implement preservice training programs for students enrolled in teacher education programs; and

(G) assist local educational agencies and schools in working with community members and parents to develop support from communities and parents for educational technology programs and projects.

(3) Information and resource dissemination

Each consortium receiving a grant under this section shall, to the extent practicable—

(A) assist State and local educational agencies in the identification and procurement of financial, technological and human resources needed to implement technology plans;

(B) provide outreach and, at the request of a State or local educational agency, work with such agency to assist in the development and validation of instructionally based technology education resources; and

(C) coordinate activities and establish partnerships with organizations and institutions of higher education that represent the

interests of the region as such interests pertain to the application of technology in teaching, learning, instructional management, dissemination, collection and distribution of educational statistics, and the transfer of student information.

(4) Coordination

Each consortium receiving a grant under this section shall work collaboratively, and coordinate the services the consortium provides, with appropriate regional and other entities assisted in whole or in part by the Department.

(Pub. L. 89–10, title III, § 3141, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3649.)

SUBPART 4—PRODUCT DEVELOPMENT

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in section 6814 of this title.

§ 6871. Educational technology product development

(a) Purpose

It is the purpose of this subpart to—

(1) support development of curriculum-based learning resources using state-of-the-art technologies and techniques designed to improve student learning; and

(2) support development of long-term comprehensive instructional programming and associated support resources that ensure maximum access by all educational institutions.

(b) Federal assistance authorized

(1) In general

The Secretary shall provide assistance, on a competitive basis, to eligible consortia to enable such entities to develop, produce, and distribute state-of-the-art technology-enhanced instructional resources and programming for use in the classroom or to support professional development for teachers.

(2) Grants and loans authorized

In carrying out the purposes of this section, the Secretary is authorized to pay the Federal share of the cost of the development, production, and distribution of state-of-the-art technology enhanced instructional resources and programming—

(A) by awarding grants to, or entering into contracts or cooperative agreements with, eligible consortia; or

(B) by awarding loans to eligible consortia which—

(i) shall be secured in such manner and be repaid within such period, not exceeding 20 years, as may be determined by the Secretary;

(ii) shall bear interest at a rate determined by the Secretary which shall be not more than the total of one-quarter of 1 percent per annum added to the rate of interest paid by the Secretary on funds obtained from the Secretary of the Treasury; and

(iii) may be forgiven by the Secretary, in an amount not to exceed 25 percent of the total loan, under such terms and conditions as the Secretary may consider appropriate.

(3) Matching requirement

The Secretary may require any recipient of a grant or contract under this subpart to share in the cost of the activities assisted under such grant or contract, which non-Federal share shall be announced through a notice in the Federal Register and may be in the form of cash or in-kind contributions, fairly valued.

(4) Eligible consortium

For the purpose of this subsection, the term ''eligible consortium'' means a consortium—

(A) that shall include—

(i) a State or local educational agency; and

(ii) a business, industry, or telecommunications entity; and

(B) that may include—

(i) a public or private nonprofit organization; or

(ii) a postsecondary institution.

(5) Priorities

In awarding assistance under this section, the Secretary shall give priority to applications describing programs or systems that—

(A) promote the acquisition of higher-order thinking skills and promise to raise the achievement levels of all students, particularly disadvantaged students who are not realizing their potential;

(B) are aligned with challenging State content standards and State and local curriculum frameworks;

(C) may be adapted and applied nationally at a reasonable cost over a broad technology platform;

(D) convert technology resources developed with support from the Department of Defense and other Federal agencies for effective use in the classroom;

(E) show promise of reducing the costs of providing high-quality instruction;

(F) show promise of expanding access to high-quality instruction in content areas which would otherwise not be available to students in rural and urban communities or who are served by other educational agencies with limited financial resources;

(G) are developed in consultation with classroom teachers;

(H) are developed through consultation and collaboration with appropriate education entities in designing the product to ensure relevance to the voluntary national content standards, the voluntary national student performance standards and State curriculum frameworks; and

(I) are developed so that the product can be adapted for use by adults in need of literacy services, including English as a second language and preparation for a secondary school diploma or its recognized equivalent.

(6) Requirements for Federal assistance

Each eligible consortium desiring Federal assistance under this section shall submit an application to the Secretary at such time and in such manner as the Secretary may prescribe. Each application shall include—

(A) a description of how the product will improve the achievement levels of students;

(B) a description of how the activities assisted under this section will promote professional development of teachers and administrators in the uses and applications of the product, including the development of training materials;

(C) a description of design, development, field testing, evaluation, and distribution of products, where appropriate;

(D) an assurance that the product shall effectively serve a significant number or percentage of economically disadvantaged students;

(E) plans for dissemination of products to a wide audience of learners;

(F) a description of how the product can be adapted for use by students with disabilities including provisions for closed captioning or descriptive video, where appropriate;

(G) a description of how ownership and rights to the use and marketing of any product developed by the consortium, including intellectual property rights, will be allocated among consortium participants; and

(H) a description of the contributions, including services and funds, to be made by each member of the consortium, and how any revenues derived from the sale of any product developed by the consortium shall be distributed.

(c) Consumer report

The Secretary shall provide for the independent evaluation of products developed under this section and shall disseminate information about products developed pursuant to provisions of this section to State and local educational agencies, and other organizations or individuals that the Secretary determines to be appropriate, through print and electronic media that are accessible to the education community at large.

(d) Proceeds

The Secretary shall not prohibit an eligible consortium or any of the members of such consortium from receiving financial benefits from the distribution of any products resulting from the assistance received under this section. Notwithstanding any other provision of law, any profits or royalties received by a State educational agency, local educational agency, or other nonprofit member of an eligible consortium receiving assistance under this section shall be used to support further development of curriculum-based learning resources, services, and programming or to provide access to such products for a wider audience.

(Pub. L. 89–10, title III, § 3151, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3652.)

PART B—STAR SCHOOLS PROGRAM

PRIOR PROVISIONS

Provisions similar to those in this part were contained in subchapter IX (§ 4081 et seq.) of chapter 52 of this title prior to repeal by Pub. L. 103–382, § 364.

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 6831, 6922, 8893 of this title.

§ 6891. Short title

This part may be cited as the ''Star Schools Act''.

(Pub. L. 89–10, title III, § 3201, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3654.)

§ 6892. Findings

The Congress finds that—

(1) the Star Schools program has helped to encourage the use of distance learning strategies to serve multi-State regions primarily by means of satellite and broadcast television;

(2) in general, distance learning programs have been used effectively to provide students in small, rural, and isolated schools with courses and instruction, such as science and foreign language instruction, that the local educational agency is not otherwise able to provide; and

(3) distance learning programs may also be used to—

(A) provide students of all ages in all types of schools and educational settings with greater access to high-quality instruction in the full range of core academic subjects that will enable such students to meet challenging, internationally competitive, educational standards;

(B) expand professional development opportunities for teachers;

(C) contribute to achievement of the National Education Goals; and

(D) expand learning opportunities for everyone.

(Pub. L. 89–10, title III, § 3202, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3654.)

§ 6893. Purpose

It is the purpose of this part to encourage improved instruction in mathematics, science, and foreign languages as well as other subjects, such as literacy skills and vocational education, and to serve underserved populations, including the disadvantaged, illiterate, limited-English proficient, and individuals with disabilities, through a star schools program under which grants are made to eligible telecommunication partnerships to enable such partnerships to—

(1) develop, construct, acquire, maintain and operate telecommunications audio and visual facilities and equipment;

(2) develop and acquire educational and instructional programming; and

(3) obtain technical assistance for the use of such facilities and instructional programming.

(Pub. L. 89–10, title III, § 3203, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3655.)

§ 6894. Grants authorized

(a) Authority

The Secretary, through the Office of Educational Technology, is authorized to make grants, in accordance with the provisions of this part, to eligible entities to pay the Federal share of the cost of—

(1) the development, construction, acquisition, maintenance and operation of telecommunications facilities and equipment;

(2) the development and acquisition of live, interactive instructional programming;

(3) the development and acquisition of preservice and inservice teacher training programs based on established research regarding teacher-to-teacher mentoring, effective skill transfer, and ongoing, in-class instruction;

(4) the establishment of teleconferencing facilities and resources for making interactive training available to teachers;

(5) obtaining technical assistance; and

(6) the coordination of the design and connectivity of telecommunications networks to reach the greatest number of schools.

(b) Duration

(1) In general

The Secretary shall award grants pursuant to subsection (a) of this section for a period of 5 years.

(2) Renewal

Grants awarded pursuant to subsection (a) of this section may be renewed for one additional three-year period.

(c) Authorization of appropriations

(1) In general

There are authorized to be appropriated $35,000,000 for fiscal year 1995, and such sums as may be necessary for each of the four succeeding fiscal years, to carry out this part.

(2) Availability

Funds appropriated pursuant to the authority of subsection (a) of this section shall remain available until expended.

(d) Limitations

(1) In general

A grant under this section shall not exceed—

(A) five years in duration; and

(B) $10,000,000 in any one fiscal year.

(2) Instructional programming

Not less than 25 percent of the funds available to the Secretary in any fiscal year under this part shall be used for the cost of instructional programming.

(3) Special rule

Not less than 50 percent of the funds available in any fiscal year under this part shall be used for the cost of facilities, equipment, teacher training or retraining, technical assistance, or programming, for local educational agencies which are eligible to receive assistance under part A of subchapter I of this chapter.

(e) Federal share

(1) In general

The Federal share of the cost of projects funded under this section shall not exceed—

(A) 75 percent for the first and second years for which an eligible telecommunications partnership receives a grant under this part;

(B) 60 percent for the third and fourth such years; and

(C) 50 percent for the fifth such year.

(2) Reduction or waiver

The Secretary may reduce or waive the requirement of the non-Federal share under paragraph (1) upon a showing of financial hardship.

(f) Authority to accept funds from other agencies

The Secretary is authorized to accept funds from other Federal departments or agencies to carry out the purposes of this section, including funds for the purchase of equipment.

(g) Coordination

The Department, the National Science Foundation, the Department of Agriculture, the Department of Commerce, and any other Federal department or agency operating a telecommunications network for educational purposes, shall coordinate the activities assisted under this part with the activities of such department or agency relating to a telecommunications network for educational purposes.

(h) Closed captioning and descriptive video

Each entity receiving funds under this part is encouraged to provide—

(1) closed captioning of the verbal content of such program, where appropriate, to be broadcast by way of line 21 of the vertical blanking interval, or by way of comparable successor technologies; and

(2) descriptive video of the visual content of such program, as appropriate.

(Pub. L. 89–10, title III, § 3204, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3655.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6895, 6896, 6897, 6899 of this title.

§ 6895. Eligible entities

(a) Eligible entities

(1) Required participation

The Secretary may make a grant under section 6894 of this title to any eligible entity, if at least one local educational agency is participating in the proposed project.

(2) Eligible entity

For the purpose of this part, the term ''eligible entity'' may include—

(A) a public agency or corporation established for the purpose of developing and operating telecommunications networks to enhance educational opportunities provided by educational institutions, teacher training centers, and other entities, except that any such agency or corporation shall represent the interests of elementary and secondary schools that are eligible to participate in the program under part A of subchapter I of this chapter; or

(B) a partnership that will provide telecommunications services and which includes 3 or more of the following entities, at least 1 of which shall be an agency described in clause (i) or (ii):

(i) a local educational agency that serves a significant number of elementary and secondary schools that are eligible for assistance under part A of subchapter I of this chapter, or elementary and secondary schools operated or funded for Indian children by the Department of the Interior eligible under section 6331(b)(2)[1] of this title;

[1] So in original. Probably should be section ''6331(c)(2)''.

(ii) a State educational agency;

(iii) adult and family education programs;

(iv) an institution of higher education or a State higher education agency;

(v) a teacher training center or academy that—

(I) provides teacher pre-service and in-service training; and

(II) receives Federal financial assistance or has been approved by a State agency;

(vi)(I) a public or private entity with experience and expertise in the planning and operation of a telecommunications network, including entities involved in telecommunications through satellite, cable, telephone, or computer; or

(II) a public broadcasting entity with such experience; or

(vii) a public or private elementary or secondary school.

(b) Special rule

An eligible entity receiving assistance under this part shall be organized on a statewide or multistate basis.

(Pub. L. 89–10, title III, § 3205, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3656.)

§ 6896. Applications

(a) Applications required

Each eligible entity which desires to receive a grant under section 6894 of this title shall submit an application to the Secretary, at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

(b) Star school award applications

Each application submitted pursuant to subsection (a) of this section shall—

(1) describe how the proposed project will assist in achieving the National Education Goals, how such project will assist all students to have an opportunity to learn to challenging State standards, how such project will assist State and local educational reform efforts, and how such project will contribute to creating a high quality system of lifelong learning;

(2) describe the telecommunications facilities and equipment and technical assistance for which assistance is sought, which may include—

(A) the design, development, construction, acquisition, maintenance and operation of State or multistate educational telecommunications networks and technology resource centers;

(B) microwave, fiber optics, cable, and satellite transmission equipment or any combination thereof;

(C) reception facilities;

(D) satellite time;

(E) production facilities;

(F) other telecommunications equipment capable of serving a wide geographic area;

(G) the provision of training services to instructors who will be using the facilities and equipment for which assistance is sought, including training in using such facilities and equipment and training in integrating programs into the classroom curriculum; and

(H) the development of educational and related programming for use on a telecommunications network;

(3) in the case of an application for assistance for instructional programming, describe the types of programming which will be developed to enhance instruction and training and provide assurances that such programming will be designed in consultation with professionals (including classroom teachers) who are experts in the applicable subject matter and grade level;

(4) describe how the eligible entity has engaged in sufficient survey and analysis of the area to be served to ensure that the services offered by the eligible entity will increase the availability of courses of instruction in English, mathematics, science, foreign languages, arts, history, geography, or other disciplines;

(5) describe the professional development policies for teachers and other school personnel to be implemented to ensure the effective use of the telecommunications facilities and equipment for which assistance is sought;

(6) describe the manner in which historically underserved students (such as students from low-income families, limited English proficient students, students with disabilities, or students who have low literacy skills) and their families, will participate in the benefits of the telecommunications facilities, equipment, technical assistance, and programming assisted under this part;

(7) describe how existing telecommunications equipment, facilities, and services, where available, will be used;

(8) provide assurances that the financial interest of the United States in the telecommunications facilities and equipment will be protected for the useful life of such facilities and equipment;

(9) provide assurances that a significant portion of any facilities and equipment, technical assistance, and programming for which assistance is sought for elementary and secondary schools will be made available to schools or local educational agencies that have a high number or percentage of children eligible to be counted under part A of subchapter I of this chapter;

(10) provide assurances that the applicant will use the funds provided under this part to supplement and not supplant funds otherwise available for the purposes of this part;

(11) if any member of the consortia receives assistance under subpart 3 of part A of this subchapter, describe how funds received under this part will be coordinated with funds received for educational technology in the classroom under such section;[1]

(12) describe the activities or services for which assistance is sought, such as—

(A) providing facilities, equipment, training services, and technical assistance;

[1] So in original. Probably should be ''such subpart;''.

(B) making programs accessible to students with disabilities through mechanisms such as closed captioning and descriptive video services;

(C) linking networks around issues of national importance (such as elections) or to provide information about employment opportunities, job training, or student and other social service programs;

(D) sharing curriculum resources between networks and development of program guides which demonstrate cooperative, cross-network listing of programs for specific curriculum areas;

(E) providing teacher and student support services including classroom and training support materials which permit student and teacher involvement in the live interactive distance learning telecasts;

(F) incorporating community resources such as libraries and museums into instructional programs;

(G) providing professional development for teachers, including, as appropriate, training to early childhood development and Head Start teachers and staff and vocational education teachers and staff, and adult and family educators;

(H) providing programs for adults to maximize the use of telecommunications facilities and equipment;

(I) providing teacher training on proposed or established voluntary national content standards in mathematics and science and other disciplines as such standards are developed; and

(J) providing parent education programs during and after the regular school day which reinforce a student's course of study and actively involve parents in the learning process;

(13) describe how the proposed project as a whole will be financed and how arrangements for future financing will be developed before the project expires;

(14) provide an assurance that a significant portion of any facilities, equipment, technical assistance, and programming for which assistance is sought for elementary and secondary schools will be made available to schools in local educational agencies that have a high percentage of children counted for the purpose of part A of subchapter I of this chapter;

(15) provide an assurance that the applicant will provide such information and cooperate in any evaluation that the Secretary may conduct under this part; and

(16) include such additional assurances as the Secretary may reasonably require.

(c) Priorities

The Secretary, in approving applications for grants authorized under section 6894 of this title, shall give priority to applications describing projects that—

(1) propose high-quality plans to assist in achieving one or more of the National Education Goals, will provide instruction consistent with State content standards, or will otherwise provide significant and specific assistance to States and local educational agencies undertaking systemic education reform;

(2) will provide services to programs serving adults, especially parents, with low levels of literacy;

(3) will serve schools with significant numbers of children counted for the purposes of part A of subchapter I of this chapter;

(4) ensure that the eligible entity will—

(A) serve the broadest range of institutions, programs providing instruction outside of the school setting, programs serving adults, especially parents, with low levels of literacy, institutions of higher education, teacher training centers, research institutes, and private industry;

(B) have substantial academic and teaching capabilities, including the capability of training, retraining, and inservice upgrading of teaching skills and the capability to provide professional development;

(C) provide a comprehensive range of courses for educators to teach instructional strategies for students with different skill levels;

(D) provide training to participating educators in ways to integrate telecommunications courses into existing school curriculum;

(E) provide instruction for students, teachers, and parents;

(F) serve a multistate area; and

(G) give priority to the provision of equipment and linkages to isolated areas; and

(5) involve a telecommunications entity (such as a satellite, cable, telephone, computer, or public or private television stations) participating in the eligible entity and donating equipment or in-kind services for telecommunications linkages.

(d) Geographic distribution

In approving applications for grants authorized under section 6894 of this title, the Secretary shall, to the extent feasible, ensure an equitable geographic distribution of services provided under this part.

(Pub. L. 89–10, title III, § 3206, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3657.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6899 of this title.

§ 6897. Leadership and evaluation activities

(a) Reservation

From the amount appropriated pursuant to the authority of section 6894(c)(1) of this title in each fiscal year, the Secretary may reserve not more than 5 percent of such amount for national leadership, evaluation, and peer review activities.

(b) Method of funding

The Secretary may fund the activities described in subsection (a) of this section directly or through grants, contracts, and cooperative agreements.

(c) Uses of funds

(1) Leadership

Funds reserved for leadership activities under subsection (a) of this section may be used for—

(A) disseminating information, including lists and descriptions of services available from grant recipients under this part; and

(B) other activities designed to enhance the quality of distance learning activities nationwide.

(2) Evaluation

Funds reserved for evaluation activities under subsection (a) of this section may be used to conduct independent evaluations of the activities assisted under this part and of distance learning in general, including—

(A) analyses of distance learning efforts, including such efforts that are assisted under this part and such efforts that are not assisted under this part; and

(B) comparisons of the effects, including student outcomes, of different technologies in distance learning efforts.

(3) Peer review

Funds reserved for peer review activities under subsection (a) of this section may be used for peer review of—

(A) applications for grants under this part; and

(B) activities assisted under this part.

(Pub. L. 89–10, title III, § 3207, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3660.)

§ 6898. Definitions

As used in this part—

(1) the term ''educational institution'' means an institution of higher education, a local educational agency, or a State educational agency;

(2) the term ''instructional programming'' means courses of instruction and training courses for elementary and secondary students, teachers, and others, and materials for use in such instruction and training that have been prepared in audio and visual form on tape, disc, film, or live, and presented by means of telecommunications devices; and

(3) the term ''public broadcasting entity'' has the same meaning given such term in section 397 of title 47.

(Pub. L. 89–10, title III, § 3208, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3661.)

§ 6899. Administrative provisions

(a) Continuing eligibility

(1) In general

In order to be eligible to receive a grant under section 6894 of this title for a second 3-year grant period an eligible entity shall demonstrate in the application submitted pursuant to section 6896 of this title that such partnership shall—

(A) continue to provide services in the subject areas and geographic areas assisted with funds received under this part for the previous 5-year grant period; and

(B) use all grant funds received under this part for the second 3-year grant period to provide expanded services by—

(i) increasing the number of students, schools or school districts served by the courses of instruction assisted under this part in the previous fiscal year;

(ii) providing new courses of instruction; and

(iii) serving new populations of underserved individuals, such as children or adults who are disadvantaged, have limited-English proficiency, are individuals with disabilities, are illiterate, or lack secondary school diplomas or their recognized equivalent.

(2) Special rule

Grant funds received pursuant to paragraph (1) shall be used to supplement and not supplant services provided by the grant recipient under this part in the previous fiscal year.

(b) Federal activities

The Secretary may assist grant recipients under section 6894 of this title in acquiring satellite time, where appropriate, as economically as possible.

(Pub. L. 89–10, title III, § 3209, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3661.)

§ 6900. Other assistance

(a) Special statewide network

(1) In general

The Secretary, through the Office of Educational Technology, may provide assistance to a statewide telecommunications network under this subsection if such network—

(A) provides 2-way full motion interactive video and audio communications;

(B) links together public colleges and universities and secondary schools throughout the State; and

(C) meets any other requirements determined appropriate by the Secretary.

(2) State contribution

A statewide telecommunications network assisted under paragraph (1) shall contribute, either directly or through private contributions, non-Federal funds equal to not less than 50 percent of the cost of such network.

(b) Special local network

(1) In general

The Secretary may provide assistance, on a competitive basis, to a local educational agency or consortium thereof to enable such agency or consortium to establish a high technology demonstration program.

(2) Program requirements

A high technology demonstration program assisted under paragraph (1) shall—

(A) include 2-way full motion interactive video, audio and text communications;

(B) link together elementary and secondary schools, colleges, and universities;

(C) provide parent participation and family programs;

(D) include a staff development program; and

(E) have a significant contribution and participation from business and industry.

(3) Special rule

Each high technology demonstration program assisted under paragraph (1) shall be of

sufficient size and scope to have an effect on meeting the National Education Goals.

(4) Matching requirement

A local educational agency or consortium receiving a grant under paragraph (1) shall provide, either directly or through private contributions, non-Federal matching funds equal to not less than 50 percent of the amount of the grant.

(c) Telecommunications programs for continuing education

(1) Authority

The Secretary is authorized to award grants, on a competitive basis, to eligible entities to enable such partnerships to develop and operate one or more programs which provide online access to educational resources in support of continuing education and curriculum requirements relevant to achieving a secondary school diploma or its recognized equivalent. The program authorized by this section shall be designed to advance adult literacy, secondary school completion and the acquisition of specified competency by the end of the 12th grade, as envisioned by the Goals 2000: Educate America Act [20 U.S.C. 5801 et seq.].

(2) Application

Each eligible entity desiring a grant under this section shall submit an application to the Secretary. Each such application shall—

(A) demonstrate that the applicant will use publicly funded or free public telecommunications infrastructure to deliver video, voice and data in an integrated service to support and assist in the acquisition of a secondary school diploma or its recognized equivalent;

(B) assure that the content of the materials to be delivered is consistent with the accreditation requirements of the State for which such materials are used;

(C) incorporate, to the extent feasible, materials developed in the Federal departments and agencies and under appropriate federally funded projects and programs;

(D) assure that the applicant has the technological and substantive experience to carry out the program; and

(E) contain such additional assurances as the Secretary may reasonably require.

(Pub. L. 89–10, title III, § 3210, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3661.)

REFERENCES IN TEXT

The Goals 2000: Educate America Act, referred to in subsec. (c)(1), is Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 125 (except titles V and IX), as amended, which is classified principally to chapter 68 (§ 5801 et seq.) of this title (except subchapters V (§ 5931 et seq.) and IX (§ 6001 et seq.)). For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables.

PART C—READY-TO-LEARN TELEVISION

CROSS REFERENCE

For similar provisions related to ready-to-learn television, see section 1235 et seq. of this title.

§ 6921. Ready-to-learn

(a) In general

The Secretary is authorized to award grants to or enter into contracts or cooperative agreements with eligible entities described in section 6922(b) of this title to develop, produce, and distribute educational and instructional video programming for preschool and elementary school children and their parents in order to facilitate the achievement of the National Education Goals.

(b) Availability

In making such grants, contracts, or cooperative agreements, the Secretary shall ensure that recipients make programming widely available with support materials as appropriate to young children, their parents, child care workers, and Head Start providers to increase the effective use of such programming.

(Pub. L. 89–10, title III, § 3301, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3663.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6924, 6925 of this title.

§ 6922. Educational programming

(a) Awards

The Secretary shall award grants, contracts, or cooperative agreements to eligible entities to—

(1) facilitate the development directly or through contracts with producers of children and family educational television programming, educational programming for preschool and elementary school children, and accompanying support materials and services that promote the effective use of such programming; and

(2) enable such entities to contract with entities (such as public telecommunications entities and those funded under the Star Schools Act [20 U.S.C. 6891 et seq.]) so that programs developed under this section are disseminated and distributed to the widest possible audience appropriate to be served by the programming by the most appropriate distribution technologies.

(b) Eligible entities

To be eligible to receive a grant, contract, or cooperative agreement under subsection (a) of this section, an entity shall be—

(1) a nonprofit entity (including a public telecommunications entity) able to demonstrate a capacity for the development and distribution of educational and instructional television programming of high quality for preschool and elementary school children; and

(2) able to demonstrate a capacity to contract with the producers of children's television programming for the purpose of developing educational television programming of high quality for preschool and elementary school children.

(c) Cultural experiences

Programming developed under this section shall reflect the recognition of diverse cultural

experiences and the needs and experiences of both boys and girls in engaging and preparing young children for schooling.

(Pub. L. 89–10, title III, § 3302, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3663.)

REFERENCES IN TEXT

The Star Schools Act, referred to in subsec. (a)(2), is part B (§§ 3201–3210) of title III of Pub. L. 89–10, as added by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3654, which is classified generally to part B (§ 6891 et seq.) of this subchapter. For complete classification of this Act to the Code, see section 6891 of this title and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6921, 6925, 6926, 6928 of this title.

§ 6923. Duties of Secretary

The Secretary is authorized—

(1) to establish and administer a Special Projects of National Significance program to award grants, contracts, or cooperative agreements to public and nonprofit private entities, or local public television stations or such public television stations that are part of a consortium with one or more State educational agencies, local educational agencies, local schools, institutions of higher education, or community-based organizations of demonstrated effectiveness, for the purpose of—

(A) addressing the learning needs of young children in limited English proficient households, and developing appropriate educational and instructional television programming to foster the school readiness of such children;

(B) developing programming and support materials to increase family literacy skills among parents to assist parents in teaching their children and utilizing educational television programming to promote school readiness; and

(C) identifying, supporting, and enhancing the effective use and outreach of innovative programs that promote school readiness;

(2) to establish within the Department a clearinghouse to compile and provide information, referrals and model program materials and programming obtained or developed under this part to parents, child care providers, and other appropriate individuals or entities to assist such individuals and entities in accessing programs and projects under this part; and

(3) to develop and disseminate training materials, including—

(A) interactive programs and programs adaptable to distance learning technologies that are designed to enhance knowledge of children's social and cognitive skill development and positive adult-child interactions; and

(B) support materials to promote the effective use of materials developed under paragraph (2);

among parents, Head Start providers, in-home and center based day care providers, early childhood development personnel, and elementary school teachers, public libraries, and after school program personnel caring for preschool and elementary school children;

(4) coordinate activities with the Secretary of Health and Human Services in order to—

(A) maximize the utilization of quality educational programming by preschool and elementary school children, and make such programming widely available to federally funded programs serving such populations; and

(B) provide information to recipients of funds under Federal programs that have major training components for early childhood development, including Head Start, Even Start, and State training activities funded under the Child Care Development Block Grant Act of 1990 [42 U.S.C. 9858 et seq.] regarding the availability and utilization of materials developed under paragraph (3) to enhance parent and child care provider skills in early childhood development and education.

(Pub. L. 89–10, title III, § 3303, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3664.)

REFERENCES IN TEXT

The Child Care Development and Block Grant Act of 1990, referred to in par. (4)(B), probably means the Child Care and Development Block Grant Act of 1990, which is subchapter C (§ 658A et seq.) of chapter 8 of subtitle A of title VI of Pub. L. 97–35, as added by Pub. L. 101–508, title V, § 5082(2), Nov. 5, 1990, 104 Stat. 1388–236, as amended, and which is classified generally to subchapter II–B (§ 9858 et seq.) of chapter 105 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 9801 of Title 42 and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6924, 6925, 6928 of this title.

§ 6924. Applications

Each eligible entity desiring a grant, contract, or cooperative agreement under section 6921 or 6923 of this title shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

(Pub. L. 89–10, title III, § 3304, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3665.)

§ 6925. Reports and evaluation

(a) Annual report to Secretary

An entity receiving funds under section 6921 of this title shall prepare and submit to the Secretary an annual report which contains such information as the Secretary may require. At a minimum, the report shall describe the program activities undertaken with funds received under this section, including—

(1) the programming that has been developed directly or indirectly by the entity, and the target population of the programs developed;

(2) the support materials that have been developed to accompany the programming, and the method by which such materials are distributed to consumers and users of the programming;

(3) the means by which programming developed under this section has been distributed,

including the distance learning technologies that have been utilized to make programming available and the geographic distribution achieved through such technologies; and

(4) the initiatives undertaken by the entity to develop public-private partnerships to secure non-Federal support for the development and distribution and broadcast of educational and instructional programming.

(b) Report to Congress

The Secretary shall prepare and submit to the relevant committees of Congress a biannual report which includes—

(1) a summary of the information made available under section 6922(a) of this title; and

(2) a description of the training materials made available under section 6923(3) of this title, the manner in which outreach has been conducted to inform parents and child care providers of the availability of such materials, and the manner in which such materials have been distributed in accordance with such section.

(Pub. L. 89–10, title III, § 3305, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3665.)

§ 6926. Administrative costs

With respect to the implementation of section 6922 of this title, entities receiving a grant, contract, or cooperative agreement from the Secretary may use not more than 5 percent of the amounts received under such section for the normal and customary expenses of administering the grant, contract, or cooperative agreement.

(Pub. L. 89–10, title III, § 3306, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3665.)

§ 6927. "Distance learning" defined

For the purposes of this part, the term ''distance learning'' means the transmission of educational or instructional programming to geographically dispersed individuals and groups via telecommunications.

(Pub. L. 89–10, title III, § 3307, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3665.)

§ 6928. Authorization of appropriations

(a) In general

There are authorized to be appropriated to carry out this part, $30,000,000 for fiscal year 1995, and such sums as may be necessary for each of the four succeeding fiscal years. Not less than 60 percent of the amounts appropriated under this subsection for each fiscal year shall be used to carry out section 6922 of this title.

(b) Special projects

Of the amount appropriated under subsection (b)[1] of this section for each fiscal year, at least 10 percent of such amount shall be used for each such fiscal year for activities under section 6923(1)(C) of this title.

(Pub. L. 89–10, title III, § 3308, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3666.)

[1] So in original. Probably should be subsection ''(a)''.

PART D—TELECOMMUNICATIONS DEMONSTRATION PROJECT FOR MATHEMATICS

§ 6951. Project authorized

The Secretary is authorized to make grants to a nonprofit telecommunications entity, or partnership of such entities, for the purpose of carrying out a national telecommunications-based demonstration project to improve the teaching of mathematics. The demonstration project authorized by this part shall be designed to assist elementary and secondary school teachers in preparing all students for achieving State content standards.

(Pub. L. 89–10, title III, § 3401, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3666.)

§ 6952. Application required

(a) In general

Each nonprofit telecommunications entity, or partnership of such entities, desiring a grant under this part shall submit an application to the Secretary. Each such application shall—

(1) demonstrate that the applicant will use the existing publicly funded telecommunications infrastructure to deliver video, voice and data in an integrated service to train teachers in the use of new standards-based curricula materials and learning technologies;

(2) assure that the project for which assistance is sought will be conducted in cooperation with appropriate State educational agencies, local educational agencies, State or local nonprofit public telecommunications entities, and a national mathematics education professional association that has developed content standards;

(3) assure that a significant portion of the benefits available for elementary and secondary schools from the project for which assistance is sought will be available to schools of local educational agencies which have a high percentage of children counted for the purpose of part A of subchapter I of this chapter; and

(4) contain such additional assurances as the Secretary may reasonably require.

(b) Approval of applications; number of demonstration sites

In approving applications under this section, the Secretary shall assure that the demonstration project authorized by this part is conducted at elementary and secondary school sites in at least 15 States.

(Pub. L. 89–10, title III, § 3402, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3666.)

§ 6953. Authorization of appropriations

There are authorized to be appropriated to carry out this part, $5,000,000 for the fiscal year 1995, and such sums as may be necessary for each of the four succeeding fiscal years.

(Pub. L. 89–10, title III, § 3403, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3666.)

PART E—ELEMENTARY MATHEMATICS AND SCIENCE EQUIPMENT PROGRAM

§ 6971. Short title

This part may be cited as the ''Elementary Mathematics and Science Equipment Act''.

(Pub. L. 89–10, title III, § 3501, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3667.)

EXECUTIVE ORDER NO. 12821

Ex. Ord. No. 12821, Nov. 16, 1992, 57 F.R. 54285, which required executive departments and agencies with a scientific mission that employ significant numbers of scientists, mathematicians, and engineers and have a Federal laboratory to assist in mathematics and science education and to give highest preference to elementary and secondary schools in transfer or donation of education-related Federal equipment, was superseded by Ex. Ord. No. 12999, Apr. 17, 1996, 61 F.R. 17229, set out as a note under section 484 of Title 40, Public Buildings, Property, and Works.

§ 6972. Statement of purpose

It is the purpose of this part to raise the quality of instruction in mathematics and science in the Nation's elementary schools by providing equipment and materials necessary for hands-on instruction through assistance to State and local educational agencies.

(Pub. L. 89–10, title III, § 3502, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3667.)

§ 6973. Program authorized

The Secretary is authorized to make allotments to State educational agencies under section 6974 of this title to enable such agencies to award grants to local educational agencies for the purpose of providing equipment and materials to elementary schools to improve mathematics and science education in such schools.

(Pub. L. 89–10, title III, § 3503, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3667.)

§ 6974. Allotments of funds

(a) In general

From the amount appropriated under section 6979 of this title for any fiscal year, the Secretary shall reserve—

(1) not more than one-half of 1 percent for allotment among Guam, American Samoa, the Virgin Islands, and the Northern Mariana Islands according to their respective needs for assistance under this part; and

(2) one-half of 1 percent for programs for Indian students served by schools funded by the Secretary of the Interior which are consistent with the purposes of this part.

(b) Allotment

(1) In general

The remainder of the amount so appropriated (after meeting requirements in subsection (a) of this section) shall be allotted among State educational agencies so that—

(A) one-half of such remainder shall be distributed by allotting to each State educational agency an amount which bears the same ratio to such one-half of such remainder as the number of children aged 5 to 17, inclusive, in the State bears to the number of such children in all States; and

(B) one-half of such remainder shall be distributed according to each State's share of allocations under part A of subchapter I of this chapter.

(2) Minimum

Except as provided in paragraph (3), no State educational agency shall receive an allotment under this subsection for any fiscal year in an amount that is—

(A) less than one-half of 1 percent of the amount made available under this subsection for such fiscal year; or

(B) less than the amount allotted to such State for fiscal year 1988 under title II of the Education for Economic Security Act.

(3) Ratable reductions

(A) If the sums made available under this part for any fiscal year are insufficient to pay the full amounts that all State educational agencies are eligible to receive under paragraph (2)(B) for such year, the Secretary shall ratably reduce the allotment to such agencies for such year.

(B) If additional funds become available for making payments under paragraph (2)(B) for such fiscal year, allotments that were reduced under subparagraph (A) shall be increased on the same basis as such allotments were reduced.

(c) Reallotment of unused funds

The amount of any State educational agency's allotment under subsection (b) of this section for any fiscal year to carry out this part which the Secretary determines will not be required for that fiscal year to carry out this part shall be available for reallotment from time to time, on such dates during that year as the Secretary may determine, to other State educational agencies in proportion to the original allotments to those State educational agencies under subsection (b) of this section for that year but with such proportionate amount for any of those other State educational agencies being reduced to the extent it exceeds the sum the Secretary estimates that the State educational agency needs and will be able to use for that year, and the total of those reductions shall be similarly reallotted among the State educational agencies whose proportionate amounts were not so reduced. Any amounts reallotted to a State educational agency under this subsection during a year shall be deemed a part of the State educational agency's allotment under subsection (b) of this section for that year.

(d) "State" defined

For the purposes of this part the term ''State'' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

(e) Data

The number of children aged 5 to 17, inclusive, in the State and in all States shall be determined by the Secretary on the basis of the most recent satisfactory data available to the Secretary.

(Pub. L. 89–10, title III, § 3504, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3667.)

REFERENCES IN TEXT

The Education for Economic Security Act, referred to in subsec. (b)(2)(B), is Pub. L. 98–377, Aug. 11, 1984, 98 Stat. 1267, as amended. Title II of the Act was classified generally to subchapter II (§ 3961 et seq.) of chapter 52 of this title, prior to repeal by Pub. L. 100–297, title II, § 2303, Apr. 28, 1988, 102 Stat. 324. For complete classification of this Act to the Code, see Short Title note set out under section 3901 of this title and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6973 of this title.

§ 6975. State application

(a) Application

Each State educational agency desiring to receive an allotment under this part shall file an application with the Secretary which covers a period of 5 fiscal years. Such application shall be filed at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

(b) Contents of application

Each application described in subsection (a) of this section shall—

(1) provide assurances that—

(A) the State educational agency shall use the allotment provided under this part to award grants to local educational agencies within the State to enable such local educational agencies to provide assistance to schools served by such agency to carry out the purpose of this part;

(B) the State educational agency will provide such fiscal control and funds accounting as the Secretary may require;

(C) every public elementary school in the State is eligible to receive assistance under this part once over the 5-year duration of the program assisted under this part;

(D) funds provided under this part will supplement, not supplant, State and local funds made available for activities authorized under this part;

(E) during the 5-year period described in the application, the State educational agency will evaluate its standards and programs for teacher preparation and inservice professional development for elementary mathematics and science;

(F) the State educational agency will take into account the needs for greater access to and participation in mathematics and science by students and teachers from historically underrepresented groups, including females, minorities, individuals with limited English proficiency, the economically disadvantaged, and individuals with disabilities; and

(G) that the needs of teachers and students in areas with high concentrations of low-income students and sparsely populated areas will be given priority in awarding assistance under this part;

(2) provide, if appropriate, a description of how funds paid under this part will be coordinated with State and local funds and other Federal resources, particularly with respect to programs for the professional development and inservice training of elementary school teachers in science and mathematics; and

(3) describe procedures—

(A) for submitting applications for programs described in section 6976 of this title for distribution of assistance under this part within the State; and

(B) for approval of applications by the State educational agency, including appropriate procedures to assure that such agency will not disapprove an application without notice and opportunity for a hearing.

(c) State administration

Not more than 5 percent of the funds allotted to each State educational agency under this part shall be used for the administrative costs of such agency associated with carrying out the program assisted under this part.

(Pub. L. 89–10, title III, § 3505, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3668.)

§ 6976. Local application

(a) Application

A local educational agency that desires to receive a grant under this part shall submit an application to the State educational agency. Each such application shall contain assurances that each school served by the local educational agency shall be eligible for assistance under this part only once.

(b) Contents of application

Each application described in subsection (a) of this section shall—

(1) describe how the local educational agency plans to set priorities on the use and distribution among schools of grant funds received under this part to meet the purpose of this part;

(2) include assurances that the local educational agency has made every effort to match on a dollar-for-dollar basis from private or public sources the funds received under this part, except that no such application shall be penalized or denied assistance under this part based on failure to provide such matching funds;

(3) describe, if applicable, how funds under this part will be coordinated with State, local, and other Federal resources, especially with respect to programs for the professional development and inservice training of elementary school teachers in science and mathematics; and

(4) describe the process which will be used to determine different levels of assistance to be awarded to schools with different needs.

(c) Priority

In awarding grants under this part, the State educational agency shall give priority to applications that—

(1) assign highest priority to providing assistance to schools which—

(A) are most seriously underequipped; or

(B) serve large numbers or percentages of economically disadvantaged students;

(2) are attentive to the needs of underrepresented groups in science and mathematics;

(3) demonstrate how science and mathematics equipment will be part of a comprehensive plan of curriculum planning or implementation and teacher training supporting hands-on laboratory activities; and

(4) assign priority to providing equipment and materials for students in grades 1 through 6.

(Pub. L. 89–10, title III, § 3506, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3669.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6975, 6977 of this title.

§ 6977. Program requirements

(a) Coordination

Each State educational agency receiving an allotment under this part shall—

(1) disseminate information to school districts and schools, including private nonprofit elementary schools, regarding the program assisted under this part;

(2) evaluate applications of local educational agencies;

(3) award grants to local educational agencies based on the priorities described in section 6976(c) of this title; and

(4) evaluate local educational agencies' end-of-year summaries and submit such evaluation to the Secretary.

(b) Limitations on use of funds

(1) In general

Except as provided in paragraph (2), grant funds and matching funds under this part only shall be used to purchase science equipment, science materials, or mathematical manipulative materials and shall not be used for computers, computer peripherals, software, textbooks, or staff development costs.

(2) Capital improvements

Grant funds under this part may not be used for capital improvements. Not more than 50 percent of any matching funds provided by the local educational agency may be used for capital improvements of classroom science facilities to support the hands-on instruction that this part is intended to support, such as the installation of electrical outlets, plumbing, lab tables or counters, or ventilation mechanisms.

(Pub. L. 89–10, title III, § 3507, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3670.)

§ 6978. Federal administration

(a) Technical assistance and evaluation procedures

The Secretary shall provide technical assistance and, in consultation with State and local representatives of the program assisted under this part, shall develop procedures for State and local evaluations of the programs assisted under this part.

(b) Report

The Secretary shall report to the Congress each year on the program assisted under this part in accordance with section 8161[1] of this title.

(Pub. L. 89–10, title III, § 3508, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3670.)

§ 6979. Authorization of appropriations

There are authorized to be appropriated $30,000,000 for fiscal year 1995, and such sums as may be necessary for each of the four succeeding fiscal years, to carry out this part.

[1] So in original. Probably should be section ''8941''.

(Pub. L. 89–10, title III, § 3509, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3671.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6974 of this title.

PART F—ELEMENTARY AND SECONDARY SCHOOL LIBRARY MEDIA RESOURCES PROGRAM

§§ 7001 to 7005. Repealed. Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 708(e)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–312

Section 7001, Pub. L. 89–10, title III, § 3601, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3671, authorized elementary and secondary school library media resources program.

Section 7002, Pub. L. 89–10, title III, § 3602, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3671, related to allocation of funds to States.

Section 7003, Pub. L. 89–10, title III, § 3603, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3671, required State plans meeting certain criteria.

Section 7004, Pub. L. 89–10, title III, § 3604, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3672, related to distribution of allocations to local educational agencies.

Section 7005, Pub. L. 89–10, title III, § 3605, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3672, authorized appropriations.

SUBCHAPTER IV—SAFE AND DRUG-FREE SCHOOLS AND COMMUNITIES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 6649, 8857 of this title; title 42 section 11841.

§ 7101. Short title

This subchapter may be cited as the ''Safe and Drug-Free Schools and Communities Act of 1994''.

(Pub. L. 89–10, title IV, § 4001, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3672.)

§ 7102. Findings

The Congress finds as follows:

(1) The seventh National Education Goal provides that by the year 2000, all schools in America will be free of drugs and violence and the unauthorized presence of firearms and alcohol, and offer a disciplined environment that is conducive to learning.

(2) The widespread illegal use of alcohol and other drugs among the Nation's secondary school students, and increasingly by students in elementary schools as well, constitutes a grave threat to such students' physical and mental well-being, and significantly impedes the learning process. For example, data show that students who drink tend to receive lower grades and are more likely to miss school because of illness than students who do not drink.

(3) Our Nation's schools and communities are increasingly plagued by violence and crime. Approximately 3,000,000 thefts and violent crimes occur in or near our Nation's schools every year, the equivalent of more than 16,000 incidents per school day.

(4) Violence that is linked to prejudice and intolerance victimizes entire communities leading to more violence and discrimination.

(5) The tragic consequences of violence and the illegal use of alcohol and drugs by students are felt not only by students and such students' families, but by such students' communities and the Nation, which can ill afford to lose such students' skills, talents, and vitality.

(6) While use of illegal drugs is a serious problem among a minority of teenagers, alcohol use is far more widespread. The proportion of high school students using alcohol, though lower than a decade ago, remains unacceptably high. By the 8th grade, 70 percent of youth report having tried alcohol and by the 12th grade, about 88 percent have used alcohol. Alcohol use by young people can and does have adverse consequences for users, their families, communities, schools, and colleges.

(7) Alcohol and tobacco are widely used by young people. Such use can, and does, have adverse consequences for young people, their families, communities, schools, and colleges. Drug prevention programs for youth that address only controlled drugs send an erroneous message that alcohol and tobacco do not present significant problems, or that society is willing to overlook their use. To be credible, messages opposing illegal drug use by youth should address alcohol and tobacco as well.

(8) Every day approximately 3,000 children start smoking. Thirty percent of all secondary school seniors are smokers. Half of all new smokers begin smoking before the age of 14, 90 percent of such smokers begin before the age of 21, and the average age of the first use of smokeless tobacco is under the age of 10. Use of tobacco products has been linked to serious health problems. Drug education and prevention programs that include tobacco have been effective in reducing teenage use of tobacco.

(9) Drug and violence prevention programs are essential components of a comprehensive strategy to promote school safety and to reduce the demand for and use of drugs throughout the Nation. Schools and local organizations in communities throughout the Nation have a special responsibility to work together to combat the growing epidemic of violence and illegal drug use and should measure the success of their programs against clearly defined goals and objectives.

(10) Students must take greater responsibility for their own well-being, health, and safety if schools and communities are to achieve the goals of providing a safe, disciplined, and drug-free learning environment.

(Pub. L. 89–10, title IV, § 4002, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3672.)

§ 7103. Purpose

The purpose of this subchapter is to support programs to meet the seventh National Education Goal by preventing violence in and around schools and by strengthening programs that prevent the illegal use of alcohol, tobacco, and drugs, involve parents, and are coordinated with related Federal, State, and community efforts and resources, through the provision of Federal assistance to—

(1) States for grants to local educational agencies and educational service agencies and consortia of such agencies to establish, operate, and improve local programs of school drug and violence prevention, early intervention, rehabilitation referral, and education in elementary and secondary schools (including intermediate and junior high schools);

(2) States for grants to, and contracts with, community-based organizations and other public and private nonprofit agencies and organizations for programs of drug and violence prevention, early intervention, rehabilitation referral, and education;

(3) States for development, training, technical assistance, and coordination activities;

(4) public and private nonprofit organizations to conduct training, demonstrations, and evaluation, and to provide supplementary services for the prevention of drug use and violence among students and youth; and

(5) institutions of higher education to establish, operate, expand, and improve programs of school drug and violence prevention, education, and rehabilitation referral for students enrolled in colleges and universities.

(Pub. L. 89–10, title IV, § 4003, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3673.)

§ 7104. Funding

There are authorized to be appropriated—

(1) $630,000,000 for fiscal year 1995, and such sums as may be necessary for each of the four succeeding fiscal years, for State grants under subpart 1 of part A of this subchapter; and

(2) $25,000,000 for fiscal year 1995, and such sums as may be necessary for each of the four succeeding fiscal years, for national programs under subpart 2 of part A of this subchapter.

(Pub. L. 89–10, title IV, § 4004, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3674.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7111, 7131, 7132, 7133 of this title.

§ 7105. Establishment of National Trust for Drug-Free Youth

(a) Establishment; purpose

In order to encourage private gifts of real and personal property to assist the Secretary of Education in carrying out the national programs of drug abuse research, education, and prevention under subtitle B,[1] there is hereby established a charitable, nonprofit, and nonpartisan corporation to be known as the National Trust for Drug-Free Youth.

(b) Board of Directors; duties and functions; composition

The National Trust for Drug-Free Youth (hereinafter in this section referred to as the ''National Trust'') shall be under the general direction of a Board of Directors. The overall priorities, policies, and goals of the National Trust shall be determined by the Board in consultation with the Secretary. The Board shall coordinate the activities of the National Trust for Drug-Free Youth with the Secretary. The Board shall be composed of three members appointed as follows:

[1] See References in Text note below.

(1) one member shall be appointed by the President;

(2) one member shall be appointed by the Speaker of the House of Representatives; and

(3) one member shall be appointed by the Majority Leader of the Senate.

(c) Principal office; venue

The National Trust shall have its principal office in the District of Columbia and for the purposes of venue in civil actions shall be considered an inhabitant and resident of the District.

(d) Powers of Trust generally

The National Trust shall have the following general powers:

(1) to have succession until dissolved by Act of Congress, in which event title to the properties of the National Trust, both real and personal shall, insofar as consistent with existing contractual obligations and subject to all other legally enforceable claims or demands by or against the National Trust, pass to and become vested in the United States of America;

(2) to adopt, alter, and use a corporate seal which shall be judicially noticed;

(3) to sue and be sued, complain and defend in any court of competent jurisdiction;

(4) to adopt and establish such bylaws, rules, and regulations, not inconsistent with the laws of the United States or of any State, as the Board considers necessary for the administration of its functions, including among other matter, bylaws, rules, and regulations governing administration of corporate funds;

(5) to accept, hold, and administer gifts and bequests of money, securities, or other personal property of whatsoever character, absolutely or on trust, for the purposes for which the National Trust is created;

(6) to sell, exchange, or otherwise dispose of as it may determine from time to time the moneys, securities, or other gifts given or bequeathed to it;

(7) to appoint and prescribe the duties of such officers, agents, and employees as may be necessary to carry out its functions, and to fix and pay such compensation to them for their services as the National Trust is created; and

(8) to audit the financial records of the corporation.

(e) Issuance of shares or stock; declaration or payment of dividends; loan of funds to officers or directors

The National Trust shall not have authority—

(1) to issue shares or stock or declare or pay dividends; or

(2) to loan funds to its officers or directors.

(f) Annual report and independent audit

The Board shall submit an annual report and independent audit to the Congress and the President concerning the expenditure of funds under the National Trust.

(Pub. L. 99–570, title IV, § 4302, Oct. 27, 1986, 100 Stat. 3207–153.)

REFERENCES IN TEXT

Subtitle B, referred to in subsec. (a), is subtitle B of title IV of Pub. L. 99–570, Oct. 27, 1986, 100 Stat. 3207–125, known as the Drug-Free Schools and Communities Act of 1986, which was classified to chapter 58 (§ 4601 et seq.) of this title, prior to repeal by Pub. L. 100–297, title I, § 1003(e), Apr. 28, 1988, 102 Stat. 293. Provisions related to drug-free schools and communities are now contained in this subchapter.

CODIFICATION

Section was enacted as part of the Anti-Drug Abuse Act of 1986, and not as part of the Elementary and Secondary Education Act of 1965 which comprises this chapter.

Section was formerly classified to section 4665, and subsequently section 3225, of this title.

PART [1]A—STATE GRANTS FOR DRUG AND VIOLENCE PREVENTION PROGRAMS

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 8801, 8893 of this title.

SUBPART 1—STATE GRANTS FOR DRUG AND VIOLENCE PREVENTION PROGRAMS

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in section 7104 of this title.

§ 7111. Reservations and allotments

(a) Reservations

From the amount made available under section 7104(a)[1] of this title to carry out this subpart for each fiscal year, the Secretary—

(1) shall reserve 1 percent of such amount for grants under this subpart to Guam, American Samoa, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands, to be allotted in accordance with the Secretary's determination of their respective needs;

(2) shall reserve 1 percent of such amount for the Secretary of the Interior to carry out programs under this part for Indian youth;

(3) may reserve not more than $1,000,000 for the national impact evaluation required by section 7117(a) of this title; and

(4) shall reserve 0.2 percent of such amount for programs for Native Hawaiians under section 7118 of this title.

(b) State allotments

(1) In general

Except as provided in paragraph (2), the Secretary shall, for each fiscal year, allocate among the States—

(A) one-half of the remainder not reserved under subsection (a) of this section according to the ratio between the school-aged population of each State and the school-aged population of all the States; and

(B) one-half of such remainder according to the ratio between the amount each State received under part A of subchapter I of this chapter for the preceding year (or, for fiscal year 1995 only, sections 1005[2] and 1006[2] of this Act as such sections were in existence on the day preceding October 20, 1994) and the sum of such amounts received by all the States.

(2) Minimum

For any fiscal year, no State shall be allotted under this subsection an amount that is

[1] So in original. No part B has been enacted.

[1] So in original. Probably should be section ''7104(1)''.

[2] See References in Text note below.

less than one-half of 1 percent of the total amount allotted to all the States under this subsection.

(3) Reallotment

The Secretary may reallot any amount of any allotment to a State if the Secretary determines that the State will be unable to use such amount within two years of such allotment. Such reallotments shall be made on the same basis as allotments are made under paragraph (1).

(4) Definitions

For the purpose of this subsection—

(A) the term ''State'' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico; and

(B) the term ''local educational agency'' includes educational service agencies and consortia of such agencies.

(Pub. L. 89–10, title IV, § 4011 [4111], as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3674.)

REFERENCES IN TEXT

Sections 1005 and 1006 of this Act as such sections were in existence on the day preceding October 20, 1994, referred to in subsec. (b)(1)(B), means sections 1005 and 1006 of Pub. L. 89–10, as added by Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 141, 146, as amended, which were classified to sections 2711 and 2712, respectively, of this title prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7112, 7113, 7114, 7118 of this title.

§ 7112. State applications

(a) In general

In order to receive an allotment under section 7111[1] of this title for any fiscal year, a State shall submit to the Secretary, at such time as the Secretary may require, an application that—

(1) describes how funds under this subpart will be coordinated with programs under this chapter, the Goals 2000: Educate America Act [20 U.S.C. 5801 et seq.], and other Acts, as appropriate, in accordance with the provisions of section 8856 of this title;

(2) contains the results of the State's needs assessment for drug and violence prevention programs, which shall be based on the results of on-going State evaluation activities, including data on the prevalence of drug use and violence by youth in schools and communities;

(3) contains assurances that the sections of the application concerning the funds provided to the chief executive officer and the State educational agency were developed separately by such officer or agency, respectively, but in consultation and coordination with appropriate State officials and others, including the chief State school officer, the chief executive officer, the head of the State alcohol and drug abuse agency, the heads of the State health and mental health agencies, the head of the State criminal justice planning agency, the head of the State child welfare agency, the head of the State board of education, or their designees, and representatives of parents, students, and community-based organizations;

(4) contains an assurance that the State will cooperate with, and assist, the Secretary in conducting a national impact evaluation of programs required by section 7117(a) of this title; and

(5) includes any other information the Secretary may require.

(b) State educational agency funds

A State's application under this section shall also contain a comprehensive plan for the use of funds under section 7113(a) of this title by the State educational agency that includes—

(1) a statement of the State educational agency's measurable goals and objectives for drug and violence prevention and a description of the procedures such agency will use for assessing and publicly reporting progress toward meeting those goals and objectives;

(2) a plan for monitoring the implementation of, and providing technical assistance regarding, the drug and violence prevention programs conducted by local educational agencies in accordance with section 7116 of this title;

(3) a description of how the State educational agency will use funds under section 7113(b) of this title;

(4) a description of how the State educational agency will coordinate such agency's activities under this subpart with the chief executive officer's drug and violence prevention programs under this subpart and with the prevention efforts of other State agencies;

(5) an explanation of the criteria the State educational agency will use to identify which local educational agencies receive supplemental funds under section 7113(d)(2)(A)(ii) of this title and how the supplemental funds will be allocated among such local educational agencies; and

(6) a description of the procedures the State educational agency will use to review applications from local educational agencies under section 7115 of this title.

(c) Governor's funds

A State's application under this section shall also contain a comprehensive plan for the use of funds under section 7114(a) of this title by the chief executive officer that includes—

(1) a statement of the chief executive officer's measurable goals and objectives for drug and violence prevention and a description of the procedures to be used for assessing and publicly reporting progress toward meeting such goals and objectives;

(2) a description of how the chief executive officer will coordinate such officer's activities under this part with the State educational agency and other State agencies and organizations involved with drug and violence prevention efforts;

(3) a description of how funds reserved under section 7114(a) of this title will be used so as not to duplicate the efforts of the State educational agency and local educational agencies with regard to the provision of school-based

[1] See References in Text note below.

prevention efforts and services and how those funds will be used to serve populations not normally served by the State educational agency, such as school dropouts and youth in detention centers;

(4) a description of how the chief executive officer will award funds under section 7114(a) of this title and a plan for monitoring the performance of, and providing technical assistance to, recipients of such funds;

(5) a description of the special outreach activities that will be carried out to maximize the participation of community-based organizations of demonstrated effectiveness which provide services in low-income communities; and

(6) a description of how funds will be used to support community-wide comprehensive drug and violence prevention planning.

(d) Peer review

The Secretary shall use a peer review process in reviewing State applications under this section.

(e) Interim application

Notwithstanding any other provisions of this section, a State may submit for fiscal year 1995 a one-year interim application and plan for the use of funds under this subpart that are consistent with the requirements of this section and contain such information as the Secretary may specify in regulations. The purpose of such interim application and plan shall be to afford the State the opportunity to fully develop and review such State's application and comprehensive plan otherwise required by this section. A State may not receive a grant under this subpart for a fiscal year subsequent to fiscal year 1995 unless the Secretary has approved such State's application and comprehensive plan in accordance with this subpart.

(Pub. L. 89–10, title IV, § 4112, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3675.)

REFERENCES IN TEXT

Section 7111 of this title, referred to in subsec. (a)(1), was in the original ''section 4111'', meaning section 4111 of Pub. L. 89–10, which was translated as reading section 4011 of that Act to reflect the probable intent of Congress, because Pub. L. 89–10 does not contain a section 4111, but does contain a section 4011 which relates to State allotments.

The Goals 2000: Educate America Act, referred to in subsec. (a)(1), is Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 125 (except titles V and IX), as amended, which is classified principally to chapter 68 (§ 5801 et seq.) of this title (except subchapters V (§ 5931 et seq.) and IX (§ 6001 et seq.)). For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7117 of this title.

§ 7113. State and local educational agency programs

(a) Use of funds

(1) In general

Except as provided in paragraph (2), an amount equal to 80 percent of the total amount allocated to a State under section 7111[1] of this title for each fiscal year shall be used by the State educational agency and its local educational agencies for drug and violence prevention activities in accordance with this section.

(2) Exception

(A) If a State has, on or before January 1, 1994, established an independent State agency for the purpose of administering all of the funds described in section 5121 of this Act (as such section was in effect on the day preceding October 20, 1994), then—

(i) an amount equal to 80 percent of the total amount allocated to such State under section 7111[1] of this title for each fiscal year shall be used by the State educational agency and its local educational agencies for drug and violence prevention activities in accordance with this section; and

(ii) an amount equal to 20 percent of such total amount shall be used by such independent State agency for drug and violence prevention activities in accordance with this section.

(B) Not more than 5 percent of the amount reserved under subparagraph (A)(ii) may be used for administrative costs of the independent State agency incurred in carrying out the activities described in such subparagraph.

(C) For purposes of this paragraph, the term ''independent State agency'' means an independent agency with a board of directors or a cabinet level agency whose chief executive officer is appointed by the chief executive officer of the State and confirmed with the advice and consent of the senate of such State.

(b) State level programs

(1) In general

A State educational agency shall use not more than 5 percent of the amount available under subsection (a) of this section for activities such as—

(A) training and technical assistance concerning drug and violence prevention for local educational agencies and educational service agencies, including teachers, administrators, coaches and athletic directors, other staff, parents, students, community leaders, health service providers, local law enforcement officials, and judicial officials;

(B) the development, identification, dissemination, and evaluation of the most readily available, accurate, and up-to-date curriculum materials (including videotapes, software, and other technology-based learning resources), for consideration by local educational agencies;

(C) making available to local educational agencies cost effective programs for youth violence and drug abuse prevention;

(D) demonstration projects in drug and violence prevention;

(E) training, technical assistance, and demonstration projects to address violence associated with prejudice and intolerance;

(F) financial assistance to enhance resources available for drug and violence pre-

[1] See References in Text note below.

vention in areas serving large numbers of economically disadvantaged children or sparsely populated areas, or to meet other special needs consistent with the purposes of this subpart; and

(G) the evaluation of activities carried out within the State under this part.

(2) Special rule

A State educational agency may carry out activities under this subsection directly, or through grants or contracts.

(c) State administration

A State educational agency may use not more than 4 percent of the amount reserved under subsection (a) of this section for the administrative costs of carrying out its responsibilities under this part.

(d) Local educational agency programs

(1) In general

A State educational agency shall distribute not less than 91 percent of the amount made available under subsection (a) of this section for each fiscal year to local educational agencies in accordance with this subsection.

(2) Distribution

(A) Of the amount distributed under paragraph (1), a State educational agency shall distribute—

(i) 70 percent of such amount to local educational agencies, based on the relative enrollments in public and private nonprofit elementary and secondary schools within the boundaries of such agencies; and

(ii) 30 percent of such amount to local educational agencies that the State educational agency determines have the greatest need for additional funds to carry out drug and violence prevention programs authorized by this subpart.

(B) Where appropriate and to the extent consistent with the needs assessment conducted by the State, not less than 25 percent of the amount distributed under subparagraph (A)(ii) for a fiscal year shall be distributed to local educational agencies located in rural and urban areas.

(C)(i) A State educational agency shall distribute funds under subparagraph (A)(ii) to not more than 10 percent of the local educational agencies in the State, or five such agencies, whichever is greater.

(ii) In determining which local educational agencies have the greatest need for additional funds, the State educational agency shall consider objective data such as—

(I) high rates of alcohol or drug use among youth;

(II) high rates of victimization of youth by violence and crime;

(III) high rates of arrests and convictions of youth for violent or drug- or alcohol-related crime;

(IV) the extent of illegal gang activity;

(V) high incidence of violence associated with prejudice and intolerance;

(VI) high rates of referrals of youths to drug and alcohol abuse treatment and rehabilitation programs;

(VII) high rates of referrals of youths to juvenile court;

(VIII) high rates of expulsions and suspensions of students from schools; and

(IX) high rates of reported cases of child abuse and domestic violence.

(e) Reallocation of funds

If a local educational agency chooses not to apply to receive the amount allocated to such agency under subsection (d) of this section, or if such agency's application under section 7115 of this title is disapproved by the State educational agency, the State educational agency shall reallocate such amount to one or more of the local educational agencies determined by the State educational agency under subsection (d)(2)(C)(ii) of this section to have the greatest need for additional funds.

(f) Return of funds to State educational agency; reallocation

(1) Return

Except as provided in paragraph (2), upon the expiration of the 1-year period beginning on the date that a local educational agency or educational service agency under this subchapter receives its allocation under this subchapter—

(A) such agency shall return to the State educational agency any funds from such allocation that remain unobligated; and

(B) the State educational agency shall reallocate any such amount to local educational agencies or educational service agencies that have plans for using such amount for programs or activities on a timely basis.

(2) Reallocation

In any fiscal year, a local educational agency, may retain for obligation in the succeeding fiscal year—

(A) an amount equal to not more than 25 percent of the allocation it receives under this subchapter for such fiscal year; or

(B) upon a demonstration of good cause by such agency or consortium, a greater amount approved by the State educational agency.

(Pub. L. 89–10, title IV, § 4113, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3677.)

REFERENCES IN TEXT

Section 7111 of this title, referred to in subsec. (a)(1), (2)(A)(i), was in the original ''section 4111'', meaning section 4111 of Pub. L. 89–10, which was translated as reading section 4011 of that Act to reflect the probable intent of Congress, because Pub. L. 89–10 does not contain a section 4111, but does contain a section 4011 which relates to State allotments.

Section 5121 of this Act (as such section was in effect on the day preceding October 20, 1994), referred to in subsec. (a)(2)(A), means section 5121 of Pub. L. 89–10, as added by Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 254, as amended, which was classified to section 3191 of this title prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7112, 7115, 7117 of this title.

§ 7114. Governor's programs

(a) Use of funds

(1) In general

An amount equal to 20 percent of the total amount allocated to a State under section 7111(b)(1)[1] of this title for each fiscal year shall be used by the chief executive officer of such State for drug and violence prevention programs and activities in accordance with this section.

(2) Law enforcement education partnerships

A chief executive officer shall use not less than 10 percent of the 20 percent of the total amount described in paragraph (1) for each fiscal year for law enforcement education partnerships in accordance with subsection (d) of this section.

(3) Administrative costs

A chief executive officer may use not more than 5 percent of the 20 percent of the total amount described in paragraph (1) for the administrative costs incurred in carrying out the duties of such officer under this section.

(b) Programs authorized

(1) In general

A chief executive officer shall use funds made available under subsection (a)(1) of this section for grants to or contracts with parent groups, community action and job training agencies, community-based organizations, and other public entities and private nonprofit organizations and consortia thereof. In making such grants and contracts, a chief executive officer shall give priority to programs and activities described in subsection (c) of this section for—

(A) children and youth who are not normally served by State or local educational agencies; or

(B) populations that need special services or additional resources (such as preschoolers, youth in juvenile detention facilities, runaway or homeless children and youth, pregnant and parenting teenagers, and school dropouts).

(2) Peer review

Grants or contracts awarded under this subsection shall be subject to a peer review process.

(c) Authorized activities

Grants and contracts under subsection (b) of this section shall be used for programs and activities such as—

(1) disseminating information about drug and violence prevention;

(2) training parents, law enforcement officials, judicial officials, social service providers, health service providers and community leaders about drug and violence prevention, comprehensive health education, early intervention, pupil services, or rehabilitation referral;

(3) developing and implementing comprehensive, community-based drug and violence prevention programs that link community resources with schools and integrate services involving education, vocational and job skills training and placement, law enforcement, health, mental health, community service, mentoring, and other appropriate services;

(4) planning and implementing drug and violence prevention activities that coordinate the efforts of State agencies with efforts of the State educational agency and its local educational agencies;

(5) activities to protect students traveling to and from school;

(6) before-and-after school recreational, instructional, cultural, and artistic programs that encourage drug- and violence-free lifestyles;

(7) activities that promote the awareness of and sensitivity to alternatives to violence through courses of study that include related issues of intolerance and hatred in history;

(8) developing and implementing activities to prevent and reduce violence associated with prejudice and intolerance;

(9) developing and implementing strategies to prevent illegal gang activity;

(10) coordinating and conducting community-wide violence and safety assessments and surveys;

(11) service-learning projects that encourage drug- and violence-free lifestyles; and

(12) evaluating programs and activities assisted under this section.

(d) Law enforcement education partnerships

A chief executive officer shall use funds under subsection (a)(2) of this section to award grants to State, county or local law enforcement agencies (including district attorneys) in consortium with local educational agencies or community-based agencies for the purposes of carrying out drug abuse and violence prevention activities, such as—

(1) Project Drug Abuse Resistance Education and other programs which provide classroom instruction by uniformed law enforcement officials that is designed to teach students to recognize and resist pressures to experiment that influence such children to use controlled substances or alcohol;

(2) Project Legal Lives and other programs in which district attorneys provide classroom instruction in the law and legal system which emphasizes interactive learning techniques, such as mock trial competitions;

(3) partnerships between law enforcement and child guidance professionals; and

(4) before- and after-school activities.

(Pub. L. 89–10, title IV, § 4114, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3679.)

REFERENCES IN TEXT

Section 7111(b)(1) of this title, referred to in subsec. (a)(1), was in the original ''section 4111(1)'', meaning section 4111(1) of Pub. L. 89–10, which was translated as reading section 4011(b)(1) of that Act to reflect the probable intent of Congress, because Pub. L. 89–10 does not contain a section 4111, but does contain a section 4011 which relates to State allocations in subsec. (b)(1).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7112, 7117, 8801, 8893 of this title.

[1] See References in Text note below.

§ 7115. Local applications

(a) Application required

(1) In general

In order to be eligible to receive a distribution under section 7113(d) of this title for any fiscal year, a local educational agency shall submit, at such time as the State educational agency requires, an application to the State educational agency for approval. Such an application shall be amended, as necessary, to reflect changes in the local educational agency's program.

(2) Development

(A) A local educational agency shall develop its application under subsection (a)(1) of this section in consultation with a local or substate regional advisory council that includes, to the extent possible, representatives of local government, business, parents, students, teachers, pupil services personnel, appropriate State agencies, private schools, the medical profession, law enforcement, community-based organizations, and other groups with interest and expertise in drug and violence prevention.

(B) In addition to assisting the local educational agency to develop an application under this section, the advisory council established or designated under subparagraph (A) shall, on an ongoing basis—

(i) disseminate information about drug and violence prevention programs, projects, and activities conducted within the boundaries of the local educational agency;

(ii) advise the local educational agency regarding—

(I) how best to coordinate such agency's activities under this subpart with other related programs, projects, and activities; and

(II) the agencies that administer such programs, projects, and activities; and

(iii) review program evaluations and other relevant material and make recommendations to the local educational agency on how to improve such agency's drug and violence prevention programs.

(b) Contents of applications

An application under this section shall contain—

(1) an objective analysis of the current use (and consequences of such use) of alcohol, tobacco, and controlled, illegal, addictive or harmful substances as well as the violence, safety, and discipline problems among students who attend the schools of the applicant (including private school students who participate in the applicant's drug and violence prevention program) that is based on ongoing local assessment or evaluation activities;

(2) a detailed explanation of the local educational agency's comprehensive plan for drug and violence prevention, which shall include a description of—

(A) how the plan will be coordinated with programs under this chapter, the Goals 2000: Educate America Act [20 U.S.C. 5801 et seq.], and other Acts, as appropriate, in accordance with the provisions of section 8856 of this title;

(B) the local educational agency's measurable goals for drug and violence prevention, and a description of how such agency will assess and publicly report progress toward attaining these goals;

(C) how the local educational agency will use its distribution under this subpart;

(D) how the local educational agency will coordinate such agency's programs and projects with community-wide efforts to achieve such agency's goals for drug and violence prevention; and

(E) how the local educational agency will coordinate such agency's programs and projects with other Federal, State, and local programs for drug-abuse prevention, including health programs; and

(3) such other information and assurances as the State educational agency may reasonably require.

(c) Review of application

(1) In general

In reviewing local applications under this section, a State educational agency shall use a peer review process or other methods of assuring the quality of such applications.

(2) Considerations

(A) In determining whether to approve the application of a local educational agency under this section, a State educational agency shall consider the quality of the local educational agency's comprehensive plan under subsection (b)(2) of this section and the extent to which such plan is coordinated with programs under this chapter, the Goals 2000: Educate America Act [20 U.S.C. 5801 et seq.], in accordance with the provisions of section 8856 of this title.

(B) A State educational agency may disapprove a local educational agency application under this section in whole or in part and may withhold, limit, or place restrictions on the use of funds allotted to such a local educational agency in a manner the State educational agency determines will best promote the purposes of this part, except that a local educational agency shall be afforded an opportunity to appeal any such disapproval.

(Pub. L. 89–10, title IV, § 4115, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3681.)

REFERENCES IN TEXT

The Goals 2000: Educate America Act, referred to in subsecs. (b)(2)(A) and (c)(2)(A), is Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 125 (except titles V and IX), as amended, which is classified principally to chapter 68 (§ 5801 et seq.) of this title (except subchapters V (§ 5931 et seq.) and IX (§ 6001 et seq.)). For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7112, 7113 of this title.

§ 7116. Local drug and violence prevention programs

(a) Program requirements

A local educational agency shall use funds received under this subpart to adopt and carry out

a comprehensive drug and violence prevention program which shall—

(1) be designed, for all students and employees, to—

(A) prevent the use, possession, and distribution of tobacco, alcohol, and illegal drugs by students and to prevent the illegal use, possession, and distribution of such substances by employees;

(B) prevent violence and promote school safety; and

(C) create a disciplined environment conducive to learning; and

(2) include activities to promote the involvement of parents and coordination with community groups and agencies, including the distribution of information about the local educational agency's needs, goals, and programs under this subpart.

(b) Authorized activities

A comprehensive drug and violence prevention program carried out under this subpart may include—

(1) age-appropriate, developmentally based drug prevention and education programs for all students, from the preschool level through grade 12, that address the legal, social, personal and health consequences of the use of illegal drugs, promote a sense of individual responsibility, and provide information about effective techniques for resisting peer pressure to use illegal drugs;

(2) programs of drug prevention, comprehensive health education, early intervention, pupil services, mentoring, or rehabilitation referral, which emphasize students' sense of individual responsibility and which may include—

(A) the dissemination of information about drug prevention;

(B) the professional development of school personnel, parents, students, law enforcement officials, judicial officials, health service providers and community leaders in prevention, education, early intervention, pupil services or rehabilitation referral; and

(C) the implementation of strategies, including strategies to integrate the delivery of services from a variety of providers, to combat illegal alcohol, tobacco and drug use, such as—

(i) family counseling;

(ii) early intervention activities that prevent family dysfunction, enhance school performance, and boost attachment to school and family; and

(iii) activities, such as community service and service-learning projects, that are designed to increase students' sense of community;

(3) age-appropriate, developmentally based violence prevention and education programs for all students, from the preschool level through grade 12, that address the legal, health, personal, and social consequences of violent and disruptive behavior, including sexual harassment and abuse, and victimization associated with prejudice and intolerance, and that include activities designed to help students develop a sense of individual responsibility and respect for the rights of others, and to resolve conflicts without violence;

(4) violence prevention programs for school-aged youth, which emphasize students' sense of individual responsibility and may include—

(A) the dissemination of information about school safety and discipline;

(B) the professional development of school personnel, parents, students, law enforcement officials, judicial officials, and community leaders in designing and implementing strategies to prevent school violence;

(C) the implementation of strategies, such as conflict resolution and peer mediation, student outreach efforts against violence, anti-crime youth councils (which work with school and community-based organizations to discuss and develop crime prevention strategies), and the use of mentoring programs, to combat school violence and other forms of disruptive behavior, such as sexual harassment and abuse; and

(D) the development and implementation of character education programs, as a component of a comprehensive drug or violence prevention program, that are tailored by communities, parents and schools; and

(E) comprehensive, community-wide strategies to prevent or reduce illegal gang activities;

(5) supporting ''safe zones of passage'' for students between home and school through such measures as Drug- and Weapon-Free School Zones, enhanced law enforcement, and neighborhood patrols;

(6) acquiring and installing metal detectors and hiring security personnel;

(7) professional development for teachers and other staff and curricula that promote the awareness of and sensitivity to alternatives to violence through courses of study that include related issues of intolerance and hatred in history;

(8) the promotion of before-and-after school recreational, instructional, cultural, and artistic programs in supervised community settings;

(9) drug abuse resistance education programs, designed to teach students to recognize and resist pressures to use alcohol or other drugs, which may include activities such as classroom instruction by uniformed law enforcement officers, resistance techniques, resistance to peer pressure and gang pressure, and provision for parental involvement; and

(10) the evaluation of any of the activities authorized under this subsection.

(c) Limitations

(1) In general

Not more than 20 percent of the funds made available to a local educational agency under this subpart may be used to carry out the activities described in paragraphs (5) and (6) of subsection (b) of this section.

(2) Special rule

A local educational agency shall only be able to use funds received under this subpart for activities described in paragraphs (5) and

(6) of subsection (b) of this section if funding for such activities is not received from other Federal agencies.

(d) Administrative provisions

Notwithstanding any other provisions of law, any funds expended prior to July 1, 1995, under part B of the Drug-Free Schools and Communities Act of 1986 (as in effect prior to October 20, 1994) for the support of a comprehensive school health program shall be deemed to have been authorized by part B of such Act.

(Pub. L. 89–10, title IV, § 4116, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3682.)

REFERENCES IN TEXT

Part B of the Drug-Free Schools and Communities Act of 1986 (as in effect prior to October 20, 1994), referred to in subsec. (d), means part B of title V of Pub. L. 89–10, as added by Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 254, as amended, which was classified generally to part B (§ 3191 et seq.) of subchapter V of chapter 47 of this title prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519.

CODIFICATION

October 20, 1994, referred to in subsec. (d), was in the original ''enactment of the Improving America's Schools Act'', which was translated as meaning enactment of the Improving America's Schools Act of 1994, Pub. L. 103–382, to reflect the probable intent of Congress.

DEVELOPMENT OF MODEL PROGRAM OF STRATEGIES AND TACTICS

Pub. L. 101–647, title XV, § 1501, Nov. 29, 1990, 104 Stat. 4836, provided that:

''(a) IN GENERAL.—The Attorney General shall develop a model program of strategies and tactics for establishing and maintaining drug-free school zones.

''(b) ASSISTANCE TO STATE AND LOCAL LAW ENFORCEMENT AGENCIES.—The program required by subsection (a) shall be designed to provide State and local law enforcement agencies with materials, training, and other assistance to establish, enforce, and evaluate the effectiveness of drug-free school zone enforcement efforts.

''(c) PROGRAM CRITERIA.—The program required by subsection (a) shall—

''(1) define the criminal justice community's role in creating and maintaining drug-free school zones;

''(2) develop a framework for law enforcement collaboration with the school system and community resource network;

''(3) identify a core law enforcement drug demand reduction program plan;

''(4) provide materials and technical assistance for demarcating and establishing drug-free school zones;

''(5) create a coordinated publicity plan with the school system and community resource network;

''(6) identify and develop model drug-free school zone law enforcement strategies and tactics;

''(7) develop a model coordinated strategy for prosecuting violations within the zones;

''(8) create a uniform framework for monitoring and evaluating the effectiveness of drug-free school zones to determine which strategies and tactics succeed under various conditions and constraints; and

''(9) provide support materials and exemplary program overviews.

''(d) PREFERRED APPROACHES.—In establishing the program required by subsection (a), the Attorney General shall prefer approaches to drug-free school zone enforcement that unite the criminal justice community, the education community, and the network of community resources in meaningful collaboration to reduce the availability of and demand for drugs in a drug-free school zone.

''(e) REPORT.—At the conclusion of the program required by subsection (a), the Attorney General shall submit a report to Congress describing the strategies and tactics that are found to be successful in establishing, enforcing, and maintaining drug-free school zones.

''(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $1,500,000 for fiscal year 1991.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7112 of this title.

§ 7117. Evaluation and reporting

(a) National impact evaluation

(1) Biennial evaluation

The Secretary, in consultation with the Secretary of Health and Human Services, the Director of the Office of National Drug Control Policy, and the Attorney General, shall conduct an independent biennial evaluation of the national impact of programs assisted under this subpart and of other recent and new initiatives to combat violence in schools and submit a report of the findings of such evaluation to the President and the Congress.

(2) Data collection

(A) The National Center for Education Statistics shall collect data to determine the frequency, seriousness, and incidence of violence in elementary and secondary schools in the States. The Secretary shall collect the data using, wherever appropriate, data submitted by the States pursuant to subsection (b)(2)(B) of this section.

(B) Not later than January 1, 1998, the Secretary shall submit to the Congress a report on the data collected under this subsection, together with such recommendations as the Secretary determines appropriate, including estimated costs for implementing any recommendation.

(b) State report

(1) In general

By October 1, 1997, and every third year thereafter, the chief executive officer of the State, in cooperation with the State educational agency, shall submit to the Secretary a report—

(A) on the implementation and outcomes of State programs under section 7114 of this title and section 7113(b) of this title and local educational agency programs under section 7113(d) of this title, as well as an assessment of their effectiveness; and

(B) on the State's progress toward attaining its goals for drug and violence prevention under subsections (b)(1) and (c)(1) of section 7112 of this title.

(2) Special rule

The report required by this subsection shall be—

(A) in the form specified by the Secretary;

(B) based on the State's ongoing evaluation activities, and shall include data on the prevalence of drug use and violence by youth in schools and communities; and

(C) made readily available to the public.

(c) Local educational agency report

Each local educational agency receiving funds under this subpart shall submit to the State

educational agency such information, and at such intervals, that the State requires to complete the State report required by subsection (b) of this section, including information on the prevalence of drug use and violence by youth in the schools and the community. Such information shall be made readily available to the public.

(Pub. L. 89–10, title IV, § 4117, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3685.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7111, 7112, 7131 of this title.

§ 7118. Programs for Native Hawaiians

(a) General authority

From the funds made available pursuant to section 7111(a)(4)[1] of this title to carry out this section, the Secretary shall make grants to or enter into cooperative agreements or contracts with organizations primarily serving and representing Native Hawaiians which are recognized by the Governor of the State of Hawaii to plan, conduct, and administer programs, or portions thereof, which are authorized by and consistent with the provisions of this subchapter for the benefit of Native Hawaiians.

(b) "Native Hawaiian" defined

For the purposes of this section, the term ''Native Hawaiian'' means any individual any of whose ancestors were natives, prior to 1778, of the area which now comprises the State of Hawaii.

(Pub. L. 89–10, title IV, § 4118, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3685.)

REFERENCES IN TEXT

Section 7111(a)(4) of this title, referred to in subsec. (a), was in the original ''section 4111(a)(4)'', meaning section 4111(a)(4) of Pub. L. 89–10, which was translated as reading section 4011(a)(4) of that Act to reflect the probable intent of Congress, because Pub. L. 89–10 does not contain a section 4111, but does contain a section 4011(a)(4) which makes funds available to carry out programs under this section.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7111 of this title.

SUBPART 2—NATIONAL PROGRAMS

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in section 7104 of this title.

§ 7131. Federal activities

(a) Program authorized

From funds made available to carry out this subpart under section 7104(2) of this title, the Secretary, in consultation with the Secretary of Health and Human Services, the Director of the Office of National Drug Control Policy, the Chair of the Ounce of Prevention Council, and the Attorney General, shall carry out programs to prevent the illegal use of drugs and violence among, and promote safety and discipline for, students at all educational levels from preschool through the postsecondary level. The Secretary shall carry out such programs directly, or through grants, contracts, or cooperative agreements with public and private nonprofit organizations and individuals, or through agreements with other Federal agencies, and shall coordinate such programs with other appropriate Federal activities. Such programs may include—

(1) the development and demonstration of innovative strategies for training school personnel, parents, and members of the community, including the demonstration of model preservice training programs for prospective school personnel;

(2) demonstrations and rigorous evaluations of innovative approaches to drug and violence prevention;

(3) the provision of information on drug abuse education and prevention to the Secretary of Health and Human Services for dissemination by the clearinghouse for alcohol and drug abuse information established under section 290aa(d)(16) of title 42;

(4) the development of curricula related to child abuse prevention and education and the training of personnel to teach child abuse education and prevention to elementary and secondary schoolchildren;

(5) program evaluations in accordance with section 8941 of this title that address issues not addressed under section 7117(a) of this title;

(6) direct services to schools and school systems afflicted with especially severe drug and violence problems;

(7) activities in communities designated as empowerment zones or enterprise communities that will connect schools to community-wide efforts to reduce drug and violence problems;

(8) developing and disseminating drug and violence prevention materials, including video-based projects and model curricula;

(9) developing and implementing a comprehensive violence prevention strategy for schools and communities, that may include conflict resolution, peer mediation, the teaching of law and legal concepts, and other activities designed to stop violence;

(10) the implementation of innovative activities, such as community service projects, designed to rebuild safe and healthy neighborhoods and increase students' sense of individual responsibility;

(11) grants to noncommercial telecommunications entities for the production and distribution of national video-based projects that provide young people with models for conflict resolution and responsible decisionmaking;

(12) the development of education and training programs, curricula, instructional materials, and professional training and development for preventing and reducing the incidence of crimes and conflicts motivated by hate in localities most directly affected by hate crimes; and

(13) other activities that meet unmet national needs related to the purposes of this subchapter.

(b) Peer review

The Secretary shall use a peer review process in reviewing applications for funds under this section.

[1] See References in Text note below.

(Pub. L. 89–10, title IV, § 4121, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3686.)

§ 7132. Grants to institutions of higher education

(a) In general

From funds made available to carry out this subpart under section 7104(2) of this title, the Secretary is authorized to make grants to, or enter into contracts with, institutions of higher education, or consortia of such institutions, for drug and violence prevention programs under this section. Awards under this section shall support the development, implementation, validation, and dissemination of—

(1) model programs and strategies to promote the safety of students attending institutions of higher education by preventing violent behavior and the illegal use of alcohol and other drugs by such students; and

(2) such model programs and strategies shall be coordinated with the report required under section 204(a)(4)(B)[1] of the Student Right-to-Know and Campus Security Act on policies, procedures and practices which have proven effective in the reduction of campus crime.

(b) Applications

An institution of higher education, or consortium of such institutions, that desires to receive an award under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require. The Secretary shall use a peer review process for reviewing applications for funds under this section.

(c) Equitable participation

The Secretary shall make every reasonable effort to ensure the equitable participation in the activities assisted under this section of private and public institutions of higher education (including community and junior colleges), institutions of limited enrollment, and institutions in different geographic regions.

(Pub. L. 89–10, title IV, § 4122, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3687.)

REFERENCES IN TEXT

Section 204 of the Student Right-to-Know and Campus Security Act, referred to in subsec. (a)(2), means section 204 of Pub. L. 101–542, title II, Nov. 8, 1990, 104 Stat. 2385, which amended section 1092 of this title by adding a subsec. (f), which contains a par. (4)(B). Section 204(a) of Pub. L. 101–542 does not contain a par. (4).

§ 7133. Hate crime prevention

(a) Grant authorization

From funds made available to carry out this subpart under section 7104(1) of this title the Secretary may make grants to local educational agencies and community-based organizations for the purpose of providing assistance to localities most directly affected by hate crimes.

(b) Use of funds

(1) Program development

Grants under this section may be used to improve elementary and secondary educational efforts, including—

(A) development of education and training programs designed to prevent and to reduce the incidence of crimes and conflicts motivated by hate;

(B) development of curricula for the purpose of improving conflict or dispute resolution skills of students, teachers, and administrators;

(C) development and acquisition of equipment and instructional materials to meet the needs of, or otherwise be part of, hate crime or conflict programs; and

(D) professional training and development for teachers and administrators on the causes, effects, and resolutions of hate crimes or hate-based conflicts.

(2) In general

In order to be eligible to receive a grant under this section for any fiscal year, a local educational agency, or a local educational agency in conjunction with a community-based organization, shall submit an application to the Secretary in such form and containing such information as the office may reasonably require.

(3) Requirements

Each application under paragraph (2) shall include—

(A) a request for funds for the purposes described in this section;

(B) a description of the schools and communities to be served by the grants; and

(C) assurances that Federal funds received under this section shall be used to supplement, not supplant, non-Federal funds.

(4) Comprehensive plan

Each application shall include a comprehensive plan that contains—

(A) a description of the hate crime or conflict problems within the schools or the community targeted for assistance;

(B) a description of the program to be developed or augmented by such Federal and matching funds;

(C) assurances that such program or activity shall be administered by or under the supervision of the applicant;

(D) proper and efficient administration of such program; and

(E) fiscal control and fund accounting procedures as may be necessary to ensure prudent use, proper disbursement, and accurate accounting of funds received under this section.

(c) Award of grants

(1) Selection of recipients

The Secretary shall consider the incidence of crimes and conflicts motivated by bias in the targeted schools and communities in awarding grants under this section.

(2) Geographic distribution

The Secretary shall attempt, to the extent practicable, to achieve an equitable geographic distribution of grant awards.

(3) Dissemination of information

The Secretary shall attempt, to the extent practicable, to make available information re-

[1] See References in Text note below.

garding successful hate crime prevention programs, including programs established or expanded with grants under this section.

(d) Reports

The Secretary shall submit to the Congress a report every two years which shall contain a detailed statement regarding grants and awards, activities of grant recipients, and an evaluation of programs established under this section.

(Pub. L. 89–10, title IV, § 4123, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3687.)

SUBPART 3—GENERAL PROVISIONS

§ 7141. Definitions

For the purposes of this part:

(1) Community-based organization

The term ''community-based organization'' means a private nonprofit organization which is representative of a community or significant segments of a community and which provides educational or related services to individuals in the community.

(2) Drug and violence prevention

The term ''drug and violence prevention'' means—

(A) with respect to drugs, prevention, early intervention, rehabilitation referral, or education related to the illegal use of alcohol and the use of controlled, illegal, addictive, or harmful substances, including inhalants and anabolic steroids;

(B) prevention, early intervention, smoking cessation activities, or education, related to the use of tobacco by children and youth eligible for services under this subchapter; and

(C) with respect to violence, the promotion of school safety, such that students and school personnel are free from violent and disruptive acts, including sexual harassment and abuse, and victimization associated with prejudice and intolerance, on school premises, going to and from school, and at school-sponsored activities, through the creation and maintenance of a school environment that is free of weapons and fosters individual responsibility and respect for the rights of others.

(3) Hate crime

The term ''hate crime'' means a crime as described in section 1(b) of the Hate Crime Statistics Act of 1990.

(4) Nonprofit

The term ''nonprofit'', as applied to a school, agency, organization, or institution means a school, agency, organization, or institution owned and operated by one or more nonprofit corporations or associations, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(5) School-aged population

The term ''school-aged population'' means the population aged five through 17, as determined by the Secretary on the basis of the most recent satisfactory data available from the Department of Commerce.

(6) School personnel

The term ''school personnel'' includes teachers, administrators, guidance counselors, social workers, psychologists, nurses, librarians, and other support staff who are employed by a school or who perform services for the school on a contractual basis.

(Pub. L. 89–10, title IV, § 4131, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3689.)

REFERENCES IN TEXT

Section 1(b) of the Hate Crime Statistics Act of 1990, referred to in par. (3), is section 1(b) of Pub. L. 101–275, which is set out as a note under section 534 of Title 28, Judiciary and Judicial Procedure.

§ 7142. Materials

(a) "Wrong and harmful" message

Drug prevention programs supported under this part shall convey a clear and consistent message that the illegal use of alcohol and other drugs is wrong and harmful.

(b) Curriculum

The Secretary shall not prescribe the use of specific curricula for programs supported under this part, but may evaluate the effectiveness of such curricula and other strategies in drug and violence prevention.

(Pub. L. 89–10, title IV, § 4132, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3689.)

§ 7143. Prohibited uses of funds

No funds under this part may be used for—

(1) construction (except for minor remodeling needed to accomplish the purposes of this part); and

(2) medical services, drug treatment or rehabilitation, except for pupil services or referral to treatment for students who are victims of or witnesses to crime or who use alcohol, tobacco, or drugs.

(Pub. L. 89–10, title IV, § 4133, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3690.)

SUBCHAPTER V—PROMOTING EQUITY

PART A—MAGNET SCHOOLS ASSISTANCE

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 5891, 6212 of this title.

§ 7201. Findings

The Congress finds that—

(1) magnet schools are a significant part of our Nation's effort to achieve voluntary desegregation in our Nation's schools;

(2) the use of magnet schools has increased dramatically since the date of enactment of the Magnet Schools Assistance program, with approximately 1,400,000 students nationwide now attending such schools, of which more than 60 percent of the students are nonwhite;

(3) magnet schools offer a wide range of distinctive programs that have served as models for school improvement efforts;

(4) in administering the Magnet Schools Assistance program, the Federal Government has learned that—

(A) where magnet programs are implemented for only a portion of a school's student body, special efforts must be made to discourage the isolation of—

(i) magnet school students from other students in the school; and

(ii) students by racial characteristics;

(B) local educational agencies can maximize their effectiveness in achieving the purposes of the Magnet Schools Assistance program if such agencies have more flexibility in the administration of such program in order to serve students attending a school who are not enrolled in the magnet school program;

(C) local educational agencies must be creative in designing magnet schools for students at all academic levels, so that school districts do not skim off only the highest achieving students to attend the magnet schools;

(D) consistent with desegregation guidelines, local educational agencies must seek to enable participation in magnet school programs by students who reside in the neighborhoods where the programs operate; and

(E) in order to ensure that magnet schools are sustained after Federal funding ends, the Federal Government must assist school districts to improve their capacity to continue to operate magnet schools at a high level of performance; and

(5) it is in the best interest of the Federal Government to—

(A) continue the Federal Government's support of school districts implementing court-ordered desegregation plans and school districts seeking to foster meaningful interaction among students of different racial and ethnic backgrounds, beginning at the earliest stage of such students' education;

(B) ensure that all students have equitable access to quality education that will prepare such students to function well in a culturally diverse, technologically oriented, and highly competitive, global community; and

(C) maximize the ability of local educational agencies to plan, develop, implement and continue effective and innovative magnet schools that contribute to State and local systemic reform.

(Pub. L. 89–10, title V, §5101, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3690.)

§ 7202. Statement of purpose

The purpose of this part is to assist in the desegregation of schools served by local educational agencies by providing financial assistance to eligible local educational agencies for—

(1) the elimination, reduction, or prevention of minority group isolation in elementary and secondary schools with substantial proportions of minority students;

(2) the development and implementation of magnet school projects that will assist local educational agencies in achieving systemic reforms and providing all students the opportunity to meet challenging State content standards and challenging State student performance standards;

(3) the development and design of innovative educational methods and practices; and

(4) courses of instruction within magnet schools that will substantially strengthen the knowledge of academic subjects and the grasp of tangible and marketable vocational skills of students attending such schools.

(Pub. L. 89–10, title V, §5102, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3691.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7206 of this title.

§ 7203. Program authorized

The Secretary, in accordance with this part, is authorized to make grants to eligible local educational agencies, and consortia of such agencies where appropriate, to carry out the purpose of this part for magnet schools that are—

(1) part of an approved desegregation plan; and

(2) designed to bring students from different social, economic, ethnic, and racial backgrounds together.

(Pub. L. 89–10, title V, §5103, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3691.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7211 of this title.

§ 7204. "Magnet school" defined

For the purpose of this part, the term ''magnet school'' means a public elementary or secondary school or public elementary or secondary education center that offers a special curriculum capable of attracting substantial numbers of students of different racial backgrounds.

(Pub. L. 89–10, title V, §5104, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3691.)

§ 7205. Eligibility

A local educational agency, or consortium of such agencies where appropriate, is eligible to receive assistance under this part to carry out the purposes of this part if such agency or consortium—

(1) is implementing a plan undertaken pursuant to a final order issued by a court of the United States, or a court of any State, or any other State agency or official of competent jurisdiction, that requires the desegregation of minority-group-segregated children or faculty in the elementary and secondary schools of such agency; or

(2) without having been required to do so, has adopted and is implementing, or will, if assistance is made available to such local educational agency or consortium of such agencies under this part, adopt and implement a plan that has been approved by the Secretary as adequate under title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.] for the de-

segregation of minority-group-segregated children or faculty in such schools.

(Pub. L. 89–10, title V, § 5105, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3692.)

REFERENCES IN TEXT

The Civil Rights Act of 1964, referred to in par. (2), is Pub. L. 88–352, July 2, 1964, 78 Stat. 241, as amended. Title VI of the Act is classified generally to subchapter V (§ 2000d et seq.) of chapter 21 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of Title 42 and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7211 of this title.

§ 7206. Applications and requirements

(a) Applications

An eligible local educational agency or consortium of such agencies desiring to receive assistance under this part shall submit an application to the Secretary at such time, in such manner, and containing such information and assurances as the Secretary may reasonably require.

(b) Information and assurances

Each such application shall include—

(1) a description of—

(A) how assistance made available under this part will be used to promote desegregation, including how the proposed magnet school project will increase interaction among students of different social, economic, ethnic, and racial backgrounds;

(B) the manner and extent to which the magnet school project will increase student achievement in the instructional area or areas offered by the school;

(C) how an applicant will continue the magnet school project after assistance under this part is no longer available, including, if applicable, an explanation of why magnet schools established or supported by the applicant with funds under this part cannot be continued without the use of funds under this part;

(D) how funds under this part will be used to implement services and activities that are consistent with other programs under this chapter, the Goals 2000: Educate America Act [20 U.S.C. 5801 et seq.], and other Acts, as appropriate, in accordance with the provisions of section 8856 of this title; and

(E) the criteria to be used in selecting students to attend the proposed magnet school projects; and

(2) assurances that the applicant will—

(A) use funds under this part for the purposes specified in section 7202 of this title;

(B) employ State certified or licensed teachers in the courses of instruction assisted under this part to teach or supervise others who are teaching the subject matter of the courses of instruction;

(C) not engage in discrimination based on race, religion, color, national origin, sex, or disability in—

(i) the hiring, promotion, or assignment of employees of the agency or other personnel for whom the agency has any administrative responsibility;

(ii) the assignment of students to schools, or to courses of instruction within the school, of such agency, except to carry out the approved plan; and

(iii) designing or operating extracurricular activities for students;

(D) carry out a high-quality education program that will encourage greater parental decisionmaking and involvement; and

(E) give students residing in the local attendance area of the proposed magnet school projects equitable consideration for placement in those projects.

(c) Special rule

No application may be approved under this section unless the Assistant Secretary of Education for Civil Rights determines that the assurances described in subsection (b)(2)(C) of this section will be met.

(Pub. L. 89–10, title V, § 5106, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3692.)

REFERENCES IN TEXT

The Goals 2000: Educate America Act, referred to in subsec. (b)(1)(D), is Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 125 (except titles V and IX), as amended, which is classified principally to chapter 68 (§ 5801 et seq.) of this title (except subchapters V (§ 5931 et seq.) and IX (§ 6001 et seq.)). For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7211 of this title.

§ 7207. Priority

In approving applications under this part, the Secretary shall give priority to applicants that—

(1) demonstrate the greatest need for assistance, based on the expense or difficulty of effectively carrying out an approved desegregation plan and the projects for which assistance is sought;

(2) propose to carry out new magnet school projects, or significantly revise existing magnet school projects;

(3) propose to select students to attend magnet school projects by methods such as lottery, rather than through academic examination;

(4) propose to implement innovative educational approaches that are consistent with the State's and local educational agency's approved systemic reform plans, if any, under title III of the Goals 2000: Educate America Act [20 U.S.C. 5881 et seq.]; and

(5) propose to draw on comprehensive community involvement plans.

(Pub. L. 89–10, title V, § 5107, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3693.)

REFERENCES IN TEXT

The Goals 2000: Educate America Act, referred to in par. (4), is Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 125 (except titles V and IX), as amended. Title III of the Act is classified generally to subchapter III (§ 5881 et seq.) of chapter 68 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7211 of this title.

§ 7208. Use of funds

(a) In general

Grant funds made available under this part may be used by an eligible local educational agency or consortium of such agencies—

(1) for planning and promotional activities directly related to the development, expansion, continuation, or enhancement of academic programs and services offered at magnet schools;

(2) for the acquisition of books, materials, and equipment, including computers and the maintenance and operation thereof, necessary for the conduct of programs in magnet schools;

(3) for the payment, or subsidization of the compensation, of elementary and secondary school teachers who are certified or licensed by the State, and instructional staff where applicable, who are necessary for the conduct of programs in magnet schools; and

(4) with respect to a magnet school program offered to less than the entire student population of a school, for instructional activities that—

(A) are designed to make available the special curriculum that is offered by the magnet school project to students who are enrolled in the school but who are not enrolled in the magnet school program; and

(B) further the purposes of this part.

(b) Special rule

Grant funds under this part may be used in accordance with paragraphs (2) and (3) of subsection (a) of this section only if the activities described in such paragraphs are directly related to improving the students' reading skills or knowledge of mathematics, science, history, geography, English, foreign languages, art, or music, or to improving vocational skills.

(Pub. L. 89–10, title V, § 5108, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3693.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7211 of this title.

§ 7209. Prohibitions

(a) Transportation

Grants under this part may not be used for transportation or any activity that does not augment academic improvement.

(b) Planning

A local educational agency shall not expend funds under this part after the third year that such agency receives funds under this part for such project.

(Pub. L. 89–10, title V, § 5109, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3694.)

§ 7210. Limitations

(a) Duration of awards

A grant under this part shall be awarded for a period that shall not exceed three fiscal years.

(b) Limitation on planning funds

A local educational agency may expend for planning not more than 50 percent of the funds received under this part for the first year of the project, 15 percent of such funds for the second such year, and 10 percent of such funds for the third such year.

(c) Amount

No local educational agency or consortium awarded a grant under this part shall receive more than $4,000,000 under this part in any one fiscal year.

(d) Timing

To the extent practicable, the Secretary shall award grants for any fiscal year under this part not later than June 1 of the applicable fiscal year.

(Pub. L. 89–10, title V, § 5110, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3694.)

§ 7211. Innovative programs

(a) In general

From amounts reserved under subsection (d) of this section for each fiscal year, the Secretary shall award grants to local educational agencies or consortia of such agencies described in section 7205 of this title to enable such agencies or consortia to conduct innovative programs that—

(1) carry out the purpose of this part; and

(2) involve strategies other than magnet schools, such as neighborhood or community model schools—

(A) organized around a special emphasis, theme or concept; and

(B) involving extensive parent and community involvement.

(b) Applicability

Sections 7203, 7206, 7207, and 7208 of this title,[1] shall not apply to grants awarded under subsection (a) of this section.

(c) Applications

Each local educational agency or consortia of such agencies desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information and assurances as the Secretary may reasonably require.

(d) Innovative programs

The Secretary shall reserve not more than 5 percent of the funds appropriated under section 7213(a) of this title for each fiscal year to award grants under this section.

(Pub. L. 89–10, title V, § 5111, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3694.)

§ 7212. Evaluations

(a) Reservation

The Secretary may reserve not more than two percent of the funds appropriated under section 7213(a) of this title for any fiscal year to carry out evaluations of projects assisted under this part.

(b) Contents

Each evaluation described in subsection (a) of this section, at a minimum, shall address—

[1] So in original. The comma probably should not appear.

(1) how and the extent to which magnet school programs lead to educational quality and improvement;

(2) the extent to which magnet school programs enhance student access to quality education;

(3) the extent to which magnet school programs lead to the elimination, reduction, or prevention of minority group isolation in elementary and secondary schools with substantial proportions of minority students; and

(4) the extent to which magnet school programs differ from other school programs in terms of the organizational characteristics and resource allocations of such magnet school programs.

(Pub. L. 89–10, title V, § 5112, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3695.)

§ 7213. Authorization of appropriations; reservation

(a) Authorization

For the purpose of carrying out this part, there are authorized to be appropriated $120,000,000 for fiscal year 1995 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(b) Availability of funds for grants to agencies not previously assisted

In any fiscal year for which the amount appropriated pursuant to subsection (a) of this section exceeds $75,000,000, the Secretary shall give priority to using such amounts in excess of $75,000,000 to award grants to local educational agencies or consortia of such agencies that did not receive a grant under this part in the preceding fiscal year.

(Pub. L. 89–10, title V, § 5113, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3695.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7211, 7212 of this title.

PART B—WOMEN'S EDUCATIONAL EQUITY

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 6649 of this title.

§ 7231. Short title; findings

(a) Short title

This part may be cited as the ''Women's Educational Equity Act of 1994''.

(b) Findings

The Congress finds that—

(1) since the enactment of title IX of the Education Amendments of 1972 [20 U.S.C. 1681 et seq.], women and girls have made strides in educational achievement and in their ability to avail themselves of educational opportunities;

(2) because of funding provided under the Women's Educational Equity Act, more curricula, training, and other educational materials concerning educational equity for women and girls are available for national dissemination;

(3) teaching and learning practices in the United States are frequently inequitable as such practices relate to women and girls, for example—

(A) sexual harassment, particularly that experienced by girls, undermines the ability of schools to provide a safe and equitable learning or workplace environment;

(B) classroom textbooks and other educational materials do not sufficiently reflect the experiences, achievements, or concerns of women and, in most cases, are not written by women or persons of color;

(C) girls do not take as many mathematics and science courses as boys, girls lose confidence in their mathematics and science ability as girls move through adolescence, and there are few women role models in the sciences; and

(D) pregnant and parenting teenagers are at high risk for dropping out of school and existing dropout prevention programs do not adequately address the needs of such teenagers;

(4) efforts to improve the quality of public education also must include efforts to ensure equal access to quality education programs for all women and girls;

(5) Federal support should address not only research and development of innovative model curricula and teaching and learning strategies to promote gender equity, but should also assist schools and local communities implement gender equitable practices;

(6) Federal assistance for gender equity must be tied to systemic reform, involve collaborative efforts to implement effective gender practices at the local level, and encourage parental participation; and

(7) excellence in education, high educational achievements and standards, and the full participation of women and girls in American society, cannot be achieved without educational equity for women and girls.

(Pub. L. 89–10, title V, § 5201, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3695.)

REFERENCES IN TEXT

The Education Amendments of 1972, referred to in subsec. (b)(1), is Pub. L. 92–318, June 23, 1972, 86 Stat. 235, as amended. Title IX of the Act is classified principally to chapter 38 (§ 1681 et seq.) of this title. For complete classification of this Act to the Code, see Short Title of 1972 Amendment note set out under section 1001 of this title and Tables.

The Women's Educational Equity Act, referred to in subsec. (b)(2), is part A of title IV of Pub. L. 89–10, as added by Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 234, which was classified generally to part A (§ 3041 et seq.) of subchapter IV of chapter 47 of this title prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519.

§ 7232. Statement of purposes

It is the purpose of this part—

(1) to promote gender equity in education in the United States;

(2) to provide financial assistance to enable educational agencies and institutions to meet the requirements of title IX of the Educational Amendments of 1972 [20 U.S.C. 1681 et seq.]; and

(3) to promote equity in education for women and girls who suffer from multiple

forms of discrimination based on sex, race, ethnic origin, limited-English proficiency, disability, or age.

(Pub. L. 89–10, title V, § 5202, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3696.)

REFERENCES IN TEXT

The Educational Amendments of 1972, referred to in par. (2), probably means the Education Amendments of 1972, which is Pub. L. 92–318, June 23, 1972, 86 Stat. 235, as amended. Title IX of the Act is classified principally to chapter 38 (§ 1681 et seq.) of this title. For complete classification of this Act to the Code, see Short Title of 1972 Amendment note set out under section 1001 of this title and Tables.

§ 7233. Programs authorized

(a) In general

The Secretary is authorized—

(1) to promote, coordinate, and evaluate gender equity policies, programs, activities and initiatives in all Federal education programs and offices;

(2) to develop, maintain, and disseminate materials, resources, analyses, and research relating to education equity for women and girls;

(3) to provide information and technical assistance to assure the effective implementation of gender equity programs;

(4) to coordinate gender equity programs and activities with other Federal agencies with jurisdiction over education and related programs;

(5) to assist the Assistant Secretary of the Office of Educational Research and Improvement in identifying research priorities related to education equity for women and girls; and

(6) to perform any other activities consistent with achieving the purposes of this part.

(b) Grants authorized

(1) In general

The Secretary is authorized to make grants to, and enter into contracts and cooperative agreements with, public agencies, private nonprofit agencies, organizations, institutions, student groups, community groups, and individuals, for a period not to exceed four years, to—

(A) provide grants to develop model equity programs; and

(B) provide funds for the implementation of equity programs in schools throughout the Nation.

(2) Support and technical assistance

To achieve the purposes of this part, the Secretary is authorized to provide support and technical assistance—

(A) to implement effective gender-equity policies and programs at all educational levels, including—

(i) assisting educational agencies and institutions to implement policies and practices to comply with title IX of the Education Amendments of 1972 [20 U.S.C. 1681 et seq.];

(ii) training for teachers, counselors, administrators, and other school personnel, especially preschool and elementary school personnel, in gender equitable teaching and learning practices;

(iii) leadership training for women and girls to develop professional and marketable skills to compete in the global marketplace, improve self-esteem, and benefit from exposure to positive role models;

(iv) school-to-work transition programs, guidance and counseling activities, and other programs to increase opportunities for women and girls to enter a technologically demanding workplace and, in particular, to enter highly skilled, high paying careers in which women and girls have been underrepresented;

(v) enhancing educational and career opportunities for those women and girls who suffer multiple forms of discrimination, based on sex and on race, ethnic origin, limited-English proficiency, disability, socioeconomic status, or age;

(vi) assisting pregnant students and students rearing children to remain in or to return to secondary school, graduate, and prepare their preschool children to start school;

(vii) evaluating exemplary model programs to assess the ability of such programs to advance educational equity for women and girls;

(viii) introduction into the classroom of textbooks, curricula, and other materials designed to achieve equity for women and girls;

(ix) programs and policies to address sexual harassment and violence against women and girls and to ensure that educational institutions are free from threats to the safety of students and personnel;

(x) nondiscriminatory tests of aptitude and achievement and of alternative assessments that eliminate biased assessment instruments from use;

(xi) programs to increase educational opportunities, including higher education, vocational training, and other educational programs for low-income women, including underemployed and unemployed women, and women receiving assistance under a State program funded under part A of title IV of the Social Security Act [42 U.S.C. 601 et seq.];

(xii) programs to improve representation of women in educational administration at all levels; and

(xiii) planning, development and initial implementation of—

(I) comprehensive institution- or districtwide evaluation to assess the presence or absence of gender equity in educational settings;

(II) comprehensive plans for implementation of equity programs in State and local educational agencies and institutions of higher education; including community colleges; and

(III) innovative approaches to school-community partnerships for educational equity.

(B) for research and development, which shall be coordinated with each of the re-

search institutes of the Office of Educational Research and Improvement to avoid duplication of research efforts, designed to advance gender equity nationwide and to help make policies and practices in educational agencies and institutions, and local communities, gender equitable, including—

(i) research and development of innovative strategies and model training programs for teachers and other education personnel;

(ii) the development of high quality and challenging assessment instruments that are nondiscriminatory;

(iii) the development and evaluation of model curricula, textbooks, software, and other educational materials to ensure the absence of gender stereotyping and bias;

(iv) the development of instruments and procedures that employ new and innovative strategies to assess whether diverse educational settings are gender equitable;

(v) the development of instruments and strategies for evaluation, dissemination, and replication of promising or exemplary programs designed to assist local educational agencies in integrating gender equity in their educational policies and practices;

(vi) updating high quality educational materials previously developed through awards made under this part;

(vii) the development of policies and programs to address and prevent sexual harassment and violence to ensure that educational institutions are free from threats to safety of students and personnel;

(viii) the development and improvement of programs and activities to increase opportunity for women, including continuing educational activities, vocational education, and programs for low-income women, including underemployed and unemployed women, and women receiving assistance under the State program funded under part A of title IV of the Social Security Act [42 U.S.C. 601 et seq.]; and

(ix) the development of guidance and counseling activities, including career education programs, designed to ensure gender equity.

(Pub. L. 89–10, title V, § 5203, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3696; amended Pub. L. 104–193, title I, § 110(j)(3), Aug. 22, 1996, 110 Stat. 2172.)

REFERENCES IN TEXT

The Education Amendments of 1972, referred to in subsec. (b)(2)(A)(i), is Pub. L. 92–318, June 23, 1972, 86 Stat. 235, as amended. Title IX of the Act is classified principally to chapter 38 (§ 1681 et seq.) of this title. For complete classification of this Act to the Code, see Short Title of 1972 Amendment note set out under section 1001 of this title and Tables.

The Social Security Act, referred to in subsec. (b)(2)(A)(xi), (B)(viii), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Part A of title IV of the Act is classified generally to part A (§ 601 et seq.) of subchapter IV of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

AMENDMENTS

1996—Subsec. (b)(2)(A)(xi). Pub. L. 104–193, § 110(j)(3)(A), substituted ''assistance under a State program funded under part A of title IV of the Social Security Act'' for ''Aid to Families with Dependent Children benefits''.

Subsec. (b)(2)(B)(viii). Pub. L. 104–193, § 110(j)(3)(B), substituted ''assistance under the State program funded under part A of title IV of the Social Security Act'' for ''Aid to Families with Dependent Children''.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–193 effective July 1, 1997, with transition rules relating to State options to accelerate such date, rules relating to claims, actions, and proceedings commenced before such date, rules relating to closing out of accounts for terminated or substantially modified programs and continuance in office of Assistant Secretary for Family Support, and provisions relating to termination of entitlement under AFDC program, see section 116 of Pub. L. 104–193, as amended, set out as an Effective Date note under section 601 of Title 42, The Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7234, 7235, 7238 of this title.

§ 7234. Applications

An application under this part shall—

(1) set forth policies and procedures that will ensure a comprehensive evaluation of the activities assisted under this part, including an evaluation of the practices, policies, and materials used by the applicant and an evaluation or estimate of the continued significance of the work of the project following completion of the award period;

(2) where appropriate, demonstrate how funds received under this part will be used to promote the attainment of one or more of the National Education Goals;

(3) demonstrate how the applicant will address perceptions of gender roles based on cultural differences or stereotypes;

(4) where appropriate, describe how funds under this part will be used in a manner that is consistent with programs under the School-to-Work Opportunities Act of 1994 [20 U.S.C. 6101 et seq.];

(5) for applications for assistance under section 7233(b)(1) of this title, demonstrate how the applicant will foster partnerships and, where applicable, share resources with State educational agencies, local educational agencies, institutions of higher education, community-based organizations (including organizations serving women), parent, teacher, and student groups, businesses or other recipients of Federal educational funding which may include State literacy resource centers;

(6) for applications for assistance under section 7233(b)(1) of this title, demonstrate how parental involvement in the project will be encouraged; and

(7) for applications for assistance under section 7233(b)(1) of this title, describe plans for continuation of the activities assisted under this part with local support following completion of the grant period and termination of Federal support under this part.

(Pub. L. 89–10, title V, § 5204, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3699.)

REFERENCES IN TEXT

The School-to-Work Opportunities Act of 1994, referred to in par. (4), is Pub. L. 103–239, May 4, 1994, 108 Stat. 568, as amended, which is classified principally to chapter 69 (§6101 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6101 of this title and Tables.

§ 7235. Criteria and priorities

(a) Criteria and priorities

(1) In general

The Secretary shall establish separate criteria and priorities for awards under paragraphs (1) and (2) of section 7233(b) of this title to ensure that funds under this part are used for programs that most effectively will achieve the purposes of this part.

(2) Criteria

The criteria described in subsection (a) of this section may include the extent to which the activities assisted under this part—

(A) address the needs of women and girls of color and women and girls with disabilities;

(B) meet locally defined and documented educational equity needs and priorities, including compliance with title IX of the Education Amendments of 1972 [20 U.S.C. 1681 et seq.];

(C) are a significant component of a comprehensive plan for educational equity and compliance with title IX of the Education Amendments of 1972 [20 U.S.C. 1681 et seq.] in the particular school district, institution of higher education, vocational-technical institution, or other educational agency or institution; and

(D) implement an institutional change strategy with long-term impact that will continue as a central activity of the applicant after the grant under this part has terminated.

(b) Priorities

In approving applications under this part, the Secretary may give special consideration to applications—

(1) submitted by applicants that have not received assistance under this part or under part C of title IX of this Act (as such part was in effect on October 1, 1988);

(2) for projects that will contribute significantly to directly improving teaching and learning practices in the local community; and

(3) for projects that will—

(A) provide for a comprehensive approach to enhancing gender equity in educational institutions and agencies;

(B) draw on a variety of resources, including the resources of local educational agencies, community-based organizations, institutions of higher education, and private organizations;

(C) implement a strategy with long-term impact that will continue as a central activity of the applicant after the grant under this part has terminated;

(D) address issues of national significance that can be duplicated; and

(E) address the educational needs of women and girls who suffer multiple or compound discrimination based on sex and on race, ethnic origin, disability, or age.

(c) Special rule

To the extent feasible, the Secretary shall ensure that grants awarded under this part for each fiscal year address—

(1) all levels of education, including preschool, elementary and secondary education, higher education, vocational education, and adult education;

(2) all regions of the United States; and

(3) urban, rural, and suburban educational institutions.

(d) Coordination

Research activities supported under this part—

(1) shall be carried out in consultation with the Office of Educational Research and Improvement to ensure that such activities are coordinated with and enhance the research and development activities supported by the Office; and

(2) may include collaborative research activities which are jointly funded and carried out with the Office of Educational Research and Improvement.

(e) Limitation

Nothing in this part shall be construed as prohibiting men and boys from participating in any programs or activities assisted with funds under this part.

(Pub. L. 89–10, title V, §5205, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3699.)

REFERENCES IN TEXT

The Education Amendments of 1972, referred to in subsec. (a)(2)(B), (C), is Pub. L. 92–318, June 23, 1972, 86 Stat. 235, as amended. Title IX of the Act is classified principally to chapter 38 (§1681 et seq.) of this title. For complete classification of this Act to the Code, see Short Title of 1972 Amendment note set out under section 1001 of this title and Tables.

Part C of title IX of this Act (as such part was in effect on October 1, 1988), referred to in subsec. (b)(1), is part C of title IX of Pub. L. 89–10, as added by Pub. L. 95–561, title VIII, §802, Nov. 1, 1978, 92 Stat. 2298, as amended, known as the Women's Educational Equity Act of 1978, which was classified generally to part C (§3341 et seq.) of subchapter IX of chapter 47 of this title, prior to the general revision of Pub. L. 89–10 by Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 140.

§ 7236. Report

The Secretary, not later than January 1, 1999, shall submit to the President and the Congress a report on the status of educational equity for girls and women in the Nation.

(Pub. L. 89–10, title V, §5206, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3700.)

§ 7237. Administration

(a) Evaluation and dissemination

The Secretary shall evaluate in accordance with section 8941 of this title, and disseminate, materials and programs developed under this part and shall report to the Congress regarding such evaluation materials and programs not later than January 1, 1998.

(b) Program operations

The Secretary shall ensure that the activities assisted under this part are administered within

the Department by a person who has recognized professional qualifications and experience in the field of gender equity education.

(Pub. L. 89–10, title V, § 5207, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3700.)

§ 7238. Authorization of appropriations

For the purpose of carrying out this part, there are authorized to be appropriated $5,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years, of which not less than two-thirds of the amount appropriated under this section for each fiscal year shall be available to carry out the activities described in section 7233(b)(1) of this title.

(Pub. L. 89–10, title V, § 5208, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3701.)

PART C—ASSISTANCE TO ADDRESS SCHOOL DROPOUT PROBLEMS

PRIOR PROVISIONS

Provisions similar to those in this part were contained in part A (§ 3241 et seq.) of subchapter VI of chapter 47 of this title prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382, § 101, and in subpart 1 (§ 5051 et seq.) of part C of subchapter I of chapter 62 of this title prior to repeal by Pub. L. 103–382, § 391(i).

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 1232d of this title.

§ 7261. Short title

This part may be cited as the ''School Dropout Assistance Act''.

(Pub. L. 89–10, title V, § 5301, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3701.)

§ 7262. Purpose

The purpose of this part is to reduce the number of children who do not complete their elementary and secondary education by providing grants to local educational agencies to establish—

(1) effective programs to identify potential student dropouts, including pregnant and parenting teenagers, and prevent such students from dropping out of school;

(2) effective programs to identify and encourage children who have already dropped out to reenter school and complete their elementary and secondary education;

(3) effective early intervention programs designed to identify at-risk students in elementary and secondary schools; and

(4) model systems for collecting and reporting information to local school officials on the number, ages, sex, race or ethnicity, and grade levels of the children not completing their elementary and secondary education and the reasons why such children have dropped out of school.

(Pub. L. 89–10, title V, § 5302, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3701.)

§ 7263. Grants to local educational agencies

(a) Allotment to categories of local educational agencies

From the amount appropriated under section 7268 of this title for any fiscal year, the Secretary shall first reserve not more than $2,000,000 for the purposes of evaluating programs carried out with assistance under this part in accordance with section 8941 of this title. From the remaining amount, the Secretary shall allot the following percentages to each of the following categories of local educational agencies:

(1) Local educational agencies administering schools with a total enrollment of 100,000 or more elementary and secondary school students shall be allotted 25 percent of such remaining amount.

(2) Local educational agencies administering schools with a total enrollment of at least 20,000 but less than 100,000 elementary and secondary school students shall be allotted 40 percent of such remaining amount.

(3) Local educational agencies administering schools with a total enrollment of less than 20,000 elementary and secondary school students shall be allotted 30 percent of such remaining amount. Grants may be made under this paragraph to educational service agencies and consortia of not more than 5 local educational agencies in any case in which the total enrollment of the largest such local educational agency is less than 20,000 elementary and secondary students. Such agencies and consortia may also apply for assistance under this part in conjunction with the State educational agency. Not less than 20 percent of funds available under this paragraph shall be awarded to local educational agencies administering schools with a total enrollment of less than 2,000 elementary and secondary school students.

(4) Community-based organizations shall be allotted 5 percent of such remaining amount. Grants under this paragraph shall be made after consultation between the community-based organization and the local educational agency that is to benefit from such a grant.

(b) Special consideration

(1) In general

The Secretary shall give special consideration to awarding funds available for each category described in paragraphs (1), (2), and (3) of subsection (a) of this section to local educational agencies participating in an educational partnership.

(2) Educational partnerships

For the purpose of this part the term ''educational partnerships'' means a partnership between—

(A) a local educational agency; and

(B) a business concern or business organization, community-based organization, nonprofit private organization, institution of higher education, State educational agency, State or local public agency, private industry council (established under the Job Training Partnership Act [29 U.S.C. 1501 et seq.]), museum, library, or educational television or broadcasting station.

(c) Award of grant

(1) In general

From the amount allotted for any fiscal year to a category of local educational agen-

cies under subsection (a) of this section, the Secretary shall award as many grants as practicable within each such category to local educational agencies and educational partnerships whose applications have been approved by the Secretary for such fiscal year under section 7264[1] of this title and whose applications propose a program of sufficient size, scope, and quality to be effective.

(2) Additional funds

Any local educational agency or educational partnership that has received a grant under this part shall be eligible for additional funds as provided under subsection (d) of this section.

(3) Terms and conditions

Grants under this part shall be made under such terms and conditions as the Secretary shall prescribe.

(d) Use of funds when not fully allotted to categories under subsection (a)

(1) In general

Whenever the Secretary determines that the full amount of the sums allotted under any category set forth under subsection (a) of this section will not be required for applications of the local educational agencies in the case of categories described in paragraphs[2] (1), (2), or (3) of subsection (a) of this section, the Secretary shall make the amount not so required available to another category under subsection (a) of this section. In carrying out the provisions of this subsection, the Secretary shall assure that the transfer of amounts from one category to another is made to a category in which there is the greatest need for funds.

(2) Peer review

In order to transfer funds under this subsection, the Secretary shall use a peer review process to determine that such excess funds are not needed to fund projects in particular categories and shall prepare a list of the categories in which funds were not fully expended and the reasons therefor, and make such list available to local educational agencies and educational partnerships upon request. The Secretary may use the peer review process to determine grant recipients of funds transferred in accordance with this subsection.

(e) Federal share

(1) Federal share

The Federal share of a grant under this part may not exceed—

(A) 90 percent of the total cost of a project for the first year for which the project receives assistance under this part; and

(B) 75 percent of such cost in each such succeeding fiscal year.

(2) Remaining costs

The remaining cost of a project that receives assistance under this part may be paid from any source other than funds made available under this part, except that not more than 10 percent of the remaining cost in any fiscal year may be provided from Federal sources other than this part.

(3) Non-Federal share

The share of payments from sources other than funds made available under this part may be in cash or in kind fairly evaluated, including plant, equipment or services.

(Pub. L. 89–10, title V, § 5303, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3701.)

REFERENCES IN TEXT

The Job Training Partnership Act, referred to in subsec. (b)(2)(B), is Pub. L. 97–300, Oct. 13, 1982, 96 Stat. 1322, as amended, which is classified generally to chapter 19 (§ 1501 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 1501 of Title 29 and Tables.

Section 7264 of this title, referred to in subsec. (c)(1), was in the original ''section 5304'', meaning section 5304 of Pub. L. 89–10, which was translated as reading section 5404 of that Act to reflect the probable intent of Congress, because Pub. L. 89–10 does not contain a section 5304, but does contain a section 5404 relating to applications for grants under this part.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7264, 7266 of this title.

§ 7264. Application

(a) Application required

(1) In general

A grant under this part may be made only to a local educational agency or an educational partnership which submits an application to the Secretary containing such information as may be required by the Secretary by regulation.

(2) Duration

Each such application shall be for a three-year period.

(b) Contents

Each such application shall—

(1) provide documentation of—

(A) the number of children who were enrolled in the schools to be served by the applicant for the five academic years prior to the date application is made who have not completed their elementary or secondary education and who are classified as school dropouts; and

(B) the percentage that such number of children is of the total school-age population in the applicant's schools;

(2) include a plan for the development and implementation of a school dropout information collection and reporting system for documenting the extent and nature of the dropout problem, which system shall collect and cross tabulate data, where feasible, by sex according to race or ethnicity and socioeconomic status;

(3) include a plan for coordinated activities involving not less than one secondary school and its feeder junior high or middle schools and elementary schools for local educational agencies that have feeder systems;

(4) when applicable, describe how programs assisted under this part will be coordinated

[1] See References in Text note below.

[2] So in original. Probably should be ''paragraph''.

with, and not duplicate, programs assisted under subchapter I of this chapter;

(5) include a description of how the program assisted under this part is consistent with the second National Education Goal, relating to school completion, and other Federal programs as appropriate; and

(6) contain such other information as the Secretary considers necessary to determine the nature of the local needs, the quality of the proposed project, and the capability of the applicant to carry out the project.

(c) Priority

The Secretary shall, in approving applications under this section, give priority to applications which—

(1) demonstrate the replication of successful programs conducted in other local educational agencies or the expansion of successful programs within a local educational agency; and

(2) reflect very high numbers or very high percentages of school dropouts in the schools of the applicant in each category described in section 7263(a) of this title.

(d) Special consideration

The Secretary shall give additional special consideration to applications that include—

(1) provisions which emphasize early intervention services designed to identify at-risk students in elementary or early secondary schools; and

(2) provisions for significant parental involvement.

(e) Grants for new grantees

In awarding grants under this part the Secretary shall use only the priorities and special considerations described in subsections (c) and (d) of this section.

(f) Continuation of assistance

For the two fiscal years beginning after October 20, 1994, the Secretary shall approve an application under this section for a local educational agency which received funding in fiscal year 1994 under the School Dropout Demonstration Assistance Act of 1988 (20 U.S.C. 3241 et seq.) and which—

(1) satisfies the requirements of this section;

(2) qualifies for special consideration or priority under—

(A) section 7263(b) of this title; and

(B) subsections (c) and (d) of this section; and

(3) provides evidence that the program for which such agency is seeking assistance is effective in—

(A) providing early intervention services to at-risk students in elementary and secondary schools;

(B) identifying potential student dropouts; and

(C) preventing students from dropping out of school.

(Pub. L. 89–10, title V, § 5404 [5304], as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3703.)

REFERENCES IN TEXT

The School Dropout Demonstration Assistance Act of 1988 (20 U.S.C. 3241 et seq.), referred to in subsec. (f), is part A of title VI of Pub. L. 89–10, as added by Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 265, as amended, which was classified generally to part A (§ 3241 et seq.) of subchapter VI of chapter 47 of this title prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519. Another School Dropout Demonstration Assistance Act of 1988 is subpart 1 of part C of title VI of Pub. L. 100–418 which was classified to subpart 1 (§ 5051 et seq.) of part C of subchapter I of chapter 62 of this title prior to repeal by Pub. L. 103–382, title III, § 391(i), Oct. 20, 1994, 108 Stat. 4023.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7263, 7265 of this title.

§ 7265. Authorized activities

Grants under this part shall be used to carry out activities and services described in applications approved under section 7264[1] of this title. In addition, grants may be used for educational, occupational, and basic skills testing services and activities, including—

(1) the establishment of systemwide or school-level policies, procedures, and plans for dropout prevention and school reentry;

(2) the development and implementation of activities, including extended day or summer programs, designed to address poor achievement, basic skills deficiencies, language deficiencies, or course failures, in order to assist students at risk of dropping out of school and students reentering school, including youth returning to school from a correctional or other facility operated for delinquent youth;

(3) the establishment or expansion of work-study, apprentice, or internship programs;

(4) the use of resources of the community, including contracting with public or private entities or community-based organizations of demonstrated performance, to provide services to the grant recipient or the target population;

(5) the evaluation and revision of program placement of students at risk;

(6) the evaluation of program effectiveness of dropout programs;

(7) the development and implementation of programs for traditionally underserved groups of students;

(8) the implementation of activities which will improve student motivation and the school learning environment;

(9) the provision of training for school personnel on strategies and techniques designed to—

(A) identify children at risk of dropping out of school;

(B) intervene in the instructional program for such children with support and remedial services;

(C) develop realistic expectations for student performance; and

(D) improve student-staff interactions;

(10) the study of the relationship between drugs and school dropouts and between youth gangs and school dropouts, and the coordination of dropout prevention and reentry programs with appropriate drug prevention and

[1] See References in Text note below.

community organizations for the prevention of youth gangs;

(11) the study of the relationship between disabling conditions and student dropouts;

(12) the study of the relationship between the dropout rate for gifted and talented students compared to the dropout rate for the general student enrollment;

(13) the use of educational telecommunications and broadcasting technologies and educational materials designed to extend, motivate, and reinforce school, community, and home dropout prevention and reentry activities;

(14) the development and implementation of efforts to identify and address factors in a student's decision to drop out of school that are related to gender and family roles, including activities and services designed to meet the needs of pregnant and parenting teenagers;

(15) the provision of other educational, occupational and testing services and activities which directly relate to the purpose of this part;

(16) activities which offer jobs and college admissions for successful completion of the program for which assistance is sought;

(17) summer employment programs;

(18) occupational training programs;

(19) career opportunity and skills counseling;

(20) job placement services;

(21) the development of skill employment competency testing programs;

(22) special school staff training projects; and

(23) mentoring programs.

(Pub. L. 89–10, title V, §5305, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3704.)

REFERENCES IN TEXT

Section 7264 of this title, referred to in text, was in the original ''section 5304'', meaning section 5304 of Pub. L. 89–10, which was translated as reading section 5404 of that Act to reflect the probable intent of Congress, because Pub. L. 89–10 does not contain a section 5304, but does contain a section 5404 relating to applications for grants under this part.

§ 7266. Distribution of assistance; limitation on costs

(a) Distribution of assistance

The Secretary shall ensure that, to the extent practicable, in approving grant applications under this part—

(1) grants are equitably distributed on a geographic basis within each category set forth in section 7263(a) of this title;

(2) the amount of a grant to a local educational agency or an educational partnership for a fiscal year is proportionate to the extent and severity of the local school dropout problem;

(3) not less than 30 percent of the amount available for grants in each fiscal year is used for activities relating to school dropout prevention; and

(4) not less than 30 percent of the amount available for grants in each fiscal year is used for activities relating to persuading school dropouts to return to school and assisting former school dropouts with specialized services once school dropouts return to school.

(b) Administrative costs

Not more than five percent of any grant made under this part may be used for administrative costs.

(Pub. L. 89–10, title V, §5306, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3706.)

§ 7267. Reports

(a) Annual reports

The Secretary shall submit to the Congress a report by January 1 of each year, beginning on January 1, 1995, which sets forth the progress of the Commissioner of Education Statistics, established under section 9002(b) of this title, to implement a definition and data collection process for school dropouts in elementary and secondary schools, including statistical information for the number and percentage of elementary and secondary school students by gender, race, and ethnic origin who drop out of school each year, including dropouts—

(1) throughout the Nation by rural and urban location as defined by the Secretary; and

(2) in each of the individual States and the District of Columbia.

(b) Recommendations

The report under subsection (a) of this section shall also contain recommendations on ways in which the Federal Government, States and localities can further support the implementation of an effective methodology to accurately measure school dropout and retention rates on the national, State, and local levels.

(Pub. L. 89–10, title V, §5307, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3706.)

§ 7268. Authorization of appropriations

There are authorized to be appropriated $50,000,000 for fiscal year 1995, and such sums as may be necessary for each of the 4 succeeding fiscal years, to carry out this part.

(Pub. L. 89–10, title V, §5308, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3706.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7263 of this title.

SUBCHAPTER VI—INNOVATIVE EDUCATION PROGRAM STRATEGIES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 7713, 8801, 8857 of this title.

§ 7301. Findings and statement of purpose

(a) Findings

The Congress finds that chapter 2 of title I of this Act (as such chapter was in effect on the day preceding October 20, 1994) has been successful in achieving the goals of increasing local flexibility, reducing administrative burden, providing services for private school students, encouraging innovation, and contributing to the improvement of elementary and secondary educational programs.

(b) Statement of purpose

It is the purpose of programs under this subchapter—

(1) to support local education reform efforts which are consistent with and support statewide reform efforts under Goals 2000: Educate America Act [20 U.S.C. 5801 et seq.];

(2) to support State and local efforts to accomplish the National Education Goals;

(3) to provide funding to enable State and local educational agencies to implement promising educational reform programs;

(4) to provide a continuing source of innovation, and educational improvement, including support for library services and instructional and media materials; and

(5) to meet the special educational needs of at risk and high cost students.

(c) State and local responsibility

The basic responsibility for the administration of funds made available under this subchapter is within the State educational agencies, but it is the intent of Congress that the responsibility be carried out with a minimum of paperwork and that the responsibility for the design and implementation of programs assisted under this subchapter will be mainly that of local educational agencies, school superintendents and principals, and classroom teachers and supporting personnel, because such agencies and individuals have the most direct contact with students and are most likely to be able to design programs to meet the educational needs of students in their own school districts.

(Pub. L. 89–10, title VI, § 6001, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3707.)

REFERENCES IN TEXT

Chapter 2 of title I of this Act (as such chapter was in effect on the day preceding October 20, 1994), referred to in subsec. (a), means chapter 2 of title I of Pub. L. 89–10, as added by Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 203, as amended, which was classified generally to div. 2 (§ 2911 et seq.) of subchapter I of chapter 47 of this title prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519.

The Goals 2000: Educate America Act, referred to in subsec. (b)(1), is Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 125 (except titles V and IX), as amended, which is classified principally to chapter 68 (§ 5801 et seq.) of this title (except subchapters V (§ 5931 et seq.) and IX (§ 6001 et seq.)). For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables.

§ 7302. Authorization of appropriations; duration of assistance

(a) Authorization

To carry out the purposes of this subchapter, there are authorized to be appropriated $370,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

(b) Duration of assistance

During the period beginning October 1, 1994, and ending September 30, 1999, the Secretary shall, in accordance with the provisions of this subchapter, make payments to State educational agencies for the purpose of this subchapter.

(Pub. L. 89–10, title VI, § 6002, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3707.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7312 of this title.

§ 7303. "Effective schools programs" defined

For the purposes of this subchapter the term ''effective schools programs'' means school-based programs that may encompass preschool through secondary school levels and that have the objectives of (1) promoting school-level planning, instructional improvement, and staff development, (2) increasing the academic achievement levels of all children and particularly educationally disadvantaged children, and (3) achieving as ongoing conditions in the school the following factors identified through effective schools research as distinguishing effective from ineffective schools:

(A) Strong and effective administrative and instructional leadership that creates consensus on instructional goals and organizational capacity for instructional problem solving.

(B) Emphasis on the acquisition of basic and higher order skills.

(C) A safe and orderly school environment that allows teachers and pupils to focus their energies on academic achievement.

(D) A climate of expectation that virtually all children can learn under appropriate conditions.

(E) Continuous assessment of students and programs to evaluate the effects of instruction.

(Pub. L. 89–10, title VI, § 6003, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3707.)

PART A—STATE AND LOCAL PROGRAMS

§ 7311. Allotment to States

(a) Reservations

From the sums appropriated to carry out this subchapter in any fiscal year, the Secretary shall reserve not to exceed one percent for payments to outlying areas to be allotted in accordance with their respective needs.

(b) Allotment

From the remainder of such sums, the Secretary shall allot to each State an amount which bears the same ratio to the amount of such remainder as the school-age population of the State bears to the school-age population of all States, except that no State shall receive less than an amount equal to one-half of one percent of such remainder.

(c) Definitions

For purposes of this part:

(1) The term ''school-age population'' means the population aged 5 through 17.

(2) The term ''States'' includes the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

(Pub. L. 89–10, title VI, § 6101, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3708.)

§ 7312. Allocation to local educational agencies

(a) Distribution rule

From the sums made available each year to carry out this subchapter, the State educational

agency shall distribute not less than 85 percent to local educational agencies within such State according to the relative enrollments in public and private, nonprofit schools within the school districts of such agencies, adjusted, in accordance with criteria approved by the Secretary, to provide higher per pupil allocations to local educational agencies which have the greatest numbers or percentages of children whose education imposes a higher than average cost per child, such as—

(1) children living in areas with high concentrations of low-income families;

(2) children from low-income families; and

(3) children living in sparsely populated areas.

(b) Calculation of enrollments

(1) In general

The calculation of relative enrollments under subsection (a) of this section shall be on the basis of the total of—

(A) the number of children enrolled in public schools; and

(B) the number of children enrolled in private nonprofit schools that desire that their children participate in programs or projects assisted under this subchapter, for the fiscal year preceding the fiscal year for which the determination is made.

(2) Construction

Nothing in this subsection shall diminish the responsibility of local educational agencies to contact, on an annual basis, appropriate officials from private nonprofit schools within the areas served by such agencies in order to determine whether such schools desire that their children participate in programs assisted under this part.

(3) Adjustments

(A) Relative enrollments under subsection (a) of this section shall be adjusted, in accordance with criteria approved by the Secretary under subparagraph (B), to provide higher per pupil allocations only to local educational agencies which serve the greatest numbers or percentages of—

(i) children living in areas with high concentrations of low-income families;

(ii) children from low-income families; or

(iii) children living in sparsely populated areas.

(B) The Secretary shall review criteria submitted by a State educational agency for adjusting allocations under paragraph (1) and shall approve such criteria only if the Secretary determines that such criteria are reasonably calculated to produce an adjusted allocation that reflects the relative needs within the State's local educational agencies based on the factors set forth in subparagraph (A).

(c) Payment of allocations

(1) Distribution

From the funds paid to a State educational agency pursuant to section 7302 of this title for a fiscal year, a State educational agency shall distribute to each eligible local educational agency which has submitted an application as required in section 7332 of this title the amount of such local educational agency allocation as determined under subsection (a) of this section.

(2) Additional funds

(A) Additional funds resulting from higher per pupil allocations provided to a local educational agency on the basis of adjusted enrollments of children described in subsection (a) of this section, may, at the discretion of the local educational agency, be allocated for expenditures to provide services for children enrolled in public and private nonprofit schools in direct proportion to the number of children described in subsection (a) of this section and enrolled in such schools within the local educational agency.

(B) In any fiscal year, any local educational agency that elects to allocate such additional funds in the manner described in subparagraph (A) shall allocate all additional funds to schools within the local educational agency in such manner.

(C) The provisions of subparagraphs (A) and (B) may not be construed to require any school to limit the use of such additional funds to the provision of services to specific students or categories of students.

(Pub. L. 89–10, title VI, § 6102, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3708.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7351 of this title.

PART B—STATE PROGRAMS

§ 7331. State uses of funds

(a) Authorized activities

A State educational agency may use funds made available for State use under this subchapter only for—

(1) State administration of programs under this subchapter including—

(A) supervision of the allocation of funds to local educational agencies;

(B) planning, supervision, and processing of State funds; and

(C) monitoring and evaluation of programs and activities under this subchapter; and

(2) technical assistance and direct grants to local educational agencies and statewide education reform activities including effective schools programs which assist local educational agencies to provide targeted assistance.

(b) Limitations and requirements

Not more than 25 percent of funds available for State programs under this subchapter in any fiscal year may be used for State administration under subsection (a)(1) of this section.

(Pub. L. 89–10, title VI, § 6201, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3709.)

§ 7332. State applications

(a) Application requirements

Any State which desires to receive assistance under this part shall submit to the Secretary an application which—

(1) designates the State educational agency as the State agency responsible for administration and supervision of programs assisted under this subchapter;

(2)(A) provides for a biennial submission of data on the use of funds, the types of services furnished, and the students served under this subchapter; and

(B) in fiscal year 1998 provides for an evaluation of the effectiveness of programs assisted under this subchapter;

(3) sets forth the allocation of such funds required to implement section 7372 of this title;

(4) provides that the State educational agency will keep such records and provide such information to the Secretary as may be required for fiscal audit and program evaluation (consistent with the responsibilities of the Secretary under this section);

(5) provides assurance that, apart from technical and advisory assistance and monitoring compliance with this subchapter, the State educational agency has not exercised and will not exercise any influence in the decision-making processes of local educational agencies as to the expenditure made pursuant to an application under section 7353 of this title;

(6) contains assurances that there is compliance with the specific requirements of this subchapter; and

(7) provides for timely public notice and public dissemination of the information provided pursuant to paragraph (2).

(b) Period of application

An application filed by the State under subsection (a) of this section shall be for a period not to exceed three years, and may be amended annually as may be necessary to reflect changes without filing a new application.

(c) Audit rule

Local educational agencies receiving less than an average of $5,000 each under this subchapter shall not be audited more frequently than once every five years.

(Pub. L. 89–10, title VI, § 6202, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3710.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7312 of this title.

PART C—LOCAL INNOVATIVE EDUCATION PROGRAMS

§ 7351. Targeted use of funds

(a) General rule

Funds made available to local educational agencies under section 7312 of this title shall be used for innovative assistance described in subsection (b) of this section.

(b) Innovative assistance

The innovative assistance programs referred to in subsection (a) of this section include—

(1) technology related to the implementation of school-based reform programs, including professional development to assist teachers and other school officials regarding how to use effectively such equipment and software;

(2) programs for the acquisition and use of instructional and educational materials, including library services and materials (including media materials), assessments, reference materials, computer software and hardware for instructional use, and other curricular materials which are tied to high academic standards and which will be used to improve student achievement and which are part of an overall education reform program;

(3) promising education reform projects, including effective schools and magnet schools;

(4) programs to improve the higher order thinking skills of disadvantaged elementary and secondary school students and to prevent students from dropping out of school;

(5) programs to combat illiteracy in the student and adult population, including parent illiteracy;

(6) programs to provide for the educational needs of gifted and talented children;

(7) school reform activities that are consistent with the Goals 2000: Educate America Act [20 U.S.C. 5801 et seq.]; and

(8) school improvement programs or activities under sections 6317 and 6318 of this title.

(Pub. L. 89–10, title VI, § 6301, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3711.)

REFERENCES IN TEXT

The Goals 2000: Educate America Act, referred to in subsec. (b)(7), is Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 125 (except titles V and IX), as amended, which is classified principally to chapter 68 (§ 5801 et seq.) of this title (except subchapters V (§ 5931 et seq.) and IX (§ 6001 et seq.)). For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7353 of this title.

§ 7352. Administrative authority

In order to conduct the activities authorized by this subchapter, each State or local educational agency may use funds reserved for this subchapter to make grants to and to enter into contracts with local educational agencies, institutions of higher education, libraries, museums, and other public and private nonprofit agencies, organizations, and institutions.

(Pub. L. 89–10, title VI, § 6302, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3711.)

§ 7353. Local applications

(a) Contents of application

A local educational agency or consortium of such agencies may receive an allocation of funds under this subchapter for any year for which an application is submitted to the State educational agency and such application is certified to meet the requirements of this section. The State educational agency shall certify any such application if such application—

(1)(A) sets forth the planned allocation of funds among innovative assistance programs described in section 7351 of this title and describes the programs, projects, and activities designed to carry out such innovative assistance which the local educational agency intends to support, together with the reasons for the selection of such programs, projects, and activities; and

(B) sets forth the allocation of such funds required to implement section 7372 of this title;

(2) describes how assistance under this subchapter will contribute to meeting the National Education Goals and improving student achievement or improving the quality of education for students;

(3) provide assurances of compliance with the provisions of this subchapter, including the participation of children enrolled in private, nonprofit schools in accordance with section 7372 of this title;

(4) agrees to keep such records, and provide such information to the State educational agency as reasonably may be required for fiscal audit and program evaluation, consistent with the responsibilities of the State agency under this subchapter; and

(5) provides in the allocation of funds for the assistance authorized by this subchapter, and in the design, planning and implementation of such programs, for systematic consultation with parents of children attending elementary and secondary schools in the area served by the local educational agency, with teachers and administrative personnel in such schools, and with other groups involved in the implementation of this subchapter (such as librarians, school counselors, and other pupil services personnel) as may be considered appropriate by the local educational agency.

(b) Period of application

An application filed by a local educational agency under subsection (a) of this section shall be for a period not to exceed three fiscal years, may provide for the allocation of funds to programs for a period of three years, and may be amended annually as may be necessary to reflect changes without filing a new application.

(c) Local educational agency discretion

Subject to the limitations and requirements of this subchapter, a local educational agency shall have complete discretion in determining how funds under this part shall be divided among the areas of targeted assistance. In exercising such discretion, a local educational agency shall ensure that expenditures under this part carry out the purposes of this subchapter and are used to meet the educational needs within the schools of such local educational agency.

(Pub. L. 89–10, title VI, § 6303, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3711.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7332 of this title.

PART D—GENERAL ADMINISTRATIVE PROVISIONS

§ 7371. Maintenance of effort; Federal funds supplementary

(a) Maintenance of effort

(1) In general

Except as provided in paragraph (2), a State is entitled to receive its full allocation of funds under this part for any fiscal year if the Secretary finds that either the combined fiscal effort per student or the aggregate expenditures within the State with respect to the provision of free public education for the fiscal year preceding the fiscal year for which the determination is made was not less than 90 percent of such combined fiscal effort or aggregate expenditures for the second fiscal year preceding the fiscal year for which the determination is made.

(2) Reduction of funds

The Secretary shall reduce the amount of the allocation of funds under this part in any fiscal year in the exact proportion to which the State fails to meet the requirements of paragraph (1) by falling below 90 percent of both the fiscal effort per student and aggregate expenditures (using the measure most favorable to the State), and no such lesser amount shall be used for computing the effort required under paragraph (1) for subsequent years.

(3) Waivers

The Secretary may waive, for one fiscal year only, the requirements of this section if the Secretary determines that such a waiver would be equitable due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the State.

(b) Federal funds supplementary

A State or local educational agency may use and allocate funds received under this part only so as to supplement and, to the extent practical, increase the level of funds that would, in the absence of Federal funds made available under this part, be made available from non-Federal sources, and in no case may such funds be used so as to supplant funds from non-Federal sources.

(Pub. L. 89–10, title VI, § 6401, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3712.)

§ 7372. Participation of children enrolled in private schools

(a) Participation on equitable basis

(1) In general

To the extent consistent with the number of children in the school district of a local educational agency which is eligible to receive funds under this subchapter or which serves the area in which a program or project assisted under this subchapter is located who are enrolled in private nonprofit elementary and secondary schools, or with respect to instructional or personnel training programs funded by the State educational agency from funds made available for State use, such agency, after consultation with appropriate private school officials, shall provide for the benefit of such children in such schools secular, neutral, and nonideological services, materials, and equipment, including the participation of the teachers of such children (and other educational personnel serving such children) in training programs, and the repair, minor remodeling, or construction of public facilities as may be necessary for their provision (consistent with subsection (c) of this section), or, if such services, materials, and equipment are not feasible or necessary in one or more such private schools as determined by the local

educational agency after consultation with the appropriate private school officials, shall provide such other arrangements as will assure equitable participation of such children in the purposes and benefits of this subchapter.

(2) Other provisions for services

If no program or project is carried out under paragraph (1) in the school district of a local educational agency, the State educational agency shall make arrangements, such as through contracts with nonprofit agencies or organizations, under which children in private schools in such district are provided with services and materials to the extent that would have occurred if the local educational agency had received funds under this subchapter.

(3) Application of requirements

The requirements of this section relating to the participation of children, teachers, and other personnel serving such children shall apply to programs and projects carried out under this subchapter by a State or local educational agency, whether directly or through grants to or contracts with other public or private agencies, institutions, or organizations.

(b) Equal expenditures

Expenditures for programs pursuant to subsection (a) of this section shall be equal (consistent with the number of children to be served) to expenditures for programs under this subchapter for children enrolled in the public schools of the local educational agency, taking into account the needs of the individual children and other factors which relate to such expenditures, and when funds available to a local educational agency under this subchapter are used to concentrate programs or projects on a particular group, attendance area, or grade or age level, children enrolled in private schools who are included within the group, attendance area, or grade or age level selected for such concentration shall, after consultation with the appropriate private school officials, be assured equitable participation in the purposes and benefits of such programs or projects.

(c) Funds

(1) Administration of funds and property

The control of funds provided under this subchapter, and title to materials, equipment, and property repaired, remodeled, or constructed with such funds, shall be in a public agency for the uses and purposes provided in this subchapter, and a public agency shall administer such funds and property.

(2) Provision of services

The provision of services pursuant to this subchapter shall be provided by employees of a public agency or through contract by such public agency with a person, an association, agency, or corporation who or which, in the provision of such services, is independent of such private school and of any religious organizations, and such employment or contract shall be under the control and supervision of such public agency, and the funds provided under this subchapter shall not be commingled with State or local funds.

(d) State prohibition waiver

If by reason of any provision of law a State or local educational agency is prohibited from providing for the participation in programs of children enrolled in private elementary and secondary schools, as required by this section, the Secretary shall waive such requirements and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of this section.

(e) Waiver and provision of services

(1) Failure to comply

If the Secretary determines that a State or a local educational agency has substantially failed or is unwilling to provide for the participation on an equitable basis of children enrolled in private elementary and secondary schools as required by this section, the Secretary may waive such requirements and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of this section.

(2) Withholding of allocation

Pending final resolution of any investigation or complaint that could result in a determination under this subsection or subsection (d) of this section, the Secretary may withhold from the allocation of the affected State or local educational agency the amount estimated by the Secretary to be necessary to pay the cost of those services.

(f) Determination

Any determination by the Secretary under this section shall continue in effect until the Secretary determines that there will no longer be any failure or inability on the part of the State or local educational agency to meet the requirements of subsections (a) and (b) of this section.

(g) Payment from State allotment

When the Secretary arranges for services pursuant to this section, the Secretary shall, after consultation with the appropriate public and private school officials, pay the cost of such services, including the administrative costs of arranging for those services, from the appropriate allotment of the State under this subchapter.

(h) Review

(1) Written objections

The Secretary shall not take any final action under this section until the State educational agency and the local educational agency affected by such action have had an opportunity, for not less than 45 days after receiving written notice thereof, to submit written objections and to appear before the Secretary or the Secretary's designee to show cause why that action should not be taken.

(2) Court action

If a State or local educational agency is dissatisfied with the Secretary's final action after a proceeding under paragraph (1), such agency may, not later than 60 days after notice of such action, file with the United States court of appeals for the circuit in which such

State is located a petition for review of that action. A copy of the petition shall be transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file in the court the record of the proceedings on which the Secretary based this action, as provided in section 2112 of title 28.

(3) Remand to Secretary

The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary to take further evidence and the Secretary may make new or modified findings of fact and may modify the Secretary's previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(4) Court review

Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or to set such action aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28.

(i) Prior determination

Any bypass determination by the Secretary under chapter 2 of title I of this Act (as such chapter was in effect on the day preceding October 20, 1994) shall, to the extent consistent with the purposes of this subchapter, apply to programs under this subchapter.

(Pub. L. 89–10, title VI, § 6402, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3713.)

REFERENCES IN TEXT

Chapter 2 of title I of this Act (as such chapter was in effect on the day preceding October 20, 1994), referred to in subsec. (i), means chapter 2 of title I of Pub. L. 89–10, as added by Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 203, as amended, which was classified generally to div. 2 (§ 2911 et seq.) of subchapter I of chapter 47 of this title prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7332, 7353 of this title.

§ 7373. Federal administration

(a) Technical assistance

The Secretary, upon request, shall provide technical assistance to State and local educational agencies under this subchapter.

(b) Rulemaking

The Secretary shall issue regulations under this subchapter only to the extent that such regulations are necessary to ensure that there is compliance with the specific requirements and assurances required by this subchapter.

(c) Availability of appropriations

Notwithstanding any other provision of law, unless expressly in limitation of this subsection, funds appropriated in any fiscal year to carry out activities under this subchapter shall become available for obligation on July 1 of such fiscal year and shall remain available for obligation until the end of the subsequent fiscal year.

(Pub. L. 89–10, title VI, § 6403, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3715.)

SUBCHAPTER VII—BILINGUAL EDUCATION, LANGUAGE ENHANCEMENT, AND LANGUAGE ACQUISITION PROGRAMS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 6493, 8893 of this title.

PART A—BILINGUAL EDUCATION

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 1206a, 1401, 6396, 6649, 7545, 7571, 7572, 7573, 7575, 7602 of this title.

§ 7401. Short title

This part may be cited as the ''Bilingual Education Act''.

(Pub. L. 89–10, title VII, § 7101, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3716.)

§ 7402. Findings, policy, and purpose

(a) Findings

The Congress finds that—

(1) language-minority Americans speak virtually all world languages plus many that are indigenous to the United States;

(2) there are large and growing numbers of children and youth of limited-English proficiency, many of whom have a cultural heritage that differs from that of their English-proficient peers;

(3) the presence of language-minority Americans is related in part to Federal immigration policies;

(4) many language-minority Americans are limited in their English proficiency, and many have limited education and income;

(5) limited English proficient children and youth face a number of challenges in receiving an education that will enable such children and youth to participate fully in American society, including—

(A) segregated education programs;

(B) disproportionate and improper placement in special education and other special programs due to the use of inappropriate evaluation procedures;

(C) the limited-English proficiency of their own parents, which hinders the parents' ability to fully participate in the education of their children; and

(D) a shortage of teachers and other staff who are professionally trained and qualified to serve such children and youth;

(6) Native Americans and Native American languages (as such terms are defined in section 2902 of title 25), including native residents of the outlying areas, have a unique status under Federal law that requires special policies within the broad purposes of this chapter to serve the education needs of language minority students in the United States;

(7) institutions of higher education can assist in preparing teachers, administrators and

other school personnel to understand and build upon the educational strengths and needs of language-minority and culturally diverse student enrollments;

(8) it is the purpose of this subchapter to help ensure that limited English proficient students master English and develop high levels of academic attainment in content areas;

(9) quality bilingual education programs enable children and youth to learn English and meet high academic standards including proficiency in more than one language;

(10) as the world becomes increasingly interdependent and as international communication becomes a daily occurrence in government, business, commerce, and family life, multilingual skills constitute an important national resource which deserves protection and development;

(11) educational technology has the potential for improving the education of language-minority and limited English proficient students and their families, and the Federal Government should foster this development;

(12) parent and community participation in bilingual education programs contributes to program effectiveness;

(13) research, evaluation, and data-collection capabilities in the field of bilingual education need to be strengthened so that educators and other staff can better identify and promote those programs, program implementation strategies, and instructional practices that result in effective education of limited English proficient children;

(14) the use of a child or youth's native language and culture in classroom instruction can—

(A) promote self-esteem and contribute to academic achievement and learning English by limited English proficient children and youth;

(B) benefit English-proficient children and youth who also participate in such programs; and

(C) develop our Nation's national language resources, thus promoting our Nation's competitiveness in the global economy;

(15) the Federal Government, as exemplified by title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.] and section 1703(f) of this title, has a special and continuing obligation to ensure that States and local school districts take appropriate action to provide equal educational opportunities to children and youth of limited English proficiency; and

(16) the Federal Government also, as exemplified by the Federal Government's efforts under this subchapter, has a special and continuing obligation to assist States and local school districts in developing the capacity to provide programs of instruction that offer limited English proficient children and youth an equal educational opportunity.

(b) Policy

The Congress declares it to be the policy of the United States, in order to ensure equal educational opportunity for all children and youth and to promote educational excellence, to assist State and local educational agencies, institutions of higher education and community-based organizations to build their capacity to establish, implement, and sustain programs of instruction for children and youth of limited English proficiency.

(c) Purpose

The purpose of this part is to educate limited English proficient children and youth to meet the same rigorous standards for academic performance expected of all children and youth, including meeting challenging State content standards and challenging State student performance standards in academic areas by—

(1) developing systemic improvement and reform of educational programs serving limited English proficient students through the development and implementation of exemplary bilingual education programs and special alternative instruction programs;

(2) developing bilingual skills and multicultural understanding;

(3) developing the English of such children and youth and, to the extent possible, the native language skills of such children and youth;

(4) providing similar assistance to Native Americans with certain modifications relative to the unique status of Native American languages under Federal law;

(5) developing data collection and dissemination, research, materials development, and technical assistance which is focused on school improvement for limited English proficient students; and

(6) developing programs which strengthen and improve the professional training of educational personnel who work with limited English proficient students.

(Pub. L. 89–10, title VII, § 7102, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3716.)

REFERENCES IN TEXT

The Civil Rights Act of 1964, referred to in subsec. (a)(15), is Pub. L. 88–352, July 2, 1964, 78 Stat. 241, as amended. Title VI of the Act is classified generally to subchapter V (§ 2000d et seq.) of chapter 21 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of Title 42 and Tables.

§ 7403. Authorization of appropriations

(a) In general

For the purpose of carrying out this part, there are authorized to be appropriated $215,000,000 for the fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

(b) Distribution

From the sums appropriated under subsection (a) of this section for any fiscal year, the Secretary shall reserve not less than 25 percent of such funds for such year to carry out subpart 3 of this part.

(Pub. L. 89–10, title VII, § 7103, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3718.)

§ 7404. Native American and Alaska Native children in school

(a) Eligible entities

For the purpose of carrying out programs under this part for individuals served by elemen-

tary, secondary, and postsecondary schools operated predominately for Native American or Alaska Native children and youth, an Indian tribe, a tribally sanctioned educational authority, a Native Hawaiian or Native American Pacific Islander native language education organization, or an elementary or secondary school that is operated or funded by the Bureau of Indian Affairs shall be considered to be a local educational agency as such term is used in this part, subject to the following qualifications:

(1) "Indian tribe" defined

The term ''Indian tribe'' means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), that is recognized for the special programs and services provided by the United States to Indians because of their status as Indians.

(2) "Tribally sanctioned educational authority" defined

The term ''tribally sanctioned educational authority'' means—

(A) any department or division of education operating within the administrative structure of the duly constituted governing body of an Indian tribe; and

(B) any nonprofit institution or organization that is—

(i) chartered by the governing body of an Indian tribe to operate any such school or otherwise to oversee the delivery of educational services to members of that tribe; and

(ii) approved by the Secretary for the purpose of this section.

(b) Eligible entity application

Notwithstanding any other provision of this part, each eligible entity described in subsection (a) of this section shall submit any application for assistance under this part directly to the Secretary along with timely comments on the need for the proposed program.

(Pub. L. 89–10, title VII, § 7104, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3718.)

REFERENCES IN TEXT

The Alaska Native Claims Settlement Act, referred to in subsec. (a)(1), is Pub. L. 92–203, Dec. 18, 1971, 85 Stat. 688, as amended, which is classified generally to chapter 33 (§ 1601 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 43 and Tables.

§ 7405. Residents of territories and freely associated nations

For the purpose of carrying out programs under this part in the outlying areas, the term ''local educational agency'' shall include public institutions or agencies whose mission is the preservation and maintenance of native languages.

(Pub. L. 89–10, title VII, § 7105, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3719.)

SUBPART 1—BILINGUAL EDUCATION CAPACITY AND DEMONSTRATION GRANTS

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in sections 7452, 7454, 7456, 8857 of this title.

§ 7421. Financial assistance for bilingual education

The purpose of this subpart is to assist local educational agencies, institutions of higher education, and community-based organizations, through the grants authorized under sections 7422, 7423, 7424, and 7425 of this title to—

(1) develop and enhance their capacity to provide high-quality instruction through bilingual education or special alternative instruction programs to children and youth of limited English proficiency; and

(2) to help such children and youth—

(A) develop proficiency in English, and to the extent possible, their native language; and

(B) meet the same challenging State content standards and challenging State student performance standards expected for all children and youth as required by section 6311(b) of this title.

(Pub. L. 89–10, title VII, § 7111, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3719.)

§ 7422. Program development and implementation grants

(a) Purpose

The purpose of this section is to develop and implement new comprehensive, coherent, and successful bilingual education or special alternative instructional programs for limited English proficient students, including programs of early childhood education, kindergarten through twelfth grade education, gifted and talented education, and vocational and applied technology education.

(b) Program authorized

(1) Authority

(A) The Secretary is authorized to award grants to eligible entities having applications approved under section 7426 of this title to enable such entities to carry out activities described in paragraph (2).

(B) Each grant under this section shall be awarded for a period of three years.

(2) Authorized activities

(A) Grants awarded under this section shall be used to improve the education of limited English proficient students and their families by—

(i) developing and implementing comprehensive preschool, elementary, or secondary bilingual education or special alternative instructional programs that are coordinated with other relevant programs and services to meet the full range of educational needs of limited English proficient students; and

(ii) providing inservice training to classroom teachers, administrators, and other school or community-based organizational personnel to improve the instruction and as-

sessment of language-minority and limited English proficient students.

(B) Grants under this section may be used to improve the education of limited English proficient students and their families by—

(i) implementing family education programs and parent outreach and training activities designed to assist parents to become active participants in the education of their children;

(ii) improving the instructional program for limited English proficient students by identifying, acquiring, and upgrading curriculum, instructional materials, educational software and assessment procedures and, if appropriate, applying educational technology;

(iii) compensating personnel, including teacher aides who have been specifically trained, or are being trained, to provide services to children and youth of limited English proficiency;

(iv) providing tutorials and academic or career counseling for children and youth of limited-English proficiency; and

(v) providing such other activities, related to the purposes of this part, as the Secretary may approve.

(c) "Eligible entity" defined

For the purpose of this section the term ''eligible entity'' means—

(1) one or more local educational agencies;

(2) one or more local educational agencies in collaboration with an institution of higher education, community-based organization or local or State educational agency; or

(3) a community-based organization or an institution of higher education which has an application approved by the local educational agency to develop and implement early childhood education or family education programs or to conduct an instructional program which supplements the educational services provided by a local educational agency.

(d) Due consideration

In awarding grants under this section, the Secretary shall give due consideration to the need for early childhood education, elementary education, and secondary education programs.

(Pub. L. 89–10, title VII, § 7112, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3719.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7421 of this title.

§ 7423. Program enhancement projects

(a) Purpose

The purpose of this section is to carry out highly focused, innovative, locally designed projects to expand or enhance existing bilingual education or special alternative instructional programs for limited English proficient students.

(b) Program authorized

(1) Authority

(A) The Secretary is authorized to award grants to eligible entities having applications approved under section 7426 of this title to enable such entities to carry out activities described in paragraph (2).

(B) Each grant under this section shall be awarded for a period of two years.

(2) Authorized activities

(A) Grants under this section shall be used for providing inservice training to classroom teachers, administrators, and other school or community-based organization personnel to improve the instruction and assessment of language-minority and limited English proficient students.

(B) Grants under this section may be used for—

(i) implementing family education programs and parent outreach and training activities designed to assist parents to become active participants in the education of their children;

(ii) improving the instructional program for limited English proficient students by identifying, acquiring, and upgrading curriculum, instructional materials, educational software and assessment procedures and, if appropriate, applying educational technology;

(iii) compensating personnel, including teacher aides who have been specifically trained, or are being trained, to provide services to children and youth of limited-English proficiency;

(iv) providing tutorials and academic or career counseling for children and youth of limited-English proficiency;

(v) providing intensified instruction; and

(vi) providing such other activities, related to the purposes of this part, as the Secretary may approve.

(c) "Eligible entity" defined

For the purpose of this section the term ''eligible entity'' means—

(1) one or more local educational agencies;

(2) one or more local educational agencies in collaboration with an institution of higher education, community-based organization or local or State educational agency; or

(3) a community-based organization or an institution of higher education which has an application approved by the local educational agency to enhance early childhood education or family education programs or to conduct an instructional program which supplements the educational services provided by a local educational agency.

(Pub. L. 89–10, title VII, § 7113, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3720.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7421 of this title.

§ 7424. Comprehensive school grants

(a) Purpose

The purpose of this section is to provide financial assistance to eligible entities to implement schoolwide bilingual education programs or special alternative instruction programs for reforming, restructuring, and upgrading all relevant programs and operations, within an indi-

vidual school, that serve all (or virtually all) children and youth of limited-English proficiency in schools with significant concentrations of such children and youth.

(b) Program authorized

(1) Authority

(A) The Secretary is authorized to award grants to eligible entities having applications approved under section 7426 of this title to enable such entities to carry out activities described in paragraph (3).

(B) Each grant under this section shall be awarded for five years.

(2) Termination

The Secretary shall terminate grants to eligible entities under this section if the Secretary determines that—

(A) the program evaluation required by section 7433 of this title indicates that students in the schoolwide program are not being taught to and are not making adequate progress toward achieving challenging State content standards and challenging State student performance standards; or

(B) in the case of a program to promote dual language facility, such program is not promoting such facility.

(3) Authorized activities

Grants under this section may be used to improve the education of limited English proficient students and their families by—

(A) implementing family education programs and parent outreach and training activities designed to assist parents to become active participants in the education of their children;

(B) improving the instructional program for limited English proficient students by identifying, acquiring and upgrading curriculum, instructional materials, educational software and assessment procedures and, if appropriate, applying educational technology;

(C) compensating personnel, including teacher aides who have been specifically trained, or are being trained, to provide services to children and youth of limited English proficiency;

(D) providing tutorials and academic or career counseling for children and youth of limited-English proficiency;

(E) providing intensified instruction; and

(F) providing such other activities, related to the purposes of this part, as the Secretary may approve.

(4) Special rule

A grant recipient, before carrying out a program assisted under this section, shall plan, train personnel, develop curriculum, and acquire or develop materials.

(c) "Eligible entity" defined

For the purpose of this section the term ''eligible entity'' means—

(1) one or more local educational agencies; or

(2) one or more local educational agencies in collaboration with an institution of higher education, community-based organizations or a local or State educational agency.

(Pub. L. 89–10, title VII, § 7114, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3721.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7421, 7426 of this title.

§ 7425. Systemwide improvement grants

(a) Purpose

The purpose of this section is to implement districtwide bilingual education programs or special alternative instruction programs to improve, reform, and upgrade relevant programs and operations, within an entire local educational agency, that serve a significant number of children and youth of limited English proficiency in local educational agencies with significant concentrations of such children and youth.

(b) Program authorized

(1) Authority

(A) The Secretary is authorized to award grants to eligible entities having applications approved under section 7426 of this title to enable such entities to carry out activities described in paragraphs (3) and (4).

(B) Each grant under this section shall be awarded for 5 years.

(2) Termination

The Secretary shall terminate grants to eligible entities under this section if the Secretary determines that—

(A) the program evaluation required by section 7433 of this title indicates that students in the program are not being taught to and are not making adequate progress toward achieving challenging State content standards and challenging State student performance standards; or

(B) in the case of a program to promote dual language facility, such program is not promoting such facility.

(3) Preparation

Grants under this section may be used during the first 12 months exclusively for activities preparatory to the delivery of services.

(4) Uses

Grants under this section may be used to improve the education of limited English proficient students and their families by reviewing, restructuring, and upgrading—

(A) educational goals, curriculum guidelines and content, standards and assessments;

(B) personnel policies and practices including recruitment, certification, staff development, and assignment;

(C) student grade-promotion and graduation requirements;

(D) student assignment policies and practices;

(E) family education programs and parent outreach and training activities designed to assist parents to become active participants in the education of their children;

(F) the instructional program for limited English proficient students by identifying, acquiring and upgrading curriculum, instructional materials, educational software and assessment procedures and, if appropriate, applying educational technology;

(G) tutorials and academic or career counseling for children and youth of limited-English proficiency; and

(H) such other activities, related to the purposes of this part, as the Secretary may approve.

(c) "Eligible entity" defined

For the purpose of this section the term ''eligible entity'' means—

(1) one or more local educational agencies; or

(2) one or more local educational agencies in collaboration with an institution of higher education, community-based organizations or a local or State educational agency.

(Pub. L. 89–10, title VII, § 7115, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3722.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7421, 7426 of this title.

§ 7426. Applications

(a) In general

(1) Secretary

To receive a grant under this subpart, an eligible entity shall submit an application to the Secretary at such time, in such form, and containing such information as the Secretary may require.

(2) State educational agency

An eligible entity, with the exception of schools funded by the Bureau of Indian Affairs, shall submit a copy of its application under this section to the State educational agency.

(b) State review and comments

(1) Deadline

The State educational agency, not later than 45 days after receipt of an application under this section, shall review the application and transmit such application to the Secretary.

(2) Comments

(A) Regarding any application submitted under this subchapter, the State educational agency shall—

(i) submit to the Secretary written comments regarding all such applications; and

(ii) submit to each eligible entity the comments that pertain to such entity.

(B) For purposes of this subpart, such comments shall address how the eligible entity—

(i) will further the academic achievement of limited English proficient students served pursuant to a grant received under this subpart; and

(ii) how the grant application is consistent with the State plan submitted under section 6311 of this title.

(c) Eligible entity comments

An eligible entity may submit to the Secretary comments that address the comments submitted by the State educational agency.

(d) Comment consideration

In making grants under this subpart the Secretary shall take into consideration comments made by a State educational agency.

(e) Waiver

Notwithstanding subsection (b) of this section, the Secretary is authorized to waive the review requirement of subsection (b) of this section if a State educational agency can demonstrate that such review requirement may impede such agency's ability to fulfill the requirements of participation in the State grant program, particularly such agency's data collection efforts and such agency's ability to provide technical assistance to local educational agencies not receiving funds under this chapter.

(f) Required documentation

Such application shall include documentation that the applicant has the qualified personnel required to develop, administer, and implement the proposed program.

(g) Contents

(1) In general

An application for a grant under this subpart shall contain the following:

(A) A description of the need for the proposed program, including data on the number of children and youth of limited-English proficiency in the school or school district to be served and the characteristics of such children and youth, such as language spoken, dropout rates, proficiency in English and the native language, academic standing in relation to the English-proficient peers of such children and youth, and, where applicable, the recency of immigration.

(B) A description of the program to be implemented and how such program's design—

(i) relates to the linguistic and academic needs of the children and youth of limited-English proficiency to be served;

(ii) is coordinated with other programs under this chapter, the Goals 2000: Educate America Act [20 U.S.C. 5801 et seq.] and other Acts, as appropriate, in accordance with section 8856 of this title;

(iii) involves the parents of the children and youth of limited-English proficiency to be served;

(iv) ensures accountability in achieving high academic standards; and

(v) promotes coordination of services for the children and youth of limited-English proficiency to be served and their families.

(C) A description, if appropriate, of the applicant's collaborative activities with institutions of higher education, community-based organizations, local or State educational agencies, private schools, nonprofit organizations, or businesses in carrying out the proposed program.

(D) An assurance that the applicant will not reduce the level of State and local funds that the applicant expends for bilingual education or special alternative instruction programs if the applicant receives an award under this subpart.

(E) An assurance that the applicant will employ teachers in the proposed program

that, individually or in combination, are proficient in English, including written, as well as oral, communication skills.

(F) A budget for grant funds.

(2) Additional information

Each application for a grant under section 7424 or 7425 of this title shall—

(A) describe—

(i) current services the applicant provides to children and youth of limited-English proficiency;

(ii) what services children and youth of limited-English proficiency will receive under the grant that such children or youth will not otherwise receive;

(iii) how funds received under this subpart will be integrated with all other Federal, State, local, and private resources that may be used to serve children and youth of limited-English proficiency;

(iv) specific achievement and school retention goals for the children and youth to be served by the proposed program and how progress toward achieving such goals will be measured; and

(v) current family education programs if applicable; and

(B) provide assurances that—

(i) the program funded will be integrated with the overall educational program; and

(ii) the application has been developed in consultation with an advisory council, the majority of whose members are parents and other representatives of the children and youth to be served in such programs.

(h) Approval of applications

An application for a grant under this subpart may be approved only if the Secretary determines that—

(1) the program will use qualified personnel, including personnel who are proficient in the language or languages used for instruction;

(2) in designing the program for which application is made, the needs of children in nonprofit private elementary and secondary schools have been taken into account through consultation with appropriate private school officials and, consistent with the number of such children enrolled in such schools in the area to be served whose educational needs are of the type and whose language and grade levels are of a similar type to those which the program is intended to address, after consultation with appropriate private school officials, provision has been made for the participation of such children on a basis comparable to that provided for public school children;

(3) student evaluation and assessment procedures in the program are valid, reliable, and fair for limited English proficient students, and that limited English proficient students who are disabled are identified and served in accordance with the requirements of the Individuals with Disabilities Education Act [20 U.S.C. 1400 et seq.];

(4) Federal funds made available for the project or activity will be used so as to supplement the level of State and local funds that, in the absence of such Federal funds, would have been expended for special programs for children of limited English proficient individuals and in no case to supplant such State and local funds, except that nothing in this paragraph shall be construed to preclude a local educational agency from using funds under this subchapter for activities carried out under an order of a court of the United States or of any State respecting services to be provided such children, or to carry out a plan approved by the Secretary as adequate under title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.] with respect to services to be provided such children;

(5) the assistance provided under the application will contribute toward building the capacity of the applicant to provide a program on a regular basis, similar to that proposed for assistance, which will be of sufficient size, scope, and quality to promise significant improvement in the education of students of limited-English proficiency, and that the applicant will have the resources and commitment to continue the program when assistance under this subpart is reduced or no longer available; and

(6) the applicant provides for utilization of the State and national dissemination sources for program design and in dissemination of results and products.

(i) Priorities and special rules

(1) Priority

The Secretary shall give priority to applications which provide for the development of bilingual proficiency both in English and another language for all participating students.

(2) Special alternative instructional program

Grants for special alternative instructional programs under this subpart shall not exceed 25 percent of the funds provided for any type of grant under any section, or of the total funds provided, under this subpart for any fiscal year.

(3) Special rule

Notwithstanding paragraph (2), the Secretary may award grants under this subpart for special alternative instructional programs if an applicant has demonstrated that the applicant cannot develop and implement a bilingual education program for the following reasons:

(A) Where the diversity of the limited English proficient students' native languages and the small number of students speaking each respective language makes bilingual education impractical.

(B) Where, despite documented efforts, the applicant has not been able to hire qualified instructional personnel who are able to communicate in the students' native language.

(4) Consideration

In approving applications under this subpart, the Secretary shall give consideration to the degree to which the program for which assistance is sought involves the collaborative efforts of institutions of higher education, community-based organizations, the appropriate local and State educational agency, or businesses.

(5) Due consideration

The Secretary shall give due consideration to applications providing training for personnel participating in or preparing to participate in the program which will assist such personnel in meeting State and local certification requirements and that, to the extent possible, describe how college or university credit will be awarded for such training.

(Pub. L. 89–10, title VII, § 7116, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3723.)

REFERENCES IN TEXT

The Goals 2000: Educate America Act, referred to in subsec. (g)(1)(B)(ii), is Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 125 (except titles V and IX), as amended, which is classified principally to chapter 68 (§ 5801 et seq.) of this title (except subchapters V (§ 5931 et seq.) and IX (§ 6001 et seq.)). For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables.

The Individuals with Disabilities Education Act, referred to in subsec. (h)(3), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, as amended, which is classified generally to chapter 33 (§ 1400 et seq.) of this title. For complete classification of this Act to the Code, see section 1400 of this title and Tables.

The Civil Rights Act of 1964, referred to in subsec. (h)(4), is Pub. L. 88–352, July 2, 1964, 78 Stat. 241, as amended. Title VI of the Act is classified generally to subchapter V (§ 2000d et seq.) of chapter 21 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of Title 42 and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7422, 7423, 7424, 7425 of this title.

§ 7427. Intensified instruction

In carrying out this subpart, each grant recipient may intensify instruction for limited English proficient students by—

(1) expanding the educational calendar of the school in which such student is enrolled to include programs before and after school and during the summer months;

(2) expanding the use of professional and volunteer aids;

(3) applying technology to the course of instruction; and

(4) providing intensified instruction through supplementary instruction or activities, including educationally enriching extracurricular activities, during times when school is not routinely in session.

(Pub. L. 89–10, title VII, § 7117, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3727.)

§ 7428. Capacity building

Each recipient of a grant under this subpart shall use the grant in ways that will build such recipient's capacity to continue to offer high-quality bilingual and special alternative education programs and services to children and youth of limited-English proficiency once Federal assistance is reduced or eliminated.

(Pub. L. 89–10, title VII, § 7118, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3727.)

§ 7429. Subgrants

A local educational agency that receives a grant under this subpart may, with the approval of the Secretary, make a subgrant to, or enter into a contract with, an institution of higher education, a nonprofit organization, or a consortium of such entities to carry out an approved program, including a program to serve out-of-school youth.

(Pub. L. 89–10, title VII, § 7119, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3727.)

§ 7430. Priority on funding

The Secretary shall give priority to applications under this subpart that describe a program that—

(1) enrolls a large percentage or large number of limited English proficient students;

(2) takes into account significant increases in limited English proficient children and youth, including such children and youth in areas with low concentrations of such children and youth; and

(3) ensures that activities assisted under this subpart address the needs of school systems of all sizes and geographic areas, including rural and urban schools.

(Pub. L. 89–10, title VII, § 7120, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3727.)

§ 7431. Coordination with other programs

In order to secure the most flexible and efficient use of Federal funds, any State receiving funds under this subpart shall coordinate its program with other programs under this chapter, the Goals 2000: Educate America Act [20 U.S.C. 5801 et seq.], and other Acts, as appropriate, in accordance with section 8856 of this title.

(Pub. L. 89–10, title VII, § 7121, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3728.)

REFERENCES IN TEXT

The Goals 2000: Educate America Act, referred to in text, is Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 125 (except titles V and IX), as amended, which is classified principally to chapter 68 (§ 5801 et seq.) of this title (except subchapters V (§ 5931 et seq.) and IX (§ 6001 et seq.)). For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables.

§ 7432. Programs for Native Americans and Puerto Rico

Programs authorized under this part that serve Native American children, Native Pacific Island children, and children in the Commonwealth of Puerto Rico, notwithstanding any other provision of this part, may include programs of instruction, teacher training, curriculum development, evaluation, and testing designed for Native American children and youth learning and studying Native American languages and children and youth of limited-Spanish proficiency, except that one outcome of such programs serving Native American children shall be increased English proficiency among such children.

(Pub. L. 89–10, title VII, § 7122, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3728.)

§ 7433. Evaluations

(a) Evaluation

Each recipient of funds under this subpart shall provide the Secretary with an evaluation, in the form prescribed by the Secretary, of such recipient's program every two years.

(b) Use of evaluation

Such evaluation shall be used by a grant recipient—

(1) for program improvement;

(2) to further define the program's goals and objectives; and

(3) to determine program effectiveness.

(c) Evaluation components

Evaluations shall include—

(1) how students are achieving the State student performance standards, if any, including data comparing children and youth of limited-English proficiency with nonlimited English proficient children and youth with regard to school retention, academic achievement, and gains in English (and, where applicable, native language) proficiency;

(2) program implementation indicators that provide information for informing and improving program management and effectiveness, including data on appropriateness of curriculum in relationship to grade and course requirements, appropriateness of program management, appropriateness of the program's staff professional development, and appropriateness of the language of instruction;

(3) program context indicators that describe the relationship of the activities funded under the grant to the overall school program and other Federal, State, or local programs serving children and youth of limited English proficiency; and

(4) such other information as the Secretary may require.

(Pub. L. 89–10, title VII, § 7123, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3728.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7424, 7425 of this title.

§ 7434. Construction

Nothing in this part shall be construed to prohibit a local educational agency from serving limited English proficient children and youth simultaneously with students with similar educational needs, in the same educational settings where appropriate.

(Pub. L. 89–10, title VII, § 7124, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3728.)

SUBPART 2—RESEARCH, EVALUATION, AND DISSEMINATION

§ 7451. Authority

(a) In general

The Secretary is authorized to conduct data collection, dissemination, research, and ongoing program evaluation activities in accordance with the provisions of this subpart for the purpose of improving bilingual education and special alternative instruction programs for children and youth of limited English proficiency.

(b) Competitive awards

Research and program evaluation activities carried out under this subpart shall be supported through competitive grants, contracts and cooperative agreements awarded institutions of higher education, nonprofit organizations, and State and local educational agencies.

(c) Administration

The Secretary shall conduct data collection, dissemination, and ongoing program evaluation activities authorized by this subpart through the Office of Bilingual Education and Minority Language Affairs.

(Pub. L. 89–10, title VII, § 7131, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3729.)

INFORMATION REGARDING BILINGUAL EDUCATION

Pub. L. 100–297, title VI, § 6213, Apr. 28, 1988, 102 Stat. 429, as amended by Pub. L. 104–66, title I, § 1042(a), Dec. 21, 1995, 109 Stat. 715, provided that: ''The Secretary shall collect data for program management and accountability purposes regarding—

''(1) a national assessment of the educational needs of children and other persons with limited English proficiency and of the extent to which such needs are being met from Federal, State, and local efforts;

''(2) a plan, including cost estimates, to be carried out during the 5-year period beginning on such date, for extending programs of bilingual education and bilingual vocational and adult education programs to all such preschool and elementary schoolchildren and other persons of limited English proficiency, including a phased plan for the training of the necessary teachers and other education personnel necessary for such purpose;

''(3) a statement of the activities intended to be carried out during the succeeding period, including an estimate of the cost of such activities; and

''(4)(A) an assessment of the number of teachers and other educational personnel needed to carry out programs of bilingual education under such title and those carried out under other programs for persons of limited English proficiency;

''(B) a statement describing the activities carried out thereunder designed to prepare teachers and other educational personnel for such programs; and

''(C) the number of other educational personnel needed to carry out programs of bilingual education in the States.''

§ 7452. Research

(a) Administration

The Secretary shall conduct research activities authorized by this subpart through the Office of Educational Research and Improvement in coordination and collaboration with the Office of Bilingual Education and Minority Language Affairs.

(b) Requirements

Such research activities—

(1) shall have a practical application to teachers, counselors, paraprofessionals, school administrators, parents, and others involved in improving the education of limited English proficient students and their families;

(2) may include research on effective instructional practices for multilingual classes, and on effective instruction strategies to be used by teachers and other staff who do not

know the native language of a limited English proficient child or youth in their classrooms;

(3) may include establishing (through the National Center for Education Statistics in consultation with experts in bilingual education, second language acquisition, and English-as-a-second-language) a common definition of ''limited English proficient student'' for purposes of national data collection; and

(4) shall be administered by individuals with expertise in bilingual education and the needs of limited English proficient students and their families.

(c) Field-initiated research

(1) In general

The Secretary shall reserve not less than 5 percent of the funds made available to carry out this section for field-initiated research conducted by current or recent recipients of grants under this subpart or subpart 1 of this part who have received such grants within the previous five years. Such research may provide for longitudinal studies of students or teachers in bilingual education, monitoring the education of such students from entry in bilingual education through secondary school completion.

(2) Applications

Applicants for assistance under this subsection may submit an application for such assistance to the Secretary at the same time as applications are submitted under this subpart or subpart 1 of this part. The Secretary shall complete a review of such applications on a timely basis to allow research and program grants to be coordinated when recipients are awarded two or more such grants.

(d) Consultation

The Secretary shall consult with agencies and organizations that are engaged in bilingual education research and practice, or related research, and bilingual education researchers and practitioners to identify areas of study and activities to be funded under this section.

(e) Data collection

The Secretary shall provide for the continuation of data collection on limited English proficient students as part of the data systems operated by the Department.

(Pub. L. 89–10, title VII, § 7132, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3729.)

RESEARCH RELATING TO BILINGUAL EDUCATION

Section 6211 of title VI of Pub. L. 100–297 provided that:

''(a) RESEARCH AND DEVELOPMENT.—The Secretary shall, through competitive contracts under this section, provide financial assistance for research and development proposals submitted by institutions of higher education, private for-profit and nonprofit organizations, State and local educational agencies, and individuals.

''(b) AUTHORIZED ACTIVITIES.—Research activities authorized to be assisted under this section shall include—

''(1) studies to determine and evaluate effective models for bilingual education programs;

''(2) studies which examine the process by which individuals acquire a second language and master the subject matter skills required for grade-promotion and graduation, and which identify effective methods for teaching English and subject matter skills within the context of a bilingual education program or special alternative instructional program to students who have language proficiencies other than English;

''(3) longitudinal studies to measure the effect of title VII of the Elementary and Secondary Education Act of 1965 [former 20 U.S.C. 3281 et seq.] on students enrolled in programs under such title (including a longitudinal study of the impact of bilingual education programs on limited-English proficient students using a nationally representative sample of the programs funded under such title and which provides information including data on grade retention, academic performance, and dropout rates);

''(4) studies to determine effective and reliable methods for identifying students who are entitled to services under such title and for determining when their English language proficiency is sufficiently well developed to permit them to derive optimal benefits from an all-English instructional program;

''(5) the operation of a clearinghouse which shall collect, analyze, and disseminate information about bilingual education and related programs (and coordinate its activities with the National Diffusion Network);

''(6) studies to determine effective methods of teaching English to adults who have language proficiencies other than English;

''(7) studies to determine and evaluate effective methods of instruction for bilingual programs, taking into account language and cultural differences among students;

''(8) studies to determine effective approaches to preservice and inservice training for teachers, taking into account the language and cultural differences of their students;

''(9) the effect of such title on the capacity of local educational agencies to operate bilingual programs following the termination of assistance under this [such] title; and

''(10) studies to determine effective and reliable methods for identifying gifted and talented students who have language proficiencies other than English.

''(c) CONSULTATION AND DELEGATION OF AUTHORITY.—In carrying out the responsibilities of this section, the Secretary may delegate authority to the Director, and in any event, shall consult with the Director, representatives of State and local educational agencies, appropriate groups and organizations involved in bilingual education, the Committee on Labor and Human Resources of the Senate, and the Committee on Education and Labor [now Committee on Education and the Workforce] of the House of Representatives.

''(d) PUBLICATION OF PROPOSALS.—The Secretary shall publish and disseminate all requests for proposals in research and development assisted under such title.

''(e) LIMITATION OF AUTHORITY.—Nothing in this section shall be construed as authorizing the Secretary to conduct or support studies or analyses of the content of educational textbooks.''

§ 7453. Academic excellence awards

(a) Awards

The Secretary may make grants to, and enter into contracts and cooperative agreements with, State and local educational agencies, nonprofit organizations, and institutions of higher education to promote the adoption and implementation of bilingual education, special alternative instruction programs, and professional development programs that demonstrate promise of assisting children and youth of limited English proficiency to meet challenging State standards.

(b) Applications

(1) In general

Each entity desiring an award under this section shall submit an application to the Secretary in such form, at such time, and containing such information and assurances as the Secretary may reasonably require.

(2) Peer review

The Secretary shall use a peer review process, using effectiveness criteria that the Secretary shall establish, to review applications under this section.

(c) Use of funds

Funds under this section shall be used to enhance the capacity of States and local education agencies to provide high quality academic programs for children and youth of limited English proficiency, which may include—

(1) completing the development of such programs;

(2) professional development of staff participating in bilingual education programs;

(3) sharing strategies and materials; and

(4) supporting professional networks.

(d) Coordination

Recipients of funds under this section shall coordinate the activities assisted under this section with activities carried out by comprehensive regional assistance centers assisted under part A of subchapter XIII of this chapter.

(Pub. L. 89–10, title VII, § 7133, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3730.)

§ 7454. State grant program

(a) State grant program

The Secretary is authorized to make an award to a State educational agency that demonstrates, to the satisfaction of the Secretary, that such agency, through such agency's own programs and other Federal education programs, effectively provides for the education of children and youth of limited English proficiency within the State.

(b) Payments

The amount paid to a State educational agency under subsection (a) of this section shall not exceed 5 percent of the total amount awarded to local educational agencies within the State under subpart 1 of this part for the previous fiscal year, except that in no case shall the amount paid by the Secretary to any State educational agency under this subsection for any fiscal year be less than $100,000.

(c) Use of funds

(1) In general

A State educational agency shall use funds awarded under this section for programs authorized by this section to—

(A) assist local educational agencies in the State with program design, capacity building, assessment of student performance, and program evaluation; and

(B) collect data on the State's limited English proficient populations and the educational programs and services available to such populations.

(2) Exception

States which do not, as of October 20, 1994, have in place a system for collecting the data described in subparagraph (B) of paragraph (1) for all students in such State, are not required to meet the requirement of such subparagraph. In the event such State develops a system for collecting data on the educational programs and services available to all students in the State, then such State shall comply with the requirement of paragraph (1)(B).

(3) Training

The State educational agency may also use funds provided under this section for the training of State educational agency personnel in educational issues affecting limited English proficient children and youth.

(4) Special rule

Recipients of funds under this section shall not restrict the provision of services under this section to federally funded programs.

(d) State consultation

A State educational agency receiving funds under this section shall consult with recipients of grants under this subchapter and other individuals or organizations involved in the development or operation of programs serving limited English proficient children or youth to ensure that such funds are used in a manner consistent with the requirements of this subchapter.

(e) Applications

A State educational agency desiring to receive funds under this section shall submit an application to the Secretary in such form, at such time, and containing such information and assurances as the Secretary may require.

(f) Supplement not supplant

Funds made available under this section for any fiscal year shall be used by the State educational agency to supplement and, to the extent practical, to increase to the level of funds that would, in the absence of such funds, be made available by the State for the purposes described in this section, and in no case to supplant such funds.

(g) Report to Secretary

State educational agencies receiving awards under this section shall provide for the annual submission of a summary report to the Secretary describing such State's use of such funds.

(Pub. L. 89–10, title VII, § 7134, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3730.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7575 of this title.

§ 7455. National Clearinghouse for Bilingual Education

(a) Establishment

The Secretary shall establish and support the operation of a National Clearinghouse for Bilingual Education, which shall collect, analyze, synthesize, and disseminate information about bilingual education and related programs.

(b) Functions

The National Clearinghouse for Bilingual Education shall—

(1) be administered as an adjunct clearinghouse of the Educational Resources Information Center Clearinghouses system of clearinghouses supported by the Office of Educational Research and Improvement;

(2) coordinate its activities with Federal data and information clearinghouses and dissemination networks and systems;

(3) develop a data base management and monitoring system for improving the operation and effectiveness of federally funded bilingual education programs; and

(4) develop, maintain, and disseminate, through comprehensive regional assistance centers described in part A of subchapter XIII of this chapter if appropriate, a listing by geographical area of education professionals, parents, teachers, administrators, community members and others who are native speakers of languages other than English for use as a resource by local educational agencies and schools in the development and implementation of bilingual education programs.

(Pub. L. 89–10, title VII, § 7135, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3731.)

§ 7456. Instructional materials development

The Secretary may provide grants for the development, publication, and dissemination of high-quality instructional materials in Native American and Native Hawaiian languages and the language of Native Pacific Islanders and natives of the outlying areas for which instructional materials are not readily available. The Secretary shall give priority to the development of instructional materials in languages indigenous to the United States or the outlying areas. The Secretary shall also accord priority to applications for assistance under this section which provide for developing and evaluating materials in collaboration with activities assisted under this subpart and subpart 1 of this part and which are consistent with voluntary national content standards and challenging State content standards.

(Pub. L. 89–10, title VII, § 7136, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3732.)

SUBPART 3—PROFESSIONAL DEVELOPMENT

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in section 7403 of this title.

§ 7471. Purpose

The purpose of this subpart is to assist in preparing educators to improve the educational services for limited English proficient children and youth by supporting professional development programs and the dissemination of information on appropriate instructional practices for such children and youth.

(Pub. L. 89–10, title VII, § 7141, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3732.)

§ 7472. Training for all teachers program

(a) Purpose

The purpose of this section is to provide for the incorporation of courses and curricula on appropriate and effective instructional and assessment methodologies, strategies and resources specific to limited English proficient students into preservice and inservice professional development programs for teachers, pupil services personnel, administrators and other education personnel in order to prepare such individuals to provide effective services to limited English proficient students.

(b) Authorization

(1) Authority

The Secretary is authorized to award grants to institutions of higher education, local educational agencies, and State educational agencies or to nonprofit organizations which have entered into consortia arrangements with one of such institutions or agencies.

(2) Duration

Each grant under this section shall be awarded for a period of not more than five years.

(c) Permissible activities

Activities conducted under this section may include the development of training programs in collaboration with other programs such as programs authorized under subchapters I and II of this chapter, and under the Head Start Act [42 U.S.C. 9831 et seq.].

(Pub. L. 89–10, title VII, § 7142, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3732.)

REFERENCES IN TEXT

The Head Start Act, referred to in subsec. (c), is subchapter B (§§ 635–657) of chapter 8 of subtitle A of title VI of Pub. L. 97–35, Aug. 13, 1981, 95 Stat. 499, as amended, which is classified generally to subchapter II (§ 9831 et seq.) of chapter 105 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 9801 of Title 42 and Tables.

§ 7473. Bilingual education teachers and personnel grants

(a) Purpose

The purpose of this section is to provide for—

(1) preservice and inservice professional development for bilingual education teachers, administrators, pupil services personnel, and other educational personnel who are either involved in, or preparing to be involved in, the provision of educational services for children and youth of limited-English proficiency; and

(2) national professional development institutes that assist schools or departments of education in institutions of higher education to improve the quality of professional development programs for personnel serving, preparing to serve, or who may serve, children and youth of limited-English proficiency.

(b) Priority

The Secretary shall give priority in awarding grants under this section to institutions of higher education, in consortia with local or State educational agencies, that offer degree programs which prepare new bilingual education teachers in order to increase the availability of educators to provide high-quality education to limited English proficient students.

(c) Authorization

(1) The Secretary is authorized to award grants for not more than five years to institu-

tions of higher education which have entered into consortia arrangements with local or State educational agencies to achieve the purposes of this section.

(2) The Secretary is authorized to make grants for not more than five years to State and local educational agencies for inservice professional development programs.

(Pub. L. 89–10, title VII, § 7143, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3733.)

§ 7474. Bilingual education career ladder program

(a) Purpose

The purpose of this section is—

(1) to upgrade the qualifications and skills of noncertified educational personnel, especially educational paraprofessionals, to meet high professional standards, including certification and licensure as bilingual education teachers and other educational personnel who serve limited English proficient students, through collaborative training programs operated by institutions of higher education and local and State educational agencies; and

(2) to help recruit and train secondary school students as bilingual education teachers and other educational personnel to serve limited English proficient students.

(b) Authorization

(1) In general

The Secretary is authorized to award grants for bilingual education career ladder programs to institutions of higher education applying in consortia with local or State educational agencies, which consortia may include community-based organizations or professional education organizations.

(2) Duration

Each grant under this section shall be awarded for a period of not more than five years.

(c) Permissive activities

Grants awarded under this section may be used—

(1) for the development of bilingual education career ladder program curricula appropriate to the needs of the consortium participants;

(2) to provide assistance for stipends and costs related to tuition, fees and books for enrolling in courses required to complete the degree and certification requirements to become bilingual education teachers; and

(3) for programs to introduce secondary school students to careers in bilingual education teaching that are coordinated with other activities assisted under this section.

(d) Special consideration

The Secretary shall give special consideration to applications under this section which provide for—

(1) participant completion of baccalaureate and master's degree teacher education programs, and certification requirements and may include effective employment placement activities;

(2) development of teacher proficiency in English a[1] second language, including demonstrating proficiency in the instructional use of English and, as appropriate, a second language in classroom contexts;

(3) coordination with the Federal TRIO programs under chapter 1 of part A of title IV of the Higher Education Act of 1965 [20 U.S.C. 1070a et seq.], the National Mini Corps under subpart 1 of part F of title V of such Act [20 U.S.C. 1113], the Teacher Corps program under subpart 3 of part C of title V of such Act [20 U.S.C. 1106 et seq.], and the National Community and Service Trust Act of 1993 programs, and other programs for the recruitment and retention of bilingual students in secondary and postsecondary programs to train to become bilingual educators; and

(4) the applicant's contribution of additional student financial aid to participating students.

(Pub. L. 89–10, title VII, § 7144, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3733.)

REFERENCES IN TEXT

The Higher Education Act of 1965, referred to in subsec. (d)(3), is Pub. L. 89–329, Nov. 8, 1965, 79 Stat. 1219, as amended. Reference to chapter 1 of part A of title IV of the Act probably means a reference to subpart 1 of part A of title IV of the Act which is classified generally to subpart 1 (§ 1070a et seq.) of part A of subchapter IV of chapter 28 of this title. Subpart 3 of part C and subpart 1 of part F of title V of the Act are classified generally to subpart 3 (§ 1106 et seq.) of part C and subpart 1 (§ 1113) of part F, respectively, of subchapter V of chapter 28 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

The National Community and Service Trust Act of 1993, referred to in subsec. (d)(3), is Pub. L. 103–82, Sept. 21, 1993, 107 Stat. 785. For complete classification of this Act to the Code, see Short Title of 1993 Amendment note set out under section 12501 of Title 42, The Public Health and Welfare, and Tables.

§ 7475. Graduate fellowships in bilingual education program

(a) Authorization

(1) In general

The Secretary may award fellowships for masters, doctoral, and post-doctoral study related to instruction of children and youth of limited-English proficiency in such areas as teacher training, program administration, research and evaluation, and curriculum development, and for the support of dissertation research related to such study.

(2) Number

For fiscal year 1994 not less than 500 fellowships leading to a master's or doctorate degree shall be awarded under this section.

(3) Information

The Secretary shall include information on the operation and the number of fellowships awarded under the fellowship program in the evaluation required under section 7479 of this title.

[1] So in original. Probably should be ''and a''.

(b) Fellowship requirements

(1) In general

Any person receiving a fellowship under this section shall agree to—

(A) work in an activity related to the program or in an activity such as an activity authorized under this part, including work as a bilingual education teacher, for a period of time equivalent to the period of time during which such person receives assistance under this section; or

(B) repay such assistance.

(2) Regulations

The Secretary shall establish in regulations such terms and conditions for such agreement as the Secretary deems reasonable and necessary and may waive the requirement of paragraph (1) in extraordinary circumstances.

(c) Priority

In awarding fellowships under this section the Secretary may give priority to institutions of higher education that demonstrate experience in assisting fellowship recipients find employment in the field of bilingual education.

(Pub. L. 89–10, title VII, § 7145, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3734.)

§ 7476. Application

(a) In general

(1) Secretary

To receive an award under this subpart, an eligible entity shall submit an application to the Secretary at such time, in such form, and containing such information as the Secretary may require.

(2) Consultation and assessment

Each such application shall contain a description of how the applicant has consulted with, and assessed the needs of, public and private schools serving children and youth of limited-English proficiency to determine such school's need for, and the design of, the program for which funds are sought.

(3) Special rule

(A) An application for a grant under subsection (a) of this section from an applicant who proposes to conduct a master's- or doctoral-level program with funds received under this section shall provide an assurance that such program will include, as a part of the program, a training practicum in a local school program serving children and youth of limited-English proficiency.

(B) A recipient of a grant under subsection (a) of this section may waive the requirement of a training practicum for a degree candidate with significant experience in a local school program serving children and youth of limited-English proficiency.

(4) State educational agency

An eligible entity, with the exception of schools funded by the Bureau of Indian Affairs, shall submit a copy of the application under this subsection to the State educational agency.

(b) State review and comments

(1) Deadline

The State educational agency, not later than 45 days after receipt of such application copy, shall review the application and transmit such application to the Secretary.

(2) Comments

(A) Regarding any application submitted under this subpart, the State educational agency shall—

(i) submit to the Secretary written comments regarding all such applications; and

(ii) submit to each eligible entity the comments that pertain to such entity.

(B) For purposes of this subpart, comments shall address how the eligible entity—

(i) will further the academic achievement of limited English proficient students served pursuant to a grant received under this subpart; and

(ii) how the grant application is consistent with the State plan submitted under section 6311 of this title.

(3) Waiver

Notwithstanding paragraphs (1) and (2), the Secretary is authorized to waive the review requirement if a State educational agency can demonstrate that such review requirement may impede such agency's ability to fulfill the requirements of participation in the State grant program, particularly such agency's data collection efforts and such agency's ability to provide technical assistance to local educational agencies not receiving funds under this chapter.

(c) Eligible entity comments

An eligible entity may submit to the Secretary comments that address the comments submitted by the State educational agency.

(d) Comment consideration

In making awards under this subpart the Secretary shall take into consideration comments made by a State educational agency.

(e) Special rule

(1) Outreach and technical assistance

The Secretary shall provide for outreach and technical assistance to institutions of higher education eligible for assistance under title III of the Higher Education Act of 1965 [20 U.S.C. 1051 et seq.] and institutions of higher education that are operated or funded by the Bureau of Indian Affairs to facilitate the participation of such institutions in activities under this part.

(2) Distribution rule

In making awards under this subpart, the Secretary, consistent with subsection (d) of this section, shall ensure adequate representation of Hispanic-serving institutions that demonstrate competence and experience in the programs and activities authorized under this subpart and are otherwise qualified.

(Pub. L. 89–10, title VII, § 7146, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3735.)

REFERENCES IN TEXT

The Higher Education Act of 1965, referred to in subsec. (e)(1), is Pub. L. 89–329, Nov. 8, 1965, 79 Stat. 1219,

as amended. Title III of the Act is classified generally to subchapter III (§ 1051 et seq.) of chapter 28 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

§ 7477. Program requirements

Activities conducted under this subpart shall assist educational personnel in meeting State and local certification requirements for bilingual education and, wherever possible, shall lead toward the awarding of college or university credit.

(Pub. L. 89–10, title VII, § 7147, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3736.)

§ 7478. Stipends

The Secretary shall provide for the payment of such stipends (including allowances for subsistence and other expenses for such persons and their dependents), as the Secretary determines to be appropriate, to persons participating in training programs under this subpart.

(Pub. L. 89–10, title VII, § 7148, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3736.)

§ 7479. Program evaluations

Each recipient of funds under this subpart shall provide the Secretary with an evaluation of the program assisted under this subpart every two years. Such evaluation shall include data on—

(1) post-program placement of persons trained in a program assisted under this subpart;

(2) how the training relates to the employment of persons served by the program;

(3) program completion; and

(4) such other information as the Secretary may require.

(Pub. L. 89–10, title VII, § 7149, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3736.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7475 of this title.

§ 7480. Use of funds for second language competence

Awards under this subpart may be used to develop a program participant's competence in a second language for use in instructional programs.

(Pub. L. 89–10, title VII, § 7150, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3736.)

SUBPART 4—TRANSITION

§ 7491. Special rule

Notwithstanding any other provision of law, no recipient of a grant under title VII of this Act (as such title was in effect on the day preceding October 20, 1994) shall be eligible for fourth- and fifth-year renewals authorized by section 7021(d)(1)(C) of such title (as such section was in effect on the day preceding October 20, 1994).

(Pub. L. 89–10, title VII, § 7161, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3736.)

REFERENCES IN TEXT

Title VII of this Act (as such title was in effect on the day preceding October 20, 1994) and section 7021(d)(1)(C) of such title (as such section was in effect on the day preceding October 20, 1994), referred to in text, means title VII and section 7021(d)(1)(C), respectively, of Pub. L. 89–10, as added by Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 274, 279, as amended, which were classified to subchapter VII (§ 3281 et seq.) of chapter 47 and section 3291(d)(1)(C), respectively, of this title prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519.

PART B—FOREIGN LANGUAGE ASSISTANCE PROGRAM

PRIOR PROVISIONS

Provisions similar to those in this part were contained in part B (§ 3001 et seq.) of subchapter II of chapter 47 of this title prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382, § 101, and in subpart 1 (§ 5011 et seq.) of part A of subchapter I of chapter 62 of this title prior to repeal by Pub. L. 103–382, § 391(i).

§ 7511. Short title

This part may be cited as the ''Foreign Language Assistance Act of 1994''.

(Pub. L. 89–10, title VII, § 7201, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3737.)

§ 7512. Findings

The Congress finds as follows:

(1) Foreign language proficiency is crucial to our Nation's economic competitiveness and national security. Significant improvement in the quantity and quality of foreign language instruction offered in our Nation's elementary and secondary schools is necessary.

(2) All Americans need a global perspective. To understand the world around us, we must acquaint ourselves with the languages, cultures, and history of other nations.

(3) Proficiency in two or more languages should be promoted for all American students. Multilingualism enhances cognitive and social growth, competitiveness in the global marketplace, national security, and understanding of diverse people and cultures.

(4) The United States lags behind other developed countries in offering foreign language study to elementary and secondary school students.

(5) Four out of five new jobs in the United States are created from foreign trade.

(6) The optimum time to begin learning a second language is in elementary school, when children have the ability to learn and excel in several foreign language acquisition skills, including pronunciation, and when children are most open to appreciating and valuing a culture other than their own.

(7) Foreign language study can increase childrens' capacity for critical and creative thinking skills and children who study a second language show greater cognitive development in areas such as mental flexibility, creativity, tolerance, and higher order thinking skills.

(8) Children who have studied a foreign language in elementary school achieve expected gains and score higher on standardized tests of reading, language arts, and mathematics than children who have not studied a foreign language.

(Pub. L. 89–10, title VII, § 7202, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3737.)

§ 7513. Program authorized

(a) Program authority

(1) In general

The Secretary shall make grants, on a competitive basis, to State educational agencies or local educational agencies to pay the Federal share of the cost of innovative model programs providing for the establishment, improvement or expansion of foreign language study for elementary and secondary school students.

(2) Duration

Each grant under paragraph (1) shall be awarded for a period of three years.

(b) Requirements

(1) Grants to State educational agencies

In awarding a grant under subsection (a) of this section to a State educational agency, the Secretary shall support programs that promote systemic approaches to improving foreign language learning in the State.

(2) Grants to local educational agencies

In awarding a grant under subsection (a) of this section to a local educational agency, the Secretary shall support programs that—

(A) show the promise of being continued beyond the grant period;

(B) demonstrate approaches that can be disseminated and duplicated in other local educational agencies; and

(C) may include a professional development component.

(c) Federal share

(1) In general

The Federal share for each fiscal year shall be 50 percent.

(2) Waiver

The Secretary may waive the requirement of paragraph (1) for any local educational agency which the Secretary determines does not have adequate resources to pay the non-Federal share of the cost of the activities assisted under this part.

(3) Special rule

Not less than three-fourths of the funds appropriated under section 7516 of this title shall be used for the expansion of foreign language learning in the elementary grades.

(4) Reservation

The Secretary may reserve not more than 5 percent of funds appropriated under section 7516 of this title to evaluate the efficacy of programs under this part.

(Pub. L. 89–10, title VII, § 7203, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3737.)

§ 7514. Applications

(a) In general

Any State educational agency or local educational agency desiring a grant under this part shall submit an application to the Secretary at such time, in such form, and containing such information and assurances as the Secretary may require.

(b) Special consideration

The Secretary shall give special consideration to applications describing programs that—

(1) include intensive summer foreign language programs for professional development;

(2) link non-native English speakers in the community with the schools in order to promote two-way language learning; or

(3) promote the sequential study of a foreign language for students, beginning in elementary schools.

(Pub. L. 89–10, title VII, § 7204, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3738.)

§ 7515. Elementary school foreign language incentive program

(a) Incentive payments

From amounts appropriated under section 7516 of this title the Secretary shall make an incentive payment for each fiscal year to each public elementary school that provides to students attending such school a program designed to lead to communicative competency in a foreign language.

(b) Amount

The Secretary shall determine the amount of the incentive payment under subsection (a) of this section for each public elementary school for each fiscal year on the basis of the number of students participating in a program described in such subsection at such school for such year compared to the total number of such students at all such schools in the United States for such year.

(c) Requirement

The Secretary shall consider a program to be designed to lead to communicative competency in a foreign language if such program is comparable to a program that provides not less than 45 minutes of instruction in a foreign language not less than four days per week throughout an academic year.

(Pub. L. 89–10, title VII, § 7205, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3738.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7516 of this title.

§ 7516. Authorization of appropriations

There are authorized to be appropriated $35,000,000 for the fiscal year 1995, and such sums as may be necessary for each of the four succeeding fiscal years, to carry out this part, of which not more than $20,000,000 may be used in each fiscal year to carry out section 7515 of this title.

(Pub. L. 89–10, title VII, § 7206, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3739.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7513, 7515 of this title.

PART C—EMERGENCY IMMIGRANT EDUCATION PROGRAM

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 8857 of this title.

§ 7541. Findings and purpose

(a) Findings

The Congress finds that—

(1) the education of our Nation's children and youth is one of the most sacred government responsibilities;

(2) local educational agencies have struggled to fund adequately education services;

(3) in the case of Plyler v. Doe, the Supreme Court held that States have a responsibility under the Equal Protection Clause of the Constitution to educate all children, regardless of immigration status; and

(4) immigration policy is solely a responsibility of the Federal Government.

(b) Purpose

The purpose of this part is to assist eligible local educational agencies that experience unexpectedly large increases in their student population due to immigration to—

(1) provide high-quality instruction to immigrant children and youth; and

(2) help such children and youth—

(A) with their transition into American society; and

(B) meet the same challenging State performance standards expected of all children and youth.

(Pub. L. 89–10, title VII, § 7301, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3739.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7544, 7545 of this title.

§ 7542. State administrative costs

For any fiscal year, a State educational agency may reserve not more than 1.5 percent of the amount allocated to such agency under section 7544 of this title to pay the costs of performing such agency's administrative functions under this part.

(Pub. L. 89–10, title VII, § 7302, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3739.)

§ 7543. Withholding

Whenever the Secretary, after providing reasonable notice and opportunity for a hearing to any State educational agency, finds that there is a failure to meet the requirement of any provision of this part, the Secretary shall notify that agency that further payments will not be made to the agency under this part, or in the discretion of the Secretary, that the State educational agency shall not make further payments under this part to specified local educational agencies whose actions cause or are involved in such failure until the Secretary is satisfied that there is no longer any such failure to comply. Until the Secretary is so satisfied, no further payments shall be made to the State educational agency under this part, or payments by the State educational agency under this part shall be limited to local educational agencies whose actions did not cause or were not involved in the failure, as the case may be.

(Pub. L. 89–10, title VII, § 7303, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3739.)

§ 7544. State allocations

(a) Payments

The Secretary shall, in accordance with the provisions of this section, make payments to State educational agencies for each of the fiscal years 1995 through 1999 for the purpose set forth in section 7541(b) of this title.

(b) Allocations

(1) In general

Except as provided in subsections (c) and (d) of this section, of the amount appropriated for each fiscal year for this part, each State participating in the program assisted under this part shall receive an allocation equal to the proportion of such State's number of immigrant children and youth who are enrolled in public elementary or secondary schools under the jurisdiction of each local educational agency described in paragraph (2) within such State, and in nonpublic elementary or secondary schools within the district served by each such local educational agency, relative to the total number of immigrant children and youth so enrolled in all the States participating in the program assisted under this part.

(2) Eligible local educational agencies

The local educational agencies referred to in paragraph (1) are those local educational agencies in which the sum of the number of immigrant children and youth who are enrolled in public elementary or secondary schools under the jurisdiction of such agencies, and in nonpublic elementary or secondary schools within the districts served by such agencies, during the fiscal year for which the payments are to be made under this part, is equal to—

(A) at least 500; or

(B) at least 3 percent of the total number of students enrolled in such public or nonpublic schools during such fiscal year,

whichever number is less.

(c) Determinations of number of children and youth

(1) In general

Determinations by the Secretary under this section for any period with respect to the number of immigrant children and youth shall be made on the basis of data or estimates provided to the Secretary by each State educational agency in accordance with criteria established by the Secretary, unless the Secretary determines, after notice and opportunity for a hearing to the affected State educational agency, that such data or estimates are clearly erroneous.

(2) Special rule

No such determination with respect to the number of immigrant children and youth shall operate because of an underestimate or over-

estimate to deprive any State educational agency of the allocation under this section that such State would otherwise have received had such determination been made on the basis of accurate data.

(d) Reallocation

Whenever the Secretary determines that any amount of a payment made to a State under this part for a fiscal year will not be used by such State for carrying out the purpose for which the payment was made, the Secretary shall make such amount available for carrying out such purpose to one or more other States to the extent the Secretary determines that such other States will be able to use such additional amount for carrying out such purpose. Any amount made available to a State from any appropriation for a fiscal year in accordance with the preceding sentence shall, for purposes of this part, be regarded as part of such State's payment (as determined under subsection (b) of this section) for such year, but shall remain available until the end of the succeeding fiscal year.

(e) Reservation of funds

(1) In general

Notwithstanding any other provision of this part, if the amount appropriated to carry out this part exceeds $50,000,000 for a fiscal year, a State educational agency may reserve not more than 20 percent of such agency's payment under this part for such year to award grants, on a competitive basis, to local educational agencies within the State as follows:

(A) At least one-half of such grants shall be made available to eligible local educational agencies (as described in subsection (b)(2) of this section) within the State with the highest numbers and percentages of immigrant children and youth.

(B) Funds reserved under this paragraph and not made available under subparagraph (A) may be distributed to local educational agencies within the State experiencing a sudden influx of immigrant children and youth which are otherwise not eligible for assistance under this part.

(2) Use of grant funds

Each local educational agency receiving a grant under paragraph (1) shall use such grant funds to carry out the activities described in section 7547 of this title.

(3) Information

Local educational agencies with the highest number of immigrant children and youth receiving funds under paragraph (1) may make information available on serving immigrant children and youth to local educational agencies in the State with sparse numbers of such children.

(Pub. L. 89–10, title VII, § 7304, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3740.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7542, 7545, 7546 of this title.

§ 7545. State applications

(a) Submission

No State educational agency shall receive any payment under this part for any fiscal year unless such agency submits an application to the Secretary at such time, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require. Each such application shall—

(1) provide that the educational programs, services, and activities for which payments under this part are made will be administered by or under the supervision of the agency;

(2) provide assurances that payments under this part will be used for purposes set forth in sections 7541 and 7547 of this title, including a description of how local educational agencies receiving funds under this part will use such funds to meet such purposes and will coordinate with other programs assisted under this chapter, the Goals 2000: Educate America Act [20 U.S.C. 5801 et seq.], and other Acts as appropriate;

(3) provide an assurance that local educational agencies receiving funds under this part will coordinate the use of such funds with programs assisted under part A of this subchapter or subchapter I of this chapter;

(4) provide assurances that such payments, with the exception of payments reserved under section 7544(e) of this title, will be distributed among local educational agencies within that State on the basis of the number of immigrant children and youth counted with respect to each such local educational agency under section 7544(b)(1) of this title;

(5) provide assurances that the State educational agency will not finally disapprove in whole or in part any application for funds received under this part without first affording the local educational agency submitting an application for such funds reasonable notice and opportunity for a hearing;

(6) provide for making such reports as the Secretary may reasonably require to perform the Secretary's functions under this part;

(7) provide assurances—

(A) that to the extent consistent with the number of immigrant children and youth enrolled in the nonpublic elementary or secondary schools within the district served by a local educational agency, such agency, after consultation with appropriate officials of such schools, shall provide for the benefit of such children and youth secular, neutral, and nonideological services, materials, and equipment necessary for the education of such children and youth;

(B) that the control of funds provided under this part to any materials, equipment, and property repaired, remodeled, or constructed with those funds shall be in a public agency for the uses and purposes provided in this part, and a public agency shall administer such funds and property; and

(C) that the provision of services pursuant to this paragraph shall be provided by employees of a public agency or through contract by such public agency with a person, association, agency, or corporation who or which, in the provision of such services, is independent of such nonpublic elementary or secondary school and of any religious organization, and such employment or contract shall be under the control and supervision of

such public agency, and the funds provided under this paragraph shall not be commingled with State or local funds;

(8) provide that funds reserved under subsection (e) of section 7544 of this title be awarded on a competitive basis based on merit and need in accordance with such subsection; and

(9) provide an assurance that State and local educational agencies receiving funds under this part will comply with the requirements of section 6321(b) of this title.

(b) Application review

(1) In general

The Secretary shall review all applications submitted pursuant to this section by State educational agencies.

(2) Approval

The Secretary shall approve any application submitted by a State educational agency that meets the requirements of this section.

(3) Disapproval

The Secretary shall disapprove any application submitted by a State educational agency which does not meet the requirements of this section, but shall not finally disapprove an application except after providing reasonable notice, technical assistance, and an opportunity for a hearing to the State.

(Pub. L. 89–10, title VII, § 7305, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3741.)

REFERENCES IN TEXT

The Goals 2000: Educate America Act, referred to in subsec. (a)(2), is Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 125 (except titles V and IX), as amended, which is classified principally to chapter 68 (§ 5801 et seq.) of this title (except subchapters V (§ 5931 et seq.) and IX (§ 6001 et seq.)). For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7546 of this title.

§ 7546. Administrative provisions

(a) Notification of amount

The Secretary, not later than June 1 of each year, shall notify each State educational agency that has an application approved under section 7545 of this title of the amount of such agency's allocation under section 7544 of this title for the succeeding year.

(b) Services to children enrolled in nonpublic schools

If by reason of any provision of law a local educational agency is prohibited from providing educational services for children enrolled in elementary and secondary nonpublic schools, as required by section 7545(a)(7) of this title, or if the Secretary determines that a local educational agency has substantially failed or is unwilling to provide for the participation on an equitable basis of children enrolled in such schools, the Secretary may waive such requirement and shall arrange for the provision of services, subject to the requirements of this part, to such children. Such waivers shall be subject to consultation, withholding, notice, and judicial review requirements in accordance with the provisions of subchapter I of this chapter.

(Pub. L. 89–10, title VII, § 7306, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3743.)

§ 7547. Uses of funds

(a) Use of funds

Funds awarded under this part shall be used to pay for enhanced instructional opportunities for immigrant children and youth, which may include—

(1) family literacy, parent outreach, and training activities designed to assist parents to become active participants in the education of their children;

(2) salaries of personnel, including teacher aides who have been specifically trained, or are being trained, to provide services to immigrant children and youth;

(3) tutorials, mentoring, and academic or career counseling for immigrant children and youth;

(4) identification and acquisition of curricular materials, educational software, and technologies to be used in the program;

(5) basic instructional services which are directly attributable to the presence in the school district of immigrant children, including the costs of providing additional classroom supplies, overhead costs, costs of construction, acquisition or rental of space, costs of transportation, or such other costs as are directly attributable to such additional basic instructional services; and

(6) such other activities, related to the purposes of this part, as the Secretary may authorize.

(b) Consortia

A local educational agency that receives a grant under this part may collaborate or form a consortium with one or more local educational agencies, institutions of higher education, and nonprofit organizations to carry out the program described in an application approved under this part.

(c) Subgrants

A local educational agency that receives a grant under this part may, with the approval of the Secretary, make a subgrant to, or enter into a contract with, an institution of higher education, a nonprofit organization, or a consortium of such entities to carry out a program described in an application approved under this part, including a program to serve out-of-school youth.

(d) Construction

Nothing in this part shall be construed to prohibit a local educational agency from serving immigrant children simultaneously with students with similar educational needs, in the same educational settings where appropriate.

(Pub. L. 89–10, title VII, § 7307, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3743.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7544, 7545 of this title.

§ 7548. Reports

(a) Biennial report

Each State educational agency receiving funds under this part shall submit, once every two years, a report to the Secretary concerning the expenditure of funds by local educational agencies under this part. Each local educational agency receiving funds under this part shall submit to the State educational agency such information as may be necessary for such report.

(b) Report to Congress

The Secretary shall submit, once every two years, a report to the appropriate committees of the Congress concerning programs assisted under this part in accordance with section 8941 of this title.

(Pub. L. 89–10, title VII, § 7308, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3744.)

§ 7549. Authorization of appropriations

For the purpose of carrying out this part, there are authorized to be appropriated $100,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

(Pub. L. 89–10, title VII, § 7309, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3744.)

PART D—ADMINISTRATION

§ 7571. Release time

The Secretary shall allow professional development programs funded under part A of this subchapter to use funds provided under part A of this subchapter for professional release time to enable individuals to participate in programs assisted under part A of this subchapter.

(Pub. L. 89–10, title VII, § 7401, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3744.)

§ 7572. Education technology

Funds made available under part A of this subchapter may be used to provide for the acquisition or development of education technology or instructional materials, including authentic materials in languages other than English, access to and participation in electronic networks for materials, training and communications, and incorporation of such resources in curricula and programs such as those funded under this subchapter.

(Pub. L. 89–10, title VII, § 7402, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3744.)

§ 7573. Notification

The State educational agency, and when applicable, the State board for postsecondary education, shall be notified within three working days of the date an award under part A of this subchapter is made to an eligible entity within the State.

(Pub. L. 89–10, title VII, § 7403, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3744.)

§ 7574. Continued eligibility

Entities receiving grants under this subchapter shall remain eligible for grants for subsequent activities which extend or expand and do not duplicate those activities supported by a previous grant under this subchapter. In considering applications for grants under this subchapter, the Secretary shall take into consideration the applicant's record of accomplishments under previous grants under this subchapter.

(Pub. L. 89–10, title VII, § 7404, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3744.)

§ 7575. Coordination and reporting requirements

(a) Coordination with related programs

In order to maximize Federal efforts aimed at serving the educational needs of children and youth of limited-English proficiency, the Secretary shall coordinate and ensure close cooperation with other programs serving language-minority and limited English proficient students that are administered by the Department and other agencies. The Secretary shall consult with the Secretary of Labor, the Secretary of Health and Human Services, the Secretary of Agriculture, the Attorney General and the heads of other relevant agencies to identify and eliminate barriers to appropriate coordination of programs that affect language-minority and limited English proficient students and their families. The Secretary shall provide for continuing consultation and collaboration, between the Office and relevant programs operated by the Department, including programs under subchapter I of this chapter and other programs under this chapter, in planning, contracts, providing joint technical assistance, providing joint field monitoring activities and in other relevant activities to ensure effective program coordination to provide high quality education opportunities to all language-minority and limited English proficient students.

(b) Data

The Secretary shall, to the extent feasible, ensure that all data collected by the Department shall include the collection and reporting of data on limited English proficient students.

(c) Publication of proposals

The Secretary shall publish and disseminate all requests for proposals for programs funded under part A of this subchapter.

(d) Report

The Director shall prepare and, not later than February 1 of every other year, shall submit to the Secretary and to the Committee on Labor and Human Resources of the Senate and to the Committee on Education and Labor of the House of Representatives a report on—

(1) the activities carried out under this subchapter and the effectiveness of such activities in improving the education provided to limited English proficient children and youth;

(2) a critical synthesis of data reported by the States pursuant to section 7454 of this title;

(3) an estimate of the number of certified bilingual education personnel in the field and an estimate of the number of bilingual education teachers which will be needed for the succeeding five fiscal years;

(4) the major findings of research carried out under this subchapter; and

(5) recommendations for further developing the capacity of our Nation's schools to educate effectively limited English proficient students.

(Pub. L. 89–10, title VII, § 7405, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3744.)

CHANGE OF NAME

Committee on Education and Labor of House of Representatives treated as referring to Committee on Economic and Educational Opportunities of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Economic and Educational Opportunities of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Fifth Congress, Jan. 7, 1997.

PART E—GENERAL PROVISIONS

§ 7601. Definitions; regulations

Except as otherwise provided, for purposes of this subchapter—

(1) Bilingual education program

The term ''bilingual education program'' means an educational program for limited English proficient students that—

(A) makes instructional use of both English and a student's native language;

(B) enables limited English proficient students to achieve English proficiency and academic mastery of subject matter content and higher order skills, including critical thinking, so as to meet age-appropriate grade-promotion and graduation standards in concert with the National Education Goals;

(C) may also develop the native language skills of limited English proficient students, or ancestral languages of American Indians, Alaska Natives, Native Hawaiians and native residents of the outlying areas; and

(D) may include the participation of English-proficient students if such program is designed to enable all enrolled students to become proficient in English and a second language.

(2) Children and youth

The term ''children and youth'' means individuals aged 3 through 21.

(3) Community-based organization

The term ''community-based organization'' means a private nonprofit organization of demonstrated effectiveness or Indian tribe or tribally sanctioned educational authority which is representative of a community or significant segments of a community and which provides educational or related services to individuals in the community. Such term includes Native Hawaiian organizations including Native Hawaiian Educational Organizations as such term is defined in section 4009 of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 (20 U.S.C. 4901 et seq.), as such Act was in effect on the day preceding October 20, 1994.

(4) Community college

The term ''community college'' means an institution of higher education as defined in section 1141(a) of this title which provides not less than a two-year program which is acceptable for full credit toward a bachelor's degree, including institutions receiving assistance under the Tribally Controlled Community College Assistance Act of 1978 [25 U.S.C. 1801 et seq.].

(5) Director

The term ''Director'' means the Director of the Office of Bilingual Education and Minority Languages Affairs established under section 3420[1] of this title.

(6) Family education program

(A) The term ''family education program'' means a bilingual education or special alternative instructional program that—

(i) is designed—

(I) to help limited English proficient adults and out-of-school youths achieve proficiency in the English language; and

(II) to provide instruction on how parents and family members can facilitate the educational achievement of their children;

(ii) when feasible, uses instructional programs such as the models developed under the Even Start Family Literacy Programs, which promote adult literacy and train parents to support the educational growth of their children and the Parents as Teachers Program and the Home Instruction Program for Preschool Youngsters; and

(iii) gives preference to participation by parents and immediate family members of children attending school.

(B) Such term may include programs that provide instruction to facilitate higher education and employment outcomes.

(7) Immigrant children and youth

The term ''immigrant children and youth'' means individuals who—

(A) are aged 3 through 21;

(B) were not born in any State; and

(C) have not been attending one or more schools in any one or more States for more than three full academic years.

(8) Limited English proficiency and limited English proficient

The terms ''limited English proficiency'' and ''limited English proficient'', when used with reference to an individual, mean an individual—

(A) who—

(i) was not born in the United States or whose native language is a language other than English and comes from an environment where a language other than English is dominant; or

(ii) is a Native American or Alaska Native or who is a native resident of the outlying areas and comes from an environment where a language other than English has had a significant impact on such individual's level of English language proficiency; or

(iii) is migratory and whose native language is other than English and comes

[1] See References in Text note below.

from an environment where a language other than English is dominant; and

(B) who has sufficient difficulty speaking, reading, writing, or understanding the English language and whose difficulties may deny such individual the opportunity to learn successfully in classrooms where the language of instruction is English or to participate fully in our society.

(9) Native American and Native American language

The terms ''Native American'' and ''Native American language'' shall have the same meaning given such terms in section 2902 of title 25.

(10) Native Hawaiian or Native American Pacific Islander native language educational organization

The term ''Native Hawaiian or Native American Pacific Islander native language educational organization'' means a nonprofit organization with a majority of its governing board and employees consisting of fluent speakers of the traditional Native American languages used in their educational programs and with not less than five years successful experience in providing educational services in traditional Native American languages.

(11) Native language

The term ''native language'', when used with reference to an individual of limited-English proficiency, means the language normally used by such individual, or in the case of a child or youth, the language normally used by the parents of the child or youth.

(12) Office

The term ''Office'' means the Office of Bilingual Education and Minority Languages Affairs.

(13) Other programs for persons of limited-English proficiency

The term ''other programs for persons of limited-English proficiency'' means any programs administered by the Secretary that serve persons of limited-English proficiency.

(14) Paraprofessional

The term ''paraprofessional'' means an individual who is employed in preschool, elementary or secondary school under the supervision of a certified or licensed teacher, including individuals employed in bilingual education, special education and migrant education.

(15) Special alternative instructional program

The term ''special alternative instructional program'' means an educational program for limited English proficient students that—

(A) utilizes specially designed English language curricula and services but does not use the student's native language for instructional purposes;

(B) enables limited English proficient students to achieve English proficiency and academic mastery of subject matter content and higher order skills, including critical thinking so as to meet age-appropriate grade-promotion and graduation standards in concert with the National Education Goals; and

(C) is particularly appropriate for schools where the diversity of the limited English proficient students' native languages and the small number of students speaking each respective language makes bilingual education impractical and where there is a critical shortage of bilingual education teachers.

(Pub. L. 89–10, title VII, § 7501, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3745.)

REFERENCES IN TEXT

Section 4009 of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988, as such Act was in effect on the day preceding October 20, 1994, referred to in par. (3), means section 4009 of Pub. L. 100–297, which was classified to section 4909 of this title prior to repeal by Pub. L. 103–382, title III, § 363, Oct. 20, 1994, 108 Stat. 3975.

The Tribally Controlled Community College Assistance Act of 1978, referred to in par. (4), is Pub. L. 95–471, Oct. 17, 1978, 92 Stat. 1325, as amended, which is classified principally to chapter 20 (§ 1801 et seq.) of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of Title 25 and Tables.

Section 3420 of this title, referred to in par. (5), was in the original ''section 210 of the Department of Education Organization Act'', meaning section 210 of Pub. L. 96–88, which was translated as reading section 209 of that Act to reflect the probable intent of Congress and the renumbering of section 210 as section 209 by Pub. L. 103–382, title II, § 271(a)(2), Oct. 20, 1994, 108 Stat. 3929.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1206a, 2471 of this title; title 42 section 12899f.

§ 7602. Regulations and notification

(a) Regulation rule

In developing regulations under this subchapter, the Secretary shall consult with State and local educational agencies, organizations representing limited English proficient individuals, and organizations representing teachers and other personnel involved in bilingual education.

(b) Parental notification

(1) In general

Parents of children and youth participating in programs assisted under part A of this subchapter shall be informed of—

(A) a student's level of English proficiency, how such level was assessed, the status of a student's academic achievement and the implications of a student's educational strengths and needs for age and grade appropriate academic attainment, promotion, and graduation;

(B) what programs are available to meet the student's educational strengths and needs and how the programs differ in content and instructional goals, and in the case of a student with a disability, how the program meets the objectives of a student's individualized education program; and

(C) the instructional goals of the bilingual education or special alternative instructional program, and how the program will

specifically help the limited English proficient student acquire English and meet age-appropriate standards for grade-promotion and graduation, including—

(i) the benefits, nature, and past academic results of the bilingual educational program and of the instructional alternatives; and

(ii) the reasons for the selection of their child as being in need of bilingual education.

(2) Option to decline

(A) Such parents shall also be informed that such parents have the option of declining enrollment of their children and youth in such programs and shall be given an opportunity to so decline if such parents so choose.

(B) A local educational agency shall not be relieved of any of its obligations under title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.] because parents choose not to enroll their children in bilingual education programs.

(3) Receipt of information

Such parents shall receive, in a manner and form understandable to such parents, including, if necessary and to the extent feasible, in the native language of such parents, the information required by this subsection. At a minimum, such parents shall receive—

(A) timely information about projects funded under part A of this subchapter; and

(B) if the parents of participating children so desire, notice of opportunities for regular meetings for the purpose of formulating and responding to recommendations from such parents.

(4) Special rule

Students shall not be admitted to or excluded from any federally assisted education program merely on the basis of a surname or language-minority status.

(Pub. L. 89–10, title VII, § 7502, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3748.)

REFERENCES IN TEXT

The Civil Rights Act of 1964, referred to in subsec. (b)(2)(B), is Pub. L. 88–352, July 2, 1964, 78 Stat. 241, as amended. Title VI of the Act is classified generally to subchapter V (§ 2000d et seq.) of chapter 21 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of Title 42 and Tables.

SUBCHAPTER VIII—IMPACT AID

PRIOR PROVISIONS

Provisions similar to those in this subchapter were contained in chapters 13 (§ 236 et seq.) and 19 (§ 631 et seq.) of this title prior to repeal by Pub. L. 103–382, § 331.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1228, 5891, 8802, 8892 of this title.

§ 7701. Purpose

In order to fulfill the Federal responsibility to assist with the provision of educational services to federally connected children, because certain activities of the Federal Government place a financial burden on the local educational agencies serving areas where such activities are carried out, and to help such children meet challenging State standards, it is the purpose of this subchapter to provide financial assistance to local educational agencies that—

(1) experience a substantial and continuing financial burden due to the acquisition of real property by the United States;

(2) educate children who reside on Federal property and whose parents are employed on Federal property;

(3) educate children of parents who are in the military services and children who live in low-rent housing;

(4) educate heavy concentrations of children whose parents are civilian employees of the Federal Government and do not reside on Federal property;

(5) experience sudden and substantial increases or decreases in enrollments because of military realignments; or

(6) need special assistance with capital expenditures for construction activities because of the enrollments of substantial numbers of children who reside on Federal lands.

(Pub. L. 89–10, title VIII, § 8001, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3749.)

EFFECTIVE DATE

Subchapter effective Oct. 20, 1994, except that provisions that apply to programs under this subchapter, and to programs that are conducted on a competitive basis, effective with respect to appropriations for use under such programs for fiscal year 1995 and for subsequent fiscal years, see section 3(a)(1) of Pub. L. 103–382 set out as a note under section 6301 of this title.

§ 7702. Payments relating to Federal acquisition of real property

(a) In general

Where the Secretary, after consultation with any local educational agency and with the appropriate State educational agency, determines for a fiscal year ending prior to October 1, 1999—

(1) that the United States owns Federal property in the local educational agency, and that such property—

(A) has been acquired by the United States since 1938;

(B) was not acquired by exchange for other Federal property in the local educational agency which the United States owned before 1939; and

(C) had an assessed value (determined as of the time or times when so acquired) aggregating 10 percent or more of the assessed value of—

(i) all real property in the local educational agency (similarly determined as of the time or times when such Federal property was so acquired); or

(ii) all real property in the local educational agency as assessed in the first year preceding or succeeding acquisition, whichever is greater, only if—

(I) the assessment of all real property in the local educational agency is not made at the same time or times that such Federal property was so acquired and assessed; and

(II) State law requires an assessment be made of property so acquired; and

(2) that such agency is not being substantially compensated for the loss in revenue resulting from such ownership by increases in revenue accruing to the agency from the conduct of Federal activities with respect to such Federal property,

then such agency shall be eligible to receive the amount described in subsection (b) of this section.

(b) Amount

(1) In general

(A)(i) The amount that a local educational agency shall be paid under subsection (a) of this section for a fiscal year shall be calculated in accordance with paragraph (2), except that such amount shall be reduced by the Secretary by an amount equal to the amount of revenue, if any, that such agency received during the previous fiscal year from activities conducted on such Federal property.

(ii) For purposes of clause (i), the amount of revenue that a local educational agency receives during the previous fiscal year from activities conducted on Federal property shall not include payments received by the agency from the Secretary of Defense to support—

(I) the operation of a domestic dependent elementary or secondary school; or

(II) the provision of a free public education to dependents of members of the Armed Forces residing on or near a military installation.

(B) If funds appropriated under section 7714(a) of this title are insufficient to pay the amount determined under subparagraph (A), the Secretary shall ratably reduce the payment to each eligible local educational agency.

(C) Notwithstanding any other provision of this subsection, a local educational agency may not be paid an amount under this section that, when added to the amount such agency receives under section 7703(b) of this title, exceeds the maximum amount that such agency is eligible to receive for such fiscal year under section 7703(b)(1)(C) of this title.

(2) Application of current levied real property tax rate

In calculating the amount that a local educational agency is eligible to receive for a fiscal year, the Secretary shall apply the current levied real property tax rate for current expenditures levied by fiscally independent local educational agencies, or imputed for fiscally dependent local educational agencies, to the current annually determined aggregate assessed value of such acquired Federal property.

(3) Determination of aggregate assessed value

Such aggregate assessed value of such acquired Federal property shall be determined on the basis of the highest and best use of property adjacent to such acquired Federal property as of the time such value is determined, and provided to the Secretary, by the local official responsible for assessing the value of real property located in the jurisdiction of such local educational agency for the purpose of levying a property tax.

(c) Applicability to Tennessee Valley Authority Act

For the purpose of this section, any real property with respect to which payments are being made under section 13 of the Tennessee Valley Authority Act of 1933 [16 U.S.C. 831*l*] shall not be regarded as Federal property.

(d) Ownership by United States

The United States shall be deemed to own Federal property for the purposes of this chapter, where—

(1) prior to the transfer of Federal property, the United States owned Federal property meeting the requirements of subparagraphs (A), (B), and (C) of subsection (a)(1) of this section; and

(2) the United States transfers a portion of the property referred to in paragraph (1) to another nontaxable entity, and the United States—

(A) restricts some or any construction on such property;

(B) requires that the property be used in perpetuity for the public purposes for which the property was conveyed;

(C) requires the grantee of the property to report to the Federal Government (or its agent) regarding information on the use of the property;

(D) except with the approval of the Federal Government (or its agent), prohibits the sale, lease, assignment, or other disposal of the property unless such sale, lease, assignment, or other disposal is to another eligible government agency; and

(E) reserves to the Federal Government a right of reversion at any time the Federal Government (or its agent) deems it necessary for the national defense.

(e) Local educational agency containing Forest Service land and serving certain counties

Beginning with fiscal year 1995, a local educational agency shall be deemed to meet the requirements of subsection (a)(1)(C) of this section if such local educational agency meets the following requirements:

(1) Acreage and acquisition by the Forest Service

The local educational agency serves a school district that contains between 20,000 and 60,000 acres of land that has been acquired by the Forest Service of the Department of Agriculture between 1915 and 1990, as demonstrated by written evidence from the Forest Service satisfactory to the Secretary.

(2) County charter

The local educational agency serves a county chartered under State law in 1875 or 1890.

(f) Special rule

Beginning with fiscal year 1994, and notwithstanding any other provision of law limiting the period during which fiscal year 1994 funds may be obligated, the Secretary shall treat the local

educational agency serving the Wheatland R–II School District, Wheatland, Missouri, as meeting the eligibility requirements of section 2(a)(1)(C) of the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such section was in effect on the day preceding October 20, 1994) (20 U.S.C. 237(a)(1)(C)) or subsection (a)(1)(C) of this section.

(g) Former districts

(1) In general

Where the school district of any local educational agency described in paragraph (2) is formed at any time after 1938 by the consolidation of two or more former school districts, such agency may elect (at any time such agency files an application under section 7705 of this title) for any fiscal year after fiscal year 1994 to have (A) the eligibility of such local educational agency, and (B) the amount which such agency shall be eligible to receive, determined under this section only with respect to such of the former school districts comprising such consolidated school districts as such agency shall designate in such election.

(2) Eligible local educational agencies

A local educational agency referred to in paragraph (1) is any local educational agency that, for fiscal year 1994 or any preceding fiscal year, applied for and was determined eligible under section 2(c) of the Act of September 30, 1950 (Public Law 874, 81st Congress) as such section was in effect for such fiscal year.

(h) Hold-harmless amounts

(1) In general

Except as provided in paragraph (2)(A), the total amount that the Secretary shall pay under subsection (b) of this section to a local educational agency that is otherwise eligible for a payment under this section—

(A) for fiscal year 1995 shall not be less than 85 percent of the amount such agency received for fiscal year 1994 under section 2 of the Act of September 30, 1950 (Public Law 874, 81st Congress) as such section was in effect on September 30, 1994;

(B) for fiscal year 1996 shall not be less than 85 percent of the amount such agency received for fiscal year 1995 under subsection (b) of this section; and

(C) for fiscal year 1997 and each succeeding fiscal year through fiscal year 2000 shall not be less than 85 percent of the amount such agency received for fiscal year 1996 under subsection (b) of this section.

(2) Ratable reductions

(A)(i) If necessary in order to make payments to local educational agencies in accordance with paragraph (1) for any fiscal year, the Secretary first shall ratably reduce payments under subsection (b) of this section for such year to local educational agencies that do not receive a payment under this subsection for such year.

(ii) If additional funds become available for making payments under subsection (b) of this section for such year, then payments that were reduced under clause (i) shall be increased on the same basis as such payments were reduced.

(B)(i) If the sums made available under this subchapter for any fiscal year are insufficient to pay the full amounts that all local educational agencies in all States are eligible to receive under paragraph (1) after the application of subparagraph (A) for such year, then the Secretary shall ratably reduce payments under paragraph (1) to all such agencies for such year.

(ii) If additional funds become available for making payments under paragraph (1) for such fiscal year, then payments that were reduced under clause (i) shall be increased on the same basis as such payments were reduced.

(i) Priority payments

(1) In general

Notwithstanding subsection (b)(1)(B) of this section, and for any fiscal year beginning with fiscal year 1997 for which the amount appropriated to carry out this section exceeds the amount so appropriated for fiscal year 1996—

(A) the Secretary shall first use the excess amount (not to exceed the amount equal to the difference of (i) the amount appropriated to carry out this section for fiscal year 1997, and (ii) the amount appropriated to carry out this section for fiscal year 1996) to increase the payment that would otherwise be made under this section to not more than 50 percent of the maximum amount determined under subsection (b) of this section for any local educational agency described in paragraph (2); and

(B) the Secretary shall use the remainder of the excess amount to increase the payments to each eligible local educational agency under this section.

(2) Local educational agency described

A local educational agency described in this paragraph is a local educational agency that—

(A) received a payment under this section for fiscal year 1996;

(B) serves a school district that contains all or a portion of a United States military academy;

(C) serves a school district in which the local tax assessor has certified that at least 60 percent of the real property is federally owned; and

(D) demonstrates to the satisfaction of the Secretary that such agency's per-pupil revenue derived from local sources for current expenditures is not less than that revenue for the preceding fiscal year.

(j) Additional assistance for certain local educational agencies impacted by Federal property acquisition

(1) Reservation

From amounts appropriated under section 7714(g) of this title for a fiscal year, the Secretary shall provide additional assistance to meet special circumstances relating to the provision of education in local educational agencies eligible to receive assistance under this section.

(2) Eligibility

(A)[1] A local educational agency is eligible to receive additional assistance under this subsection only if such agency—

(i) received a payment under both this section and section 7703(b) of this title for fiscal year 1996 and is eligible to receive payments under those sections for the year of application;

(ii) provided a free public education to children described under sections[2] 7703(a)(1)(A), (B), or (D) of this title;

(iii) had a military installation located within the geographic boundaries of the local educational agency that was closed as a result of base closure or realignment;

(iv) remains responsible for the free public education of children residing in housing located on Federal property within the boundaries of the closed military installation but whose parents are on active duty in the uniformed services and assigned to a military activity located within the boundaries of an adjoining local educational agency; and

(v) demonstrates to the satisfaction of the Secretary that such agency's per-pupil revenue derived from local sources for current expenditures is not less than that revenue for the preceding fiscal year.

(3) Maximum amount

(A) The maximum amount that a local educational agency is eligible to receive under this subsection for any fiscal year, when combined with its payment under subsection (b) of this section, shall not be more than 50 percent of the maximum amount determined under subsection (b) of this section;

(B) If funds appropriated under section 7714(g) of this title are insufficient to pay the amount determined under subparagraph (A), the Secretary shall ratably reduce the payment to each local education agency eligible under this subsection;

(C) If funds appropriated under section 7714(g) of this title are in excess of the amount determined under subparagraph (A) the Secretary shall ratably distribute any excess funds to all local educational agencies eligible for payment under subsection (b) of this section.

(Pub. L. 89–10, title VIII, § 8002, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3749; amended Pub. L. 104–195, §§ 1, 6, Sept. 16, 1996, 110 Stat. 2379, 2382; Pub. L. 105–18, title VI, §§ 60004, 60006, June 12, 1997, 111 Stat. 214, 215; Pub. L. 105–78, title III, Nov. 13, 1997, 111 Stat. 1498.)

REFERENCES IN TEXT

Section 2 of the Act of September 30, 1950, referred to in subsecs. (f), (g)(2), and (h)(1)(A), means section 2 of act Sept. 30, 1950, ch. 1124, which was classified to section 237 of this title prior to repeal by Pub. L. 103–382, title III, § 331(b), Oct. 20, 1994, 108 Stat. 3965.

AMENDMENTS

1997—Subsec. (h)(1)(C). Pub. L. 105–18, § 60004, added subpar. (C).

Subsec. (i). Pub. L. 105–18, § 60006, amended heading and text of subsec. (i) generally. Prior to amendment, text read as follows: ''Notwithstanding subsection (b)(1)(B) of this section, and for any fiscal year beginning with fiscal year 1997 for which the amount appropriated to carry out this section exceeds the amount so appropriated for fiscal year 1996, the Secretary shall first use such excess amount to increase the payment that would otherwise be made under this section to not more than 50 percent of the maximum amount determined under subsection (b) of this section for any local educational agency that—

''(1) received a payment under this section for fiscal year 1996;

''(2) serves a school district that contains all or a portion of a United States military academy;

''(3) serves a school district in which the local tax assessor has certified that at least 60 percent of the real property is federally owned; and

''(4) demonstrates to the satisfaction of the Secretary that such agency's per-pupil revenue derived from local sources for current expenditures is not less than that revenue for the preceding fiscal year.''

Subsec. (j). Pub. L. 105–78 added subsec. (j).

1996—Subsecs. (g), (h). Pub. L. 104–195, § 1, added subsecs. (g) and (h).

Subsec. (i). Pub. L. 104–195, § 6, added subsec. (i).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7703, 7705, 7709, 7714 of this title.

§ 7703. Payments for eligible federally connected children

(a) Computation of payment

(1) In general

For the purpose of computing the amount that a local educational agency is eligible to receive under subsection (b), (d), or (f) of this section for any fiscal year, the Secretary shall determine the number of children who were in average daily attendance in the schools of such agency, and for whom such agency provided free public education, during the preceding school year and who, while in attendance at such schools—

(A)(i) resided on Federal property with a parent employed on Federal property situated in whole or in part within the boundaries of the school district of such agency; or

(ii) resided on Federal property with a parent who is an official of, and accredited by, a foreign government and is a foreign military officer;

(B) resided on Federal property and had a parent on active duty in the uniformed services (as defined in section 101 of title 37);

(C) resided on Indian lands;

(D)(i) had a parent on active duty in the uniformed services (as defined by section 101 of title 37) but did not reside on Federal property; or

(ii) had a parent who is an official of, and has been accredited by, a foreign government and is a foreign military officer but did not reside on Federal property;

(E) resided in low-rent housing;

(F) resided on Federal property and is not described in subparagraph (A) or (B); or

(G) resided with a parent employed on Federal property situated—

(i) in whole or in part in the county in which such agency is located, or in whole

[1] So in original. No subpar. (B) has been enacted.

[2] So in original. Probably should be ''section''.

or in part in such agency if such agency is located in more than one county; or

(ii) if not in such county, in whole or in part in the same State as such agency.

(2) Determination of weighted student units

For the purpose of computing the basic support payment under subsection (b) of this section, the Secretary shall calculate the total number of weighted student units for a local educational agency by adding together the results obtained by the following computations:

(A) Multiply the number of children described in subparagraphs (A) and (B) of paragraph (1) by a factor of 1.0.

(B) Multiply the number of children described in paragraph (1)(C) by a factor of 1.25.

(C) Multiply the number of children described in subparagraphs (A) and (B) of paragraph (1) by a factor of .35 if the local educational agency has—

(i) a number of such children described in such subparagraphs which exceeds 6,500; and

(ii) an average daily attendance for all children which exceeds 100,000.

(D) Multiply the number of children described in subparagraphs (D) and (E) of paragraph (1) by a factor of .10.

(E) Multiply the number of children described in subparagraphs (F) and (G) of paragraph (1) by a factor of .05.

(3) Special rule

The Secretary shall only compute a payment for a local educational agency for children described in subparagraph (F) or (G) of paragraph (1) if the number of such children equals or exceeds 1,000 or such number equals or exceeds 10 percent of the total number of students in average daily attendance in the schools of such agency.

(4) Military installation housing undergoing renovation

For purposes of computing the amount of a payment for a local educational agency for children described in paragraph (1)(D)(i), the Secretary shall consider such children to be children described in paragraph (1)(B) if the Secretary determines, on the basis of a certification provided to the Secretary by a designated representative of the Secretary of Defense, that such children would have resided in housing on Federal property in accordance with paragraph (1)(B) except that such housing was undergoing renovation on the date for which the Secretary determines the number of children under paragraph (1).

(b) Basic support payments; insufficient appropriations; State with only one local educational agency

(1) Basic support payments

(A) In general

From the amount appropriated under section 7714(b) of this title for a fiscal year, the Secretary is authorized to make basic support payments to eligible local educational agencies with children described in subsection (a) of this section.

(B) Eligibility

A local educational agency is eligible to receive a basic support payment under subparagraph (A) for a fiscal year with respect to a number of children determined under subsection (a)(1) of this section only if the number of children so determined with respect to such agency amounts to the lesser of—

(i) at least 400 such children; or

(ii) a number of such children which equals at least 3 percent of the total number of children who were in average daily attendance, during such year, at the schools of such agency and for whom such agency provided free public education.

(C) Maximum amount

The maximum amount that a local educational agency is eligible to receive under this subsection for any fiscal year is the sum of the total weighted student units, as computed under subsection (a)(2) of this section, multiplied by the greater of—

(i) one-half of the average per-pupil expenditure of the State in which the local educational agency is located for the third fiscal year preceding the fiscal year for which the determination is made;

(ii) one-half of the average per-pupil expenditure of all of the States for the third fiscal year preceding the fiscal year for which the determination is made;

(iii) the comparable local contribution rate certified by the State, as determined under regulations prescribed to carry out the Act of September 30, 1950 (Public Law 874, 81st Congress), as such regulations were in effect on January 1, 1994; or

(iv) the average per-pupil expenditure of the State in which the local educational agency is located, multiplied by the local contribution percentage.

(2) Payments with respect to fiscal years in which insufficient funds are appropriated

(A) In general

For any fiscal year in which the sums appropriated under section 7714(b) of this title are insufficient to pay to each local educational agency the full amount computed under paragraph (1), the Secretary shall make payments in accordance with this paragraph.

(B) Learning opportunity threshold payments

(i) For fiscal years described in subparagraph (A), the Secretary shall compute a learning opportunity threshold payment (hereafter in this subchapter referred to as the ''threshold payment'') by multiplying the amount obtained under paragraph (1)(C) by the total percentage obtained by adding—

(I) the percentage of federally connected children for each local educational agency determined by calculating the fraction, the numerator of which is the total number of children described under subsection (a)(1) of this section and the denominator of which is the total number of children in

average daily attendance at the schools served by such agency; and

(II) the percentage that funds under paragraph (1)(C) represent of the total budget of the local educational agency, determined by calculating the fraction, the numerator of which is the total amount of funds calculated for each local educational agency under this paragraph (not including amounts received under subsection (f) of this section), and the denominator of which is the total current expenditures for such agency in the second preceding fiscal year for which the determination is made.

(ii) Such total percentage used to calculate threshold payments under paragraph (1) shall not exceed 100.

(iii) For the purpose of determining the percentages described in subclauses (I) and (II) of clause (i) that are applicable to the local educational agency providing free public education to students in grades 9 through 12 residing on Hanscom Air Force Base, Massachusetts, the Secretary shall consider only that portion of such agency's total enrollment of students in grades 9 through 12 when calculating the percentage under such subclause (I) and only that portion of the total current expenditures attributed to the operation of grades 9 through 12 in such agency when calculating the percentage under subclause (II).

(C) Ratable distribution

For fiscal years described in subparagraph (A), the Secretary shall make payments as a ratable distribution based upon the computation made under subparagraph (B).

(3) States with only one local educational agency

(A) In general

In any of the 50 States of the United States in which there is only one local educational agency, the Secretary shall, for purposes of paragraphs (1)(B), (1)(C), and (2) of this subsection, and subsection (e) of this section, consider each administrative school district in the State to be a separate local educational agency.

(B) Computation of maximum amount of basic support payment and threshold payment

In computing the maximum payment amount under paragraph (1)(C) and the learning opportunity threshold payment under paragraph (2)(B) for an administrative school district described in subparagraph (A)—

(i) the Secretary shall first determine the maximum payment amount and the total current expenditures for the State as a whole; and

(ii) the Secretary shall then—

(I) proportionately allocate such maximum payment amount among the administrative school districts on the basis of the respective weighted student units of such districts; and

(II) proportionately allocate such total current expenditures among the administrative school districts on the basis of the respective number of students in average daily attendance at such districts.

(c) Prior year data

(1) In general

Except as provided in paragraph (2) and subsection (f) of this section, all calculations under this section shall be based on data for each local educational agency from not later than the fiscal year preceding the fiscal year for which the agency is making application for payment.

(2) Exception

Calculations for a local educational agency that is newly established by a State shall, for the first year of operation of such agency, be based on data from the fiscal year for which the agency is making application for payment.

(d) Children with disabilities

(1) In general

From the amount appropriated under section 7714(c) of this title for a fiscal year, the Secretary shall pay to each eligible local educational agency, on a pro rata basis, the amounts determined by—

(A) multiplying the number of children described in subparagraphs (A)(ii), (B) and (C) of subsection (a)(1) of this section who are eligible to receive services under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) by a factor of 1.0; and

(B) multiplying the number of children described in subparagraph (D) of subsection (a)(1) of this section who are eligible to receive services under such Act by a factor of 0.5.

(2) Use of funds

A local educational agency that receives funds under paragraph (1) shall use such funds to provide a free appropriate public education to children described in paragraph (1) in accordance with the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.).

(e) Hold-harmless amounts

(1) In general

(A) Except as provided in paragraph (4)(A), the total amount that the Secretary shall pay a local educational agency under subsection (b) of this section shall not be less than 85 percent of the amount such agency received for the preceding fiscal year—

(i) in the case of fiscal year 1995 only, under subsections (a) and (b) of section 3 of the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such section was in effect on the day preceding October 20, 1994); or

(ii) in the case of fiscal years 1996, 1997, 1998, or 1999, under such subsection (b) of this section.

(B) For fiscal year 1995 only, the Secretary shall pay, to each local educational agency that is not eligible for a payment under subsection (b) of this section but that received a payment under section 3 of the Act of September 30, 1950 (Public Law 874, 81st Congress) (as

such Act was in effect on the day preceding October 20, 1994) for fiscal year 1994, an amount which is not less than 85 percent of the payment such agency received under such section 3 for fiscal year 1994.

(2) Two-year applicability

Paragraph (1)(A) shall apply to any one local educational agency for a maximum of two consecutive fiscal years.

(3) Phase-out payment

A local educational agency which received a payment under section 3(e) of the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such section was in effect on the day preceding October 20, 1994) for fiscal year 1994 is eligible to receive a payment, under subsection (b) of this section for fiscal year 1995, in an amount which is not less than 85 percent of the amount received by such agency in fiscal year 1994 under such section 3(e).

(4) Ratable reductions

(A)(i) If necessary in order to make payments to local educational agencies in accordance with paragraphs (1) and (2), the Secretary first shall ratably reduce payments under subsection (b) of this section to local educational agencies that do not receive a payment under this subsection.

(ii) If additional funds become available for making payments under subsection (b) of this section for such fiscal year, payments that were reduced under clause (i) shall be increased on the same basis as such payments were reduced.

(B)(i) If the sums made available under this subchapter for any fiscal year are insufficient to pay the full amounts that all local educational agencies in all States are eligible to receive under paragraphs (1) and (2) after the application of subparagraph (A) for such year, the Secretary shall ratably reduce payments to all such agencies for such year.

(ii) If additional funds become available for making payments under paragraphs (1) and (2) for such fiscal year, payments that were reduced under clause (i) shall be increased on the same basis as such payments were reduced.

(f) Additional assistance for heavily impacted local educational agencies

(1) Reservation

From amounts appropriated under section 7714(b) of this title for a fiscal year, the Secretary shall provide additional assistance to meet special circumstances relating to the provision of education in local educational agencies eligible to receive assistance under this section.

(2) Eligibility

(A) A local educational agency is eligible to receive additional assistance under this subsection if such agency is eligible for a supplementary payment in accordance with subparagraph (B) or such agency—

(i)(I) has an enrollment of federally connected children described in subsection (a)(1) of this section which constitutes a percentage of the total student enrollment of such agency which is not less than 50 percent if such agency receives a payment on behalf of children described in subparagraphs (F) and (G) of such subsection, or not less than 40 percent if such agency does not receive a payment on behalf of such children; and

(II) has a tax rate for general fund purposes which is at least 95 percent of the average tax rate for general fund purposes of comparable local educational agencies in the State;

(ii)(I) has an enrollment of federally connected children described in subsection (a)(1) of this section which constitutes at least 25 percent of the total student enrollment of such agency. For purposes of this subclause, all students described in subsection (a)(1) of this section are used to determine eligibility, regardless of whether or not a local educational agency receives funds for these children from subsection (b) of this section; and

(II) has a tax rate for general fund purposes which is at least 125 percent of the average tax rate for general fund purposes of comparable local educational agencies in the State; or

(iii) is a local educational agency whose boundaries are the same as a Federal military installation.

(B) If the current expenditures in those local educational agencies which the Secretary has determined to be generally comparable to the local educational agency for which a computation is made under subsection (b)(1)(C) of this section are not reasonably comparable because of unusual geographical factors which affect the current expenditures necessary to maintain, in such agency, a level of education equivalent to that maintained in such other agencies, then the Secretary shall increase the local contribution rate for such agency by such an amount which the Secretary determines will compensate such agency for the increase in current expenditures necessitated by such unusual geographical factors. The amount of any such supplementary payment may not exceed the per-pupil share (computed with regard to all children in average daily attendance), as determined by the Secretary, of the increased current expenditures necessitated by such unusual geographic factors.

(C) Any local educational agency determined eligible under clause (iii) of subparagraph (A) shall be deemed to have met the tax effort requirements for eligibility under clause (i)(II) or (ii)(II) of such subparagraph.

(D) A local educational agency shall only be eligible to receive additional assistance under this subsection if the Secretary determines that—

(i) such agency is exercising due diligence in availing itself of State and other financial assistance; and

(ii) the eligibility of such agency under State law for State aid with respect to the free public education of children described in subsection (a)(1) of this section and the amount of such aid are determined on a basis no less favorable to such agency than the basis used in determining the eligibility

of local educational agencies for State aid, and the amount of such aid, with respect to the free public education of other children in the State.

(3) Maximum payments

(A) In general

Subject to subparagraph (B), the Secretary shall determine the maximum amount that a local educational agency may receive under this subsection (other than any amount received under paragraph (2)(B)) in accordance with the following computations:

(i) The Secretary, in conjunction with the local educational agency, shall first determine each of the following:

(I) The average per-pupil expenditure of the State in which the local educational agency is located.

(II) The average per-pupil expenditure of generally comparable local educational agencies located in the State of the local educational agency, as defined in regulations issued by the Secretary.

(III) The average per-pupil expenditure of three generally comparable local educational agencies located in the State of the local educational agency, as defined in regulations issued by the Secretary.

The local educational agency shall select one of the amounts determined under subclause (I), (II), or (III) for purposes of the remaining computations under this subparagraph.

(ii) The Secretary shall next multiply the amount determined under clause (i) by the total number of students in average daily attendance at the schools of the local educational agency.

(iii) The Secretary shall next subtract from the amount determined under clause (ii) all funds available to the local educational agency for current expenditures, but, except as provided in subparagraph (C), shall not so subtract funds provided—

(I) under this chapter; or

(II) by any department or agency of the Federal Government (other than the Department) that are used for capital expenses.

(iv) If the tax rate used by the local educational agency is greater than 95 percent, but less than 100 percent, of the tax rate of comparable local educational agencies, the Secretary shall next multiply the amount determined under clause (iii) by the percentage that the tax rate of the local educational agency is of—

(I) the average tax rate of its generally comparable local educational agencies; or

(II) the average tax rate of all the local educational agencies in the State in which the local educational agency is located.

(v) The Secretary shall next subtract the total amount of payments received by a local educational agency under subsections (b) and (d) of this section for a fiscal year from the amount determined under clause (iii) or clause (iv), as the case may be.

(B) Special rule

With respect to payments under this subsection for a fiscal year for a local educational agency described in clause (ii) or (iii) of paragraph (2)(A), the maximum amount of payments under this subsection shall be equal to—

(i) the product of—

(I) the average per-pupil expenditure in all States multiplied by 0.7, except that such amount may not exceed 125 percent of the average per-pupil expenditure in all local educational agencies in the State; multiplied by

(II) the number of students described in subparagraph (A) or (B) of subsection (a)(1) of this section for such agency; minus

(ii) the amount of payments such agency receives under subsections (b) and (d) of this section for such year.

(C) Determination of available funds

When determining the amount of funds available to the local educational agency for current expenditures for purposes of subparagraph (A)(iii) for a fiscal year, the Secretary shall include, with respect to the local educational agency's opening cash balance for such fiscal year, the portion of such balance that is the greater of—

(i) the amount that exceeds the maximum amount of funds for current expenditures that the local educational agency was allowed by State law to carry over from the prior fiscal year, if State restrictions on such amounts were applied uniformly to all local educational agencies in the State; or

(ii) the amount that exceeds 30 percent of the local educational agency's operating costs for the prior fiscal year.

(4) Data

For purposes of providing assistance under this subsection the Secretary shall use student, revenue, expenditure, and tax data from the second fiscal year preceding the fiscal year for which the local educational agency is applying for assistance under this subsection.

(5) Reduction in payments

If funds appropriated to carry out this subsection are insufficient to pay in full the amounts determined under paragraph (3), the Secretary shall ratably reduce the payment to each eligible local educational agency.

(g) Additional payments for local educational agencies with high concentrations of children with severe disabilities

(1) In general

If any local educational agency receives Federal funds from sources other than this subchapter to carry out the purposes of this subchapter for any fiscal year due to the enrollment of children described under subsection (a) of this section, then the Secretary shall consider such funds as a payment to such

agency under this subchapter[1] for such fiscal year.

(2) Special rule

Notwithstanding any other provision of law, if funds appropriated pursuant to section 7714(b) of this title for payments under subsection (b) of this section to such agency for a fiscal year which, when added to the funds described in paragraph (1) received by such agency for such fiscal year, exceed the maximum amount described under subsection (b)(1)(C) of this section, then the Secretary shall make available from the funds appropriated under section 7714(b) of this title for such fiscal year such excess amounts to any local educational agency serving two or more children described under subparagraph (B) or (D) of subsection (a)(1) of this section who have a severe disability and a parent serving in the uniformed services (as defined by section 101 of title 37) who is assigned to a particular permanent duty station for compassionate reasons (compassionate post assignment) for the total costs associated with such children who are provided an educational program provided outside the schools of such agency.

(3) Remaining funds

If funds remain after payments are made under paragraph (2) for any fiscal year, then such remaining funds shall be made available for expenditures under subsection (d) of this section in such fiscal year on a pro rata basis consistent with the requirements of such subsection.

(4) Ratable reductions

If amounts available to carry out paragraph (2) for any fiscal year are insufficient to pay in full the total payment that all eligible local educational agencies are eligible to receive under such paragraph for such year, then the Secretary shall ratably reduce such payments to such agencies for such year.

(h) Other funds

Notwithstanding any other provision of law, a local educational agency receiving funds under this section may also receive funds under section 6 of the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such section was in effect on the day preceding October 20, 1994) or such section's successor authority.

(i) Maintenance of effort

A local educational agency may receive funds under subsection (b) of this section and section 7702 of this title for any fiscal year only if the State educational agency finds that either the combined fiscal effort per student or the aggregate expenditures of that agency and the State with respect to the provision of free public education by that agency for the preceding fiscal year was not less than 90 percent of such combined fiscal effort or aggregate expenditures for the second preceding fiscal year.

(Pub. L. 89–10, title VIII, §8003, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3752; amended Pub. L. 104–106, div. A, title X, §1074(f), (g), Feb. 10, 1996, 110 Stat. 448, 449; Pub. L. 104–195, §§3(a), 4(a), 5(a), (b), Sept. 16, 1996, 110 Stat. 2380–2382; Pub. L. 104–201, div. A, title III, §376, Sept. 23, 1996, 110 Stat. 2503; Pub. L. 104–208, div. A, title I, §101(e) [title III, §307(a)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–262; Pub. L. 105–18, title VI, §60005(a), June 12, 1997, 111 Stat. 214; Pub. L. 104–78, title III, Nov. 13, 1997, 111 Stat. 1497.)

[1] See References in Text note below.

REFERENCES IN TEXT

Act of September 30, 1950, referred to in subsecs. (b)(1)(C)(iii), (e)(1), (3), and (h), is act Sept. 30, 1950, ch. 1124, 64 Stat. 1100, as amended, which was classified generally to chapter 13 (§236 et seq.) of this title, prior to repeal by Pub. L. 103–382, title III, §331(b), Oct. 20, 1994, 108 Stat. 3965. Sections 3 and 6 of the Act (as such Act was in effect on the day preceding October 20, 1994) were classified to sections 238 and 241, respectively, of this title. For complete classification of this Act to the Code, see Tables.

The Individuals with Disabilities Education Act, referred to in subsec. (d), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, as amended, which is classified generally to chapter 33 (§1400 et seq.) of this title. For complete classification of this Act to the Code, see section 1400 of this title and Tables.

This subchapter, the third time appearing in subsec. (g)(1), was in the original ''this part'' which was translated as reading ''this title'' to reflect the probable intent of Congress because title VIII of Pub. L. 89–10, which comprises this subchapter, does not contain parts.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 238 of this title prior to repeal by Pub. L. 103–382, §331(b).

AMENDMENTS

1997—Subsec. (f)(2)(A)(ii)(I). Pub. L. 104–78, which directed the amendment of section 8003(f)(2)(ii)(I) of the Elementary and Secondary Education Act of 1965 by substituting ''25 percent of the total student enrollment of such agency. For purposes of this subclause, all students described in subsection (a)(1) of this section are used to determine eligibility, regardless of whether or not a local educational agency receives funds for these children from subsection (b) of this section;'' for ''35 percent'' and all that follows through the semicolon, was executed by making the substitution for ''35 percent of the total student enrollment of such agency;'' in subsection (f)(2)(A)(ii)(I) of this section, to reflect the probable intent of Congress.

Subsec. (f)(4). Pub. L. 105–18 struck out hyphen after ''Secretary'' in introductory provisions, redesignated subpar. (A) as entire par. (4), inserted ''expenditure,'' after ''revenue,'', substituted period for semicolon after ''assistance under this subsection'', and struck out subpar. (B) which read as follows: ''shall derive the per pupil expenditure amount for the fiscal year for which the local educational agency is applying for assistance under this subsection for the local educational agency's comparable school districts by increasing or decreasing the per pupil expenditure data for the second fiscal year preceding the fiscal year for which the determination is made by the same percentage increase or decrease reflected between the per pupil expenditure data for the fourth fiscal year preceding the fiscal year for which the determination is made and the per pupil expenditure data for such second year.''

1996—Subsec. (a)(3). Pub. L. 104–201 substituted ''1,000 or such number equals or exceeds 10 percent'' for ''2,000 and such number equals or exceeds 15 percent''.

Subsec. (a)(4). Pub. L. 104–195, §3(a), added par. (4).

Subsec. (b)(3). Pub. L. 104–195, §4(a), added par. (3).

Subsec. (f)(2)(A). Pub. L. 104–106, §1074(f)(1)(A), substituted ''if such agency is eligible for a supplementary

payment in accordance with subparagraph (B) or such agency'' for ''only if such agency'' in introductory provisions.

Subsec. (f)(2)(D). Pub. L. 104–106, § 1074(f)(1)(B), added subpar. (D).

Subsec. (f)(3)(A). Pub. L. 104–106, § 1074(f)(2)(A)(i), inserted ''(other than any amount received under paragraph (2)(B))'' after ''subsection'' in introductory provisions.

Subsec. (f)(3)(A)(i). Pub. L. 104–208, § 101(e) [title III, § 307(a)(1), (5)], substituted in introductory provisions, ''The Secretary, in conjunction with the local educational agency, shall first determine each of the following:'' for ''The Secretary shall first determine the greater of—'' and inserted concluding provisions.

Subsec. (f)(3)(A)(i)(I). Pub. L. 104–208, § 101(e) [title III, § 307(a)(2), (3)], substituted ''The average'' for ''the average'' before ''of the State'' and substituted period for semicolon at end.

Pub. L. 104–106, § 1074(f)(2)(A)(ii), struck out ''or the average per-pupil expenditure of all the States'' after ''is located''.

Subsec. (f)(3)(A)(i)(II). Pub. L. 104–208, § 101(e) [title III, § 307(a)(2)], substituted ''The average'' for ''the average''.

Pub. L. 104–208, § 101(e) [title III, § 307(a)(4)], which directed substitution of period for ''; or'', was executed by making substitution for ''; or'' to reflect the probable intent of Congress.

Subsec. (f)(3)(A)(i)(III). Pub. L. 104–208, § 101(e) [title III, § 307(a)(2)], substituted ''The average'' for ''the average''.

Subsec. (f)(3)(A)(ii). Pub. L. 104–106, § 1074(f)(2)(A)(iii), amended cl. (ii) generally. Prior to amendment, cl. (ii) read as follows: ''The Secretary shall next subtract from the amount determined under clause (i) the average amount of State aid per pupil received by the local educational agency.''

Subsec. (f)(3)(A)(iii). Pub. L. 104–195, § 5(b)(1), inserted '', except as provided in subparagraph (C),'' after ''but'' in introductory provisions.

Pub. L. 104–106, § 1074(f)(2)(A)(iv), amended cl. (iii) generally. Prior to amendment, cl. (iii) read as follows: ''The Secretary shall next multiply the amount determined under clause (ii) by the total number of students in average daily attendance at the schools of the local educational agency as determined by the Secretary under subsection (a)(1) of this section.''

Subsec. (f)(3)(B). Pub. L. 104–106, § 1074(f)(2)(B), amended heading and text of subpar. (B) generally. Prior to amendment, text read as follows: ''With respect to payments under this subsection for a local educational agency described in clause (ii) or (iii) of paragraph (2)(A), the maximum amount of such payments shall be computed by taking the product of the average per-pupil expenditure in all States multiplied by 0.7, except that such amount may not exceed 125 percent of the average per-pupil expenditure in all local educational agencies in the State.''

Subsec. (f)(3)(C). Pub. L. 104–195, § 5(b)(2), added subpar. (C).

Subsec. (f)(4). Pub. L. 104–195, § 5(a), substituted ''Data'' for ''Current year data'' in heading, amended subpar. (A) generally, substituting present provisions for provisions which read ''shall use student and revenue data from the fiscal year for which the local educational agency is applying for assistance under this subsection; and'', and in subpar. (B) substituted ''the fiscal year for which the local educational agency is applying for assistance under this subsection'' for ''such year''.

Pub. L. 104–106, § 1074(g), amended heading and text of par. (4) generally. Prior to amendment, text read as follows: ''The Secretary shall, for purposes of providing assistance under this subsection, use—

''(A) student and revenue data from the fiscal year for which the local educational agency is applying for assistance under this subsection; and

''(B) the most recent data available which is adjusted to such fiscal year.''

EFFECTIVE DATE OF 1997 AMENDMENTS

Title III of Pub. L. 105–78, Nov. 13, 1997, 111 Stat. 1497, provided in part that: ''The amendment made by this proviso [amending this section] shall apply with respect to fiscal years beginning with fiscal year 1996''.

Section 60005(b) of Pub. L. 105–18 provided that: ''The amendments made by subsection (a) [amending this section] shall apply with respect to fiscal years after fiscal year 1997.''

EFFECTIVE DATE OF 1996 AMENDMENTS

Section 101(e) [title III, § 307(b)] of div. A of Pub. L. 104–208 provided that: ''The amendments made by subsection (a) [amending this section] shall apply with respect to fiscal years beginning with fiscal year 1995.''

Section 3(b) of Pub. L. 104–195 provided that: ''Paragraph (4) of section 8003(a) of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 7703(a)(4)], as added by subsection (a), shall apply with respect to fiscal years after fiscal year 1995.''

Section 4(b) of Pub. L. 104–195 provided that: ''Paragraph (3) of section 8003(b) of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 7703(b)(3)], as added by subsection (a), shall apply with respect to fiscal years after fiscal year 1994.''

Section 5(c) of Pub. L. 104–195 provided that: ''The amendments made by subsections (a) and (b) [amending this section] shall apply with respect to fiscal years after fiscal year 1996.''

ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES THAT BENEFIT DEPENDENTS OF MEMBERS OF ARMED FORCES AND DEPARTMENT OF DEFENSE CIVILIAN EMPLOYEES

Pub. L. 102–484, div. A, title III, § 386, Oct. 23, 1992, 106 Stat. 2394, as amended by Pub. L. 103–160, div. A, title III, § 373(a), (b), Nov. 30, 1993, 107 Stat. 1635, 1636; Pub. L. 103–382, title III, § 391(d), Oct. 20, 1994, 108 Stat. 4022; Pub. L. 104–106, div. A, title X, § 1074(c)–(e), (h), Feb. 10, 1996, 110 Stat. 448, 449; Pub. L. 105–85, div. A, title III, § 381(e), Nov. 18, 1997, 111 Stat. 1709, provided that:

''(a) ASSISTANCE AUTHORIZED.—The Secretary of Defense, in consultation with the Secretary of Education, shall provide financial assistance to local educational agencies in States as provided in this section.

''(b) SCHOOLS WITH SIGNIFICANT NUMBERS OF MILITARY DEPENDENT STUDENTS.—The Secretary of Defense shall provide financial assistance to an eligible local educational agency described in subsection (c) if, without such assistance, that agency will be unable (as determined by the Secretary of Defense in consultation with the Secretary of Education) to provide the students in the schools of the agency with a level of education that is equivalent to the minimum level of education available in the schools of the other local educational agencies in the same State.

''(c) ELIGIBLE LOCAL EDUCATIONAL AGENCIES.—A local educational agency is eligible for assistance under subsection (b) for a fiscal year if—

''(1) at least 20 percent (as rounded to the nearest whole percent) of the students in average daily attendance in the schools of that agency in that fiscal year are military dependent students counted under section 8003(a)(1) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703(a)(1));

''(2) there has been a significant increase, as determined by the Secretary of Defense, in the number of military dependent students in average daily attendance in the schools of that agency as a result of a relocation of Armed Forces personnel or civilian employees of the Department of Defense or as a result of a realignment of one or more military installations; or

''(3) by reason of a consolidation or reorganization of local educational agencies, the local educational agency is a successor of a local educational agency that, for fiscal year 1992—

''(A) was eligible to receive payments in accordance with Department of Defense Instruction 1342.18, dated June 3, 1991; and

''(B) satisfied the requirement in paragraph (1) or (2).

''(d) ADJUSTMENTS RELATED TO BASE CLOSURES AND REALIGNMENTS.—To assist communities in making adjustments resulting from reductions in the size of the Armed Forces, the Secretary of Defense shall, in consultation with the Secretary of Education, make payments to local educational agencies that, during the period between the end of the school year preceding the fiscal year for which the payments are authorized and the beginning of the school year immediately preceding that school year, had an overall reduction of not less than 20 percent in the number of military dependent students as a result of the closure or realignment of military installations.

''(e) REPORT ON IMPACT OF BASE CLOSURES ON EDUCATIONAL AGENCIES.—(1) Not later than February 15 of each of 1993, 1994, 1995, and 1996, the Secretary of Defense, in consultation with the Secretary of Education, shall submit to Congress a report on the local educational agencies affected by the closures and realignment of military installations and by redeployments of members of the Armed Forces.

''(2) Each report shall contain the following:

''(A) The number of dependent children of members of the Armed Forces or civilian employees of the Department of Defense who entered the schools of the local educational agencies during the preceding school year as a result of closures, realignments, or redeployments.

''(B) The number of dependent children of such members or employees who withdrew from the schools of the local educational agencies during that school year as a result of closures, realignments, or redeployments.

''(C) The amounts paid to the local educational agencies during that year under the Act of September 30, 1950 (Public Law 874, Eighty-first Congress; [former] 20 U.S.C. 236 et seq.), title VIII of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7701 et seq.), or any other provision of law authorizing the payment of financial assistance to local communities or local educational agencies on the basis of the presence of dependent children of such members or employees in such communities and in the schools of such agencies.

''(D) The projected transfers of such members and employees in connection with closures, realignments, and redeployments during the 12-month period beginning on the date of the report, including—

''(i) the installations to be closed or realigned;

''(ii) the installations to which personnel will be transferred as a result of closures, realignments, and redeployments; and

''(iii) the effects of such transfers on the number of dependent children who will be included in determinations with respect to the payment of funds to each affected local educational agency.

''(f) FUNDING.—Of the amounts appropriated for the Department of Defense for operation and maintenance in fiscal year 1993 pursuant to the authorization of appropriations in section 301 [106 Stat. 2360]—

''(1) $50,000,000 shall be available for providing assistance to local educational agencies under subsection (b); and

''(2) $8,000,000 shall be available for making payments to local educational agencies under subsection (d).

''(g) LIMITATION ON TRANSFER AND OBLIGATION OF FUNDS.—(1) The amount made available pursuant to subsection (f)(2) for adjustment assistance related to base closures and realignments under subsection (d) may be obligated for such adjustment assistance only if expenditures for that adjustment assistance for fiscal year 1993 have been determined by the Director of the Office of Management and Budget to be counted against the defense category of the discretionary spending limits for fiscal year 1993 (as defined in section 601(a)(2) of the Congressional Budget Act of 1974 [2 U.S.C. 665(a)(2)]) for purposes of part C of the Balanced Budget and Emergency Deficit Control Act of 1985 [2 U.S.C. 900 et seq.].

''(2) Not later than the third day after the date of the enactment of this Act [Oct. 23, 1992], the Director of the Office of Management and Budget shall make a determination as to the classification by discretionary spending limit category for purposes of the Balanced Budget and Emergency Deficit Control Act of 1985 [see Short Title note set out under section 900 of Title 2, The Congress] of the amount appropriated for adjustment assistance related to base closures and realignments under subsection (d). If the Director determines that the amount shall not classify against the defense category (as described in paragraph (1)), then the President shall submit to Congress a report stating that the Director has made such a determination and the amount that will not classify against the defense category and containing an explanation for the determination.

''(3) The amount listed in the report under paragraph (2) may be transferred only to the programs under title III [see Tables for classification] other than the program under subsection (d) pursuant to amounts specified in appropriation Acts. Any such transfer shall be taken into account for purposes of calculating all reports under section 254 of the Balanced Budget and Emergency Deficit Control Act of 1985 [2 U.S.C. 904].

''(h) DEFINITIONS.—In this section:

''(1) The term 'local educational agency' has the meaning given that term in section 8013(9) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7713(9)).

''(2) The term 'military dependent student' means a student that is—

''(A) a dependent child of a member of the Armed Forces; or

''(B) a dependent child of a civilian employee of the Department of Defense.

''(3) The term 'State' means each of the 50 States and the District of Columbia.''

[Section 373(c) of Pub. L. 103–160 provided that: ''The amendments made by subsections (a) and (b) [amending section 386 of Pub. L. 102–484 set out above] shall take effect as of October 23, 1992, as if section 386 of Public Law 102–484 had been enacted as amended by such subsections.'']

NOTICE TO LOCAL AND STATE EDUCATIONAL AGENCIES OF ENROLLMENT CHANGES DUE TO BASE CLOSURES AND REALIGNMENTS

For provisions requiring Secretary of Defense to identify local educational agencies that will experience at least a 5-percent increase or 10-percent reduction in enrollment in number of dependent children of members of Armed Forces and of civilian employees of Department of Defense enrolled in schools under jurisdiction of such agencies during next academic year as a result of closure or realignment of a military installation, and to transmit notice of schedule of such closure or realignment to affected local and State educational agencies, see section 2833 of Pub. L. 101–189, set out as a note under section 2687 of Title 10, Armed Forces.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1228, 7702, 7704, 7705, 7707, 7709, 7710, 7714 of this title.

§ 7704. Policies and procedures relating to children residing on Indian lands

(a) In general

A local educational agency that claims children residing on Indian lands for the purpose of receiving funds under section 7703 of this title shall establish policies and procedures to ensure that—

(1) such children participate in programs and activities supported by such funds on an equal basis with all other children;

(2) parents of such children and Indian tribes are afforded an opportunity to present their views on such programs and activities, including an opportunity to make recommendations on the needs of those children and how the local educational agency may help such children realize the benefits of such programs and activities;

(3) parents and Indian tribes are consulted and involved in planning and developing such programs and activities;

(4) relevant applications, evaluations, and program plans are disseminated to the parents and Indian tribes; and

(5) parents and Indian tribes are afforded an opportunity to present their views to such agency regarding such agency's general educational program.

(b) Records

A local educational agency that claims children residing on Indian lands for the purpose of receiving funds under section 7703 of this title shall maintain records demonstrating such agency's compliance with the requirements contained in subsection (a) of this section.

(c) Waiver

A local educational agency that claims children residing on Indian lands for the purpose of receiving funds under section 7703 of this title shall not be required to comply with the requirements of subsections (a) and (b) of this section for any fiscal year with respect to any Indian tribe from which such agency has received a written statement that the agency need not comply with those subsections because the tribe is satisfied with the provision of educational services by such agency to such children.

(d) Technical assistance and enforcement

The Secretary shall—

(1) provide technical assistance to local educational agencies, parents, and Indian tribes to enable such agencies, parents, and tribes to carry out this section; and

(2) enforce this section through such actions, which may include the withholding of funds, as the Secretary determines to be appropriate, after affording the affected local educational agency, parents, and Indian tribe an opportunity to present their views.

(e) Complaints

(1) In general

(A) Any tribe, or its designee, which has students in attendance at a local educational agency may, in its discretion and without regard to the requirements of any other provision of law, file a written complaint with the Secretary regarding any action of a local educational agency taken pursuant to, or relevant to, the requirements of this section.

(B) Within ten working days from receipt of a complaint, the Secretary shall—

(i) designate a time and place for a hearing into the matters relating to the complaint at a location in close proximity to the local educational agency involved, or if the Secretary determines there is good cause, at some other location convenient to both the tribe, or its designee, and the local educational agency;

(ii) designate a hearing examiner to conduct the hearing; and

(iii) notify the affected tribe or tribes and the local educational agency involved of the time, place, and nature of the hearing and send copies of the complaint to the local educational agency and the affected tribe or tribes.

(2) Hearing

The hearing shall be held within 30 days of the designation of a hearing examiner and shall be open to the public. A record of the proceedings shall be established and maintained.

(3) Evidence; recommendations; cost

The complaining tribe, or its designee, and the local educational agency shall be entitled to present evidence on matters relevant to the complaint and to make recommendations concerning the appropriate remedial actions. Each party to the hearing shall bear only its own costs in the proceedings.

(4) Findings and recommendations

Within 30 days of the completion of the hearing, the hearing examiner shall, on the basis of the record, make written findings of fact and recommendations concerning appropriate remedial action, if any, which should be taken. The hearing examiner's findings and recommendations, along with the hearing record, shall be forwarded to the Secretary.

(5) Written determination

Within 30 days of the Secretary's receipt of the findings, recommendations, and record, the Secretary shall, on the basis of the record, make a written determination of the appropriate remedial action, if any, to be taken by the local educational agency, the schedule for completion of the remedial action, and the reasons for the Secretary's decision.

(6) Copies provided

Upon completion of the Secretary's final determination, the Secretary shall provide the complaining tribe, or its designee, and the local educational agency with copies of the hearing record, the hearing examiner's findings and recommendations, and the Secretary's final determination. The final determination of the Secretary shall be subject to judicial review.

(7) Consolidation

In all actions under this subsection, the Secretary shall have discretion to consolidate complaints involving the same tribe or local educational agency.

(8) Withholding

If the local educational agency rejects the determination of the Secretary, or if the remedy required is not undertaken within the time established and the Secretary determines that an extension of the time established will not effectively encourage the remedy required, the Secretary shall withhold payment of all moneys to which such local agency is eligible under section 7703 of this title until such time as the remedy required is undertaken, except

where the complaining tribe or its designee formally requests that such funds be released to the local educational agency, except that the Secretary may not withhold such moneys during the course of the school year if the Secretary determines that such withholding would substantially disrupt the educational programs of the local educational agency.

(9) Rejection of determination

If the local educational agency rejects the determination of the Secretary and a tribe exercises the option under section 1101(d) of the Education Amendments of 1978, to have education services provided either directly by the Bureau of Indian Affairs or by contract with the Bureau of Indian Affairs, any Indian students affiliated with that tribe who wish to remain in attendance at the local educational agency against whom the complaint which led to the tribal action under such subsection (d) of this section was lodged may be counted with respect to that local educational agency for the purpose of receiving funds under section 7703 of this title. In such event, funds under such section shall not be withheld pursuant to paragraph (8) and no further complaints with respect to such students may be filed under paragraph (1).

(f) Construction

This section is based upon the special relationship between the Indian nations and the United States and nothing in this section shall be construed to relieve any State of any duty with respect to any citizens of that State.

(Pub. L. 89–10, title VIII, § 8004, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3759.)

REFERENCES IN TEXT

Section 1101(d) of the Education Amendments of 1978, referred to in subsec. (e)(9), is section 1101(d) of Pub. L. 95–561, Nov. 1, 1978, 92 Stat. 2315, set out below.

CONTRACT AUTHORITY OF INDIAN TRIBES IF REMEDIAL ACTION IS NOT TAKEN; ELECTION TO HAVE SERVICES PROVIDED BY BUREAU SCHOOLS; SPECIAL REGULATIONS

Section 1101(d) of Pub. L. 95–561 directed Secretary of Health, Education, and Welfare, in cooperation with Commissioner of Education, within one year of Nov. 1, 1978, to promulgate special regulations which would provide that where a local educational agency had not undertaken the remedial action required by the Commissioner under 20 U.S.C. 240(b)(3)(C)(vi), the affected tribes could elect for the Bureau of Indian Affairs to provide educational services provided by the local educational agency.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7705 of this title.

§ 7705. Application for payments under sections 7702 and 7703 of this title

(a) In general

A local educational agency desiring to receive a payment under section 7702 or 7703 of this title shall—

(1) submit an application for such payment to the Secretary; and

(2) provide a copy of such application to the State educational agency.

(b) Contents

Each such application shall be submitted in such form and manner, and shall contain such information, as the Secretary may require, including—

(1) information to determine the eligibility of the local educational agency for a payment and the amount of such payment; and

(2) where applicable, an assurance that such agency is in compliance with section 7704 of this title (relating to children residing on Indian lands).

(c) Deadline for submission

The Secretary shall establish deadlines for the submission of applications under this section.

(d) Approval

(1) In general

The Secretary shall approve an application submitted under this section that—

(A) except as provided in paragraph (2), is filed by the deadline established under subsection (c) of this section; and

(B) otherwise meets the requirements of this subchapter.

(2) Reduction in payment

The Secretary shall approve an application filed not more than 60 days after a deadline established under subsection (c) of this section that otherwise meets the requirements of this subchapter, except that, notwithstanding section 7703(e) of this title, the Secretary shall reduce the payment based on such late application by 10 percent of the amount that would otherwise be paid.

(3) Late applications

The Secretary shall not accept or approve any application that is filed more than 60 days after a deadline established under subsection (c) of this section.

(4) State application authority

Notwithstanding any other provision of law, a State educational agency that had been accepted as an applicant for funds under section 3 of the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such section was in effect on the day preceding October 20, 1994) in fiscal year 1994 shall be permitted to continue as an applicant under the same conditions by which such agency made application during such fiscal year only if such State educational agency distributes all funds received for the students for which application is being made by such State educational agency to the local educational agencies providing educational services to such students.

(Pub. L. 89–10, title VIII, § 8005, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3761.)

REFERENCES IN TEXT

Section 3 of the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such section was in effect on the day preceding October 20, 1994), referred to in subsec. (d)(4), means section 3 of act Sept. 30, 1950, ch. 1124, which was classified to section 238 of this title prior to repeal by Pub. L. 103–382, title III, § 331(b), Oct. 20, 1994, 108 Stat. 3965.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7702 of this title.

§ 7706. Payments for sudden and substantial increases in attendance of military dependents

(a) Eligibility

A local educational agency is eligible for a payment under this section if—

(1) the number of children in average daily attendance during the school year for which the determination is made is at least 10 percent or 100 more than the number of children in average daily attendance in the school year preceding the school year for which the determination is made; and

(2) the number of children in average daily attendance with a parent on active duty (as defined in section 101(18) of title 37) in the Armed Forces who are in attendance at such agency because of the assignment of their parent to a new duty station between May 15 and September 30, inclusive, of the fiscal year for which the determination is made, as certified by an appropriate local official of the Department of Defense, is at least 10 percent or 100 more than the number of children in average daily attendance in the preceding school year.

(b) Application

A local educational agency that wishes to receive a payment under this section shall file an application with the Secretary by October 15 of the school year for which payment is requested, in such manner and containing such information as the Secretary may prescribe, including information demonstrating that such agency is eligible for such a payment.

(c) Children to be counted

For each eligible local educational agency that applies for a payment under this section, the Secretary shall determine the lesser of—

(1) the increase in the number of children in average daily attendance from the school year preceding the fiscal year for which the determination is made; and

(2) the number of children described in subsection (a)(2) of this section.

(d) Payments

(1) In general

Except as provided in paragraph (2), from the amount appropriated for a fiscal year under section 7714(d) of this title, the Secretary shall pay each local educational agency with an approved application an amount equal to one-half of the national average per-pupil expenditure multiplied by the number of such children determined under subsection (c) of this section for that local educational agency.

(2) Ratable reduction

(A) If the amount appropriated to carry out this section for any fiscal year is insufficient to pay the full payment that all eligible local educational agencies are eligible to receive under this section for such year, then the Secretary shall ratably reduce the payments to such agencies for such year.

(B) If additional funds become available for making payments under paragraph (1) for such fiscal year, payments that were reduced under subparagraph (A) shall be increased on the same basis as such payments were reduced.

(e) Notification process

(1) Establishment

The Secretary shall establish, with the Secretary of Defense, a notification process relating to the closure of Department of Defense facilities, or the adjustment of personnel levels assigned to such facilities, which may substantially affect the student enrollment levels of local educational agencies which receive or may receive payments under this subchapter.

(2) Information

Such process shall provide timely information regarding such closures and such adjustments—

(A) by the Secretary of Defense to the Secretary; and

(B) by the Secretary to the affected local educational agencies.

(Pub. L. 89–10, title VIII, § 8006, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3762.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7707, 7714 of this title.

§ 7707. Construction

(a) Payments authorized

From the amount appropriated for each fiscal year under section 7714(e) of this title, the Secretary shall make payments to each local educational agency—

(1) that receives a basic payment under section 7703(b) of this title; and

(2)(A) in which the number of children determined under section 7703(a)(1)(C) of this title constituted at least 50 percent of the number of children who were in average daily attendance in the schools of such agency during the preceding school year;

(B) in which the number of children determined under subparagraphs (B) and (D)(i) of section 7703(a)(1) of this title constituted at least 50 percent of the number of children who were in average daily attendance in the schools of such agency during the school year preceding the school year for which the determination is made;

(C) that receives assistance under section 7703(f) of this title; or

(D) that receives assistance under section 7706 of this title.

(b) Amount of payments

The amount of a payment to each such agency for a fiscal year shall be equal to—

(1) the amount appropriated under section 7714(e) of this title for such year; divided by

(2) the number of children determined under section 7703(a)(2) of this title for all local educational agencies described in subsection (a) of this section, but not including any children attending a school assisted or provided by the Secretary under section 7708 of this title or section 10 of the Act of September 23, 1950 (Public Law 815, 81st Congress) (as such Act was in effect on the day preceding October 20, 1994); multiplied by

(3) the number of such children determined for such agency.

(c) Use of funds

Any local educational agency that receives funds under this section shall use such funds for construction, as defined in section 7713(3) of this title.

(Pub. L. 89–10, title VIII, § 8007, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3763; amended Pub. L. 104–134, title I, § 101(d) [title III, § 306(b)], Apr. 26, 1996, 110 Stat. 1321–211, 1321–236; renumbered title I, Pub. L. 104–140, § 1(a), May 2, 1996, 110 Stat. 1327.)

REFERENCES IN TEXT

Section 10 of the Act of September 23, 1950 (Public Law 815, 81st Congress) (as such Act was in effect on the day preceding October 20, 1994), referred to in subsec. (b)(2), means section 10 of act Sept. 23, 1950, ch. 995, which was classified to section 640 of this title prior to repeal by Pub. L. 103–382, title III, § 331(a), Oct. 20, 1994, 108 Stat. 3965.

AMENDMENTS

1996—Subsec. (a)(2)(B). Pub. L. 104–134 struck out ''and in which the agency at any 2 times during the four fiscal years preceding October 20, 1994, was denied by a vote of the agency's eligible voters a bond referendum for the purposes of school construction or renovation'' before semicolon at end.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7714 of this title.

§ 7708. Facilities

(a) Current facilities

From the amount appropriated for any fiscal year under section 7714(f) of this title, the Secretary may continue to provide assistance for school facilities that were supported by the Secretary under section 10 of the Act of September 23, 1950 (Public Law 815, 81st Congress) (as such Act was in effect on the day preceding October 20, 1994).

(b) Transfer of facilities

(1) In general

The Secretary shall, as soon as practicable, transfer to the appropriate local educational agency or another appropriate entity all the right, title, and interest of the United States in and to each facility provided under section 10 of the Act of September 23, 1950[1] (Public Law 815, 81st Congress), or under section 204 or 310 of the Act of September 30, 1950[1] (Public Law 874, 81st Congress) (as such Acts were in effect on January 1, 1958).

(2) Other requirements

Any such transfer shall be without charge to such agency or entity, and prior to such transfer, the transfer shall be consented to by the local educational agency or other appropriate entity, and may be made on such terms and conditions as the Secretary deems appropriate to carry out the purposes of this subchapter.

(Pub. L. 89–10, title VIII, § 8008, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3764.)

REFERENCES IN TEXT

Section 10 of the Act of September 23, 1950 (Public Law 815, 81st Congress) (as such Act was in effect on the day preceding October 20, 1994), referred to in subsec. (a), means section 10 of act Sept. 23, 1950, ch. 995, which was classified to section 640 of this title prior to repeal by Pub. L. 103–382, title III, § 331(a), Oct. 20, 1994, 108 Stat. 3965.

Section 10 of the Act of September 23, 1950 (Public Law 815, 81st Congress) (as such Act was in effect on January 1, 1958), referred to in subsec. (b)(1), probably means section 10 of act Sept. 23, 1950, ch. 995, as added by Pub. L. 85–620, title I, § 101, Aug. 12, 1958, 72 Stat. 553, as amended, which was classified to section 640 of this title prior to repeal by Pub. L. 103–382, title III, § 331(a), Oct. 20, 1994, 108 Stat. 3965. The act Sept. 23, 1950, did not contain a section 10 on Jan. 1, 1958.

Sections 204 and 310 of the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such Act was in effect on January 1, 1958), referred to in subsec. (b)(1), probably mean sections 204 and 310 of act Sept. 23, 1950, ch. 995, which were classified to sections 274 and 300, respectively, of this title prior to the general amendment of that Act by Pub. L. 85–620, Aug. 12, 1958, 72 Stat. 548. The act Sept. 30, 1950, did not contain a section 204 or 310 on Jan. 1, 1958.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7707, 7714 of this title; title 10 section 2008.

§ 7709. State consideration of payments in providing State aid

(a) General prohibition

Except as provided in subsection (b) of this section, a State may not—

(1) consider payments under this subchapter or under the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such Act was in effect on the day preceding October 20, 1994) in determining for any fiscal year—

(A) the eligibility of a local educational agency for State aid for free public education; or

(B) the amount of such aid; or

(2) make such aid available to local educational agencies in a manner that results in less State aid to any local educational agency that is eligible for such payment than such agency would receive if such agency were not so eligible.

(b) State equalization plans

(1) In general

A State may reduce State aid to a local educational agency that receives a payment under section 7702 or 7703(b) of this title (except the amount calculated in excess of 1.0 under subparagraph (B) of section 7703(a)(2) of this title) or under the Act of September 30, 1950 (Public Law 874, 81st Congress) as such Act was in effect on the day preceding October 20, 1994 (other than an increase in payments described in paragraphs (2)(B), (2)(C), (2)(D), or (3)(B)(ii) of section 3(d) of such Act of September 30, 1950) for any fiscal year if the Secretary determines, and certifies under subsection (c)(3)(A) of this section, that such State has in effect a program of State aid that equalizes expenditures for free public education among local educational agencies in such State.

(2) Computation

(A) In general

For purposes of paragraph (1), a program of State aid equalizes expenditures among local

[1] See References in Text note below.

educational agencies if, in the second fiscal year preceding the fiscal year for which the determination is made, the amount of per-pupil expenditures made by, or per-pupil revenues available to, the local educational agency in the State with the highest such per-pupil expenditures or revenues did not exceed the amount of such per-pupil expenditures made by, or per-pupil revenues available to, the local educational agency in the State with the lowest such expenditures or revenues by more than 25 percent.

(B) Other factors

In making a determination under this subsection, the Secretary shall—

(i) disregard local educational agencies with per-pupil expenditures or revenues above the 95th percentile or below the 5th percentile of such expenditures or revenues in the State; and

(ii) take into account the extent to which a program of State aid reflects the additional cost of providing free public education in particular types of local educational agencies, such as those that are geographically isolated, or to particular types of students, such as children with disabilities.

(3) Exception

Notwithstanding paragraph (2), if the Secretary determines that the State has substantially revised its program of State aid, the Secretary may certify such program for any fiscal year only if—

(A) the Secretary determines, on the basis of projected data, that the State's program will meet the disparity standard described in paragraph (2) for the fiscal year for which the determination is made; and

(B) the State provides an assurance to the Secretary that, if final data do not demonstrate that the State's program met such standard for the fiscal year for which the determination is made, the State will pay to each affected local educational agency the amount by which the State reduced State aid to the local educational agency.

(c) Procedures for review of State equalization plans

(1) Written notice

(A) In general

Any State that wishes to consider payments described in subsection (b)(1) of this section in providing State aid to local educational agencies shall submit to the Secretary, not later than 120 days before the beginning of the State's fiscal year, a written notice of such State's intention to do so.

(B) Contents

Such notice shall be in the form and contain the information the Secretary requires, including evidence that the State has notified each local educational agency in the State of such State's intention to consider such payments in providing State aid.

(2) Opportunity to present views

Before making a determination under subsection (b) of this section, the Secretary shall afford the State, and local educational agencies in the State, an opportunity to present their views.

(3) Qualification procedures

If the Secretary determines that a program of State aid qualifies under subsection (b) of this section, the Secretary shall—

(A) certify the program and so notify the State; and

(B) afford an opportunity for a hearing, in accordance with section 7711(a) of this title, to any local educational agency adversely affected by such certification.

(4) Nonqualification procedures

If the Secretary determines that a program of State aid does not qualify under subsection (b) of this section, the Secretary shall—

(A) so notify the State; and

(B) afford an opportunity for a hearing, in accordance with section 7711(a) of this title, to the State, and to any local educational agency adversely affected by such determination.

(d) Treatment of State aid

(1) In general

If a State has in effect a program of State aid for free public education for any fiscal year, which is designed to equalize expenditures for free public education among the local educational agencies of that State, payments under this subchapter or under the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such Act was in effect on the day preceding October 20, 1994) for any fiscal year may be taken into consideration by such State in determining the relative—

(A) financial resources available to local educational agencies in that State; and

(B) financial need of such agencies for the provision of free public education for children served by such agency, except that a State may consider as local resources funds received under this subchapter or under the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such Act was in effect on the day preceding October 20, 1994) only in proportion to the share that local tax revenues covered under a State equalization program are of total local tax revenues.

(2) Prohibition

A State may not take into consideration payments under this subchapter or under the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such Act was in effect on the day preceding October 20, 1994) before such State's program of State aid has been certified by the Secretary under subsection (c)(3) of this section.

(e) Remedies for State violations

(1) In general

The Secretary or any aggrieved local educational agency may, not earlier than 150 days after an adverse determination by the Secretary against a State for violation of subsections (a) or (d)(2) of this section or for failure to carry out an assurance under subsection (b)(3)(B) of this section, and if an administra-

tive proceeding has not been concluded within such time, bring an action in a United States district court against such State for such violations or failure.

(2) Immunity

A State shall not be immune under the 11th amendment to the Constitution of the United States from an action described in paragraph (1).

(3) Relief

The court shall grant such relief as the court determines is appropriate.

(Pub. L. 89–10, title VIII, § 8009, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3764; amended Pub. L. 104–195, § 10, Sept. 16, 1996, 110 Stat. 2384.)

REFERENCES IN TEXT

Act of September 30, 1950 (Public Law 874, 81st Congress) (as such Act was in effect on the day preceding October 20, 1994), referred to in subsecs. (a)(1), (b)(1), and (d), is act Sept. 30, 1950, ch. 1124, 64 Stat. 1100, as amended, which was classified generally to chapter 13 (§ 236 et seq.) of this title prior to repeal by Pub. L. 103–382, title III, § 331(b), Oct. 20, 1994, 108 Stat. 3965. Section 3 of the Act was classified to section 238 of this title. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

1996—Subsec. (b)(2)(A). Pub. L. 104–195 substituted ''more than 25 percent'' for ''more than—

''(i) 25 percent for fiscal year 1995, 1996, or 1997; and

''(ii) 20 percent for fiscal year 1998 or 1999''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7710 of this title.

§ 7710. Federal administration

(a) Payments in whole dollar amounts

The Secretary shall round any payments under this subchapter to the nearest whole dollar amount.

(b) Other agencies

Each Federal agency administering Federal property on which children reside, and each agency principally responsible for an activity that may occasion assistance under this subchapter, shall, to the maximum extent practicable, comply with requests of the Secretary for information the Secretary may require to carry out this subchapter.

(c) Special rules

(1) Certain children eligible under subsection (a) or (b) of section 3 of Public Law 81–874

Notwithstanding any other provision of law, for any fiscal year before fiscal year 1995, the Secretary shall treat as eligible under subsection (a) or (b) of section 3 of the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such subsection was in effect on the day preceding October 20, 1994), and shall forgive the obligation of a local educational agency to repay any amounts that such agency received under such section for such fiscal year based on, any child who would be eligible under such subsections except that such child does not meet the requirements of subsection (a)(1)(B) or (b)(2)(B), respectively, of such section 3, if such child meets the requirements of paragraph (3) of this subsection.

(2) Certain children eligible under subparagraphs (A) and (G)(ii) of section 7703(a)(1)

(A) The Secretary shall treat as eligible under subparagraph (A) of section 7703(a)(1) of this title any child who would be eligible under such subparagraph except that the Federal property on which the child resides or on which the child's parent is employed is not in the same State in which the child attends school, if such child meets the requirements of paragraph (3) of this subsection.

(B) The Secretary shall treat as eligible under subparagraph (G) of section 7703(a)(1) of this title any child who would be eligible under such subparagraph except that such child does not meet the requirements of clause (ii) of such subparagraph, if such child meets the requirements of paragraph (3) of this subsection.

(3) Requirements

A child meets the requirements of this paragraph if—

(A) such child resides—

(i) in a State adjacent to the State in which the local educational agency serving the school such child attends is located; or

(ii) with a parent employed on Federal property in a State adjacent to the State in which such agency is located;

(B) the schools of such agency are within a more reasonable commuting distance of such child's home than the schools of the local educational agency that serves the school attendance area where such child resides;

(C) attending the schools of the local educational agency that serves the school attendance area where such child resides will impose a substantial hardship on such child;

(D) the State in which such child attends school provides funds for the education of such child on the same basis as all other public school children in the State, unless otherwise permitted under section 5(d)(2) of the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such section was in effect on the day preceding October 20, 1994) or section 7709(b) of this title; and

(E) such agency received a payment for fiscal year 1994 under section 7703(b) of this title (or such section's predecessor authority) on behalf of children described in paragraph (2).

(Pub. L. 89–10, title VIII, § 8010, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3767.)

REFERENCES IN TEXT

Sections 3 and 5 of the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such sections were in effect on the day preceding October 20, 1994), referred to in subsec. (c)(1), (3)(D), means sections 3 and 5 of act Sept. 30, 1950, ch. 1124, which were classified to sections 238 and 240, respectively, of this title prior to repeal by Pub. L. 103–382, title III, § 331(b), Oct. 20, 1994, 108 Stat. 3965.

§ 7711. Administrative hearings and judicial review

(a) Administrative hearings

A local educational agency and a State that is adversely affected by any action of the Secretary under this subchapter or under the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such Act was in effect on the day preceding October 20, 1994) shall be entitled to a hearing on such action in the same manner as if such agency were a person under chapter 5 of title 5.

(b) Judicial review of secretarial action

(1) In general

A local educational agency or a State aggrieved by the Secretary's final decision following an agency proceeding under subsection (a) of this section may, within 60 days after receiving notice of such decision, file with the United States court of appeals for the circuit in which such agency or State is located a petition for review of that action. The clerk of the court shall promptly transmit a copy of the petition to the Secretary. The Secretary shall then file in the court the record of the proceedings on which the Secretary's action was based, as provided in section 2112 of title 28.

(2) Findings of fact

The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Secretary to take further evidence. The Secretary may thereupon make new or modified findings of fact and may modify the Secretary's previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(3) Review

The court shall have exclusive jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28.

(Pub. L. 89–10, title VIII, § 8011, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3768.)

REFERENCES IN TEXT

Act of September 30, 1950 (Public Law 874, 81st Congress) (as such Act was in effect on the day preceding October 20, 1994), referred to in subsec. (a), is act Sept. 30, 1950, ch. 1124, 64 Stat. 1100, as amended, which was classified generally to chapter 13 (§ 236 et seq.) of this title prior to repeal by Pub. L. 103–382, title III, § 331(b), Oct. 20, 1994, 108 Stat. 3965. For complete classification of this Act to the Code, see Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7709 of this title.

§ 7712. Forgiveness of overpayments

Notwithstanding any other provision of law, the Secretary may forgive the obligation of a local educational agency to repay, in whole or in part, the amount of any overpayment received under this subchapter, or under the Act of September 30, 1950 (Public Law 874, 81st Congress) or the Act of September 23, 1950 (Public Law 815, 81st Congress) (as such Acts were in effect on the day preceding October 20, 1994), if the Secretary determines that the overpayment was made as a result of an error made by—

(1) the Secretary; or

(2) the local educational agency and repayment of the full amount of the overpayment will result in an undue financial hardship on the agency and seriously harm the agency's educational program.

(Pub. L. 89–10, title VIII, § 8012, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3769.)

REFERENCES IN TEXT

Act of September 30, 1950 (Public Law 874, 81st Congress) (as such Act was in effect on the day preceding October 20, 1994), referred to in text, is act Sept. 30, 1950, ch. 1124, 64 Stat. 1100, as amended, which was classified generally to chapter 13 (§ 236 et seq.) of this title prior to repeal by Pub. L. 103–382, title III, § 331(b), Oct. 20, 1994, 108 Stat. 3965. Section 3 of the Act was classified to section 238 of this title. For complete classification of this Act to the Code, see Tables.

Act of September 23, 1950 (Public Law 815, 81st Congress) (as such Act was in effect on the day preceding October 20, 1994), referred to in text, is act Sept. 23, 1950, ch. 995, as amended generally by act Aug. 12, 1958, Pub. L. 85–620, title I, 72 Stat. 548, which was classified generally to chapter 19 (§ 631 et seq.) of this title prior to repeal by Pub. L. 103–382, title III, § 331(a), Oct. 20, 1994, 108 Stat. 3965. For complete classification of this Act to the Code, see Tables.

§ 7713. Definitions

For purposes of this subchapter:

(1) Armed Forces

The term ''Armed Forces'' means the Army, Navy, Air Force, and Marine Corps.

(2) Average per-pupil expenditure

The term ''average per-pupil expenditure'' means—

(A) the aggregate current expenditures of all local educational agencies in the State; divided by

(B) the total number of children in average daily attendance for whom such agencies provided free public education.

(3) Construction

The term ''construction'' means—

(A) the preparation of drawings and specifications for school facilities;

(B) erecting, building, acquiring, altering, remodeling, repairing, or extending school facilities;

(C) inspecting and supervising the construction of school facilities; and

(D) debt service for such activities.

(4) Current expenditures

The term ''current expenditures'' means expenditures for free public education, including expenditures for administration, instruction, attendance and health services, pupil transportation services, operation and maintenance of plant, fixed charges, and net expenditures to cover deficits for food services and student body activities, but does not include expendi-

tures for community services, capital outlay, and debt service, or any expenditures made from funds awarded under part A of subchapter I of this chapter and subchapter VI of this chapter. The determination of whether an expenditure for the replacement of equipment is considered a current expenditure or a capital outlay shall be determined in accordance with generally accepted accounting principles as determined by the State.

(5) Federal property

(A) In general

Except as provided in subparagraphs (B) through (F), the term ''Federal property'' means real property that is not subject to taxation by any State or any political subdivision of a State due to Federal agreement, law, or policy, and that is—

(i) owned by the United States or leased by the United States from another entity;

(ii)(I) held in trust by the United States for individual Indians or Indian tribes;

(II) held by individual Indians or Indian tribes subject to restrictions on alienation imposed by the United States;

(III) conveyed at any time under the Alaska Native Claims Settlement Act [43 U.S.C. 1601 et seq.] to a Native individual, Native group, or village or regional corporation;

(IV) public land owned by the United States that is designated for the sole use and benefit of individual Indians or Indian tribes; or

(V) used for low-rent housing, as described in paragraph (10), that is located on land described in subclause (I), (II), (III), or (IV) of this clause or on land that met one of those descriptions immediately before such property's use for such housing;

(iii)(I) part of a low-rent housing project assisted under the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.]; or

(II) used to provide housing for homeless children at closed military installations pursuant to section 11411 of title 42; or

(iv) owned by a foreign government or by an international organization.

(B) Schools providing flight training to members of Air Force

The term ''Federal property'' includes, so long as not subject to taxation by any State or any political subdivision of a State, and whether or not that tax exemption is due to Federal agreement, law, or policy, any school providing flight training to members of the Air Force under contract with the Air Force at an airport owned by a State or political subdivision of a State.

(C) Non-Federal easements, leases, licenses, permits, improvements, and certain other real property

The term ''Federal property'' includes, whether or not subject to taxation by a State or a political subdivision of a State—

(i) any non-Federal easement, lease, license, permit, or other such interest in Federal property as otherwise described in this paragraph, but not including any non-Federal fee-simple interest;

(ii) any improvement on Federal property as otherwise described in this paragraph; and

(iii) real property that, immediately before its sale or transfer to a non-Federal party, was owned by the United States and otherwise qualified as Federal property described in this paragraph, but only for one year beyond the end of the fiscal year of such sale or transfer.

(D) Certain Postal Service property and pipelines and utility lines

Notwithstanding any other provision of this paragraph, the term ''Federal property'' does not include—

(i) any real property under the jurisdiction of the United States Postal Service that is used primarily for the provision of postal services; or

(ii) pipelines and utility lines.

(E) Property with respect to which State or local tax revenues may not be expended, allocated, or available for free public education

Notwithstanding any other provision of this paragraph, ''Federal property'' does not include any property on which children reside that is otherwise described in this paragraph if—

(i) no tax revenues of the State or of any political subdivision of the State may be expended for the free public education of children who reside on that Federal property; or

(ii) no tax revenues of the State are allocated or available for the free public education of such children.

(F) Property located in the State of Oklahoma owned by Indian housing authority for low-income housing

The term ''Federal property'' includes any real property located in the State of Oklahoma that—

(i) is owned by an Indian housing authority and used for low-income housing (including housing assisted under the mutual help ownership opportunity program under section 202 of the United States Housing Act of 1937);[1] and

(ii) at any time—

(I) was designated by treaty as tribal land; or

(II) satisfied the definition of Federal property under section 403(1)(A) of the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such Act was in effect on the day preceding October 20, 1994).

(6) Free public education

The term ''free public education'' means education that is provided—

(A) at public expense, under public supervision and direction, and without tuition charge; and

[1] See References in Text note below.

(B) as elementary or secondary education, as determined under State law, except that, notwithstanding State law, such term—

(i) includes preschool education; and

(ii) does not include any education provided beyond grade 12.

(7) Indian lands

The term ''Indian lands'' means any Federal property described in paragraph (5)(A)(ii) or (5)(F).

(8) Local contribution percentage

(A) In general

The term ''local contribution percentage'' means the percentage of current expenditures in the State derived from local and intermediate sources, as reported to and verified by the National Center for Education Statistics.

(B) Hawaii and District of Columbia

Notwithstanding subparagraph (A), the local contribution percentage for Hawaii and for the District of Columbia shall be the average local contribution percentage for all States.

(9) Local educational agency

(A) In general

Except as provided in subparagraph (B), the term ''local educational agency''—

(i) means a board of education or other legally constituted local school authority having administrative control and direction of free public education in a county, township, independent school district, or other school district; and

(ii) includes any State agency that directly operates and maintains facilities for providing free public education.

(B) Exception

The term ''local educational agency'' does not include any agency or school authority that the Secretary determines on a case-by-case basis—

(i) was constituted or reconstituted primarily for the purpose of receiving assistance under this subchapter or the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such Act was in effect on the day preceding October 20, 1994) or increasing the amount of such assistance; or

(ii) is not constituted or reconstituted for legitimate educational purposes.

(10) Low-rent housing

The term ''low-rent housing'' means housing located on property that is described in paragraph (5)(A)(iii).

(11) Revenue derived from local sources

The term ''revenue derived from local sources'' means—

(A) revenue produced within the boundaries of a local educational agency and available to such agency for such agency's use; or

(B) funds collected by another governmental unit, but distributed back to a local educational agency in the same proportion as such funds were collected as a local revenue source.

(12) School facilities

The term ''school facilities'' includes—

(A) classrooms and related facilities; and

(B) equipment, machinery, and utilities necessary or appropriate for school purposes.

(Pub. L. 89–10, title VIII, § 8013, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3769.)

REFERENCES IN TEXT

The Alaska Native Claims Settlement Act, referred to in par. (5)(A)(ii)(III), is Pub. L. 92–203, Dec. 18, 1971, 85 Stat. 688, as amended, which is classified generally to chapter 33 (§ 1601 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 43 and Tables.

The United States Housing Act of 1937, referred to in par. (5)(A)(iii)(I), is act Sept. 1, 1937, ch. 896, as revised generally by Pub. L. 93–383, title II, § 201(a), Aug. 22, 1974, 88 Stat. 653, which is classified generally to chapter 8 (§ 1437 et seq.) of Title 42, The Public Health and Welfare. Section 202 of the Act was classified to section 1437bb of Title 42 and was repealed by Pub. L. 104–330, title V, § 501(a), Oct. 26, 1996, 110 Stat. 4041. For complete classification of this Act to the Code, see Short Title note set out under section 1437 of Title 42 and Tables.

Act of September 30, 1950 (Public Law 874, 81st Congress) (as such Act was in effect on the day preceding October 20, 1994), referred to in pars. (5)(F)(ii)(II) and (9)(B)(i), is act Sept. 30, 1950, ch. 1124, 64 Stat. 1100, as amended, which was classified generally to chapter 13 (§ 236 et seq.) of this title prior to repeal by Pub. L. 103–382, title III, § 331(b), Oct. 20, 1994, 108 Stat. 3965. Section 403 of the Act was classified to section 244 of this title. For complete classification of this Act to the Code, see Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 10 section 2008.

§ 7713a. School facilities for children of Government employees and other residents in Indian reservations, national parks, and national monuments

In order to facilitate the providing of educational opportunities for children of Government employees and other residents in Indian reservations, the national parks and national monuments the Secretary of the Interior is hereby authorized in his discretion to make available for elementary school purposes therein, without charge, space in Government-owned buildings, when such space may be available for such purposes without detriment to the official business of such Indian reservations, national parks and national monuments.

(July 16, 1940, ch. 629, 54 Stat. 761.)

CODIFICATION

Section was not enacted as part of the Elementary and Secondary Education Act of 1965, which comprises this chapter.

Section was formerly classified to section 244a of this title. Prior thereto, section was classified to section 76a of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, § 1, Sept. 6, 1966, 80 Stat. 378.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1228, 7707, 8512 of this title.

§ 7714. Authorization of appropriations

(a) Payments for Federal acquisition of real property

For the purpose of making payments under section 7702 of this title, there are authorized to be appropriated $16,750,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

(b) Basic payments; payments for heavily impacted local educational agencies

For the purpose of making payments under subsections (b) and (f) of section 7703 of this title, there are authorized to be appropriated $775,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years, of which 6 percent shall be available, until expended, for each such fiscal year to carry out section 7703(f) of this title.

(c) Payments for children with disabilities

For the purpose of making payments under section 7703(d) of this title, there are authorized to be appropriated $45,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

(d) Payments for increases in military children

For the purpose of making payments under section 7706 of this title, there are authorized to be appropriated $2,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

(e) Construction

For the purpose of carrying out section 7707 of this title, there are authorized to be appropriated $25,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

(f) Facilities maintenance

For the purpose of carrying out section 7708 of this title, there are authorized to be appropriated $2,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

(g) Additional assistance for certain Federal property local educational agencies

For the purpose of carrying out section 7702(j) of this title there are authorized to be appropriated such sums as are necessary beginning in fiscal year 1998 and for each succeeding fiscal year.

(Pub. L. 89–10, title VIII, § 8014, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3772; amended Pub. L. 104–78, title III, Nov. 13, 1997, 111 Stat. 1498.)

AMENDMENTS

1997—Subsec. (g). Pub. L. 105–78 added subsec. (g).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7702, 7703, 7706, 7707, 7708 of this title.

SUBCHAPTER IX—INDIAN, NATIVE HAWAIIAN, AND ALASKA NATIVE EDUCATION

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 1203a of this title; title 25 section 458e.

PART A—INDIAN EDUCATION

PRIOR PROVISIONS

Provisions similar to those in this part were contained in chapter 28 of Title 25, Indians, prior to repeal by Pub. L. 103–382, § 367.

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 3423c, 8825 of this title.

§ 7801. Findings

The Congress finds that—

(1) the Federal Government has a special responsibility to ensure that educational programs for all American Indian and Alaska Native children and adults—

(A) are based on high-quality, internationally competitive content standards and student performance standards and build on Indian culture and the Indian community;

(B) assist local educational agencies, Indian tribes, and other entities and individuals in providing Indian students the opportunity to achieve such standards; and

(C) meet the special educational and culturally related academic needs of American Indian and Alaska Native students;

(2) since the date of enactment of the initial Indian Education Act in 1972, the level of involvement of Indian parents in the planning, development, and implementation of educational programs that affect such parents and their children has increased significantly, and schools should continue to foster such involvement;

(3) although the number of Indian teachers, administrators, and university professors has increased since 1972, teacher training programs are not recruiting, training, or retraining a sufficient number of Indian individuals as educators to meet the needs of a growing Indian student population in elementary, secondary, vocational, adult, and higher education;

(4) the dropout rate for Indian students is unacceptably high, for example, 9 percent of Indian students who were eighth graders in 1988 had already dropped out of school by 1990;

(5) during the period from 1980 to 1990, the percentage of Indian individuals living at or below the poverty level increased from 24 percent to 31 percent, and the readiness of Indian children to learn is hampered by the high incidence of poverty, unemployment, and health problems among Indian children and their families; and

(6) research related specifically to the education of Indian children and adults is very limited, and much of the research is of poor quality or is focused on limited local or regional issues.

(Pub. L. 89–10, title IX, § 9101, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3773.)

REFERENCES IN TEXT

The date of enactment of the initial Indian Education Act in 1972, referred to in par. (2), means the date of enactment of title IV of Pub. L. 92–318, which was approved June 23, 1972.

§ 7802. Purpose

(a) Purpose

It is the purpose of this part to support the efforts of local educational agencies, Indian tribes and organizations, postsecondary institutions, and other entities to meet the special educational and culturally related academic needs of American Indians and Alaska Natives, so that such students can achieve to the same challenging State performance standards expected of all students.

(b) Programs

This part carries out the purpose described in subsection (a) of this section by authorizing programs of direct assistance for—

(1) meeting the special educational and culturally related academic needs of American Indians and Alaska Natives;

(2) the education of Indian children and adults;

(3) the training of Indian persons as educators and counselors, and in other professions serving Indian people; and

(4) research, evaluation, data collection, and technical assistance.

(Pub. L. 89–10, title IX, § 9102, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3774.)

SUBPART 1—FORMULA GRANTS TO LOCAL EDUCATIONAL AGENCIES

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in section 7882 of this title.

§ 7811. Purpose

It is the purpose of this subpart to support local educational agencies in their efforts to reform elementary and secondary school programs that serve Indian students in order to ensure that such programs—

(1) are based on challenging State content standards and State student performance standards that are used for all students; and

(2) are designed to assist Indian students meet those standards and assist the Nation in reaching the National Education Goals.

(Pub. L. 89–10, title IX, § 9111, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3774.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7815 of this title.

§ 7812. Grants to local educational agencies

(a) In general

(1) Enrollment requirements

A local educational agency shall be eligible for a grant under this subpart for any fiscal year if the number of Indian children eligible under section 7816 of this title and who were enrolled in the schools of the agency, and to whom the agency provided free public education, during the preceding fiscal year—

(A) was at least 10; or

(B) constituted not less than 25 percent of the total number of individuals enrolled in the schools of such agency.

(2) Exclusion

The requirement of paragraph (1) shall not apply in Alaska, California, or Oklahoma, or with respect to any local educational agency located on, or in proximity to, a reservation.

(b) Indian tribes

(1) In general

If a local educational agency that is eligible for a grant under this subpart does not establish a parent committee under section 7814(c)(4) of this title for such grant, an Indian tribe that represents no less than one-half of the eligible Indian children who are served by such local educational agency may apply for such grant.

(2) Special rule

The Secretary shall treat each Indian tribe applying for a grant pursuant to paragraph (1) as if such Indian tribe were a local educational agency for purposes of this subpart.

(Pub. L. 89–10, title IX, § 9112, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3774; amended Pub. L. 104–5, § 1, Mar. 23, 1995, 109 Stat. 72.)

AMENDMENTS

1995—Subsec. (a)(1)(A). Pub. L. 104–5 substituted ''or'' for ''and'' at end.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7813 of this title.

§ 7813. Amount of grants

(a) Amount of grant awards

(1) In general

Except as provided in subsection (b) of this section and paragraph (2), the Secretary shall allocate to each local educational agency which has an approved application under this subpart an amount equal to the product of—

(A) the number of Indian children who are eligible under section 7816 of this title and served by such agency; and

(B) the greater of—

(i) the average per-pupil expenditure of the State in which such agency is located; or

(ii) 80 percent of the average per-pupil expenditure in the United States.

(2) Reduction

The Secretary shall reduce the amount of each allocation determined under paragraph (1) in accordance with subsection (e) of this section.

(b) Minimum grant

(1) In general

Notwithstanding subsection (e) of this section, a local educational agency or an Indian tribe (as authorized under section 7812(b) of this title) that is eligible for a grant under section 7812 of this title, and a school that is operated or supported by the Bureau of Indian Affairs that is eligible for a grant under subsection (d) of this section, that submits an application that is approved by the Secretary, shall, subject to appropriations, receive a grant under this subpart in an amount that is not less than $3,000.

(2) Consortia

Local educational agencies may form a consortium for the purpose of obtaining grants under this chapter.

(3) Increase

The Secretary may increase the minimum grant under paragraph (1) to not more than $4,000 for all grantees if the Secretary determines such increase is necessary to ensure quality programs.

(c) "Average per-pupil expenditure of a State" defined

For the purpose of this section, the term ''average per-pupil expenditure of a State'' means an amount equal to—

(1) the sum of the aggregate current expenditures of all the local educational agencies in the State, plus any direct current expenditures by the State for the operation of such agencies, without regard to the sources of funds from which such local or State expenditures were made, during the second fiscal year preceding the fiscal year for which the computation is made; divided by

(2) the aggregate number of children who were included in average daily attendance for whom such agencies provided free public education during such preceding fiscal year.

(d) Schools operated or supported by Bureau of Indian Affairs

In addition to the grants awarded under subsection (a) of this section, and subject to paragraph (2), the Secretary shall allocate to the Secretary of the Interior an amount equal to the product of—

(1) the total number of Indian children enrolled in schools that are operated by—

(A) the Bureau of Indian Affairs; or

(B) an Indian tribe, or an organization controlled or sanctioned by an Indian tribal government, for the children of such tribe under a contract with, or grant from, the Department of the Interior under the Indian Self-Determination Act [25 U.S.C. 450f et seq.] or the Tribally Controlled Schools Act of 1988 (part B of title V of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988) [25 U.S.C. 2501 et seq.]; and

(2) the greater of—

(A) the average per-pupil expenditure of the State in which the school is located; or

(B) 80 percent of the average per-pupil expenditure in the United States.

(e) Ratable reductions

If the sums appropriated for any fiscal year under section 7882(a) of this title are insufficient to pay in full the amounts determined for local educational agencies under subsection (a)(1) of this section and for the Secretary of the Interior under subsection (d) of this section, each of those amounts shall be ratably reduced.

(Pub. L. 89–10, title IX, § 9113, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3775.)

REFERENCES IN TEXT

The Indian Self-Determination Act, referred to in subsec. (d)(1)(B), is title I of Pub. L. 93–638, Jan. 4, 1975, 88 Stat. 2206, as amended, which is classified principally to part A (§ 450f et seq.) of subchapter II of chapter 14 of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 450 of Title 25 and Tables.

The Tribally Controlled Schools Act of 1988, referred to in subsec. (d)(1)(B), is part B (§§ 5201–5212) of title V of Pub. L. 100–297, Apr. 28, 1988, 102 Stat. 385, as amended, which is classified generally to chapter 27 (§ 2501 et seq.) of Title 25. For complete classification of this Act to the Code, see Short Title note set out under section 2501 of Title 25 and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7816, 7817 of this title.

§ 7814. Applications

(a) Application required

Each local educational agency that desires to receive a grant under this subpart shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

(b) Comprehensive program required

Each application submitted under subsection (a) of this section shall include a comprehensive program for meeting the needs of Indian children served by the local educational agency, including the language and cultural needs of the children, that—

(1) provides programs and activities to meet the culturally related academic needs of American Indian and Alaska Native students;

(2)(A) is consistent with, and promotes the goals in, the State and local improvement plans, either approved or being developed, under title III of the Goals 2000: Educate America Act [20 U.S.C. 5881 et seq.] or, if such plans are not approved or being developed, with the State and local plans under sections 6311 and 6312 of this title; and

(B) includes academic content and student performance goals for such children, and benchmarks for attaining such goals, that are based on the challenging State standards adopted under subchapter I of this chapter for all children;

(3) explains how Federal, State, and local programs, especially under subchapter I of this chapter, will meet the needs of such students;

(4) demonstrates how funds made available under this subpart will be used for activities described in section 7815 of this title;

(5) describes the professional development opportunities that will be provided, as needed, to ensure that—

(A) teachers and other school professionals who are new to the Indian community are prepared to work with Indian children; and

(B) all teachers who will be involved in programs assisted under this subpart have been properly trained to carry out such programs; and

(6) describes how the local educational agency—

(A) will periodically assess the progress of all Indian children enrolled in the schools of the local educational agency, including Indian children who do not participate in programs assisted under this subpart, in meeting the goals described in paragraph (2);

(B) will provide the results of each assessment referred to in subparagraph (A) to—

(i) the committee of parents described in subsection (c)(4) of this section; and

(ii) the community served by the local educational agency; and

(C) is responding to findings of any previous assessments that are similar to the assessments described in subparagraph (A).

(c) Assurances

Each application submitted under subsection (a) of this section shall include assurances that—

(1) the local educational agency will use funds received under this subpart only to supplement the level of funds that, in the absence of the Federal funds made available under this subpart, such agency would make available for the education of Indian children, and not to supplant such funds;

(2) the local educational agency will submit such reports to the Secretary, in such form and containing such information, as the Secretary may require to—

(A) carry out the functions of the Secretary under this subpart; and

(B) determine the extent to which funds provided to the local educational agency under this subpart are effective in improving the educational achievement of Indian students served by such agency;

(3) the program for which assistance is sought—

(A) is based on a local assessment and prioritization of the special educational and culturally related academic needs of the American Indian and Alaska Native students for whom the local educational agency is providing an education;

(B) will use the best available talents and resources, including individuals from the Indian community; and

(C) was developed by such agency in open consultation with parents of Indian children and teachers, and, if appropriate, Indian students from secondary schools, including public hearings held by such agency to provide the individuals described in this subparagraph a full opportunity to understand the program and to offer recommendations regarding the program; and

(4) the local educational agency developed the program with the participation and written approval of a committee—

(A) that is composed of, and selected by—

(i) parents of Indian children in the local educational agency's schools and teachers; and

(ii) if appropriate, Indian students attending secondary schools;

(B) the membership of which is at least more than one-half parents of Indian children;

(C) that sets forth such policies and procedures, including policies and procedures relating to the hiring of personnel, as will ensure that the program for which assistance is sought will be operated and evaluated in consultation with, and with the involvement of, parents of the children, and representatives of the area, to be served;

(D) with respect to an application describing a schoolwide program in accordance with section 7815(c) of this title, has—

(i) reviewed in a timely fashion the program; and

(ii) determined that the program will not diminish the availability of culturally related activities for American Indians and Alaskan Native students; and

(E) has adopted reasonable bylaws for the conduct of the activities of the committee and abides by such bylaws.

(Pub. L. 89–10, title IX, § 9114, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3776.)

REFERENCES IN TEXT

The Goals 2000: Educate America Act, referred to in subsec. (b)(2)(A), is Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 125 (except titles V and IX), as amended. Title III of the Act is classified generally to subchapter III (§ 5881 et seq.) of chapter 68 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7812, 7815 of this title; title 25 section 456.

§ 7815. Authorized services and activities

(a) General requirements

Each local educational agency that receives a grant under this subpart shall use the grant funds, in a manner consistent with the purpose specified in section 7811 of this title, for services and activities that—

(1) are designed to carry out the comprehensive plan of the local educational agency for Indian students, and described in the application of the local educational agency submitted to the Secretary under section 7814(b) of this title;

(2) are designed with special regard for the language and cultural needs of the Indian students; and

(3) supplement and enrich the regular school program of such agency.

(b) Particular activities

The services and activities referred to in subsection (a) of this section may include—

(1) culturally related activities that support the program described in the application submitted by the local educational agency;

(2) early childhood and family programs that emphasize school readiness;

(3) enrichment programs that focus on problem-solving and cognitive skills development and directly support the attainment of challenging State content standards and State student performance standards;

(4) integrated educational services in combination with other programs that meet the needs of Indian children and their families;

(5) school-to-work transition activities to enable Indian students to participate in programs such as the programs supported by the School-to-Work Opportunities Act of 1994 [20 U.S.C. 6101 et seq.] and the Carl D. Perkins Vocational and Applied Technology Education Act [20 U.S.C. 2301 et seq.], including programs for tech-prep, mentoring, and apprenticeship;

(6) activities to educate individuals concerning substance abuse and to prevent substance abuse; and

(7) the acquisition of equipment, but only if the acquisition of the equipment is essential to meet the purpose described in section 7811 of this title.

(c) Schoolwide programs

Notwithstanding any other provision of law, a local educational agency may use funds made available to such agency under this subpart to support a schoolwide program under section 6314 of this title if—

(1) the committee composed of parents established pursuant to section 7814(c)(4) of this title approves the use of the funds for the schoolwide program; and

(2) the schoolwide program is consistent with the purpose described in section 7811 of this title.

(Pub. L. 89–10, title IX, § 9115, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3778.)

REFERENCES IN TEXT

The School-to-Work Opportunities Act of 1994, referred to in subsec. (b)(5), is Pub. L. 103–239, May 4, 1994, 108 Stat. 568, as amended, which is classified principally to chapter 69 (§ 6101 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6101 of this title and Tables.

The Carl D. Perkins Vocational and Applied Technology Education Act, referred to in subsec. (b)(5), is Pub. L. 88–210, Dec. 18, 1963, 77 Stat. 403, as amended, which is classified generally to chapter 44 (§ 2301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2301 of this title and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7814 of this title.

§ 7816. Student eligibility forms

(a) In general

The Secretary shall require that, as part of an application for a grant under this subpart, each applicant shall maintain a file, with respect to each Indian child for whom the local educational agency provides a free public education, that contains a form that sets forth information establishing the status of the child as an Indian child eligible for assistance under this subpart and that otherwise meets the requirements of subsection (b) of this section.

(b) Forms

(1) In general

The form described in subsection (a) of this section shall include—

(A) either—

(i)(I) the name of the tribe or band of Indians (as defined in section 7881(4) of this title) with respect to which the child claims membership;

(II) the enrollment number establishing the membership of the child (if readily available); and

(III) the name and address of the organization that maintains updated and accurate membership data for such tribe or band of Indians; or

(ii) if the child is not a member of a tribe or band of Indians, the name, the enrollment number (if readily available), and the organization (and address thereof) responsible for maintaining updated and accurate membership rolls of any parent or grandparent of the child from whom the child claims eligibility;

(B) a statement of whether the tribe or band of Indians with respect to which the child, parent or grandparent of the child claims membership is federally recognized;

(C) the name and address of the parent or legal guardian of the child;

(D) a signature of the parent or legal guardian of the child that verifies the accuracy of the information supplied; and

(E) any other information that the Secretary considers necessary to provide an accurate program profile.

(2) Minimum information

In order for a child to be eligible to be counted for the purpose of computing the amount of a grant award made under section 7813 of this title, an eligibility form prepared pursuant to this section for a child shall include—

(A) the name of the child;

(B) the name of the tribe or band of Indians (as defined in section 7881(4) of this title) with respect to which the child claims eligibility; and

(C) the dated signature of the parent or guardian of the child.

(3) Failure

The failure of an applicant to furnish any information described in this subsection other than the information described in paragraph (2) with respect to any child shall have no bearing on the determination of whether the child is an eligible Indian child for the purposes of determining the amount of a grant award made under section 7813 of this title.

(c) Statutory construction

Nothing in this section shall be construed to affect a definition contained in section 7881 of this title.

(d) Forms and standards of proof

The forms and the standards of proof (including the standard of good faith compliance) that were in use during the 1985–1986 academic year to establish the eligibility of a child for entitlement under the Indian Elementary and Secondary School Assistance Act shall be the forms and standards of proof used—

(1) to establish such eligibility; and

(2) to meet the requirements of subsection (a) of this section.

(e) Documentation

For purposes of determining whether a child is eligible to be counted for the purpose of computing the amount of a grant under section 7813 of this title, the membership of the child, or any parent or grandparent of the child, in a tribe or band of Indians may be established by proof other than an enrollment number, notwithstanding the availability of an enrollment number for a member of such tribe or band. Nothing in subsection (b) of this section shall be con-

strued to require the furnishing of an enrollment number.

(f) Monitoring and evaluation review

(1) In general

(A) For each fiscal year, in order to provide such information as is necessary to carry out the responsibility of the Secretary to provide technical assistance under this subpart, the Secretary shall conduct a monitoring and evaluation review of a sampling of the recipients of grants under this subpart. The sampling conducted under this subparagraph shall take into account size of the local educational agency and the geographic location of such agency.

(B) A local educational agency may not be held liable to the United States or be subject to any penalty, by reason of the findings of an audit that relates to the date of completion, or the date of submission, of any forms used to establish, before April 28, 1988, the eligibility of a child for entitlement under the Indian Elementary and Secondary School Assistance Act.

(2) False information

Any local educational agency that provides false information in an application for a grant under this subpart shall—

(A) be ineligible to apply for any other grant under this subpart; and

(B) be liable to the United States for any funds that have not been expended.

(3) Excluded children

A student who provides false information for the form required under subsection (d) of this section shall not be counted for the purpose of computing the amount of a grant under section 7813 of this title.

(g) Distribution

For the purposes of the distribution of funds under this subpart to schools that receive funding from the Bureau of Indian Affairs pursuant to—

(1) section 2010 of title 25; and

(2) the Act of April 16, 1934 (48 Stat. 596, chapter 147) [25 U.S.C. 452 et seq.],

the Secretary shall, in lieu of meeting the requirements of this section for counting Indian children, use a count of the number of students in such schools certified by the Bureau of Indian Affairs.

(Pub. L. 89–10, title IX, § 9116, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3779.)

REFERENCES IN TEXT

The Indian Elementary and Secondary School Assistance Act, referred to in subsecs. (d) and (f)(1)(B), is title III of act Sept. 30, 1950, ch. 1124, as added by Pub. L. 92–318, title IV, § 411(a), June 23, 1972, 86 Stat. 335, as amended, which was classified generally to subchapter III (§ 241aa et seq.) of chapter 13 of this title, prior to repeal by Pub. L. 100–297, title V, § 5352(1), Apr. 28, 1988, 102 Stat. 414.

Act of April 16, 1934, referred to in subsec. (g)(2), is act Apr. 16, 1934, ch. 147, 48 Stat. 596, as amended, popularly known as the Johnson-O'Malley Act, which is classified generally to section 452 et seq. of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 452 of Title 25 and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7812, 7813 of this title.

§ 7817. Payments

(a) In general

Subject to subsections (b) and (c) of this section, the Secretary shall pay to each local educational agency that submits an application that is approved by the Secretary under this subpart the amount determined under section 7813 of this title. The Secretary shall notify the local educational agency of the amount of the payment not later than June 1 of the year for which the Secretary makes the payment.

(b) Payments taken into account by the State

The Secretary may not make a grant under this subpart to a local educational agency for a fiscal year if, for such fiscal year, the State in which the local educational agency is located takes into consideration payments made under this subpart (or under subpart 1 of the Indian Education Act of 1988) in determining the eligibility of the local educational agency for State aid, or the amount of the State aid, with respect to the free public education of children during such fiscal year or the preceding fiscal year.

(c) Reduction of payment for failure to maintain fiscal effort

(1) In general

The Secretary may not pay a local educational agency the full amount of a grant award determined under section 7813 of this title for any fiscal year unless the State educational agency notifies the Secretary, and the Secretary determines, that with respect to the provision of free public education by the local educational agency for the preceding fiscal year, that the combined fiscal effort of the local educational agency and the State, computed on either a per student or aggregate expenditure basis was not less than 90 percent of the amount of the combined fiscal effort, computed on the same basis, for the second preceding fiscal year.

(2) Failure

If, for any fiscal year, the Secretary determines that a local educational agency failed to maintain the fiscal effort of such agency at the level specified in paragraph (1), the Secretary shall—

(A) reduce the amount of the grant that would otherwise be made to such agency under this subpart in the exact proportion of such agency's failure to maintain its fiscal effort at such level; and

(B) not use the reduced amount of the agency's expenditures for the preceding year to determine compliance with paragraph (1) for any succeeding fiscal year, but shall use the amount of expenditures that would have been required to comply with paragraph (1).

(3) Waiver

(A) The Secretary may waive the requirement of paragraph (1), for not more than one year at a time, if the Secretary determines that the failure to comply with such require-

ment is due to exceptional or uncontrollable circumstances, such as a natural disaster or a precipitous and unforeseen decline in the agency's financial resources.

(B) The Secretary shall not use the reduced amount of such agency's expenditures for the fiscal year preceding the fiscal year for which a waiver is granted to determine compliance with paragraph (1) for any succeeding fiscal year, but shall use the amount of expenditures that would have been required to comply with paragraph (1) in the absence of the waiver.

(d) Reallocations

The Secretary may reallocate, in a manner that the Secretary determines will best carry out the purpose of this subpart, any amounts that—

(1) based on estimates made by local educational agencies or other information, the Secretary determines will not be needed by such agencies to carry out approved programs under this subpart; or

(2) otherwise become available for reallocation under this subpart.

(Pub. L. 89–10, title IX, § 9117, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3781.)

REFERENCES IN TEXT

The Indian Education Act of 1988, referred to in subsec. (b), is part C (§§ 5301–5352) of title V of Pub. L. 100–297, Apr. 28, 1988, 102 Stat. 395. Subpart 1 (§§ 5311–5316) of the Act was classified generally to subchapter I (§ 2601 et seq.) of chapter 28 of Title 25, Indians, prior to repeal by Pub. L. 103–382, title III, § 367, Oct. 20, 1994, 108 Stat. 3976.

§ 7818. State educational agency review

(a) Application

Each entity desiring assistance under this subpart shall submit an application to the Secretary at such time, in such manner and accompanied by such information as the Secretary may reasonably require except that this subsection shall not apply to Bureau-funded schools.

(b) Special rule

Before submitting an application under subsection (a) of this section to the Secretary, the entity shall submit its application to the State educational agency. The State educational agency may comment on such application, however if such agency comments on such application such agency shall comment on all applications submitted by entities within the State and shall provide such comments to the appropriate local educational agency, which local educational agency shall be given an opportunity to respond to such comments.

(Pub. L. 89–10, title IX, § 9118, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3782.)

SUBPART 2—SPECIAL PROGRAMS AND PROJECTS TO IMPROVE EDUCATIONAL OPPORTUNITIES FOR INDIAN CHILDREN

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in sections 7872, 7873, 7874, 7882 of this title.

§ 7831. Improvement of educational opportunities for Indian children

(a) Purpose

(1) In general

It is the purpose of this section to support projects to develop, test, and demonstrate the effectiveness of services and programs to improve educational opportunities and achievement of Indian children.

(2) Coordination

The Secretary shall take such actions as are necessary to achieve the coordination of activities assisted under this subpart with—

(A) other programs funded under this chapter; and

(B) other Federal programs operated for the benefit of American Indian and Alaska Native children.

(b) Eligible entities

For the purpose of this section, the term ''eligible entity'' means a State educational agency, local educational agency, Indian tribe, Indian organization, federally supported elementary and secondary school for Indian students, Indian institution, including an Indian institution of higher education, or a consortium of such institutions.

(c) Grants authorized

(1) In general

The Secretary shall award grants to eligible entities to enable such entities to carry out activities that meet the purpose specified in subsection (a)(1) of this section, including—

(A) innovative programs related to the educational needs of educationally deprived children;

(B) educational services that are not available to such children in sufficient quantity or quality, including remedial instruction, to raise the achievement of Indian children in one or more of the core academic subjects of English, mathematics, science, foreign languages, art, history, and geography;

(C) bilingual and bicultural programs and projects;

(D) special health and nutrition services, and other related activities, that address the special health, social, and psychological problems of Indian children;

(E) special compensatory and other programs and projects designed to assist and encourage Indian children to enter, remain in, or reenter school, and to increase the rate of secondary school graduation;

(F) comprehensive guidance, counseling, and testing services;

(G) early childhood and kindergarten programs, including family-based preschool programs that emphasize school readiness and parental skills, and the provision of services to Indian children with disabilities;

(H) partnership projects between local educational agencies and institutions of higher education that allow secondary school students to enroll in courses at the postsecondary level to aid such students in the transition from secondary school to postsecondary education;

(I) partnership projects between schools and local businesses for school-to-work transition programs designed to provide Indian youth with the knowledge and skills the youth need to make an effective transition from school to a first job in a high-skill, high-wage career;

(J) programs designed to encourage and assist Indian students to work toward, and gain entrance into, an institution of higher education; or

(K) other services that meet the purpose described in subsection (a)(1) of this section.

(2) Preservice or inservice training

Preservice or inservice training of professional and paraprofessional personnel may be a part of any program assisted under this section.

(d) Grant requirements and applications

(1) Grant requirements

(A) The Secretary may make multiyear grants under this section for the planning, development, pilot operation, or demonstration of any activity described in subsection (c) of this section for a period not to exceed 5 years.

(B) In making multiyear grants under this section, the Secretary shall give priority to applications that present a plan for combining two or more of the activities described in subsection (c) of this section over a period of more than 1 year.

(C) The Secretary shall make a grant payment to an eligible entity after the initial year of the multiyear grant only if the Secretary determines that the eligible entity has made substantial progress in carrying out the activities assisted under the grant in accordance with the application submitted under paragraph (2) and any subsequent modifications to such application.

(D)(i) In addition to awarding the multiyear grants described in subparagraph (A), the Secretary may award grants to eligible entities for the dissemination of exemplary materials or programs assisted under this section.

(ii) The Secretary may award a dissemination grant under this subparagraph if, prior to awarding the grant, the Secretary determines that the material or program to be disseminated has been adequately reviewed and has a demonstrated—

(I) educational merit; and

(II) the ability to be replicated.

(2) Application

(A) Any eligible entity that desires to receive a grant under this subsection shall submit an application to the Secretary at such time and in such manner as the Secretary may require.

(B) Each application submitted to the Secretary under subparagraph (A) shall contain—

(i) a description of how parents of Indian children and representatives of Indian tribes have been, and will be, involved in developing and implementing the activities for which assistance is sought;

(ii) assurances that the applicant will participate, at the request of the Secretary, in any national evaluation of activities assisted under this section; and

(iii) such other assurances and information as the Secretary may reasonably require.

(Pub. L. 89–10, title IX, § 9121, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3782.)

§ 7832. Professional development

(a) Purposes

The purposes of this section are—

(1) to increase the number of qualified Indian individuals in professions that serve Indian people;

(2) to provide training to qualified Indian individuals to enable such individuals to become teachers, administrators, teacher aides, social workers, and ancillary educational personnel; and

(3) to improve the skills of qualified Indian individuals who serve in the capacities described in paragraph (2).

(b) Eligible entities

For the purpose of this section, the term ''eligible entity'' means—

(1) an institution of higher education, including an Indian institution of higher education;

(2) a State or local educational agency, in consortium with an institution of higher education; and

(3) an Indian tribe or organization, in consortium with an institution of higher education.

(c) Program authorized

The Secretary is authorized to award grants to eligible entities having applications approved under this section to enable such entities to carry out the activities described in subsection (d) of this section.

(d) Authorized activities

(1) In general

Grant funds under this section shall be used to provide support and training for Indian individuals in a manner consistent with the purposes of this section. Such activities may include but are not limited to, continuing programs, symposia, workshops, conferences, and direct financial support.

(2) Special rules

(A) For education personnel, the training received pursuant to a grant under this section may be inservice or preservice training.

(B) For individuals who are being trained to enter any field other than education, the training received pursuant to a grant under this section shall be in a program that results in a graduate degree.

(e) Application

(1) In general

Each eligible entity desiring a grant under this section shall submit an application to the Secretary at such time, in such manner and accompanied by such information, as the Secretary may reasonably require.

(2) Preference

In awarding grants under this section, the Secretary shall give preference to applications

describing programs that train Indian individuals.

(f) Special rule

In making grants under this section, the Secretary—

(1) shall consider the prior performance of the eligible entity; and

(2) may not limit eligibility to receive a grant under this section on the basis of—

(A) the number of previous grants the Secretary has awarded such entity; or

(B) the length of any period during which such entity received such grants.

(g) Grant period

Each grant under this section shall be awarded for a program of not more than 5 years.

(h) Service obligation

(1) In general

The Secretary shall require, by regulation, that an individual who receives training pursuant to a grant made under this section—

(A) perform work—

(i) related to the training received under this section; and

(ii) that benefits Indian people; or

(B) repay all or a prorated part of the assistance received.

(2) Reporting

The Secretary shall establish, by regulation, a reporting procedure under which a grant recipient under this section shall, not later than 12 months after the date of completion of the training, and periodically thereafter, provide information concerning the compliance of such recipient with the work requirement under paragraph (1).

(Pub. L. 89–10, title IX, §9122, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3784.)

§7833. Fellowships for Indian students

(a) Fellowships

(1) Authority

The Secretary is authorized to award fellowships to Indian students to enable such students to study in graduate and professional programs at institutions of higher education.

(2) Requirements

The fellowships described in paragraph (1) shall be awarded to Indian students to enable such students to pursue a course of study—

(A) of not more than 4 academic years; and

(B) that leads—

(i) toward a postbaccalaureate degree in medicine, clinical psychology, psychology, law, education, and related fields; or

(ii) to an undergraduate or graduate degree in engineering, business administration, natural resources, and related fields.

(b) Stipends

The Secretary shall pay to Indian students awarded fellowships under subsection (a) of this section such stipends (including allowances for subsistence of such students and dependents of such students) as the Secretary determines to be consistent with prevailing practices under comparable federally supported programs.

(c) Payments to institutions in lieu of tuition

The Secretary shall pay to the institution of higher education at which a fellowship recipient is pursuing a course of study, in lieu of tuition charged such recipient, such amounts as the Secretary may determine to be necessary to cover the cost of education provided such recipient.

(d) Special rules

(1) In general

If a fellowship awarded under subsection (a) of this section is vacated prior to the end of the period for which the fellowship is awarded, the Secretary may award an additional fellowship for the unexpired portion of the period of the fellowship.

(2) Written notice

Not later than 45 days before the commencement of an academic term, the Secretary shall provide to each individual who is awarded a fellowship under subsection (a) of this section for such academic term written notice of—

(A) the amount of the fellowship; and

(B) any stipends or other payments that will be made under this section to, or for the benefit of, the individual for the academic term.

(3) Priority

Not more than 10 percent of the fellowships awarded under subsection (a) of this section shall be awarded, on a priority basis, to persons receiving training in guidance counseling with a speciality in the area of alcohol and substance abuse counseling and education.

(e) Service obligation

(1) In general

The Secretary shall require, by regulation, that an individual who receives financial assistance under this section—

(A) perform work—

(i) related to the training for which the individual receives assistance under this section; and

(ii) that benefits Indian people; or

(B) repay all or a prorated portion of such assistance.

(2) Reporting procedure

The Secretary shall establish, by regulation, a reporting procedure under which the recipient of training assistance under this section, not later than 12 months after the date of completion of the training and periodically thereafter, shall provide information concerning the compliance of such recipient with the work requirement under paragraph (1).

(f) Administration of fellowships

The Secretary may administer the fellowships authorized under this section through a grant to, or contract or cooperative agreement with, an Indian organization with demonstrated qualifications to administer all facets of the program assisted under this section.

(Pub. L. 89–10, title IX, §9123, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3786.)

§7834. Gifted and talented

(a) Program authorized

The Secretary is authorized to—

(1) establish two centers for gifted and talented Indian students at tribally controlled community colleges in accordance with this section; and

(2) support demonstration projects described in subsection (c) of this section.

(b) Eligible entities

The Secretary shall make grants to, or enter into contracts, for the activities described in subsection (a) of this section, with—

(1) two tribally controlled community colleges that—

(A) are eligible for funding under the Tribally Controlled Community College Assistance Act of 1978 [25 U.S.C. 1801 et seq.]; and

(B) are fully accredited; or

(2) if the Secretary does not receive applications that the Secretary determines to be approvable from two colleges that meet the requirements of paragraph (1), the American Indian Higher Education Consortium.

(c) Use of funds

(1) In general

The grants made, or contracts entered into, by the Secretary under subsection (a) of this section shall be used for—

(A) the establishment of centers described in subsection (a) of this section; and

(B) carrying out demonstration projects designed to—

(i) address the special needs of Indian students in elementary and secondary schools who are gifted and talented; and

(ii) provide such support services to the families of the students described in clause (i) as are needed to enable such students to benefit from the projects.

(2) Subcontracts

Each recipient of a grant or contract under subsection (a) of this section may enter into a contract with any other entity, including the Children's Television Workshop, to carry out the demonstration project under this subsection.

(3) Demonstration projects

Demonstration projects assisted under subsection (a) of this section may include—

(A) the identification of the special needs of gifted and talented Indian students, particularly at the elementary school level, giving attention to—

(i) the emotional and psychosocial needs of such students; and

(ii) providing such support services to the families of such students as are needed to enable such students to benefit from the project;

(B) the conduct of educational, psychosocial, and developmental activities that the Secretary determines holds a reasonable promise of resulting in substantial progress toward meeting the educational needs of such gifted and talented children, including but not limited to—

(i) demonstrating and exploring the use of Indian languages and exposure to Indian cultural traditions; and

(ii) mentoring and apprenticeship programs;

(C) the provision of technical assistance and the coordination of activities at schools that receive grants under subsection (d) of this section with respect to the activities assisted under such grants, the evaluation of programs assisted under such grants, or the dissemination of such evaluations;

(D) the use of public television in meeting the special educational needs of such gifted and talented children;

(E) leadership programs designed to replicate programs for such children throughout the United States, including disseminating information derived from the demonstration projects conducted under subsection (a) of this section; and

(F) appropriate research, evaluation, and related activities pertaining to the needs of such children and to the provision of such support services to the families of such children that are needed to enable such children to benefit from the project.

(4) Application

Each entity desiring a grant under subsection (a) of this section shall submit an application to the Secretary at such time and in such manner as the Secretary may prescribe.

(d) Additional grants

(1) In general

The Secretary, in consultation with the Secretary of the Interior, shall award 5 grants to schools funded by the Bureau of Indian Affairs (hereafter in this section referred to as ''Bureau schools'') for program research and development and the development and dissemination of curriculum and teacher training material, regarding—

(A) gifted and talented students;

(B) college preparatory studies (including programs for Indian students with an interest in pursuing teaching careers);

(C) students with special culturally related academic needs, including students with social, lingual, and cultural needs; or

(D) mathematics and science education.

(2) Applications

Each Bureau school desiring a grant to conduct one or more of the activities described in paragraph (1) shall submit an application to the Secretary in such form and at such time as the Secretary may prescribe.

(3) Special rule

Each application described in paragraph (2) shall be developed, and each grant under this subsection shall be administered, jointly by the supervisor of the Bureau school and the local educational agency serving such school.

(4) Requirements

In awarding grants under paragraph (1), the Secretary shall achieve a mixture of the programs described in paragraph (1) that ensures that Indian students at all grade levels and in all geographic areas of the United States are able to participate in a program assisted under this subsection.

(5) Grant period

Subject to the availability of appropriations, grants under paragraph (1) shall be awarded for a 3-year period and may be renewed by the Secretary for additional 3-year periods if the Secretary determines that the performance of the grant recipient has been satisfactory.

(6) Dissemination

(A) The dissemination of any materials developed from activities assisted under paragraph (1) shall be carried out in cooperation with entities that receive funds pursuant to subsection (b) of this section.

(B) The Secretary shall report to the Secretary of the Interior and to the Congress any results from activities described in paragraph (3)(B).

(7) Evaluation costs

(A) The costs of evaluating any activities assisted under paragraph (1) shall be divided between the Bureau schools conducting such activities and the recipients of grants or contracts under subsection (b) of this section who conduct demonstration projects under such subsection.

(B) If no funds are provided under subsection (b) of this section for—

(i) the evaluation of activities assisted under paragraph (1);

(ii) technical assistance and coordination with respect to such activities; or

(iii) the dissemination of the evaluations referred to in clause (i),

then the Secretary shall make such grants, or enter into such contracts, as are necessary to provide for the evaluations, technical assistance, and coordination of such activities, and the dissemination of the evaluations.

(e) Information network

The Secretary shall encourage each recipient of a grant or contract under this section to work cooperatively as part of a national network to ensure that the information developed by the grant or contract recipient is readily available to the entire educational community.

(Pub. L. 89–10, title IX, § 9124, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3787.)

REFERENCES IN TEXT

The Tribally Controlled Community College Assistance Act of 1978, referred to in subsec. (b)(1)(A), is Pub. L. 95–471, Oct. 17, 1978, 92 Stat. 1325, as amended, which is classified principally to chapter 20 (§ 1801 et seq.) of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of Title 25 and Tables.

§ 7835. Grants to tribes for education administrative planning and development

(a) In general

The Secretary may make grants to Indian tribes, and tribal organizations approved by Indian tribes, to plan and develop a centralized tribal administrative entity to—

(1) coordinate all education programs operated by the tribe or within the territorial jurisdiction of the tribe;

(2) develop education codes for schools within the territorial jurisdiction of the tribe;

(3) provide support services and technical assistance to schools serving children of the tribe; and

(4) perform child-find screening services for the preschool-aged children of the tribe to—

(A) ensure placement in appropriate educational facilities; and

(B) coordinate the provision of any needed special services for conditions such as disabilities and English language skill deficiencies.

(b) Period of grant

Each grant under this section may be awarded for a period of not more than 3 years, except that such grant may be renewed upon the termination of the initial period of the grant if the grant recipient demonstrates to the satisfaction of the Secretary that renewing the grant for an additional 3-year period is necessary to carry out the objectives of the grant described in subsection (c)(2)(A) of this section.

(c) Application for grant

(1) In general

Each Indian tribe and tribal organization desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, containing such information, and consistent with such criteria, as the Secretary may prescribe in regulations.

(2) Contents

Each application described in paragraph (1) shall contain—

(A) a statement describing the activities to be conducted, and the objectives to be achieved, under the grant; and

(B) a description of the method to be used for evaluating the effectiveness of the activities for which assistance is sought and determining whether such objectives are achieved.

(3) Approval

The Secretary may approve an application submitted by a tribe or tribal organization pursuant to this section only if the Secretary is satisfied that such application, including any documentation submitted with the application—

(A) demonstrates that the applicant has consulted with other education entities, if any, within the territorial jurisdiction of the applicant who will be affected by the activities to be conducted under the grant;

(B) provides for consultation with such other education entities in the operation and evaluation of the activities conducted under the grant; and

(C) demonstrates that there will be adequate resources provided under this section or from other sources to complete the activities for which assistance is sought, except that the availability of such other resources shall not be a basis for disapproval of such application.

(d) Restriction

A tribe may not receive funds under this section if such tribe receives funds under section 2024 of title 25.[1]

[1] See References in Text note below.

(e) Authorization of appropriations

There are authorized to be appropriated to the Department of Education $3,000,000 for each of the fiscal years 1995 through 1999 to carry out this section.

(Pub. L. 89–10, title IX, § 9125, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3789.)

REFERENCES IN TEXT

Section 2024 of title 25, referred to in subsec. (d), was in the original ''section 1144 of the Indian Education Amendments of 1978'' which was translated as if it read section 1144 of the Education Amendments of 1978 to reflect the probable intent of Congress.

SUBPART 3—SPECIAL PROGRAMS RELATING TO ADULT EDUCATION FOR INDIANS

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in sections 7872, 7873, 7874, 7882 of this title.

§ 7851. Improvement of educational opportunities for adult Indians

(a) In general

The Secretary shall award grants to State and local educational agencies, and to Indian tribes, institutions, and organizations—

(1) to support planning, pilot, and demonstration projects that are designed to test and demonstrate the effectiveness of programs for improving employment and educational opportunities for adult Indians;

(2) to assist in the establishment and operation of programs that are designed to stimulate—

(A) basic literacy opportunities for all nonliterate Indian adults; and

(B) the provision of opportunities to all Indian adults to qualify for a secondary school diploma, or its recognized equivalent, in the shortest period of time feasible;

(3) to support a major research and development program to develop more innovative and effective techniques for achieving literacy and secondary school equivalency for Indians;

(4) to provide for basic surveys and evaluations to define accurately the extent of the problems of illiteracy and lack of secondary school completion among Indians; and

(5) to encourage the dissemination of information and materials relating to, and the evaluation of, the effectiveness of education programs that may offer educational opportunities to Indian adults.

(b) Educational services

The Secretary may make grants to Indian tribes, institutions, and organizations to develop and establish educational services and programs specifically designed to improve educational opportunities for Indian adults.

(c) Information and evaluation

The Secretary may make grants to, and enter into contracts with, public agencies and institutions and Indian tribes, institutions, and organizations, for—

(1) the dissemination of information concerning educational programs, services, and resources available to Indian adults, including evaluations of the programs, services, and resources; and

(2) the evaluation of federally assisted programs in which Indian adults may participate to determine the effectiveness of the programs in achieving the purposes of the programs with respect to Indian adults.

(d) Applications

(1) In general

Each entity desiring a grant under this section shall submit to the Secretary an application at such time, in such manner, containing such information, and consistent with such criteria, as the Secretary may prescribe in regulations.

(2) Contents

Each application described in paragraph (1) shall contain—

(A) a statement describing the activities to be conducted, and the objectives to be achieved, under the grant; and

(B) a description of the method to be used for evaluating the effectiveness of the activities for which assistance is sought and determining whether the objectives of the grant are achieved.

(3) Approval

The Secretary shall not approve an application described in paragraph (1) unless the Secretary determines that such application, including any documentation submitted with the application, indicates—

(A) there has been adequate participation, by the individuals to be served and appropriate tribal communities, in the planning and development of the activities to be assisted; and

(B) the individuals and tribal communities referred to in subparagraph (A) will participate in the operation and evaluation of the activities to be assisted.

(4) Priority

In approving applications under paragraph (1), the Secretary shall give priority to applications from Indian educational agencies, organizations, and institutions.

(Pub. L. 89–10, title IX, § 9131, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3790.)

SUBPART 4—NATIONAL RESEARCH ACTIVITIES

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in sections 7872, 7873, 7882, 8857 of this title.

§ 7861. National activities

(a) Authorized activities

The Secretary may use funds made available under section 7882(b) of this title for each fiscal year to—

(1) conduct research related to effective approaches for the education of Indian children and adults;

(2) evaluate federally assisted education programs from which Indian children and adults may benefit;

(3) collect and analyze data on the educational status and needs of Indians; and

(4) carry out other activities that are consistent with the purpose of this part.

(b) Eligibility

The Secretary may carry out any of the activities described in subsection (a) of this section directly or through grants to, or contracts or cooperative agreements with Indian tribes, Indian organizations, State educational agencies, local educational agencies, institutions of higher education, including Indian institutions of higher education, and other public and private agencies and institutions.

(c) Coordination

Research activities supported under this section—

(1) shall be carried out in consultation with the Office of Educational Research and Improvement to assure that such activities are coordinated with and enhance the research and development activities supported by the Office; and

(2) may include collaborative research activities which are jointly funded and carried out by the Office of Indian Education and the Office of Educational Research and Improvement.

(Pub. L. 89–10, title IX, § 9141, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3792.)

SUBPART 5—FEDERAL ADMINISTRATION

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in section 7882 of this title.

§ 7871. National Advisory Council on Indian Education

(a) Membership

There is established a National Advisory Council on Indian Education (hereafter in this section referred to as the ''Council''), which shall—

(1) consist of 15 Indian members, who shall be appointed by the President from lists of nominees furnished, from time to time, by Indian tribes and organizations; and

(2) represent different geographic areas of the United States.

(b) Duties

The Council shall—

(1) advise the Secretary concerning the funding and administration (including the development of regulations and administrative policies and practices) of any program, including any program established under this part—

(A) with respect to which the Secretary has jurisdiction; and

(B)(i) that includes Indian children or adults as participants; or

(ii) that may benefit Indian children or adults;

(2) make recommendations to the Secretary for filling the position of Director of Indian Education whenever a vacancy occurs; and

(3) submit to the Congress, not later than June 30 of each year, a report on the activities of the Council, including—

(A) any recommendations that the Council considers appropriate for the improvement of Federal education programs that include Indian children or adults as participants, or that may benefit Indian children or adults; and

(B) recommendations concerning the funding of any program described in subparagraph (A).

(Pub. L. 89–10, title IX, § 9151, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3792.)

§ 7872. Peer review

The Secretary may use a peer review process to review applications submitted to the Secretary under subpart 2, 3, or 4 of this part.

(Pub. L. 89–10, title IX, § 9152, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3793.)

§ 7873. Preference for Indian applicants

In making grants under subpart 2, 3, or 4 of this part, the Secretary shall give a preference to Indian tribes, organizations, and institutions of higher education under any program with respect to which Indian tribes, organizations, and institutions are eligible to apply for grants.

(Pub. L. 89–10, title IX, § 9153, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3793.)

§ 7874. Minimum grant criteria

The Secretary may not approve an application for a grant under subpart 2 or 3 of this part unless the application is for a grant that is—

(1) of sufficient size, scope, and quality to achieve the purpose or objectives of such grant; and

(2) based on relevant research findings.

(Pub. L. 89–10, title IX, § 9154, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3793.)

SUBPART 6—DEFINITIONS; AUTHORIZATIONS OF APPROPRIATIONS

§ 7881. Definitions

As used in this part:

(1) Adult

The term ''adult'' means an individual who—

(A) has attained the age of 16 years; or

(B) has attained an age that is greater than the age of compulsory school attendance under an applicable State law.

(2) Adult education

The term ''adult education'' has the meaning given such term in section 1201a(2) of this title.

(3) Free public education

The term ''free public education'' means education that is—

(A) provided at public expense, under public supervision and direction, and without tuition charge; and

(B) provided as elementary or secondary education in the applicable State or to preschool children.

(4) Indian

The term ''Indian'' means an individual who is—

(A) a member of an Indian tribe or band, as membership is defined by the tribe or band, including—

(i) any tribe or band terminated since 1940; and

(ii) any tribe or band recognized by the State in which the tribe or band resides;

(B) a descendant, in the first or second degree, of an individual described in subparagraph (A);

(C) considered by the Secretary of the Interior to be an Indian for any purpose;

(D) an Eskimo, Aleut, or other Alaska Native; or

(E) a member of an organized Indian group that received a grant under the Indian Education Act of 1988 as it was in effect the day preceding October 20, 1994.

(Pub. L. 89–10, title IX, § 9161, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3793.)

REFERENCES IN TEXT

The Indian Education Act of 1988 as it was in effect the day preceding October 20, 1994, referred to in par. (4)(E), is part C (§§ 5301–5352) of title V of Pub. L. 100–297, Apr. 28, 1988, 102 Stat. 395, which was classified principally to chapter 28 (§ 2601 et seq.) of Title 25, Indians, prior to repeal by Pub. L. 103–382, title III, § 367, Oct. 20, 1994, 108 Stat. 3976.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7816 of this title; title 25 section 2902.

§ 7882. Authorizations of appropriations

(a) Subpart 1

For the purpose of carrying out subpart 1 of this part, there are authorized to be appropriated to the Department of Education $61,300,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

(b) Subparts 2 through 4

For the purpose of carrying out subparts 2, 3, and 4 of this part, there are authorized to be appropriated to the Department of Education $26,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

(c) Subpart 5

For the purpose of carrying out subpart 5 of this part, there are authorized to be appropriated to the Department of Education $3,775,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

(Pub. L. 89–10, title IX, § 9162, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3794.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7813, 7861 of this title.

PART B—NATIVE HAWAIIANS

PRIOR PROVISIONS

Provisions similar to those in this part were contained in chapter 61 (§ 4901 et seq.) of this title prior to repeal by Pub. L. 103–382, § 363.

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 5891, 6212 of this title.

§ 7901. Short title

This part may be cited as the ''Native Hawaiian Education Act''.

(Pub. L. 89–10, title IX, § 9201, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3794.)

§ 7902. Findings

The Congress finds and declares as follows:

(1) Native Hawaiians are a distinct and unique indigenous people with a historical continuity to the original inhabitants of the Hawaiian archipelago, whose society was organized as a nation and internationally recognized as such by the United States, Britain, France, and Japan, as evidenced by treaties governing friendship, commerce, and navigation.

(2) At the time of the arrival of the first nonindigenous people in Hawai'i in 1778, the Native Hawaiian people lived in a highly organized, self-sufficient subsistence social system based on a communal land tenure system with a sophisticated language, culture, and religion.

(3) A unified monarchial government of the Hawaiian Islands was established in 1810 under Kamehameha I, the first King of Hawai'i.

(4) From 1826 until 1893, the United States recognized the sovereignty and independence of the Kingdom of Hawai'i, which was established in 1810 under Kamehameha I, extended full and complete diplomatic recognition to the Kingdom of Hawai'i, and entered into treaties and conventions with the Kingdom of Hawai'i to govern friendship, commerce and navigation in 1826, 1842, 1849, 1875, and 1887.

(5) In 1893, the sovereign, independent, internationally recognized, and indigenous government of Hawai'i, the Kingdom of Hawai'i, was overthrown by a small group of non-Hawaiians, including United States citizens, who were assisted in their efforts by the United States Minister, a United States naval representative, and armed naval forces of the United States. Because of the participation of United States agents and citizens in the overthrow of the Kingdom of Hawai'i, the Congress, on behalf of the people of the United States, apologized to Native Hawaiians for the overthrow and the deprivation of the rights of Native Hawaiians to self-determination through Public Law 103–150 (107 Stat. 1510).

(6) In 1898, the joint resolution entitled ''A Joint Resolution to provide for annexing the Hawaiian Islands to the United States'', approved July 7, 1898 (30 Stat. 750), ceded absolute title of all lands held by the Republic of Hawai'i, including the government and crown lands of the former Kingdom of Hawai'i, to the United States, but mandated that revenue generated from these lands be used ''solely for the benefit of the inhabitants of the Hawaiian Islands for educational and other public purposes''.

(7) By 1919, the Native Hawaiian population had declined from an estimated 1,000,000 in 1778

to an alarming 22,600, and in recognition of this severe decline, the Congress in 1921 enacted the Hawaiian Homes Commission Act, 1920, which designated approximately 200,000 acres of ceded public lands for homesteading by Native Hawaiians.

(8) Through the enactment of the Hawaiian Homes Commission Act, 1920, the Congress affirmed the special relationship between the United States and the Native Hawaiians, as expressed by then Secretary of the Interior Franklin K. Lane, who was quoted in the committee report for the Hawaiian Homes Commission Act, 1920, as saying: ''One thing that impressed me . . . was the fact that the natives of the island who are our wards, I should say, and for whom in a sense we are trustees, are falling off rapidly in numbers and many of them are in poverty.''.

(9) In 1938, the United States Congress again acknowledged the unique status of the Hawaiian people by including in the Act of June 20, 1938 (52 Stat. 781 et seq.), a provision to lease lands within the National Parks extension to Native Hawaiians and to permit fishing in the area ''only by native Hawaiian residents of said area or of adjacent villages and by visitors under their guidance.''.

(10) Under the Act entitled ''An Act to provide for the admission of the State of Hawai'i into the Union'' approved March 18, 1959 (73 Stat. 4), the United States transferred responsibility for the administration of the Hawaiian Home Lands to the State of Hawai'i but reaffirmed the trust relationship which existed between the United States and the Hawaiian people by retaining the exclusive power to enforce the trust, including the power to approve land exchanges and legislative amendments affecting the rights of beneficiaries under such Act.

(11) In 1959, under the Act entitled ''An Act to provide for the admission of the State of Hawai'i into the Union'', approved March 18, 1959 (73 Stat. 4), the United States ceded to the State of Hawai'i title to the public lands formerly held by the United States, but mandated that such lands be held by the State ''in public trust'' and reaffirmed the special relationship which existed between the United States and the Hawaiian people by retaining the legal responsibility to enforce the public trust responsibility of the State of Hawai'i for the betterment of the conditions of Native Hawaiians, as defined in section 201(a) of the Hawaiian Homes Commission Act, 1920.

(12) The United States assumed special responsibilities for Native Hawaiian lands and resources at the time of the annexation of the Territory in 1898, upon adoption of the Hawaiian Homes Commission Act, 1920, and upon admission of the State of Hawai'i into the Union in 1959, and has retained certain of those responsibilities.

(13) In recognition of the special relationship which exists between the United States and the Native Hawaiian people, the Congress has extended to Native Hawaiians the same rights and privileges accorded to American Indian, Alaska Native, Eskimo, and Aleut communities under the Native American Programs Act of 1974 [42 U.S.C. 2991 et seq.], the American Indian Religious Freedom Act [42 U.S.C. 1996], the National Museum of the American Indian Act [20 U.S.C. 80q et seq.], the Native American Graves Protection and Repatriation Act [25 U.S.C. 3001 et seq.], the National Historic Preservation Act [16 U.S.C. 470 et seq.], and the Native American Languages Act [25 U.S.C. 2901 et seq.].

(14) In recognition of the special relationship which exists between the United States and the Native Hawaiian people, the Congress has enacted numerous special provisions of law for the benefit of Native Hawaiians in the areas of health, education, labor, and housing.

(15) In 1981, the Senate instructed the Office of Education to submit to the Congress a comprehensive report on Native Hawaiian education. The report, entitled the ''Native Hawaiian Educational Assessment Project'', was released in 1983 and documented that Native Hawaiians scored below parity with national norms on standardized achievement tests, were disproportionately represented in many negative social and physical statistics, indicative of special educational needs, and had educational needs which were related to their unique cultural situation, such as different learning styles and low self-image.

(16) In recognition of the educational needs of Native Hawaiians, in 1988, the Congress enacted title IV of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 to authorize and develop supplemental educational programs to benefit Native Hawaiians.

(17) In 1993, the Kamehameha Schools Bishop Estate released a ten-year update of the Native Hawaiian Educational Assessment Project, which found that despite the successes of the programs established under title IV of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988, many of the same educational needs still exist for Native Hawaiians. For example—

(A) educational risk factors continue to start even before birth for many Native Hawaiian children, including—

(i) late or no prenatal care;

(ii) half of Native Hawaiian women who give birth are unmarried; and

(iii) high rates of births to teenage parents;

(B) Native Hawaiian students continue to begin their school experience lagging behind other students in terms of readiness factors such as vocabulary test scores;

(C) Native Hawaiian students continue to score below national norms on standardized education achievement tests at all grade levels;

(D) both public and private schools continue to show a pattern of lower percentages of Native Hawaiian students in the uppermost achievement levels and in gifted and talented programs;

(E) Native Hawaiian students continue to be overrepresented among students qualifying for special education programs provided

to students with learning disabilities, mild mental retardation, emotional impairment, and other such disabilities;

(F) Native Hawaiians continue to be underrepresented in institutions of higher education and among adults who have completed four or more years of college;

(G) Native Hawaiians continue to be disproportionately represented in many negative social and physical statistics, indicative of special educational needs, for example—

(i) Native Hawaiian students are more likely to be retained in grade level and to be excessively absent in secondary school;

(ii) Native Hawaiian students are the highest users of drugs and alcohol in the State of Hawai'i; and

(iii) Native Hawaiian children continue to be disproportionately victimized by child abuse and neglect; and

(H) Native Hawaiians now comprise over 23 percent of the students served by the State of Hawai'i Department of Education and there are and will continue to be geographically rural, isolated areas with a high Native Hawaiian population density.

(18) The findings described in paragraphs (1) through (17) are contrary to the high rate of literacy and integration of traditional culture and Western education achieved by Native Hawaiians through a Hawaiian language-based public school system established in 1840 by Kamehameha III.

(19) After the overthrow of the Kingdom of Hawai'i in 1893, Hawaiian medium schools were banned. After annexation, throughout the territorial and statehood period, and until 1986, use of Hawaiian as a medium of education in public schools was declared unlawful, thereby causing incalculable harm to a culture that placed a very high value on the power of language, as exemplified in the traditional saying: ''I ka 'ōlelo no ke ola; I ka 'ōlelo no ka make. In the language rests life; In the language rests death.''.

(20) Despite the consequences of over 100 years of nonindigenous influence, the Native Hawaiian people are determined to preserve, develop, and transmit to future generations their ancestral territory, and their cultural identity in accordance with their own spiritual and traditional beliefs, customs, practices, language, and social institutions.

(21) The State of Hawai'i, in the constitution and statutes of the State of Hawai'i—

(A) reaffirms and protects the unique right of the Native Hawaiian people to practice and perpetuate their culture and religious customs, beliefs, practices, and language; and

(B) recognizes the traditional language of the Native Hawaiian people as an official language of the State of Hawai'i, which may be used as the language of instruction for all subjects and grades in the public school system.

(Pub. L. 89–10, title IX, § 9202, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3794.)

REFERENCES IN TEXT

Public Law 103–150, referred to in par. (5), is Pub. L. 103–150, Nov. 23, 1993, 107 Stat. 1510, which is not classified to the Code.

A Joint Resolution to provide for annexing the Hawaiian Islands to the United States, approved July 7, 1898, referred to in par. (6), is act July 7, 1898, No. 55, 30 Stat. 750, known as the Newlands Resolution. For complete classification of this Act to the Code, see Tables.

The Hawaiian Homes Commission Act, 1920, referred to in pars. (7), (8), (11), and (12), is act July 9, 1921, ch. 42, 42 Stat. 108, as amended, which was classified generally to sections 691 to 718 of Title 48, Territories and Insular Possessions, and was omitted from the Code. Section 201 of the Act was classified to section 692 of Title 48.

Act of June 20, 1938, referred to in par. (9), is act June 20, 1938, ch. 530, 52 Stat. 781, which is classified to sections 391b, 391b–1, 392b, 392c, 396, and 396a of Title 16, Conservation. For complete classification of this Act to the Code, see Tables.

An Act to provide for the admission of the State of Hawaii into the Union, referred to in pars. (10) and (11), is Pub. L. 86–3, Mar. 18, 1959, 73 Stat. 4, as amended, popularly known as the Hawaii Statehood Admissions Act, which is set out as a note preceding former section 491 of Title 48, Territories and Insular Possessions. For complete classification of this Act to the Code, see Tables.

The Native American Programs Act of 1974, referred to in par. (13), is title VIII of Pub. L. 88–452, as added by Pub. L. 93–644, § 11, Jan. 4, 1975, 88 Stat. 2324, which is classified generally to subchapter VIII (§ 2991 et seq.) of chapter 34 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 2991 of Title 42 and Tables.

The American Indian Religious Freedom Act, referred to in par. (13), is Pub. L. 95–341, Aug. 11, 1978, 92 Stat. 469, which is classified to section 1996 of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 1996 of Title 42 and Tables.

The National Museum of the American Indian Act, referred to in par. (13), is Pub. L. 101–185, Nov. 28, 1989, 103 Stat. 1336, which is classified generally to subchapter XIII (§ 80q et seq.) of chapter 3 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 80q of this title and Tables.

The Native American Graves Protection and Repatriation Act, referred to in par. (13), is Pub. L. 101–601, Nov. 16, 1990, 104 Stat. 3048, which is classified principally to chapter 32 (§ 3001 et seq.) of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 3001 of Title 25 and Tables.

The National Historic Preservation Act, referred to in par. (13), is Pub. L. 89–665, Oct. 15, 1966, 80 Stat. 915, as amended, which is classified generally to subchapter II (§ 470 et seq.) of chapter 1A of Title 16, Conservation. For complete classification of this Act to the Code, see section 470 of Title 16 and Tables.

The Native American Languages Act, referred to in par. (13), is title I of Pub. L. 101–477, Oct. 30, 1990, 104 Stat. 1153, which is classified generally to chapter 31 (§ 2901 et seq.) of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 2901 of Title 25 and Tables.

The Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988, referred to in pars. (16) and (17), is Pub. L. 100–297, Apr. 28, 1988, 102 Stat. 130, as amended. Title IV of the Act was classified generally to chapter 61 (§ 4901 et seq.) of this title prior to repeal by Pub. L. 103–382, title III, § 363, Oct. 20, 1994, 108 Stat. 3975.

§ 7903. Purpose

It is the purpose of this part to—

(1) authorize and develop supplemental educational programs to assist Native Hawaiians in reaching the National Education Goals;

(2) provide direction and guidance to appropriate Federal, State, and local agencies to focus resources, including resources made available under this part, on Native Hawaiian education, through the establishment of a Native Hawaiian Education Council, and five island councils;

(3) supplement and expand existing programs and authorities in the area of education to further the purposes of the[1] subchapter; and

(4) encourage the maximum participation of Native Hawaiians in planning and management of Native Hawaiian Education Programs.

(Pub. L. 89–10, title IX, § 9203, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3798.)

§ 7904. Native Hawaiian Education Council and island councils

(a) Establishment of Native Hawaiian Education Council

In order to better effectuate the purposes of this part through the coordination of educational and related services and programs available to Native Hawaiians, including those programs receiving funding under this part, the Secretary is authorized to establish a Native Hawaiian Education Council (hereafter in this part referred to as the ''Education Council'').

(b) Composition of Education Council

The Education Council shall consist of not more than 25 members, including a representative of—

(1) each recipient of funds from the Secretary under this part;

(2) the State of Hawai'i Department of Education;

(3) the State of Hawai'i Office of Hawaiian Affairs;

(4) Native Hawaiian educational organizations, such as Alu Like, Inc., Kamehameha Schools Bishop Estate, Hawaiian Language Immersion Advisory Council, Aha Punana Leo, and the Queen Lili'uokalani Trust and Children's Center; and

(5) each Native Hawaiian education island council established under subsection (f) of this section.

(c) Conditions and terms

At least three-fourths of the members of the Education Council shall be Native Hawaiians. Members of the Education Council shall be appointed for three-year terms.

(d) Administrative grant for Education Council

The Secretary shall make a direct grant to the Education Council in order to enable the Education Council to—

(1) coordinate the educational and related services and programs available to Native Hawaiians, including the programs assisted under this part, and assess the extent to which such services and programs meet the needs of Native Hawaiians; and

(2) provide direction and guidance, through the issuance of reports and recommendations, to appropriate Federal, State, and local agencies in order to focus and improve the use of resources, including resources made available under this part, on Native Hawaiian education.

(e) Additional duties of Education Council

(1) In general

The Education Council shall provide copies of any reports and recommendations issued by the Education Council to the Secretary, the Committee on Indian Affairs of the Senate, and the Committee on Education and Labor of the House of Representatives, including any information that the Education Council provides to the Secretary pursuant to subsection (i) of this section.

(2) Annual report

The Education Council shall present to the Secretary an annual report on the Education Council's activities.

(3) Island council support and assistance

The Education Council shall provide such administrative support and financial assistance to the island councils established pursuant to subsection (f) of this section as the Secretary deems appropriate.

(f) Establishment of island councils

(1) In general

In order to better effectuate the purposes of this part and to ensure the adequate representation of island and community interests within the Education Council, the Office of Hawaiian Affairs of the State of Hawai'i is authorized to facilitate the establishment of Native Hawaiian education island councils (hereafter in this part referred to as ''island councils'') for the following islands:

(A) Hawai'i.
(B) Maui and Lana'i.
(C) Moloka'i.
(D) Kaua'i and Ni'ihau.
(E) O'ahu.

(2) Composition of island councils

Each island council shall consist of parents, students, and other community members who have an interest in the education of Native Hawaiians, and shall be representative of the educational needs of all age groups, from preschool through adulthood. At least three-fourths of the members of each island council shall be Native Hawaiians[1]

(g) Administrative provisions relating to Education Council and island councils

The Education Council and each island council shall meet at the call of the chairperson of the respective council, or upon the request of the majority of the members of the respective council, but in any event not less than four times during each calendar year. The provisions of the Federal Advisory Committee Act shall not apply to the Education Council and each island council.

(h) Compensation

Members of the Education Council and each island council shall not receive any compensation

[1] So in original. Probably should be ''this''.

[1] So in original. Probably should be followed by a period.

for services on the Education Council and each island council, respectively.

(i) Report

Not later than four years after October 20, 1994, the Secretary shall prepare and submit to the Committee on Indian Affairs of the Senate, and the Committee on Education and Labor of the House of Representatives, a report which summarizes the annual reports of the Education Council, describes the allocation and utilization of funds under this part, and contains recommendations for changes in Federal, State, and local policy to advance the purposes of this part.

(j) Authorization of appropriations

There are authorized to be appropriated $500,000 for fiscal year 1995, and such sums as may be necessary for each of the 4 succeeding fiscal years, to carry out this section. Funds appropriated under the authority of this subsection shall remain available until expended.

(Pub. L. 89–10, title IX, § 9204, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3798.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (g), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

CHANGE OF NAME

Committee on Education and Labor of House of Representatives treated as referring to Committee on Economic and Educational Opportunities of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Economic and Educational Opportunities of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Fifth Congress, Jan. 7, 1997.

§ 7905. Native Hawaiian Family-Based Education Centers

(a) General authority

The Secretary is authorized to make direct grants, to Native Hawaiian educational organizations or educational entities with experience in developing or operating Native Hawaiian programs or programs of instruction conducted in the Native Hawaiian language, to expand the operation of Family-Based Education Centers throughout the Hawaiian Islands. The programs of such centers may be conducted in the Hawaiian language, the English language, or a combination thereof, and shall include—

(1) parent-infant programs for prenatal through three-year-olds;

(2) preschool programs for four- and five-year-olds;

(3) continued research and development; and

(4) a long-term followup and assessment program, which may include educational support services for Native Hawaiian language immersion programs or transition to English speaking programs.

(b) Administrative costs

Not more than 7 percent of the funds appropriated to carry out the provisions of this section for any fiscal year may be used for administrative purposes.

(c) Authorization of appropriations

In addition to any other amount authorized to be appropriated for the centers described in subsection (a) of this section, there are authorized to be appropriated $6,000,000 for fiscal year 1995, and such sums as may be necessary for each of the four succeeding fiscal years, to carry out this section. Funds appropriated under the authority of this subsection shall remain available until expended.

(Pub. L. 89–10, title IX, § 9205, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3800.)

§ 7906. Native Hawaiian higher education program

(a) General authority

(1) In general

The Secretary is authorized to make direct grants, to Native Hawaiian educational organizations or educational entities with experience in developing or operating Native Hawaiian programs or programs of instruction conducted in the Native Hawaiian language, to enable such organizations or entities to provide a program of baccalaureate and post-baccalaureate fellowship assistance to Native Hawaiian students.

(2) Activities

Such program may include—

(A) full or partial fellowship support for Native Hawaiian students enrolled at two- or four-year degree granting institutions of higher education with awards to be based on academic potential and financial need; and

(B) full or partial fellowship support for Native Hawaiian students enrolled at post-baccalaureate degree granting institutions of higher education with priority given to providing fellowship support for professions in which Native Hawaiians are underrepresented and with fellowship awards to be based on academic potential and financial need;

(C) counseling and support services for students receiving fellowship assistance under paragraph (1);

(D) college preparation and guidance counseling at the secondary school level for students who may be eligible for fellowship support pursuant to subsection (a)(2)(A) of this section;

(E) appropriate research and evaluation of the activities authorized by this section; and

(F) implementation of faculty development programs for the improvement and matriculation of Native Hawaiian students.

(b) Special conditions required

For the purpose of fellowships awarded under subsection (a) of this section, fellowship conditions shall be established whereby fellowship recipients obtain an enforceable contract obligation to provide their professional services, either during the fellowship period or upon completion of a baccalaureate or post-baccalaureate degree program, to the Native Hawaiian community.

(c) Special rule

No policy shall be made in implementing this section to prevent a Native Hawaiian student

enrolled at an accredited two- or four-year degree granting institution of higher education outside of the State of Hawai'i from receiving a fellowship pursuant to subsections (a) and (b) of this section.

(d) Administrative costs

Not more than 7 percent of the funds appropriated to carry out the provisions of this section for any fiscal year may be used for administrative purposes.

(e) Authorization of appropriations

There are authorized to be appropriated $2,000,000 for fiscal year 1995, and such sums as may be necessary for each of the four succeeding fiscal years, to carry out this section. Funds appropriated under the authority of this subsection shall remain available until expended.

(Pub. L. 89–10, title IX, § 9206, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3800.)

§ 7907. Native Hawaiian gifted and talented program

(a) General authority

The Secretary is authorized to make a grant, to a Native Hawaiian educational organization or an educational entity with experience in developing or operating Native Hawaiian programs or programs of instruction conducted in the Native Hawaiian language, for a gifted and talented program designed to—

(1) address the special needs of Native Hawaiian elementary and secondary school students who are gifted and talented students; and

(2) provide those support services to the families of such students that are needed to enable such students to benefit from the program.

(b) Uses of funds

The program funded under this section may include—

(1) the identification of the special needs of Native Hawaiian gifted and talented students, particularly with respect to—

(A) the emotional and psychosocial needs of such students; and

(B) the provision of those support services to the families of such students that are needed to enable such students to benefit from the program;

(2) the conduct of educational, psychosocial, and developmental activities which hold reasonable promise of resulting in substantial progress toward meeting the educational needs of such students, including demonstrating and exploring the use of the Native Hawaiian language and exposure to Native Hawaiian cultural traditions;

(3) leadership programs designed to—

(A) replicate programs throughout the State of Hawai'i for gifted and talented students who are not served under this section; and

(B) coordinate with other Native American gifted and talented leadership programs, including the dissemination of information derived from the program conducted under this section; and

(4) appropriate research, evaluation, and related activities pertaining to—

(A) the needs of such students; and

(B) the provision of those support services to the families of such students that are needed to enable such students to benefit from the program.

(c) Information provision

The Secretary is authorized to facilitate the establishment of a national network of Native Hawaiian and American Indian Gifted and Talented Centers, and ensure that the information developed by these centers shall be readily available to the educational community at large.

(d) Administrative costs

Not more than 7 percent of the funds appropriated to carry out the provisions of this section for any fiscal year may be used for administrative purposes.

(e) Authorization of appropriations

In addition to any other amount authorized to be appropriated for the program described in this section, there are authorized to be appropriated $1,500,000 for fiscal year 1995, and such sums as may be necessary for each of the 4 succeeding fiscal years, to carry out this section. Funds appropriated under the authority of this subsection shall remain available until expended.

(Pub. L. 89–10, title IX, § 9207, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3801.)

§ 7908. Native Hawaiian special education program

(a) General authority

The Secretary is authorized to make grants to, or enter into contracts with, Native Hawaiian educational organizations or educational entities with experience in developing or operating Native Hawaiian programs or programs of instruction conducted in the Native Hawaiian language, to operate a program to address the special education needs of Native Hawaiian students. Such program may include—

(1) the identification of Native Hawaiian students with disabilities or who are otherwise in need of special educational services;

(2) the identification of the special education needs of such students, particularly with respect to—

(A) the emotional and psychosocial needs of such students; and

(B) the provision of those support services to the families of such students that are needed to enable such students to benefit from the program;

(3) the conduct of educational activities consistent with part B of the Education of Individuals with Disabilities Education Act [20 U.S.C. 1411 et seq.] which hold reasonable promise of resulting in substantial progress toward meeting the educational needs of such students;

(4) the conduct of educational, psychosocial, and developmental activities which hold reasonable promise of resulting in substantial

progress toward meeting the educational needs of such students, including demonstrating and exploring the use of the Native Hawaiian language and exposure to Native Hawaiian cultural traditions; and

(5) appropriate research, evaluation, and related activities pertaining to—

(A) the needs of such students;

(B) the provision of those support services to the families of such students that are needed to enable such student to benefit from the program; and

(C) the outcomes and benefits of activities assisted under this section upon such students.

(b) Administrative costs

Not more than 7 percent of the funds appropriated to carry out the provisions of this section for any fiscal year may be used for administrative purposes.

(c) Authorization of appropriations

In addition to any other amount authorized to be appropriated for the program described in this section, there are authorized to be appropriated $2,000,000 for fiscal year 1995, and such sums as may be necessary for each of the four succeeding fiscal years, to carry out this section. Funds appropriated under the authority of this subsection shall remain available until expended.

(Pub. L. 89–10, title IX, § 9208, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3802.)

REFERENCES IN TEXT

The Education of Individuals with Disabilities Education Act, referred to in subsec. (a)(3), probably means the Individuals with Disabilities Education Act, which is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, as amended. Part B of the Act is classified generally to subchapter II (§ 1411 et seq.) of chapter 33 of this title. For complete classification of this Act to the Code, see section 1400 of this title and Tables.

§ 7909. Native Hawaiian curriculum development, teacher training and recruitment program

(a) General authority

The Secretary is authorized to make direct grants, to Native Hawaiian educational organizations or educational entities with experience in developing or operating Native Hawaiian programs or programs of instruction conducted in the Native Hawaiian language, for the following purposes:

(1) Curricula

The development of curricula to address the needs of Native Hawaiian students, particularly elementary and secondary school students, which may include programs of instruction conducted in the Native Hawaiian language, and mathematics and science curricula incorporating the relevant application of Native Hawaiian culture and traditions.

(2) Preteacher training

The development and implementation of preteacher training programs in order to ensure that student teachers within the State of Hawai'i, particularly student teachers who are likely to be employed in schools with a high concentration of Native Hawaiian students, are prepared to better address the unique needs of Native Hawaiian students, within the context of Native Hawaiian culture, language and traditions.

(3) Inservice teacher training

The development and implementation of inservice teacher training programs, in order to ensure that teachers, particularly teachers employed in schools with a high concentration of Native Hawaiian students, are prepared to better address the unique needs of Native Hawaiian students, within the context of Native Hawaiian culture, language and traditions.

(4) Teacher recruitment

The development and implementation of teacher recruitment programs to meet the objectives of—

(A) enhancing teacher recruitment within communities with a high concentration of Native Hawaiian students; and

(B) increasing the numbers of teachers who are of Native Hawaiian ancestry.

(b) Priority

In awarding grants under this section, the Secretary shall give priority to awarding grants for activities described in subsection (a) of this section that—

(1) focus on the needs of at-risk youth; or

(2) employ a program of instruction conducted in the Native Hawaiian language, except that entities receiving grants awarded pursuant to subsection (a)(2) of this section shall coordinate in the development of new curricula.

(c) Administrative costs

Not more than 7 percent of the funds appropriated to carry out the provisions of this section for any fiscal year may be used for administrative purposes.

(d) Authorization of appropriations

There are authorized to be appropriated $2,000,000 for fiscal year 1995, and such sums as may be necessary for each of the four succeeding fiscal years, to carry out this section. Funds appropriated under the authority of this subsection shall remain available until expended.

(Pub. L. 89–10, title IX, § 9209, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3803.)

§ 7910. Native Hawaiian community-based education learning centers

(a) General authority

The Secretary is authorized to make direct grants, to collaborative efforts between community-based Native Hawaiian organizations and community colleges, to develop, establish, and operate a minimum of three community-based education learning centers.

(b) Purpose

The learning centers described in subsection (a) of this section shall meet the needs of families and communities through interdepartmental and interagency coordination of new and existing public and private programs and services, which may include—

(1) preschool programs;
(2) after-school programs; and
(3) vocational and adult education programs.

(c) Administrative costs

Not more than 7 percent of the funds appropriated to carry out the provisions of this section for any fiscal year may be used for administrative purposes.

(d) Authorization of appropriations

There are authorized to be appropriated $1,000,000 for fiscal year 1995, and such sums as may be necessary for each of the four succeeding fiscal years, to carry out this section. Funds appropriated under the authority of this subsection shall remain available until expended.

(Pub. L. 89–10, title IX, § 9210, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3804.)

§ 7911. Administrative provisions

(a) Application required

No grant may be made under this part, nor any contract be entered into under this part, unless an application is submitted to the Secretary in such form, in such manner, and containing such information as the Secretary may determine necessary to carry out the provisions of this subchapter.

(b) Special rule

Each application submitted under this subchapter shall be accompanied by the comments of each local educational agency serving students who will participate in the project for which assistance is sought.

(Pub. L. 89–10, title IX, § 9211, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3804.)

§ 7912. Definitions

For the purposes of this part—

(1) The term ''Native Hawaiian'' means any individual who is—

(A) a citizen of the United States; and

(B) a descendant of the aboriginal people, who prior to 1778, occupied and exercised sovereignty in the area that now comprises the State of Hawai'i, as evidenced by—

(i) genealogical records;

(ii) Kūpuna (elders) or Kama'āina (long-term community residents) verification; or

(iii) certified birth records.

(2) The term ''Native Hawaiian educational organization'' means a private nonprofit organization that—

(A) serves the interests of Native Hawaiians;

(B) has Native Hawaiians in substantive and policymaking positions within the organization;

(C) has a demonstrated expertise in the education of Native Hawaiian youth; and

(D) has demonstrated expertise in research and program development.

(3) The term ''Native Hawaiian Organization'' means a private nonprofit organization that—

(A) serves the interests of Native Hawaiians;

(B) has Native Hawaiians in substantive and policymaking positions within the organizations; and

(C) is recognized by the Governor of Hawai'i for the purpose of planning, conducting, or administering programs (or portions of programs) for the benefit of Native Hawaiians.

(4) The term ''Native Hawaiian language'' means the single Native American language indigenous to the original inhabitants of the State of Hawai'i.

(5) The term ''Office of Hawaiian Affairs'' means the Office of Hawaiian Affairs established by the Constitution of the State of Hawai'i.

(6) The term ''Native Hawaiian community-based organization'' means any organization which is composed primarily of Native Hawaiians from a specific community and which assists in the social, cultural and educational development of Native Hawaiians in that community.

(Pub. L. 89–10, title IX, § 9212, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3805.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 9161 of this title; title 25 section 2902.

PART C—ALASKA NATIVE EDUCATION

§ 7931. Short title

This part may be cited as the ''Alaska Native Educational Equity, Support and Assistance Act''.

(Pub. L. 89–10, title IX, § 9301, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3805.)

§ 7932. Findings

The Congress finds and declares:

(1) The attainment of educational success is critical to the betterment of the conditions, long-term well-being and preservation of the culture of Alaska Natives.

(2) It is the policy of the Federal Government to encourage the maximum participation by Alaska Natives in the planning and the management of Alaska Native education programs.

(3) Alaska Native children enter and exit school with serious educational handicaps.

(4) The educational achievement of Alaska Native children is far below national norms. In addition to low Native performance on standardized tests, Native student dropout rates are high, and Natives are significantly underrepresented among holders of baccalaureate degrees in the State of Alaska. As a result, Native students are being denied their opportunity to become full participants in society by grade school and high school educations that are condemning an entire generation to an underclass status and a life of limited choices.

(5) The programs authorized herein, combined with expanded Head Start, infant learning and early childhood education programs, and parent education programs are essential if educational handicaps are to be overcome.

(6) The sheer magnitude of the geographic barriers to be overcome in delivering educational services in rural and village Alaska should be addressed through the development and implementation of innovative, model programs in a variety of areas.

(7) Congress finds that Native children should be afforded the opportunity to begin their formal education on a par with their non-Native peers. The Federal Government should lend support to efforts developed by and undertaken within the Alaska Native community to improve educational opportunity for all students.

(Pub. L. 89–10, title IX, § 9302, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3805.)

§ 7933. Purpose

It is the purpose of this part to—

(1) recognize the unique educational needs of Alaska Natives;

(2) authorize the development of supplemental educational programs to benefit Alaska Natives;

(3) supplement existing programs and authorities in the area of education to further the purposes of this part; and

(4) provide direction and guidance to appropriate Federal, State and local agencies to focus resources, including resources made available under this part, on meeting the educational needs of Alaska Natives.

(Pub. L. 89–10, title IX, § 9303, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3806.)

§ 7934. Alaska Native educational planning, curriculum development, teacher training and recruitment program

(a) General authority

The Secretary shall make direct grants to Alaska Native organizations or educational entities with experience in developing or operating Alaska Native programs or programs of instruction conducted in Alaska Native languages, or to partnerships involving Alaska Native organizations, for the following purposes:

(1) Educational planning

The consolidation of existing educational plans, recommendations and research into implementation methods and strategies to improve schooling for Alaska Natives.

(2) Implementation of educational plans

The adoption and implementation of specific educational plans developed under subsection [1] (1) above.

(3) Curricula

The development of curricula to address the needs of Alaska Native students, particularly elementary and secondary school students, which may include innovative programs and pilot and demonstration programs to develop and introduce curriculum materials that reflect cultural diversities or the contributions of Alaska Native people, programs of instruction conducted in Native languages, and the development of networks to introduce successful techniques, programs and curriculum materials to rural and urban schools, including:

(A) multimedia social studies curricula which fully and accurately portray the role of Native Americans historically and contemporarily; and

(B) curricula and teaching materials for instructions in Native languages.

(4) Preteacher training

The development and implementation of preteacher training programs in order to ensure that student teachers within the State of Alaska, particularly student teachers who are likely to be employed in schools with a high concentration of Alaska Native students, are prepared to better address the cultural diversity and unique needs of Alaska Native students;

(5) Teacher recruitment

The development and implementation of teacher recruitment programs to meet the objectives of—

(A) increasing the numbers of teachers who are Alaska Natives;

(B) enhancing teacher recruitment within communities with a high concentration of Alaska Native students; and

(C) improving the teacher selection processes in order to recruit teachers who are more positively responsive to rural conditions and who are suited for effective cross-cultural instruction.

(6) Inservice teacher training

The development and implementation of inservice teacher training programs in order to ensure that teachers are prepared to better address the unique needs of Alaska Native students.

(b) Administrative costs

Not more than 10 percent of the funds appropriated to carry out the provisions of this section for any fiscal year may be used for administrative purposes.

(c) Authorization of appropriations

There are authorized to be appropriated $5,000,000 for fiscal year 1995, and such sums as may be necessary for each of the four succeeding fiscal years, to carry out this section. Funds appropriated under the authority of this subsection shall remain available until expended.

(Pub. L. 89–10, title IX, § 9304, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3806.)

§ 7935. Alaska Native home based education for preschool children

(a) General authority

The Secretary shall make direct grants to Alaska Native organizations or educational entities with experience in developing or operating Alaska Native programs, or to partnerships involving Alaska Native organizations, to implement home instruction programs for Alaska Native preschool youngsters. The objective of such programs shall be to develop parents as educators for their children and to assure the active involvement of parents in the education of their children from the earliest ages.

[1] So in original. Probably should be ''paragraph''.

(b) Program elements

Home based education programs for Alaska Native children shall include—

(1) parent-infant programs for prenatal through three-year olds;

(2) preschool programs for four- and five-year olds;

(3) training, education and support programs to teach parents skills in observation, reading readiness, story telling and critical thinking;

(4) continued research and development; and

(5) a long-term followup and assessment program.

(c) Eligibility of HIPPY programs

Programs based on the HIPPY (Home Instruction Program for Preschool Youngsters) model shall be eligible for funding under this section.

(d) Administrative costs

Not more than 10 percent of the funds appropriated to carry out the provisions of this section for any fiscal year may be used for administrative purposes.

(e) Authorization of appropriations

There is authorized to be appropriated $2,000,000 for fiscal year 1995, and such sums as may be necessary for each of the four succeeding fiscal years, to carry out this section. Funds appropriated under the authority of this subsection shall remain available until expended.

(Pub. L. 89–10, title IX, § 9305, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3807.)

§ 7936. Alaska Native student enrichment programs

(a) General authority

The Secretary shall make a grant or grants to Alaska Native educational organizations or educational entities with experience in developing or operating Alaska Native programs, or to partnerships including Alaska Native organizations, for enrichment programs for Alaska Native students in the areas of science and mathematics education. The programs shall be designed to—

(1) prepare qualified students from rural areas who are preparing to enter village high schools to excel in science and mathematics; and

(2) provide those support services to the families of such students that are needed to enable such students to benefit from the program.

(b) Uses of funds

The program funded under this section may include—

(1) the identification of the students eligible to participate in the program;

(2) the conduct of educational, psychosocial, and developmental activities which hold reasonable promise of resulting in substantial enrichment of the educational performance of the participating students;

(3) leadership programs designed to provide for the replication of the program in other subject matter areas and the dissemination of information derived from the program; and

(4) appropriate research, evaluation and related activities pertaining to the benefits of such enrichment programs.

(c) Administrative costs

Not more than 10 percent of the funds appropriated to carry out the provisions of this section for any fiscal year may be used for administrative purposes.

(d) Authorization of appropriations

There are authorized to be appropriated $1,000,000 for fiscal year 1995, and such sums as may be necessary for each of the four succeeding fiscal years, to carry out this section. Funds appropriated under the authority of this subsection shall remain available until expended.

(Pub. L. 89–10, title IX, § 9306, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3808.)

§ 7937. Administrative provisions

(a) Application required

No grant may be made under this part, nor any contract be entered into under this part, unless an application is submitted to the Secretary in such form, in such manner, and containing such information as the Secretary may determine necessary to carry out the provisions of this part.

(b) Applications by local school districts or State educational entities

Local school districts or State educational entities shall apply for funding under this part in partnership with Alaska Native organizations.

(c) Consultation required

Each applicant for funding shall provide for ongoing advice from and consultation with representatives of the Alaska Native community.

(d) Local educational agency coordination

Each local educational agency serving students who will participate in the program for which assistance is sought shall be informed regarding each application submitted under this part, except that approval by or concurrence from such local educational agency shall not be required.

(e) Implementation of authorities

The Secretary shall expeditiously obligate funds appropriated as provided in this part.

(Pub. L. 89–10, title IX, § 9307, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3809.)

§ 7938. Definitions

For purposes of this part—

(1) the term ''Alaska Native'' has the same meaning as the term ''Native'' has in section 1602(b) of title 43; and

(2) the term ''Alaska Native organization'' means a federally recognized tribe, consortium of tribes, regional nonprofit Native association, and other Alaska Native organizations that—

(A) has or commits to acquire expertise in the education of Alaska Natives; and

(B) has Alaska Natives in substantive and policymaking positions within the organization.

(Pub. L. 89–10, title IX, § 9308, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3809.)

SUBCHAPTER X—PROGRAMS OF NATIONAL SIGNIFICANCE

PART A—FUND FOR THE IMPROVEMENT OF EDUCATION

§ 8001. Fund for the improvement of education

(a) Fund authorized

From funds appropriated under subsection (d) of this section, the Secretary is authorized to support nationally significant programs and projects to improve the quality of education, assist all students to meet challenging State content standards and challenging State student performance standards, and contribute to achievement of the National Education Goals. The Secretary is authorized to carry out such programs and projects directly or through grants to, or contracts with, State and local educational agencies, institutions of higher education, and other public and private agencies, organizations, and institutions.

(b) Uses of funds

(1) In general

Funds under this section may be used for—

(A) activities that will promote systemic education reform at the State and local levels, such as—

(i) research and development related to challenging State content and challenging State student performance standards;

(ii) the development and evaluation of model strategies for—

(I) assessment of student learning;

(II) professional development for teachers and administrators;

(III) parent and community involvement; and

(IV) other aspects of systemic reform;

(iii) developing and evaluating strategies for eliminating ability-grouping practices, and developing policies and programs that place all students on a college-preparatory path of study, particularly in academic fields such as mathematics, science, English, and social studies, including comprehensive inservice programs for teachers and pupil services personnel and academic enrichment programs that supplement regular courses for students;

(iv) developing and evaluating programs that directly involve parents and family members in the academic progress of their children;

(v) developing and evaluating strategies for integrating instruction and assessment such that teachers and administrators can focus on what students should know and be able to do at particular grade levels, which instruction shall promote the synthesis of knowledge, encourage the development of problem-solving skills drawing on a vast range of disciplines, and promote the development of higher order thinking by all students; and

(vi) developing and evaluating strategies for supporting professional development for teachers across all disciplines and for pupil services personnel, guidance counselors, and administrators, including inservice training that improves the skills of pupil services personnel, counselors and administrators for working with students from diverse populations;

(B) demonstrations at the State and local levels that are designed to yield nationally significant results, including approaches to public school choice and school-based decisionmaking;

(C) joint activities with other agencies to assist the effort to achieve the National Education Goals, including activities related to improving the transition from preschool to school and from school to work, as well as activities related to the integration of education and health and social services;

(D) activities to promote and evaluate counseling and mentoring for students, including intergenerational mentoring;

(E) activities to promote and evaluate coordinated pupil services programs;

(F) activities to promote comprehensive health education;

(G) activities to promote environmental education;

(H) activities to promote consumer, economic, and personal finance education, such as saving, investing, and entrepreneurial education;

(I) activities to promote programs to assist students to demonstrate competence in foreign languages;

(J) studies and evaluation of various education reform strategies and innovations being pursued by the Federal Government, States, and local educational agencies;

(K) activities to promote metric education;

(L) the identification and recognition of exemplary schools and programs, such as Blue Ribbon Schools;

(M) programs designed to promote gender equity in education by evaluating and eliminating gender bias in instruction and educational materials, identifying, and analyzing gender inequities in educational practices, and implementing and evaluating educational policies and practices designed to achieve gender equity;

(N) programs designed to reduce excessive student mobility, retain students who move within a school district at the same school, educate parents about the effect of mobility on a child's education and encourage parents to participate in school activities;

(O) experiential-based learning, such as service-learning;

(P) the development and expansion of public-private partnership programs which extend the learning experience, via computers, beyond the classroom environment into student homes through such programs as the Buddy System Computer Project;

(Q) other programs and projects that meet the purposes of this section;

(R) activities to promote child abuse education and prevention programs;

(S) activities to raise standards and expectations for academic achievement among all students, especially disadvantaged students traditionally underserved in schools;

(T) activities to provide the academic support, enrichment and motivation to enable all students to reach such standards;

(U) demonstrations relating to the planning and evaluations of the effectiveness of projects under which local educational agencies or schools contract with private management organizations to reform a school or schools;

(V) demonstrations that are designed to test whether prenatal and counseling provided to pregnant students may have a positive effect on pregnancy outcomes, with such education and counseling emphasizing the importance of prenatal care, the value of sound diet and nutrition habits, and the harmful effects of smoking, alcohol, and substance abuse on fetal development;

(W) programs under section 8002 of this title;

(X) programs under section 8003 of this title;

(Y) programs under section 8004 of this title; and

(Z) programs under section 8005 of this title;[1]

(2) Additional uses

The Secretary may also use funds under this section to complete the project periods for direct grants or contracts awarded under the provisions of this Act, the Fund for the Improvement and Reform of Schools and Teaching Act, or title III of the Education for Economic Security Act [20 U.S.C. 3981 et seq.], as such Acts were in effect on the day preceding October 20, 1994.

(3) Special rule

The Secretary shall not make available more than $1,000,000 to carry out paragraph (1)(R), nor more than $1,000,000 to carry out paragraph (1)(V) during the period beginning on October 1, 1994, through September 30, 1999.

(c) Awards

(1) In general

The Secretary may—

(A) make awards under this section on the basis of competitions announced by the Secretary; and

(B) support meritorious unsolicited proposals.

(2) Special rule

The Secretary shall ensure that programs, projects, and activities supported under this section are designed so that the effectiveness of such programs, projects, and activities is readily ascertainable.

(3) Peer review

The Secretary shall use a peer review process in reviewing applications for assistance under this section and may use funds appropriated under subsection (d) of this section for the cost of such peer review.

(d) Authorization

For the purpose of carrying out this section, there are authorized to be appropriated $50,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

(Pub. L. 89–10, title X, § 10101, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3809; amended Pub. L. 104–134, title I, § 101(d) [title VII, § 703(b)(4)], Apr. 26, 1996, 110 Stat. 1321–211, 1321–255; renumbered title I, Pub. L. 104–140, § 1(a), May 2, 1996, 110 Stat. 1327.)

REFERENCES IN TEXT

This Act, as in effect on the day preceding October 20, 1994, referred to in subsec. (b)(2), is Pub. L. 89–10, as added by Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 140, as amended, known as the Elementary and Secondary Education Act of 1965, which was classified generally to chapter 47 (§ 2701 et seq.) of this title prior to the general amendment of that Act by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519.

The Fund for the Improvement and Reform of Schools and Teaching Act, as in effect on the day preceding October 20, 1994, referred to in subsec. (b)(2), is part B (§§ 3201–3243) of title III of Pub. L. 100–297, Apr. 28, 1988, 102 Stat. 338, which was classified generally to chapter 60 (§ 4801 et seq.) of this title, prior to repeal by Pub. L. 103–382, title III, § 365, Oct. 20, 1994, 108 Stat. 3975.

The Education for Economic Security Act, referred to in subsec. (b)(2), is Pub. L. 98–377, Aug. 11, 1984, 98 Stat. 1267, as amended. Title III of the Act, as in effect on the day preceding October 20, 1994, is classified generally to subchapter III (§ 3981 et seq.) of chapter 52 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3901 of this title and Tables.

AMENDMENTS

1996—Subsec. (b)(1)(A)(i). Pub. L. 104–134 struck out ''and opportunity-to-learn standards or strategies for student learning'' after ''student performance standards''.

§ 8002. Elementary school counseling demonstration

(a) Counseling demonstration

(1) In general

The Secretary may award grants under this section to establish or expand elementary school counseling programs.

(2) Priority

In awarding grants under this section, the Secretary shall give special consideration to applications describing programs that—

(A) demonstrate the greatest need for new or additional counseling services among the children in the elementary schools served by the applicant;

(B) propose the most promising and innovative approaches for initiating or expanding elementary school counseling; and

(C) show the greatest potential for replication and dissemination.

(3) Equitable distribution

In awarding grants under this section, the Secretary shall ensure an equitable geographic distribution among the regions of the United States and among urban, suburban, and rural areas.

(4) Duration

A grant under this section shall be awarded for a period not to exceed three years.

[1] So in original. The semicolon probably should be a period.

(5) Maximum grant

A grant under this section shall not exceed $400,000 for any fiscal year.

(b) Applications

(1) In general

Each local educational agency desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

(2) Contents

Each application for a grant under this section shall—

(A) describe the elementary school population to be targeted by the program, the particular personal, social, emotional, educational, and career development needs of such population, and the current school counseling resources available for meeting such needs;

(B) describe the activities, services, and training to be provided by the program and the specific approaches to be used to meet the needs described in subparagraph (A);

(C) describe the methods to be used to evaluate the outcomes and effectiveness of the program;

(D) describe the collaborative efforts to be undertaken with institutions of higher education, businesses, labor organizations, community groups, social service agencies, and other public or private entities to enhance the program and promote school-linked services integration;

(E) describe collaborative efforts with institutions of higher education which specifically seek to enhance or improve graduate programs specializing in the preparation of elementary school counselors, school psychologists, and school social workers;

(F) document that the applicant has the personnel qualified to develop, implement, and administer the program;

(G) describe how any diverse cultural populations, if applicable, would be served through the program;

(H) assure that the funds made available under this part for any fiscal year will be used to supplement and, to the extent practicable, increase the level of funds that would otherwise be available from non-Federal sources for the program described in the application, and in no case supplant such funds from non-Federal sources; and

(I) assure that the applicant will appoint an advisory board composed of parents, school counselors, school psychologists, school social workers, other pupil services personnel, teachers, school administrators, and community leaders to advise the local educational agency on the design and implementation of the program.

(c) Use of funds

(1) In general

Grant funds under this section shall be used to initiate or expand elementary school counseling programs that comply with the requirements in paragraph (2).

(2) Program requirements

Each program assisted under this section shall—

(A) be comprehensive in addressing the personal, social, emotional, and educational needs of all students;

(B) use a developmental, preventive approach to counseling;

(C) increase the range, availability, quantity, and quality of counseling services in the elementary schools of the local educational agency;

(D) expand counseling services only through qualified school counselors, school psychologists, and school social workers;

(E) use innovative approaches to increase children's understanding of peer and family relationships, work and self, decision-making, academic and career planning, or to improve social functioning;

(F) provide counseling services that are well-balanced among classroom group and small group counseling, individual counseling, and consultation with parents, teachers, administrators, and other pupil services personnel;

(G) include inservice training for school counselors, school social workers, school psychologists, other pupil services personnel, teachers, and instructional staff;

(H) involve parents of participating students in the design, implementation, and evaluation of a counseling program;

(I) involve collaborative efforts with institutions of higher education, businesses, labor organizations, community groups, social service agencies, or other public or private entities to enhance the program and promote school-linked services integration; and

(J) evaluate annually the effectiveness and outcomes of the counseling services and activities assisted under this section.

(3) Report

The Secretary shall issue a report evaluating the programs assisted pursuant to each grant under this subsection at the end of each grant period in accordance with section 8941 of this title, but in no case later than January 30, 1998.

(4) Dissemination

The Secretary shall make the programs assisted under this section available for dissemination, either through the National Diffusion Network or other appropriate means.

(5) Limit on administration

Not more than five percent of the amounts made available under this section in any fiscal year shall be used for administrative costs to carry out this section.

(d) Definitions

For purposes of this section—

(1) the term ''school counselor'' means an individual who has documented competence in counseling children and adolescents in a school setting and who—

(A) possesses State licensure or certification granted by an independent professional regulatory authority;

(B) in the absence of such State licensure or certification, possesses national certification in school counseling or a specialty of counseling granted by an independent professional organization; or

(C) holds a minimum of a master's degree in school counseling from a program accredited by the Council for Accreditation of Counseling and Related Educational Programs or the equivalent;

(2) the term ''school psychologist'' means an individual who—

(A) possesses a minimum of 60 graduate semester hours in school psychology from an institution of higher education and has completed 1,200 clock hours in a supervised school psychology internship, of which 600 hours shall be in the school setting;

(B) possesses State licensure or certification in the State in which the individual works; or

(C) in the absence of such State licensure or certification, possesses national certification by the National School Psychology Certification Board;

(3) the term ''school social worker'' means an individual who holds a master's degree in social work and is licensed or certified by the State in which services are provided or holds a school social work specialist credential; and

(4) the term ''supervisor'' means an individual who has the equivalent number of years of professional experience in such individual's respective discipline as is required of teaching experience for the supervisor or administrative credential in the State of such individual.

(Pub. L. 89–10, title X, § 10102, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3812.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 8001 of this title.

§ 8003. Partnerships in character education pilot project

(a) Program authorized

(1) In general

The Secretary is authorized to make up to a total of ten grants annually to partnerships of State educational agencies and local educational agencies for the design and implementation of character education programs that incorporate the elements of character listed in subsection (d) of this section, as well as other character elements identified by applicants.

(2) Maximum amount of grant

No State educational agency shall receive more than a total of $1,000,000 in grants under this part.

(3) Duration

Each grant under this section shall be awarded for a period not to exceed five years, of which the State educational agency shall not use more than one year for planning and program design.

(b) State educational agency applications

(1) Requirement

Each State educational agency desiring a grant under this section shall submit an application to the Secretary at such time and in such manner as the Secretary may require.

(2) Partnerships

Each State educational agency desiring a grant under this section shall form a partnership with at least one local educational agency to be eligible for funding. The partnership shall pursue State and local initiatives to meet the objectives of this section.

(3) Application

Each application under this section shall include—

(A) a list of the local educational agencies entering into the partnership with the State educational agency;

(B) a description of the goals of the partnership;

(C) a description of activities that will be pursued by the participating local educational agencies, including—

(i) how parents, students, and other members of the community, including members of private and nonprofit organizations, will be involved in the design and implementation of the program;

(ii) curriculum and instructional practices;

(iii) methods of teacher training and parent education that will be used or developed; and

(iv) examples of activities that will be carried out under this part;

(D) a description of how the State educational agency will provide technical and professional assistance to its local educational agency partners in the development and implementation of character education programs;

(E) a description of how the State educational agency will evaluate the success of local programs and how local educational agencies will evaluate the progress of their own programs;

(F) a description of how the State educational agency will assist other interested local educational agencies that are not members of the original partnership in designing and establishing programs;

(G) a description of how the State educational agency will establish a clearinghouse for information on model programs, materials, and other information the State and local educational agencies determine to be appropriate;

(H) an assurance that the State educational agency will annually provide to the Secretary such information as may be required to determine the effectiveness of the program; and

(I) any other information that the Secretary may require.

(4) Non-partner local educational agencies

Any local educational agency that was not a partner with the State when the application was submitted may become a partner by submitting an application for partnership to the State educational agency, containing such information that the State educational agency may require.

(c) Evaluation and program development

(1) Requirement

Each State educational agency receiving a grant under this section shall submit to the Secretary a comprehensive evaluation of the program assisted under this part, including the impact on students, teachers, administrators, parents, and others—

(A) by the mid-term of the program; and

(B) not later than one year after completion of such program.

(2) Contracts for evaluation

Each State educational agency receiving a grant under this section may contract with outside sources, including institutions of higher education, and private and nonprofit organizations, for purposes of evaluating their program and measuring the success of the program toward fostering in students the elements of character listed in subsection (b) of this section.

(3) Factors

Factors which may be considered in evaluating the success of the program may include—

(A) discipline problems;

(B) students' grades;

(C) participation in extracurricular activities;

(D) parental and community involvement;

(E) faculty and administration involvement; and

(F) student and staff morale.

(4) Materials and program development

Local educational agencies, after consulting with the State educational agency, may contract with outside sources, including institutions of higher education, and private and nonprofit organizations, for assistance in developing curriculum, materials, teacher training, and other activities related to character education.

(d) Elements of character

(1) In general

Applicants desiring funding under this part shall develop character education programs that incorporate the following elements of character:

(A) Caring.

(B) Civic virtue and citizenship.

(C) Justice and fairness.

(D) Respect.

(E) Responsibility.

(F) Trustworthiness.

(G) Any other elements deemed appropriate by the members of the partnership.

(2) Additional elements of character

A local educational agency participating under this section may, after consultation with schools and communities of such agency, define additional elements of character that the agency determines to be important to the schools and communities of such agency.

(e) Use of funds

Of the total funds received by a State educational agency in any fiscal year under this section—

(1) not more than 30 percent of such funds may be retained by the State educational agency, of which—

(A) not more than 10 percent of such funds may be used for administrative purposes; and

(B) the remainder of such funds may be used for—

(i) collaborative initiatives with local educational agencies;

(ii) the establishment of the clearinghouse, preparation of materials, teacher training; and

(iii) other appropriate activities; and

(2) the remaining of such funds shall be used to award subgrants to local educational agencies, of which—

(A) not more than 10 percent of such funds may be retained for administrative purposes; and

(B) the remainder of such funds may be used to—

(i) award subgrants to schools within the local educational agency; and

(ii) pursue collaborative efforts with the State educational agency.

(f) Selection of grantees

(1) Criteria

The Secretary shall select, through peer review, partnerships to receive grants under this section on the basis of the quality of the applications submitted under subsection (b) of this section, taking into consideration such factors as—

(A) the quality of the activities proposed by local educational agencies;

(B) the extent to which the program fosters in students the elements of character;

(C) the extent of parental, student, and community involvement;

(D) the number of local educational agencies involved in the effort;

(E) the quality of the plan for measuring and assessing success; and

(F) the likelihood that the goals of the program will be realistically achieved.

(2) Diversity of projects

The Secretary shall approve applications under this section in a manner that ensures, to the extent practicable, that programs assisted under this section—

(A) serve different areas of the Nation, including urban, suburban, and rural areas; and

(B) serve schools that serve minorities, Native Americans, students of limited-English proficiency, and disadvantaged students.

(Pub. L. 89–10, title X, § 10103, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3815.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 8001 of this title.

§ 8004. Promoting scholar-athlete competitions

(a) In general

The Secretary is authorized to award a grant to a nonprofit organization to reimburse such

organizations for the costs of conducting scholar-athlete games to be held in 1995.

(b) Priority

In awarding the grant under subsection (a) of this section, the Secretary shall give priority to a nonprofit organization that—

(1) is described in section 501(c)(3) of, and exempt from taxation under section 501(a) of, title 26, and is affiliated with a university capable of hosting a large educational, cultural, and athletic event that will serve as a national model;

(2) has the capability and experience in administering federally funded scholar-athlete games;

(3) has the ability to provide matching funds, on a dollar-for-dollar basis, from foundations and the private sector for the purpose of conducting a scholar-athlete program;

(4) has the organizational structure and capability to administer a model scholar-athlete program in the summer of 1995;

(5) has the organizational structure and expertise to replicate the scholar-athlete program in various venues throughout the United States in 1996 and thereafter, as well as replicate such program internationally; and

(6) has plans for conducting scholar-athlete games after 1995 without Federal assistance.

(Pub. L. 89–10, title X, § 10104, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3818.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 8001 of this title.

§ 8005. Smaller learning communities

(a) In general

Each local educational agency desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require. Each such application shall describe—

(1) strategies and methods the applicant will use to create the smaller learning community or communities;

(2) curriculum and instructional practices, including any particular themes or emphases, to be used in the learning environment;

(3) the extent of involvement of teachers and other school personnel in investigating, designing, implementing and sustaining the smaller learning community or communities;

(4) the process to be used for involving students, parents and other stakeholders in the development and implementation of the smaller learning community or communities;

(5) any cooperation or collaboration among community agencies, organizations, businesses, and others to develop or implement a plan to create the smaller learning community or communities;

(6) the training and professional development activities that will be offered to teachers and others involved in the activities assisted under this part;

(7) the goals and objectives of the activities assisted under this part, including a description of how such activities will better enable all students to reach challenging State content standards and State student performance standards;

(8) the methods by which the applicant will assess progress in meeting such goals and objectives;

(9) if the smaller learning community or communities exist as a school-within-a-school, the relationship, including governance and administration, of the smaller learning community to the rest of the school;

(10) a description of the administrative and managerial relationship between the local educational agency and the smaller learning community or communities, including how such agency will demonstrate a commitment to the continuity of the smaller learning community or communities, including the continuity of student and teacher assignment to a particular learning community;

(11) how the applicant will coordinate or use funds provided under this part with other funds provided under this chapter or other Federal laws;

(12) grade levels or ages of students who will participate in the smaller learning community or communities; and

(13) the method of placing students in the smaller learning community or communities, such that students are not placed according to ability, performance or any other measure, so that students are placed at random or by their own choice, not pursuant to testing or other judgments.

(b) Authorized activities

Funds under this section may be used—

(1) to study the feasibility of creating the smaller learning community or communities as well as effective and innovative organizational and instructional strategies that will be used in the smaller learning community or communities;

(2) to research, develop and implement strategies for creating the smaller learning community or communities, as well as effective and innovative changes in curriculum and instruction, geared to high State content standards and State student performance standards;

(3) to provide professional development for school staff in innovative teaching methods that challenge and engage students to be used in the smaller learning community or communities; and

(4) to develop and implement strategies to include parents, business representatives, local institutions of higher education, community-based organizations, and other community members in the smaller learning communities, as facilitators of activities that enable teachers to participate in professional development activities, as well as to provide links between students and their community.

(Pub. L. 89–10, title X, § 10105, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3818.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 8001 of this title.

§ 8006. National student and parent mock election

(a) In general

The Secretary is authorized to award grants to national nonprofit, nonpartisan organizations that work to promote voter participation in American elections to enable such organizations to carry out voter education activities for students and their parents. Such activities shall—

(1) be limited to simulated national elections that permit participation by students and parents from all 50 States in the United States; and

(2) consist of—

(A) school forums and local cable call-in shows on the national issues to be voted upon in an ''issue forum'';

(B) speeches and debates before students and parents by local candidates or stand-ins for such candidates;

(C) quiz team competitions, mock press conferences and speechwriting competitions;

(D) weekly meetings to follow the course of the campaign; or

(E) school and neighborhood campaigns to increase voter turnout, including newsletters, posters, telephone chains, and transportation.

(b) Requirement

Each organization receiving a grant under this section shall present awards to outstanding student and parent mock election projects.

(Pub. L. 89–10, title X, § 10106, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3820.)

§ 8007. Model projects

(a) Program authorized

The Secretary is authorized to award grants to cultural institutions to enable such institutions to develop and expand model projects of outreach activities for at-risk children in the communities served by such institutions, including activities which integrate such institution's cultural programming with other disciplines, including environmental, mathematics, and science programs.

(b) Priority

In awarding grants under this section the Secretary shall give priority to activities that are part of an overall State, local, and private commitment, seek to improve learning for at-risk youth, and are substantially funded by State, local, or private funds.

(Pub. L. 89–10, title X, § 10107, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3820.)

PART B—GIFTED AND TALENTED CHILDREN

§ 8031. Short title

This part may be cited as the ''Jacob K. Javits Gifted and Talented Students Education Act of 1994''.

(Pub. L. 89–10, title X, § 10201, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3820.)

§ 8032. Findings and purposes

(a) Findings

The Congress finds and declares that—

(1) all students can learn to high standards and must develop their talents and realize their potential if the United States is to prosper;

(2) gifted and talented students are a national resource vital to the future of the Nation and its security and well-being;

(3) too often schools fail to challenge students to do their best work, and students who are not challenged will not learn to challenging State content standards and challenging State student performance standards, fully develop their talents, and realize their potential;

(4) unless the special abilities of gifted and talented students are recognized and developed during such students' elementary and secondary school years, much of such students' special potential for contributing to the national interest is likely to be lost;

(5) gifted and talented students from economically disadvantaged families and areas, and students of limited-English proficiency are at greatest risk of being unrecognized and of not being provided adequate or appropriate educational services;

(6) State and local educational agencies and private nonprofit schools often lack the necessary specialized resources to plan and implement effective programs for the early identification of gifted and talented students and for the provision of educational services and programs appropriate to their special needs;

(7) the Federal Government can best carry out the limited but essential role of stimulating research and development and personnel training and providing a national focal point of information and technical assistance that is necessary to ensure that the Nation's schools are able to meet the special educational needs of gifted and talented students, and thereby serve a profound national interest; and

(8) the experience and knowledge gained in developing and implementing programs for gifted and talented students can and should be used as a basis to—

(A) develop a rich and challenging curriculum for all students; and

(B) provide all students with important and challenging subject matter to study and encourage the habits of hard work.

(b) Statement of purpose

It is the purpose of this part—

(1) to provide financial assistance to State and local educational agencies, institutions of higher education, and other public and private agencies and organizations, to initiate a coordinated program of research, demonstration projects, personnel training, and similar activities designed to build a nationwide capability in elementary and secondary schools to meet the special educational needs of gifted and talented students;

(2) to encourage the development of rich and challenging curricula for all students through the appropriate application and adaptation of materials and instructional methods developed under this part; and

(3) to supplement and make more effective the expenditure of State and local funds, for the education of gifted and talented students.

(Pub. L. 89–10, title X, § 10202, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3820.)

§ 8033. Construction

Nothing in this part shall be construed to prohibit a recipient of funds under this part from serving gifted and talented students simultaneously with students with similar educational needs, in the same educational settings where appropriate.

(Pub. L. 89–10, title X, § 10203, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3822.)

§ 8034. Authorized programs

(a) Establishment of program

(1) In general

From the sums appropriated under section 8037 of this title in any fiscal year the Secretary (after consultation with experts in the field of the education of gifted and talented students) shall make grants to or enter into contracts with State educational agencies, local educational agencies, institutions of higher education, or other public agencies and private agencies and organizations (including Indian tribes and Indian organizations (as such terms are defined by the Indian Self-Determination and Education Assistance Act [25 U.S.C. 450 et seq.]) and Native Hawaiian organizations) to assist such agencies, institutions, and organizations which submit applications in carrying out programs or projects authorized by this part that are designed to meet the educational needs of gifted and talented students, including the training of personnel in the education of gifted and talented students and in the use, where appropriate, of gifted and talented services, materials, and methods for all students.

(2) Application

Each entity desiring assistance under this part shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require. Each such application shall describe how—

(A) the proposed gifted and talented services, materials, and methods can be adapted, if appropriate, for use by all students; and

(B) the proposed programs can be evaluated.

(b) Uses of funds

Programs and projects assisted under this section may include—

(1) professional development (including fellowships) for personnel (including leadership personnel) involved in the education of gifted and talented students;

(2) establishment and operation of model projects and exemplary programs for serving gifted and talented students, including innovative methods for identifying and educating students who may not be served by traditional gifted and talented programs, summer programs, mentoring programs, service learning programs, and cooperative programs involving business, industry, and education;

(3) training of personnel and parents involved in gifted and talented programs with respect to the impact of gender role socialization on the educational needs of gifted and talented children and in gender equitable education methods, techniques and practices;

(4) implementing innovative strategies, such as cooperative learning, peer tutoring and service learning;

(5) strengthening the capability of State educational agencies and institutions of higher education to provide leadership and assistance to local educational agencies and nonprofit private schools in the planning, operation, and improvement of programs for the identification and education of gifted and talented students and the appropriate use of gifted and talented programs and methods to serve all students;

(6) programs of technical assistance and information dissemination, including how gifted and talented programs and methods, where appropriate, may be adapted for use by all students; and

(7) carrying out—

(A) research on methods and techniques for identifying and teaching gifted and talented students, and for using gifted and talented programs and methods to serve all students; and

(B) program evaluations, surveys, and the collection, analysis, and development of information needed to accomplish the purposes of this part.

(c) Establishment of National Center

(1) In general

The Secretary (after consultation with experts in the field of the education of gifted and talented students) shall establish a National Center for Research and Development in the Education of Gifted and Talented Children and Youth through grants to or contracts with one or more institutions of higher education or State educational agency, or a combination or consortium of such institutions and agencies, for the purpose of carrying out activities described in paragraph (7) of subsection (b) of this section.

(2) Director

Such National Center shall have a Director. The Secretary may authorize the Director to carry out such functions of the National Center as may be agreed upon through arrangements with other institutions of higher education, State or local educational agencies, or other public or private agencies and organizations.

(d) Limitation

Not more than 30 percent of the funds available in any fiscal year to carry out the programs and projects authorized by this section may be used to conduct activities pursuant to subsection (b)(7) or (c) of this section.

(e) Coordination

Research activities supported under this section—

(1) shall be carried out in consultation with the Office of Educational Research and Improvement to ensure that such activities are coordinated with and enhance the research

and development activities supported by such Office; and

(2) may include collaborative research activities which are jointly funded and carried out with such Office.

(Pub. L. 89–10, title X, § 10204, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3822.)

REFERENCES IN TEXT

The Indian Self-Determination and Education Assistance Act, referred to in subsec. (a)(1), is Pub. L. 93–638, Jan. 4, 1975, 88 Stat. 2203, as amended, which is classified principally to subchapter II (§ 450 et seq.) of chapter 14 of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 450 of Title 25 and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 8035 of this title.

§ 8035. Program priorities

(a) General priority

In the administration of this part the Secretary shall give highest priority—

(1) to the identification of and the provision of services to gifted and talented students who may not be identified and served through traditional assessment methods (including economically disadvantaged individuals, individuals of limited-English proficiency, and individuals with disabilities); and

(2) to programs and projects designed to develop or improve the capability of schools in an entire State or region of the Nation through cooperative efforts and participation of State and local educational agencies, institutions of higher education, and other public and private agencies and organizations (including business, industry, and labor), to plan, conduct, and improve programs for the identification of and service to gifted and talented students, such as mentoring and apprenticeship programs.

(b) Service priority

In approving applications for assistance under section 8034(a)(2) of this title, the Secretary shall assure that in each fiscal year at least one-half of the applications approved under such section address the priority described in subsection (a)(1) of this section.

(Pub. L. 89–10, title X, § 10205, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3823.)

§ 8036. General provisions

(a) Participation of private school children and teachers

In making grants and entering into contracts under this part, the Secretary shall ensure, where appropriate, that provision is made for the equitable participation of students and teachers in private nonprofit elementary and secondary schools, including the participation of teachers and other personnel in professional development programs serving such children.

(b) Review, dissemination, and evaluation

The Secretary shall—

(1) use a peer review process in reviewing applications under this part;

(2) ensure that information on the activities and results of programs and projects funded under this part is disseminated to appropriate State and local agencies and other appropriate organizations, including nonprofit private organizations; and

(3) evaluate the effectiveness of programs under this part in accordance with section 8941 of this title, both in terms of the impact on students traditionally served in separate gifted and talented programs and on other students, and submit the results of such evaluation to Congress not later than January 1, 1998.

(c) Program operations

The Secretary shall ensure that the programs under this part are administered within the Department by a person who has recognized professional qualifications and experience in the field of the education of gifted and talented students and who shall—

(1) administer the programs authorized by this part;

(2) coordinate all programs for gifted and talented students administered by the Department;

(3) serve as a focal point of national leadership and information on the educational needs of gifted and talented students and the availability of educational services and programs designed to meet such needs; and

(4) assist the Assistant Secretary of the Office of Educational Research and Improvement in identifying research priorities which reflect the needs of gifted and talented students.

(Pub. L. 89–10, title X, § 10206, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3824.)

§ 8037. Authorization of appropriations

There are authorized to be appropriated $10,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years to carry out the provisions of this part.

(Pub. L. 89–10, title X, § 10207, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3824.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 8034 of this title.

PART C—PUBLIC CHARTER SCHOOLS

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 8881 of this title.

§ 8061. Findings and purpose

(a) Findings

The Congress finds that—

(1) enhancement of parent and student choices among public schools can assist in promoting comprehensive educational reform and give more students the opportunity to learn to challenging State content standards and challenging State student performance standards, if sufficiently diverse and high-quality choices, and genuine opportunities to take advantage of such choices, are available to all students;

(2) useful examples of such choices can come from States and communities that experiment

with methods of offering teachers and other educators, parents, and other members of the public the opportunity to design and implement new public schools and to transform existing public schools;

(3) charter schools are a mechanism for testing a variety of educational approaches and should, therefore, be exempted from restrictive rules and regulations if the leadership of such schools commits to attaining specific and ambitious educational results for educationally disadvantaged students consistent with challenging State content standards and challenging State student performance standards for all students;

(4) charter schools, as such schools have been implemented in a few States, can embody the necessary mixture of enhanced choice, exemption from restrictive regulations, and a focus on learning gains;

(5) charter schools, including charter schools that are schools-within-schools, can help reduce school size, which reduction can have a significant effect on student achievement;

(6) the Federal Government should test, evaluate, and disseminate information on a variety of charter school models in order to help demonstrate the benefits of this promising educational reform; and

(7) there is a strong documented need for cash-flow assistance to charter schools that are starting up, because State and local operating revenue streams are not immediately available.

(b) Purpose

It is the purpose of this part to increase national understanding of the charter schools model by—

(1) providing financial assistance for the design and initial implementation of charter schools; and

(2) evaluating the effects of such schools, including the effects on students, student achievement, staff, and parents.

(Pub. L. 89–10, title X, § 10301, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3824.)

§ 8062. Program authorized

(a) In general

The Secretary may award grants to State educational agencies having applications approved pursuant to section 8063 of this title to enable such agencies to conduct a charter school grant program in accordance with this part.

(b) Special rule

If a State educational agency elects not to participate in the program authorized by this part or does not have an application approved under section 8063 of this title, the Secretary may award a grant to an eligible applicant that serves such State and has an application approved pursuant to section 8063(c) of this title.

(c) Program periods

(1) Grants to States

Grants awarded to State educational agencies under this part shall be awarded for a period of not more than 3 years.

(2) Grants to eligible applicants

Grants awarded by the Secretary to eligible applicants or subgrants awarded by State educational agencies to eligible applicants under this part shall be awarded for a period of not more than 3 years, of which the eligible applicant may use—

(A) not more than 18 months for planning and program design; and

(B) not more than 2 years for the initial implementation of a charter school.

(d) Limitation

The Secretary shall not award more than one grant and State educational agencies shall not award more than one subgrant under this part to support a particular charter school.

(Pub. L. 89–10, title X, § 10302, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3825.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 8063 of this title.

§ 8063. Applications

(a) Applications from State agencies

Each State educational agency desiring a grant from the Secretary under this part shall submit to the Secretary an application at such time, in such manner, and containing or accompanied by such information as the Secretary may require.

(b) Contents of State educational agency application

Each application submitted pursuant to subsection (a) of this section shall—

(1) describe the objectives of the State educational agency's charter school grant program and a description of how such objectives will be fulfilled, including steps taken by the State educational agency to inform teachers, parents, and communities of the State educational agency's charter school grant program;

(2) contain assurances that the State educational agency will require each eligible applicant desiring to receive a subgrant to submit an application to the State educational agency containing—

(A) a description of the educational program to be implemented by the proposed charter school, including—

(i) how the program will enable all students to meet challenging State student performance standards;

(ii) the grade levels or ages of children to be served; and

(iii) the curriculum and instructional practices to be used;

(B) a description of how the charter school will be managed;

(C) a description of—

(i) the objectives of the charter school; and

(ii) the methods by which the charter school will determine its progress toward achieving those objectives;

(D) a description of the administrative relationship between the charter school and the authorized public chartering agency;

(E) a description of how parents and other members of the community will be involved in the design and implementation of the charter school;

(F) a description of how the authorized public chartering agency will provide for continued operation of the school once the Federal grant has expired, if such agency determines that the school has met the objectives described in subparagraph (C)(i);

(G) a request and justification for waivers of any Federal statutory or regulatory provisions that the applicant believes are necessary for the successful operation of the charter school, and a description of any State or local rules, generally applicable to public schools, that will be waived for, or otherwise not apply to, the school;

(H) a description of how the subgrant funds or grant funds, as appropriate, will be used, including a description of how such funds will be used in conjunction with other Federal programs administered by the Secretary;

(I) a description of how students in the community will be—

(i) informed about the charter school; and

(ii) given an equal opportunity to attend the charter school;

(J) an assurance that the eligible applicant will annually provide the Secretary and the State educational agency such information as may be required to determine if the charter school is making satisfactory progress toward achieving the objectives described in subparagraph (C)(i);

(K) an assurance that the applicant will cooperate with the Secretary and the State educational agency in evaluating the program assisted under this part; and

(L) such other information and assurances as the Secretary and the State educational agency may require.

(c) Contents of eligible applicant application

Each eligible applicant desiring a grant pursuant to section 8064(f)(1)[1] or 8062(b) of this title shall submit an application to the State educational agency or Secretary, respectively, at such time, in such manner, and accompanied by such information as the State educational agency or Secretary, respectively, may reasonably require.

(d) Contents of application

Each application submitted pursuant to subsection (c) of this section shall contain—

(1) the information and assurances described in subparagraphs (A) through (L) of subsection (b)(3)[2] of this section, except that for purposes of this subsection subparagraphs (I), (J), and (K) of such subsection shall be applied by striking ''and the State educational agency'' each place such term appears; and

(2) assurances that the State educational agency—

(A) will grant, or will obtain, waivers of State statutory or regulatory requirements; and

(B) will assist each subgrantee in the State in receiving a waiver under section 8064(e) of this title.

(Pub. L. 89–10, title X, § 10303, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3826.)

REFERENCES IN TEXT

Section 8064(f)(1) of this title, referred to in subsec. (c), was in the original ''section 10302(e)(1)'', meaning section 10302(e)(1) of Pub. L. 89–10, which was translated as reading section 10304(f)(1) of that Act to reflect the probable intent of Congress, because section 10302, which is classified to section 8062 of this title, does not contain a subsec. (e), and section 10304(f)(1) authorizes the award of grants to eligible applicants.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 8062, 8064 of this title.

§ 8064. Administration

(a) Selection criteria for State educational agencies

The Secretary shall award grants to State educational agencies under this part on the basis of the quality of the applications submitted under section 8063(b) of this title, after taking into consideration such factors as—

(1) the contribution that the charter schools grant program will make to assisting educationally disadvantaged and other students to achieving State content standards and State student performance standards and, in general, a State's education improvement plan;

(2) the degree of flexibility afforded by the State educational agency to charter schools under the State's charter schools law;

(3) the ambitiousness of the objectives for the State charter school grant program;

(4) the quality of the strategy for assessing achievement of those objectives; and

(5) the likelihood that the charter school grant program will meet those objectives and improve educational results for students.

(b) Selection criteria for eligible applicants

The Secretary shall award grants to eligible applicants under this part on the basis of the quality of the applications submitted under section 8063(c) of this title, after taking into consideration such factors as—

(1) the quality of the proposed curriculum and instructional practices;

(2) the degree of flexibility afforded by the State educational agency and, if applicable, the local educational agency to the charter school;

(3) the extent of community support for the application;

(4) the ambitiousness of the objectives for the charter school;

(5) the quality of the strategy for assessing achievement of those objectives; and

(6) the likelihood that the charter school will meet those objectives and improve educational results for students.

(c) Peer review

The Secretary, and each State educational agency receiving a grant under this part, shall use a peer review process to review applications for assistance under this part.

[1] See References in Text note below.

[2] So in original. Probably should be subsection ''(b)(2)''.

(d) Diversity of projects

The Secretary and each State educational agency receiving a grant under this part,[1] shall award subgrants under this part in a manner that, to the extent possible, ensures that such grants and subgrants—

(1) are distributed throughout different areas of the Nation and each State, including urban and rural areas; and

(2) will assist charter schools representing a variety of educational approaches, such as approaches designed to reduce school size.

(e) Waivers

The Secretary may waive any statutory or regulatory requirement over which the Secretary exercises administrative authority except any such requirement relating to the elements of a charter school described in section 8066(1) of this title, if—

(1) the waiver is requested in an approved application under this part; and

(2) the Secretary determines that granting such a waiver will promote the purpose of this part.

(f) Use of funds

(1) State educational agencies

Each State educational agency receiving a grant under this part shall use such grant funds to award subgrants to one or more eligible applicants in the State to enable such applicant to plan and implement a charter school in accordance with this part.

(2) Eligible applicants

Each eligible applicant receiving funds from the Secretary or a State educational agency shall use such funds to plan and implement a charter school in accordance with this part.

(3) Allowable activities

An eligible applicant receiving a grant or subgrant under this part may use the grant or subgrant funds only for—

(A) post-award planning and design of the educational program, which may include—

(i) refinement of the desired educational results and of the methods for measuring progress toward achieving those results; and

(ii) professional development of teachers and other staff who will work in the charter school; and

(B) initial implementation of the charter school, which may include—

(i) informing the community about the school;

(ii) acquiring necessary equipment and educational materials and supplies;

(iii) acquiring or developing curriculum materials; and

(iv) other initial operational costs that cannot be met from State or local sources.

(4) Administrative expenses

Each State educational agency receiving a grant pursuant to this part may reserve not more than 5 percent of such grant funds for administrative expenses associated with the charter school grant program assisted under this part.

(5) Revolving loan funds

Each State educational agency receiving a grant pursuant to this part may reserve not more than 20 percent of the grant amount for the establishment of a revolving loan fund. Such fund may be used to make loans to eligible applicants that have received a subgrant under this part, under such terms as may be determined by the State educational agency, for the initial operation of the charter school grant program of such recipient until such time as the recipient begins receiving ongoing operational support from State or local financing sources.

(g) Tribally controlled schools

Each State that receives a grant under this part and designates a tribally controlled school as a charter school shall not consider payments to a school under the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2507) in determining—

(1) the eligibility of the school to receive any other Federal, State, or local aid; or

(2) the amount of such aid.

(Pub. L. 89–10, title X, § 10304, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3827; amended Pub. L. 104–78, title III, § 315, Nov. 13, 1997, 111 Stat. 1508.)

REFERENCES IN TEXT

The Tribally Controlled Schools Act of 1988, referred to in subsec. (g), is part B (§§ 5201–5212) of title V of Pub. L. 100–297, Apr. 28, 1988, 102 Stat. 385, as amended, which is classified generally to chapter 27 (§ 2501 et seq.) of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 2501 of Title 25 and Tables.

AMENDMENTS

1997—Subsec. (g). Pub. L. 105–78 added subsec. (g).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 8063, 8065 of this title.

§ 8065. National activities

The Secretary may reserve not more than ten percent of the funds available to carry out this part for any fiscal year for—

(1) peer review of applications under section 8064(c) of this title;

(2) an evaluation of the impact of charter schools on student achievement, including those assisted under this part; and

(3) other activities designed to enhance the success of the activities assisted under this part, such as—

(A) development and dissemination of model State charter school laws and model contracts or other means of authorizing and monitoring the performance of charter schools; and

(B) collection and dissemination of information on successful charter schools.

(Pub. L. 89–10, title X, § 10305, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3829.)

§ 8066. Definitions

As used in this part:

[1] So in original. The comma probably should not appear.

(1) The term ''charter school'' means a public school that—

(A) in accordance with an enabling State statute, is exempted from significant State or local rules that inhibit the flexible operation and management of public schools, but not from any rules relating to the other requirements of this paragraph;

(B) is created by a developer as a public school, or is adapted by a developer from an existing public school, and is operated under public supervision and direction;

(C) operates in pursuit of a specific set of educational objectives determined by the school's developer and agreed to by the authorized public chartering agency;

(D) provides a program of elementary or secondary education, or both;

(E) is nonsectarian in its programs, admissions policies, employment practices, and all other operations, and is not affiliated with a sectarian school or religious institution;

(F) does not charge tuition;

(G) complies with the Age Discrimination Act of 1975 [42 U.S.C. 6101 et seq.], title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.], title IX of the Education Amendments of 1972 [20 U.S.C. 1681 et seq.], section 504 of the Rehabilitation Act of 1973 [29 U.S.C. 794], and part B of the Individuals with Disabilities Education Act [20 U.S.C. 1411 et seq.];

(H) admits students on the basis of a lottery, if more students apply for admission than can be accommodated;

(I) agrees to comply with the same Federal and State audit requirements as do other elementary and secondary schools in the State, unless such requirements are specifically waived for the purpose of this program;

(J) meets all applicable Federal, State, and local health and safety requirements; and

(K) operates in accordance with State law.

(2) The term ''developer'' means an individual or group of individuals (including a public or private nonprofit organization), which may include teachers, administrators and other school staff, parents, or other members of the local community in which a charter school project will be carried out.

(3) The term ''eligible applicant'' means an authorized public chartering agency participating in a partnership with a developer to establish a charter school in accordance with this part.

(4) The term ''authorized public chartering agency'' means a State educational agency, local educational agency, or other public entity that has the authority pursuant to State law and approved by the Secretary to authorize or approve a charter school.

(Pub. L. 89–10, title X, § 10306, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3829.)

REFERENCES IN TEXT

The Age Discrimination Act of 1975, referred to in par. (1)(G), is title III of Pub. L. 94–135, Nov. 28, 1975, 89 Stat. 728, as amended, which is classified generally to chapter 76 (§ 6101 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 6101 of Title 42 and Tables.

The Civil Rights Act of 1964, referred to in par. (1)(G), is Pub. L. 88–352, July 2, 1964, 78 Stat. 241, as amended. Title VI of the Act is classified generally to subchapter V (§ 2000d et seq.) of chapter 21 of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of Title 42 and Tables.

The Education Amendments of 1972, referred to in par. (1)(G), is Pub. L. 92–318, June 23, 1972, 86 Stat. 235, as amended. Title IX of the Act is classified principally to chapter 38 (§ 1681 et seq.) of this title. For complete classification of this Act to the Code, see Short Title of 1972 Amendment note set out under section 1001 of this title and Tables.

The Individuals with Disabilities Education Act, referred to in par. (1)(G), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, as amended. Part B of the Act is classified generally to subchapter II (§ 1411 et seq.) of chapter 33 of this title. For complete classification of this Act to the Code, see section 1400 of this title and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 8064 of this title.

§ 8067. Authorization of appropriations

For the purpose of carrying out this part, there are authorized to be appropriated $15,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

(Pub. L. 89–10, title X, § 10307, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3830.)

PART D—ARTS IN EDUCATION

SUBPART 1—ARTS EDUCATION

§ 8091. Support for arts education

(a) Findings

The Congress finds that—

(1) the arts are forms of understanding and ways of knowing that are fundamentally important to education;

(2) the arts are important to excellent education and to effective school reform;

(3) the most significant contribution of the arts to education reform is the transformation of teaching and learning;

(4) such transformation is best realized in the context of comprehensive, systemic education reform;

(5) demonstrated competency in the arts for American students is among the National Education Goals;

(6) participation in performing arts activities has proven to be an effective strategy for promoting the inclusion of persons with disabilities in mainstream settings;

(7) opportunities in the arts have enabled persons of all ages with disabilities to participate more fully in school and community activities;

(8) the arts can motivate at-risk students to stay in school and become active participants in the educational process; and

(9) arts education should be an integral part of the elementary and secondary school curriculum.

(b) Purposes

The purposes of this subpart are to—

(1) support systemic education reform by strengthening arts education as an integral

part of the elementary and secondary school curriculum;

(2) help ensure that all students have the opportunity to learn to challenging State content standards and challenging State student performance standards in the arts; and

(3) support the national effort to enable all students to demonstrate competence in the arts in accordance with the National Education Goals.

(c) Eligible recipients

In order to carry out the purposes of this subpart, the Secretary is authorized to award grants to, or enter into contracts or cooperative agreements with—

(1) State educational agencies;

(2) local educational agencies;

(3) institutions of higher education;

(4) museums and other cultural institutions; and

(5) other public and private agencies, institutions, and organizations.

(d) Authorized activities

Funds under this subpart may be used for—

(1) research on arts education;

(2) the development of, and dissemination of information about, model arts education programs;

(3) the development of model arts education assessments based on high standards;

(4) the development and implementation of curriculum frameworks for arts education;

(5) the development of model preservice and inservice professional development programs for arts educators and other instructional staff;

(6) supporting collaborative activities with other Federal agencies or institutions involved in arts education, such as the National Endowment for the Arts, the Institute of Museum and Library Services, the John F. Kennedy Center for the Performing Arts, Very Special Arts, and the National Gallery of Art;

(7) supporting model projects and programs in the performing arts for children and youth through arrangements made with the John F. Kennedy Center for the Performing Arts;

(8) supporting model projects and programs by Very Special Arts which assure the participation in mainstream settings in arts and education programs of individuals with disabilities;

(9) supporting model projects and programs to integrate arts education into the regular elementary and secondary school curriculum; and

(10) other activities that further the purposes of this subpart.

(e) Coordination

(1) In general

A recipient of funds under this subpart shall, to the extent possible, coordinate projects assisted under this subpart with appropriate activities of public and private cultural agencies, institutions, and organizations, including museums, arts education associations, libraries, and theaters.

(2) Special rule

In carrying out this subpart, the Secretary shall coordinate with the National Endowment for the Arts, the Institute of Museum and Library Services, the John F. Kennedy Center for the Performing Arts, Very Special Arts, and the National Gallery of Art.

(f) Authorization

(1) In general

For the purpose of carrying out this subpart, there are authorized to be appropriated $11,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

(2) Special rule

If the amount appropriated under paragraph (1) for any fiscal year is $9,000,000 or less, then such amount shall only be available to carry out the activities described in paragraphs (7) and (8) of subsection (d) of this section.

(Pub. L. 89–10, title X, § 10401, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3830; amended Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 709(b)(3)(A)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–313.)

AMENDMENTS

1996—Subsecs. (d)(6), (e)(2). Pub. L. 104–208 substituted ''the Institute of Museum and Library Services'' for ''the Institute of Museum Services''.

SUBPART 2—CULTURAL PARTNERSHIPS FOR AT-RISK CHILDREN AND YOUTH

§ 8101. Findings and purpose

(a) Findings

The Congress finds:

(1) With local school budget cuts there are inadequate arts and cultural programs available for children and youth in schools, especially at the elementary school level.

(2) The arts promote progress in academic subjects as shown by research conducted by the National Endowment for the Arts.

(3) Children and youth who receive instruction in the arts and humanities, or who are involved in cultural activities, remain in school longer and are more successful than children who do not receive such instruction.

(4) Learning in the arts and humanities promotes progress in other academic subjects, and generates positive self-esteem and a greater sense of accomplishment in young people.

(5) School-university and school-cultural institution partnerships that upgrade teacher training in the arts and humanities have significantly contributed to improved instruction and achievement levels of school-aged children.

(6) Museum outreach, cultural activities and informal education for at-risk children and youth have contributed significantly to the educational achievement and enhanced interest in learning of at-risk children and youth.

(7) The Goals 2000: Educate America Act [20 U.S.C. 5801 et seq.], other legislation and local, State and national resources support the integration of the arts and humanities into the regular curriculum and school day for all children.

(8) While all children benefit from instruction in the arts and the humanities, at-risk

children and youth have a special, additional need for arts and cultural programs both in school and after school.

(b) Purpose

The purpose of this subpart is to make demonstration grants to eligible entities to improve the educational performance and future potential of at-risk children and youth by providing comprehensive and coordinated educational and cultural services.

(Pub. L. 89–10, title X, § 10411, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3832.)

REFERENCES IN TEXT

The Goals 2000: Educate America Act, referred to in subsec. (a)(7), is Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 125 (except titles V and IX), as amended, which is classified principally to chapter 68 (§ 5801 et seq.) of this title (except subchapters V (§ 5931 et seq.) and IX (§ 6001 et seq.)). For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables.

§ 8102. Program authorized

(a) In general

The Secretary is authorized to award grants to eligible entities to pay the Federal share of the costs of the activities described in section 8103 of this title.

(b) Special requirements

(1) In general

The Secretary shall award grants under this subpart only to programs designed to—

(A) promote and enhance educational and cultural activities;

(B) provide multi-year services to at-risk children and youth and to integrate community cultural resources into in-school and after-school educational programs;

(C) provide integration of community cultural resources into the regular curriculum and school day;

(D) focus school and cultural resources in the community on coordinated cultural services to address the needs of at-risk children and youth;

(E) provide effective cultural programs to facilitate the transition from preschool programs to elementary school programs, including programs under the Head Start Act [42 U.S.C. 9831 et seq.] and part H[1] of the Individuals with Disabilities Education Act;

(F) facilitate school-to-work transition from secondary schools and alternative schools to job training, higher education and employment through educational programs and activities that utilize school resources;

(G) increase parental and community involvement in the educational, social, and cultural development of at-risk children and youth; or

(H)(i) develop programs and strategies that provide high-quality coordinated educational and cultural services; and

(ii) provide a model to replicate such services in other schools and communities.

(2) Partnership

An interagency partnership comprised of the Secretary of Education, the Chairman of the National Endowment for the Humanities, the Chairman of the National Endowment for the Arts, and the Director of the Institute of Museum and Library Services, or their designees, shall establish criteria and procedures for awarding grants, including the establishment of panels to review the applications, and shall administer the grants program authorized by this section. The Secretary shall publish such criteria and procedures in the Federal Register.

(3) Coordination

Grants may only be awarded under this subpart to eligible entities that agree to coordinate activities carried out under other Federal, State, and local grants, received by the members of the partnership for purposes and target populations described in this subpart, into an integrated service delivery system located at a school, cultural, or other community-based site accessible to and utilized by at-risk youth.

(4) Eligible entities

For purposes of this subpart, the term ''eligible entity'' means a partnership between—

(A) a local educational agency or an individual school that is eligible to participate in a schoolwide program under section 6314 of this title; and

(B) at least one institution of higher education, museum, local arts agency, or cultural entity that is accessible to individuals within the school district of such local educational agency or school, and that has a history of providing quality services to the community, which may include—

(i) nonprofit institutions of higher education, museums, libraries, performing, presenting and exhibiting arts organizations, literary arts organizations, State and local arts organizations, cultural institutions, and zoological and botanical organizations; or

(ii) private for-profit entities with a history of training children and youth in the arts.

(5) Geographic distribution

In awarding grants under this subpart the Secretary, to the extent feasible, shall ensure an equitable geographic distribution of such grants.

(6) Duration

Grants made under this subpart may be renewable for a maximum of five years if the Secretary determines that the eligible recipient has made satisfactory progress toward the achievement of the program objectives described in the application.

(7) Models

The Secretary, in consultation with the Chairman of the National Endowment for the Humanities, the Chairman of the National Endowment for the Arts and the director[2] of the Institute of Museum and Library Services, or their designees, shall submit successful models

[1] See References in Text note below.

[2] So in original. Probably should be capitalized.

under this subchapter to the National Diffusion Network for review.

(c) Target population

To be eligible for a grant under this subpart, an eligible entity shall serve—

(1) students enrolled in schools participating in a schoolwide program under section 6314 of this title and the families of such students to the extent practicable;

(2) out-of-school children and youth at risk of disadvantages resulting from teenage parenting, substance abuse, recent migration, disability, limited-English proficiency, illiteracy, being the child of a teenage parent, living in a single parent household, or dropping out of school; or

(3) any combination of in-school and out-of-school at-risk children and youth.

(Pub. L. 89–10, title X, § 10412, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3833; amended Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 709(b)(3)(B)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–313.)

REFERENCES IN TEXT

The Head Start Act, referred to in subsec. (b)(1)(E), is subchapter B (§§ 635–657) of chapter 8 of subtitle A of title VI of Pub. L. 97–35, Aug. 13, 1981, 95 Stat. 499, as amended, which is classified generally to subchapter II (§ 9831 et seq.) of chapter 105 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 9801 of Title 42 and Tables.

The Individuals with Disabilities Education Act, referred to in subsec. (b)(1)(E), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, as amended. Part H of the Act was classified generally to subchapter VIII (§ 1471 et seq.) of chapter 33 of this title prior to repeal by Pub. L. 105–17, title II, § 203(b), June 4, 1997, 111 Stat. 157, effective July 1, 1998. For complete classification of this Act to the Code, see section 1400 of this title and Tables.

AMENDMENTS

1996—Subsec. (b)(2), (7). Pub. L. 104–208 substituted ''Museum and Library Services'' for ''Museum Services'' in par. (2) and ''the director of the Institute of Museum and Library Services'' for ''the Director of the Institute of Museum Services'' in par. (7).

§ 8103. Authorized activities

(a) In general

Grants awarded under this subpart may be used—

(1) to plan, develop, acquire, expand, and improve school-based or community-based coordinated educational and cultural programs to strengthen the educational performance and future potential of in-school or out-of-school at-risk children and youth through grants, cooperative agreements, contracts for services, or administrative coordination;

(2) to provide at-risk students with integrated cultural activities designed to develop a love of learning that fosters the smooth transition of preschool children to elementary school;

(3) to design collaborative cultural activities for students in secondary or alternative schools that ensure the smooth transition to job training, higher education, or full employment;

(4) to provide child care for children of at-risk students who would not otherwise be able to participate in the program;

(5) to provide transportation necessary for participation in the program;

(6) to work with existing school personnel to develop curriculum materials and programs in the arts;

(7) to work with existing school personnel on staff development activities that encourage the integration of the arts into the curriculum;

(8) for stipends that allow local artists to work with at-risk children and youth in schools;

(9) for training individuals who are not trained to work with children and youth;

(10) for cultural programs that encourage the active participation of parents in the education of their children;

(11) for programs that use the arts and culture to reform current school practices, including lengthening the school day or academic year;

(12) for equipment or supplies that the Secretary determines appropriate; and

(13) for evaluation, administration, and supervision.

(b) Planning grants

(1) Application

An eligible entity may submit an application to the Secretary for a planning grant for an amount not to exceed $50,000. Such grants shall be for periods of not more than one year.

(2) Limit on planning grants

Not more than 10 percent of the amounts appropriated in each fiscal year under this subpart shall be used for grants under this subsection, and an eligible entity may receive not more than one such planning grant.

(c) General provisions

(1) In general

Each eligible entity desiring a grant under this subpart shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

(2) Contents

Each application submitted pursuant to paragraph (1) shall—

(A) describe the cultural entity or entities that will participate in the partnership;

(B) describe the target population to be served;

(C) describe the services to be provided;

(D) describe a plan for evaluating the success of the program;

(E) in the case of each local educational agency or school participating in the eligible recipient partnership, describe how the activities assisted under this subpart will be perpetuated beyond the duration of the grant;

(F) describe the manner in which the eligible entity will improve the educational achievement or future potential of at-risk youth through more effective coordination of cultural services in the community;

(G) describe the overall and operational goals of the program;

(H) describe the nature and location of all planned sites where services will be delivered and a description of services which will be provided at each site; and

(I) describe training that will be provided to individuals who are not trained to work with children and youth, and how teachers will be involved.

(Pub. L. 89–10, title X, § 10413, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3835.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 8102, 8104 of this title.

§ 8104. Payments; amounts of award; cost share; limitations

(a) Payments

(1) In general

The Secretary shall pay to each eligible recipient having an application approved under section 8103(c) of this title the Federal share of the cost of the activities described in the application.

(2) Special rule

(A) Grants awarded under this subpart shall be of sufficient size, scope, and quality to be effective.

(B) The Secretary shall award grants under this subpart so as to ensure nonduplication of services provided by grant recipients and services provided by—

(i) the National Endowment for the Humanities;

(ii) the National Endowment for the Arts; and

(iii) the Institute of Museum and Library Services.

(b) Cost share

(1) Federal share

The Federal share of a grant under this subpart shall be 80 percent of the cost of carrying out the activities described in the application.

(2) Non-Federal share

The non-Federal share of a grant under this subpart shall be 20 percent of the cost of carrying out the activities described in the application and may be in cash or in kind, fairly evaluated, including the provision of equipment, services, or facilities.

(c) Limitations

(1) Noninstructional services

Not more than 25 percent of the grant funds provided in any fiscal year under this subpart may be used for noninstructional activities such as the activities described in paragraphs (4), (5), and (12) of section 8103(a) of this title.

(2) Supplement and not supplant

Grant funds awarded under this part shall be used to supplement not supplant the amount of funds made available from non-Federal sources, for the activities assisted under this subpart, in amounts that exceed the amounts expended for such activities in the year preceding the year for which the grant is awarded.

(3) Administrative costs

(A) The Secretary may reserve not more than five percent of the grant funds received under this subpart in each fiscal year for the costs of administration.

(B) Each eligible recipient may reserve not more than 5 percent of any grant funds received under this subpart in each fiscal year for the costs of administration.

(Pub. L. 89–10, title X, § 10414, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3836; amended Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 709(b)(3)(C)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–313.)

AMENDMENTS

1996—Subsec. (a)(2)(B)(iii). Pub. L. 104–208 added cl. (iii) and struck out former cl. (iii) which read as follows: ''the Institute of Museum Services.''

§ 8105. Authorization of appropriations

There are authorized to be appropriated to carry out this subpart, $45,000,000 for fiscal year 1995, and such sums as may be necessary for each of the four succeeding fiscal years.

(Pub. L. 89–10, title X, § 10415, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3837.)

PART E—INEXPENSIVE BOOK DISTRIBUTION PROGRAM

§ 8131. Inexpensive book distribution program for reading motivation

(a) Authorization

The Secretary is authorized to enter into a contract with Reading is Fundamental (RIF) (hereafter in this section referred to as ''the contractor'') to support and promote programs, which include the distribution of inexpensive books to students, that motivate children to read.

(b) Requirements of contract

Any contract entered into under subsection (a) of this section shall—

(1) provide that the contractor will enter into subcontracts with local private nonprofit groups or organizations, or with public agencies, under which each subcontractor will agree to establish, operate, and provide the non-Federal share of the cost of reading motivation programs that include the distribution of books, by gift, to the extent feasible, or loan, to children from birth through secondary school age, including those in family literacy programs;

(2) provide that funds made available to subcontractors will be used only to pay the Federal share of the cost of such programs;

(3) provide that in selecting subcontractors for initial funding, the contractor will give priority to programs that will serve a substantial number or percentage of children with special needs, such as—

(A) low-income children, particularly in high-poverty areas;

(B) children at risk of school failure;

(C) children with disabilities;
(D) foster children;
(E) homeless children;
(F) migrant children;
(G) children without access to libraries;
(H) institutionalized or incarcerated children; and
(I) children whose parents are institutionalized or incarcerated;

(4) provide that the contractor will provide such technical assistance to subcontractors as may be necessary to carry out the purpose of this section;

(5) provide that the contractor will annually report to the Secretary the number of, and describe, programs funded under paragraph (3); and

(6) include such other terms and conditions as the Secretary determines to be appropriate to ensure the effectiveness of such programs.

(c) Restriction on payments

The Secretary shall make no payment of the Federal share of the cost of acquiring and distributing books under any contract under this section unless the Secretary determines that the contractor or subcontractor, as the case may be, has made arrangements with book publishers or distributors to obtain books at discounts at least as favorable as discounts that are customarily given by such publisher or distributor for book purchases made under similar circumstances in the absence of Federal assistance.

(d) "Federal share" defined

For the purpose of this section, the term ''Federal share'' means, with respect to the cost to a subcontractor of purchasing books to be paid under this section, 75 percent of such costs to the subcontractor, except that the Federal share for programs serving children of migrant or seasonal farmworkers shall be 100 percent of such costs to the subcontractor.

(e) Authorization of appropriations

For the purpose of carrying out this section, there are authorized to be appropriated $10,300,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

(Pub. L. 89–10, title X, §10501, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3837.)

PART F—CIVIC EDUCATION

§ 8141. Instruction on history and principles of democracy in the United States

(a) General authority

(1) Program established

(A) The Secretary is authorized to carry out a program to enhance the attainment of the third and sixth National Education Goals by educating students about the history and principles of the Constitution of the United States, including the Bill of Rights, and to foster civic competence and responsibility.

(B) Such program shall be known as ''We the People . . . The Citizen and the Constitution''.

(2) Educational activities

The program required by paragraph (1) shall—

(A) continue and expand the educational activities of the ''We the People . . . The Citizen and the Constitution'' program administered by the Center for Civic Education; and

(B) enhance student attainment of challenging content standards in civics and government.

(3) Contract or grant authorized

The Secretary is authorized to award a grant or enter into a contract with the Center for Civic Education to carry out the program described in paragraph (1).

(b) Program content

The education program authorized by this section shall provide—

(1) a course of instruction on the basic principles of our Nation's constitutional democracy and the history of the Constitution and the Bill of Rights;

(2) at the request of a participating school, school and community simulated congressional hearings following the course of study; and

(3) an annual national competition of simulated congressional hearings for secondary students who wish to participate in such program.

(c) Availability of program

The education program authorized by this section shall be made available to public and private elementary and secondary schools in the 435 congressional districts, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the District of Columbia.

(d) Special rule

After the provisions of subsection (b) of this section have been implemented, funds provided under this section may be used for—

(1) advanced training of teachers about the United States Constitution and the political system the United States created; or

(2) a course of instruction at the middle school level on the roles of State and local governments in the Federal system established by the Constitution, which course shall provide for—

(A) optional school and community simulated State legislative hearings;

(B) an annual competition of simulated legislative hearings at the State legislative district, State, and national levels for middle school students who wish to participate in the program; and

(C) participation by public and private middle schools in the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

(Pub. L. 89–10, title X, §10601, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3838.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 8143 of this title.

§ 8142. Instruction in civics, government, and the law

(a) Program established

The Secretary is authorized to carry out a program of awarding grants and contracts to assist State and local educational agencies and other public and private nonprofit agencies, organizations, and institutions to enhance—

(1) attainment by students of challenging State content standards and challenging State student performance standards in civics, government, and the law; and

(2) attainment by the Nation of the third and the sixth National Education Goals.

(b) Authorized activities

Assistance under this section may support new and ongoing programs in elementary and secondary schools that provide for—

(1) the development and implementation of curricular programs that enhance student understanding of—

(A) the values and principles which underlie, and the institutions and processes which comprise, our Nation's system of government;

(B) the role of law in our constitutional democracy, including activities to promote—

(i) legal literacy;

(ii) a dedication by students to the use of nonviolent means of conflict resolution such as arbitration, mediation, negotiation, trials, and appellate hearings; and

(iii) respect for cultural diversity and acceptance of cultural differences; and

(C) the rights and responsibilities of citizenship;

(2) professional development for teachers, including preservice and inservice training;

(3) outside-the-classroom learning experiences for students, including community service activities;

(4) the active participation of community leaders, from the public and private sectors, in the schools; and

(5) the provision of technical assistance to State and local educational agencies and other institutions and organizations working to further the progress of the Nation in attaining the third and sixth National Education Goals regarding civics and government.

(c) Applications, peer review and priority

(1) Submission of applications

A State or local educational agency, other public or private nonprofit agency, organization, or institution that desires to receive a grant or enter into a contract under this section shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

(2) Peer review

(A) The Secretary shall convene a panel of individuals for purpose of reviewing and rating applications submitted under paragraph (1).

(B) Such individuals shall have experience with education programs in civics, government, and the law.

(3) Priority

In awarding grants or awarding contracts under this section, the Secretary shall give priority consideration to applications which propose the operation of statewide programs.

(d) Duration of grants and exception

(1) Duration

Except as provided in paragraph (2), the Secretary shall award grants and contracts under this section for periods of two or three years.

(2) Exception

The Secretary may award a grant or a contract under this section for a period of less than 2 years if the Secretary determines that special circumstances exist which warrant a 1-year grant or contract award.

(Pub. L. 89–10, title X, § 10602, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3839.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 8143 of this title.

§ 8143. Report; authorization of appropriations

(a) Report

The Secretary shall report, on a biennial basis to the Committee on Education and Labor of the House of Representatives and to the Committee on Labor and Human Resources of the Senate regarding the distribution and use of funds authorized under this part.

(b) Authorization of appropriations

(1) General

There are authorized to be appropriated to carry out this part $15,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

(2) Allocation

Except as provided in paragraph (3), from the amount appropriated under subsection (a) of this section, the Secretary shall allocate—

(A) 40 percent of such amount to carry out section 8141 of this title; and

(B) 60 percent of such amount to carry out section 8142 of this title.

(3) Special rule

From funds appropriated under paragraph (1), the Secretary shall make available for fiscal year 1995 and each succeeding fiscal year thereafter for the programs under sections 8141[1] and 8142[1] of this title not less than the amount made available for fiscal year 1994 to carry out such programs under sections 4609 and 1562, respectively, of this Act (as such sections were in effect on the day preceding October 20, 1994).

(Pub. L. 89–10, title X, § 10603, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3840.)

REFERENCES IN TEXT

Sections 8141 and 8142 of this title, referred to in subsec. (b)(3), was in the original ''sections 16101 and 16102'' meaning sections 16101 and 16102 of Pub. L. 89–10, which has been translated as reading sections 10601 and 10602 of Pub. L. 89–10 to reflect the probable intent of Con-

[1] See References in Text note below.

gress, because Pub. L. 89–10 does not contain a section 16101 or 16102, and funds appropriated under subsec. (b)(1) of this section are to carry out this part which is comprised of sections 8141 and 8142 of this title.

Sections 4609 and 1562 of this Act (as such sections were in effect on the day preceding October 20, 1994), referred to in subsec. (b)(3), means sections 4609 and 1562 of Pub. L. 89–10 which were classified to sections 3156b and 2962, respectively, of this title prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519.

CHANGE OF NAME

Committee on Education and Labor of House of Representatives treated as referring to Committee on Economic and Educational Opportunities of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Economic and Educational Opportunities of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Fifth Congress, Jan. 7, 1997.

PART G—ALLEN J. ELLENDER FELLOWSHIP PROGRAM

§ 8161. Findings

The Congress finds as follows:

(1) It is a worthwhile goal to ensure that all students in America are prepared for responsible citizenship and that all students should have the opportunity to be involved in activities that promote and demonstrate good citizenship.

(2) It is a worthwhile goal to ensure that America's educators have access to programs for the continued improvement of their professional skills.

(3) Allen J. Ellender, a Senator from Louisiana and President pro tempore of the United States Senate, had a distinguished career in public service characterized by extraordinary energy and real concern for young people. Senator Ellender provided valuable support and encouragement to the Close Up Foundation, a nonpartisan, nonprofit foundation promoting knowledge and understanding of the Federal Government among young people and educators. Therefore, it is a fitting and appropriate tribute to Senator Ellender to provide fellowships in his name to students of limited economic means, the teachers who work with such students, and older Americans, so that such students, teachers, and older Americans may participate in the programs supported by the Close Up Foundation.

(Pub. L. 89–10, title X, § 10701, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3841.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6978 of this title.

SUBPART 1—PROGRAM FOR MIDDLE AND SECONDARY SCHOOL STUDENTS

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in section 8202 of this title.

§ 8171. Establishment

(a) General authority

The Secretary is authorized to make grants in accordance with the provisions of this subpart to the Close Up Foundation of Washington, District of Columbia, a nonpartisan, nonprofit foundation, for the purpose of assisting the Close Up Foundation in carrying out its programs of increasing understanding of the Federal Government among middle and secondary school students.

(b) Use of funds

Grants under this subpart shall be used only to provide financial assistance to economically disadvantaged students who participate in the program described in subsection (a) of this section. Financial assistance received pursuant to this subpart by such students shall be known as Allen J. Ellender fellowships.

(Pub. L. 89–10, title X, § 10711, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3841.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 8182, 8202 of this title.

§ 8172. Applications

(a) Application required

No grant under this subpart may be made except upon an application at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

(b) Contents of application

Each such application shall contain provisions to assure—

(1) that fellowship grants are made to economically disadvantaged middle and secondary school students;

(2) that every effort will be made to ensure the participation of students from rural and small town areas, as well as from urban areas, and that in awarding fellowships to economically disadvantaged students, special consideration will be given to the participation of students with special educational needs, including student[1] with disabilities, ethnic minority students, and gifted and talented students; and

(3) the proper disbursement of the funds received under this subpart.

(Pub. L. 89–10, title X, § 10712, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3841.)

SUBPART 2—PROGRAM FOR MIDDLE AND SECONDARY SCHOOL TEACHERS

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in section 8202 of this title.

§ 8181. Establishment

(a) General authority

The Secretary is authorized to make grants in accordance with the provisions of this subpart to the Close Up Foundation of Washington, District of Columbia, a nonpartisan, nonprofit foundation, for the purpose of assisting the Close Up Foundation in carrying out its programs of teaching skills enhancement for middle and secondary school teachers.

(b) Use of funds

Grants under this subpart shall be used only for financial assistance to teachers who partici-

[1] So in original. Probably should be ''students''.

pate in the program described in subsection (a) of this section. Financial assistance received pursuant to this subpart by such individuals shall be known as Allen J. Ellender fellowships.

(Pub. L. 89–10, title X, § 10721, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3842.)

§ 8182. Applications

(a) Application required

No grant under this subpart may be made except upon an application at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

(b) Contents of application

Each such application shall contain provisions to assure—

(1) that fellowship grants are made only to teachers who have worked with at least one student from such teacher's school who participates in the programs described in section 8171(a) of this title;

(2) that not more than one teacher in each school participating in the programs provided for in section 8171(a) of this title may receive a fellowship in any fiscal year; and

(3) the proper disbursement of the funds received under this subpart.

(Pub. L. 89–10, title X, § 10722, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3842.)

SUBPART 3—PROGRAMS FOR RECENT IMMIGRANTS, STUDENTS OF MIGRANT PARENTS AND OLDER AMERICANS

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in section 8202 of this title.

§ 8191. Establishment

(a) General authority

(1) In general

The Secretary is authorized to make grants in accordance with the provisions of this subpart to the Close Up Foundation of Washington, District of Columbia, a nonpartisan, nonprofit foundation, for the purpose of assisting the Close Up Foundation in carrying out its programs of increasing understanding of the Federal Government among economically disadvantaged older Americans, recent immigrants and students of migrant parents.

(2) "Older American" defined

For the purpose of this subpart, the term ''older American'' means an individual who has attained 55 years of age.

(b) Use of funds

Grants under this subpart shall be used for financial assistance to economically disadvantaged older Americans, recent immigrants and students of migrant parents who participate in the program described in subsection (a) of this section. Financial assistance received pursuant to this subpart by such individuals shall be known as Allen J. Ellender fellowships.

(Pub. L. 89–10, title X, § 10731, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3842.)

§ 8192. Applications

(a) Application required

No grant under this subpart may be made except upon application at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

(b) Contents of application

Except such application shall contain provisions to assure—

(1) that fellowship grants are made to economically disadvantaged older Americans, recent immigrants and students of migrant parents;

(2) that every effort will be made to ensure the participation of older Americans, recent immigrants and students of migrant parents from rural and small town areas, as well as from urban areas, and that in awarding fellowships, special consideration will be given to the participation of older Americans, recent immigrants and students of migrant parents with special needs, including individuals with disabilities, ethnic minorities, and gifted and talented students;

(3) that activities permitted by subsection (a) of this section are fully described; and

(4) the proper disbursement of the funds received under this subpart.

(Pub. L. 89–10, title X, § 10732, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3843.)

SUBPART 4—GENERAL PROVISIONS

§ 8201. Administrative provisions

(a) General rule

Payments under this part may be made in installments, in advance, or by way of reimbursement, with necessary adjustments on account of underpayment or overpayment.

(b) Audit rule

The Comptroller General of the United States or any of the Comptroller General's duly authorized representatives shall have access for the purpose of audit and examination to any books, documents, papers, and records that are pertinent to any grant under this part.

(Pub. L. 89–10, title X, § 10741, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3843.)

§ 8202. Authorization of appropriations

(a) In general

There are authorized to be appropriated to carry out the provisions of subparts 1, 2, and 3 of this part $4,400,000 for fiscal year 1995 and such sums as may be necessary of[1] each of the four succeeding fiscal years.

(b) Special rule

Of the funds appropriated pursuant to subsection (a) of this section, not more than 30 percent may be used for teachers associated with students participating in the programs described in section 8171(a) of this title.

(Pub. L. 89–10, title X, § 10742, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3843.)

[1] So in original. Probably should be ''for''.

PART H—DE LUGO TERRITORIAL EDUCATION IMPROVEMENT PROGRAM

§ 8221. Findings and purposes

(a) Findings

The Congress finds that—

(1) the attainment of a high quality education is important to a society and to each individual;

(2) it is the policy of the United States that all citizens have a fair opportunity to receive a high quality education;

(3) such opportunity should extend to United States citizens and nationals residing in the outlying areas;

(4) reports show that the outlying areas have repeatedly placed last in national education tests which measure knowledge in core subject areas;

(5) all students must realize their potential if the United States is to prosper; and

(6) students in the outlying areas require additional assistance if such students are to obtain the high standards established for all students in the United States.

(b) Purposes

The purpose of this part is to authorize an education improvement program for the outlying areas which will assist in developing programs which will enhance student learning, increase the standard of education, and improve the performance levels of all students.

(Pub. L. 89–10, title X, § 10801, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3844.)

§ 8222. Grant authorization

The Secretary is authorized to make grants to the outlying areas to fund innovative education improvement programs which will increase student learning.

(Pub. L. 89–10, title X, § 10802, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3844.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 8223 of this title.

§ 8223. Construction

No funds from a grant under section 8222 of this title may be used for construction.

(Pub. L. 89–10, title X, § 10803, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3844.)

§ 8224. Authorization of appropriations

There are authorized to be appropriated to carry out this subpart $3,000,000 for each of the fiscal years 1994 through 1999.

(Pub. L. 89–10, title X, § 10804, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3844.)

PART I—21ST CENTURY COMMUNITY LEARNING CENTERS

§ 8241. Short title

This part may be cited as the ''21st Century Community Learning Centers Act''.

(Pub. L. 89–10, title X, § 10901, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3844.)

§ 8242. Findings

The Congress finds that—

(1) a local public school often serves as a center for the delivery of education and human resources for all members of a community;

(2) public schools, primarily in rural and inner city communities, should collaborate with other public and nonprofit agencies and organizations, local businesses, educational entities (such as vocational and adult education programs, school-to-work programs, community colleges, and universities), recreational, cultural, and other community and human service entities, for the purpose of meeting the needs of, and expanding the opportunities available to, the residents of the communities served by such schools;

(3) by using school facilities, equipment, and resources, communities can promote a more efficient use of public education facilities, especially in rural and inner city areas where limited financial resources have enhanced the necessity for local public schools to become social service centers;

(4) the high technology, global economy of the 21st century will require lifelong learning to keep America's workforce competitive and successful, and local public schools should provide centers for lifelong learning and educational opportunities for individuals of all ages; and

(5) 21st Century Community Learning Centers enable the entire community to develop an education strategy that addresses the educational needs of all members of local communities.

(Pub. L. 89–10, title X, § 10902, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3844.)

§ 8243. Program authorization

(a) Grants by Secretary

The Secretary is authorized, in accordance with the provisions of this part, to award grants to rural and inner-city public elementary or secondary schools, or consortia of such schools, to enable such schools or consortia to plan, implement, or to expand projects that benefit the educational, health, social service, cultural, and recreational needs of a rural or inner-city community.

(b) Equitable distribution

In awarding grants under this part, the Secretary shall assure an equitable distribution of assistance among the States, among urban and rural areas of the United States, and among urban and rural areas of a State.

(c) Grant period

The Secretary shall award grants under this part for a period not to exceed 3 years.

(d) Amount

The Secretary shall not award a grant under this part in any fiscal year in an amount less than $35,000.

(Pub. L. 89–10, title X, § 10903, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3845.)

§ 8244. Application required

(a) Application

To be eligible to receive a grant under this part, an elementary or secondary school or consortium shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably prescribe. Each such application shall include—

(1) a comprehensive local plan that enables the school or consortium to serve as a center for the delivery of education and human resources for members of a community;

(2) an evaluation of the needs, available resources, and goals and objectives for the proposed project in order to determine which activities will be undertaken to address such needs; and

(3) a description of the proposed project, including—

(A) a description of the mechanism that will be used to disseminate information in a manner that is understandable and accessible to the community;

(B) identification of Federal, State, and local programs to be merged or coordinated so that public resources may be maximized;

(C) a description of the collaborative efforts to be undertaken by community-based organizations, related public agencies, businesses, or other appropriate organizations;

(D) a description of how the school or consortium will serve as a delivery center for existing and new services, especially for interactive telecommunication used for education and professional training; and

(E) an assurance that the school or consortium will establish a facility utilization policy that specifically states—

(i) the rules and regulations applicable to building and equipment use; and

(ii) supervision guidelines.

(b) Priority

The Secretary shall give priority to applications describing projects that offer a broad selection of services which address the needs of the community.

(Pub. L. 89–10, title X, § 10904, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3845.)

§ 8245. Uses of funds

Grants awarded under this part may be used to plan, implement, or expand community learning centers which include not less than four of the following activities:

(1) Literacy education programs.

(2) Senior citizen programs.

(3) Children's day care services.

(4) Integrated education, health, social service, recreational, or cultural programs.

(5) Summer and weekend school programs in conjunction with recreation programs.

(6) Nutrition and health programs.

(7) Expanded library service hours to serve community needs.

(8) Telecommunications and technology education programs for individuals of all ages.

(9) Parenting skills education programs.

(10) Support and training for child day care providers.

(11) Employment counseling, training, and placement.

(12) Services for individuals who leave school before graduating from secondary school, regardless of the age of such individual.

(13) Services for individuals with disabilities.

(Pub. L. 89–10, title X, § 10905, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3846.)

§ 8246. "Community learning center" defined

For the purpose of this part, the term ''community learning center'' means an entity within a public elementary or secondary school building that—

(1) provides educational, recreational, health, and social service programs for residents of all ages within a local community; and

(2) is operated by a local educational agency in conjunction with local governmental agencies, businesses, vocational education programs, institutions of higher education, community colleges, and cultural, recreational, and other community and human service entities.

(Pub. L. 89–10, title X, § 10906, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3846.)

§ 8247. Authorization of appropriations

There are authorized to be appropriated $20,000,000 for fiscal year 1995, and such sums as may be necessary for each of the four succeeding fiscal years, to carry out this part.

(Pub. L. 89–10, title X, § 10907, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3846.)

PART J—URBAN AND RURAL EDUCATION ASSISTANCE

§ 8271. Authorization of appropriations

(a) Demonstration grants

(1) In general

There are authorized to be appropriated $125,000,000 for fiscal year 1995, and such sums as may be necessary for each of the four succeeding fiscal years, to carry out subparts 1 and 2 of this part (other than section 8295 of this title).

(2) Reservation for subpart 1

The Secretary shall reserve 50 percent of the amount appropriated under paragraph (1) to carry out subpart 1 of this part.

(3) Reservation for subpart 2

The Secretary shall reserve 50 percent of the amount appropriated under paragraph (1) to carry out subpart 2 of this part (other than section 8295 of this title).

(b) Higher education grants

There are authorized to be appropriated $25,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years to carry out section 8295 of this title.

(c) Federal funds to supplement not supplant non-Federal funds

An eligible local educational agency may use funds received under this part only to supple-

ment and, to the extent practicable, increase the level of funds that would, in the absence of such Federal funds, be made available from non-Federal sources for the education of students participating in activities assisted under this part, and in no such case may such funds be used to supplant funds from non-Federal sources.

(Pub. L. 89–10, title X, § 10951, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3847.)

§ 8272. Definitions

Except as otherwise provided, for the purposes of this part:

(1) Central city

The term ''central city'' has the same meaning used by the Bureau of the Census.

(2) Metropolitan statistical area

The term ''metropolitan statistical area'' has the same meaning used by the Bureau of the Census.

(3) Poverty level

The term ''poverty level'' means the criteria of poverty used by the Bureau of the Census in compiling the most recent decennial census.

(4) Rural eligible local educational agency

The term ''rural eligible local educational agency'' means a local educational agency—

(A)(i) in which at least 15 percent of the children enrolled in the schools served by such agency are eligible to be counted under part A of subchapter I of this chapter; and

(ii) which is not in a metropolitan statistical area; or

(B) in which the total enrollment in the schools served by such agency is less than 2,500 students and that does not serve schools located in a metropolitan statistical area.

(5) Urban eligible local educational agency

The term ''urban eligible local educational agency'' means a local educational agency that—

(A) serves the largest central city in a State;

(B) enrolls more than 30,000 students and serves a central city with a population of at least 200,000 in a metropolitan statistical area; or

(C) enrolls between 25,000 and 30,000 students and serves a central city with a population of at least 140,000 in a metropolitan statistical area.

(Pub. L. 89–10, title X, § 10952, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3847.)

SUBPART 1—URBAN EDUCATION DEMONSTRATION GRANTS

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in section 8271 of this title.

§ 8281. Findings

The Congress finds that—

(1) the ability of the Nation's major urban public school systems to meet the Nation's educational goals will determine the country's economic competitiveness and academic standing in the world community;

(2) the quality of public education in the Nation's major urban areas has a direct effect on the economic development of the Nation's inner-cities;

(3) the success of urban public schools in boosting the achievement of its minority youth attending such schools will determine the ability of the Nation to close the gap between the ''haves and the have-nots'' in society;

(4) the cost to America's businesses to provide remedial education to high school graduates is approximately $21,000,000,000 per year;

(5) approximately one-third of the Nation's workforce will be members of minority groups by the year 2000;

(6) urban schools enroll a disproportionately large share of the Nation's poor and ''at-risk'' youth;

(7) urban schools enroll approximately one-third of the Nation's poor, 40 percent of the Nation's African American children, and 30 percent of the Nation's Hispanic youth;

(8) nearly 20 percent of the Nation's limited-English-proficient children and 15 percent of the Nation's disabled youth are enrolled in urban public schools;

(9) the academic performance of students in the average inner-city public school system is below that of students in most other kinds of school systems;

(10) urban public school systems have higher dropout rates, more problems with health care, and less parental participation than other kinds of school systems;

(11) urban preschoolers have one-half the access to early childhood development programs as do other children;

(12) shortages of teachers in urban public school systems are 2.5 times greater than such shortages in other kinds of school systems;

(13) declining numbers of urban minority high school graduates are pursuing post-secondary educational opportunities;

(14) urban public school systems have greater problems with teenage pregnancy, discipline, drug abuse, and gangs than do other kinds of school systems;

(15) 75 percent of urban public school buildings are over 25 years old, 33 percent of such buildings are over 50 years old, and such buildings are often in serious disrepair and create poor and demoralizing working and learning conditions;

(16) solving the challenges facing our Nation's urban schools will require the concerted and collaborative efforts of all levels of government and all sectors of the community;

(17) Federal and State funding of urban public schools has not adequately reflected need; and

(18) Federal funding that is well-targeted, flexible, and accountable would contribute significantly to addressing the comprehensive needs of inner-city public schools.

(Pub. L. 89–10, title X, § 10961, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3848.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 8283 of this title.

§ 8282. Purpose

It is the purpose of this subpart to provide financial assistance to—

(1) assist urban public schools in meeting the National Education Goals;

(2) improve the educational and social well-being of urban public school children;

(3) close the achievement gap between urban and nonurban public school children, while improving the achievement level of all children nationally;

(4) conduct coordinated research on urban public education problems, solutions, and promising practices;

(5) improve the Nation's global economic and educational competitiveness by improving the Nation's urban schools; and

(6) encourage community, parental, and business collaboration in the improvement of urban schools.

(Pub. L. 89–10, title X, § 10962, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3849.)

§ 8283. Urban school grants

(a) Authority

The Secretary is authorized to make grants to eligible local educational agencies serving an urban area or State educational agencies in the case where the State educational agency is the local educational agency for activities designed to assist in local school improvement efforts and school reform, and to assist the schools of such agencies in meeting the National Education Goals.

(b) Authorized activities

Funds under this section may be used to—

(1) increase the academic achievement of urban public school children to at least the national average, such as—

(A) effective public schools programs;

(B) tutoring, mentoring, and other activities to improve academic achievement directly;

(C) activities designed to increase the participation of minority and female students in entry level and advanced courses in mathematics and science;

(D) supplementary academic instruction;

(E) efforts to improve problem-solving and higher-order thinking skills;

(F) programs to increase student motivation for learning; and

(G) efforts to lengthen the school day or school year, or to reduce class sizes;

(2) ensure the readiness of all urban public school children for school, such as—

(A) full workday, full calendar-year comprehensive early childhood development programs;

(B) parenting classes and parent involvement activities;

(C) activities designed to coordinate prekindergarten and child care programs;

(D) efforts to integrate developmentally appropriate prekindergarten services into the overall public school program;

(E) upgrading the qualifications of early childhood education staff and standards for programs;

(F) collaborative efforts with health and social service agencies to provide comprehensive services and to facilitate the transition from home to school;

(G) establishment of comprehensive child care centers in public secondary schools for students who are parents and their children; and

(H) augmenting early childhood development programs to meet the special educational and cultural needs of limited-English-proficient preschool children;

(3) increase the graduation rates of urban public school students to at least the national average, such as—

(A) dropout prevention activities and support services for public school students at-risk of dropping out of school;

(B) reentry, outreach, and support activities to recruit students who have dropped out of school to return to school;

(C) development of systemwide policies and practices that encourage students to stay in school;

(D) efforts to provide individualized student support, such as mentoring programs;

(E) collaborative activities between schools, parents, community groups, agencies, and institutions of higher education aimed at preventing individuals from dropping out of school;

(F) programs to increase student attendance; and

(G) alternative programs for students, especially bilingual and special education students, who have dropped out of school or are at risk of dropping out of school;

(4) prepare urban public school students to enter higher education, pursue careers, and exercise their responsibilities as citizens, such as—

(A) activities designed to increase the number and percentages of students, particularly minority students, enrolling in postsecondary educational institutions after graduation from public secondary schools;

(B) in-school youth employment, vocational education, and career education programs that improve the transition from school to work;

(C) activities designed in collaboration with colleges and universities to assist urban public school graduates in completing higher education;

(D) efforts to increase voter registration among eligible public secondary school students;

(E) activities designed to promote community service and volunteerism among students, parents, teachers, and the community; and

(F) civic education and other programs designed to enhance responsible citizenship and understanding of the political process;

(5) recruit and retain qualified teachers, such as—

(A) school-based management projects and activities;

(B) programs designed to test efforts to increase the professionalization of teachers or

to bring teachers up to national voluntary standards;

(C) alternative routes to certification for qualified individuals from business, the military, and other fields;

(D) efforts to recruit and retain teachers, particularly minority teachers, specializing in critical shortage areas, including early childhood teachers, mathematics and science teachers, and special education and bilingual teachers;

(E) upgrading the skills of teacher aides and paraprofessionals to permit such individuals to become certified teachers;

(F) activities specifically designed to increase the number of minority teachers in urban schools;

(G) incentives for teachers to work in inner-city public schools; and

(H) collaborative activities with urban universities to revise and upgrade teacher training programs;

(6) provide for ongoing staff development to increase the professional capacities of the teaching staff and the skills of teacher aides and paraprofessionals;

(7) decrease the use of drugs and alcohol among urban public school students and enhance the physical and emotional health of such students, such as—

(A) activities designed to improve the self-esteem and self-worth of urban public school students;

(B) the provision of health care services and other social services and the coordination of such services with other health care providers;

(C) programs designed to improve safety and discipline and reduce in-school violence, vandalism, and gang activity;

(D) activities that begin in the early grades and are designed to prevent drug and alcohol abuse and smoking among students and teachers;

(E) collaborative activities with other agencies, businesses, and community groups to discourage the advertisement and glorification of drugs and alcohol;

(F) efforts to enhance health education and nutrition education; and

(G) alternative public schools, and schools-within-schools programs, including bilingual and special education programs for public school students with special needs; or

(8) plan, develop, operate, or expand programs and activities that are designed to assist urban public schools in meeting the National Education Goals, including—

(A) training of teachers and other educational personnel in subject areas, or in instructional technology and methods that will improve the delivery of services in urban settings and assist in the achievement of the National Education Goals, including staff development efforts that emphasize multicultural and gender and disability bias-free curricula;

(B) coordination and collaboration with other municipal agencies, child care organizations, universities, or the private sector;

(C) parental involvement and outreach efforts and other activities designed to enhance parental encouragement of student learning;

(D) pupil services and other support services that contribute to progress in achieving National Education Goals;

(E) efforts to acquire and improve access to educational technology;

(F) assist the schools most in need of services by replicating successful efforts of other urban local educational agencies and expanding successful programs within the eligible agency; or

(G) efforts to improve and strengthen the curriculum and coordinate services across grade levels.

(c) Applications

(1) In general

An eligible local educational agency desiring to receive a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require, consistent with this section.

(2) Duration

An application submitted pursuant to paragraph (1) may be for a period of not more than five years.

(d) Payments

The Secretary shall make an award only to urban eligible local educational agencies that—

(1) comply with the provisions of section 10966;[1] and

(2) demonstrate to the satisfaction of the Secretary that the data submitted pursuant to section 8281[2] of this title shows progress toward meeting National Education Goals.

(e) Administrative costs

Not more than five percent of any award made under this subpart may be used for administrative costs.

(Pub. L. 89–10, title X, § 10963, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3849.)

REFERENCES IN TEXT

Section 10966, referred to in subsec. (d)(2), meaning section 10966 of Pub. L. 89–10, could not be translated because Pub. L. 89–10 does not contain a section 10966.

§ 8284. Special rules

(a) Special consideration

In making awards under this subpart, the Secretary shall give special consideration to urban eligible local educational agencies in which there is—

(1) low achievement;

(2) high poverty; and

(3) racial isolation.

(b) Flexibility

Each urban eligible local educational agency shall have the flexibility to serve homeless children, children in schools undergoing desegrega-

[1] See References in Text note below.

[2] So in original. Section 8281 relates to findings, not to submission of data.

tion, immigrants, migrants, or other highly mobile populations within the program assisted under this subpart.

(Pub. L. 89–10, title X, § 10964, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3852.)

SUBPART 2—RURAL EDUCATION DEMONSTRATION GRANTS

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in section 8271 of this title.

§ 8291. Findings

The Congress finds that—

(1) the ability of America's rural public school systems to meet the National Education Goals will contribute to the economic competitiveness and academic standing of the Nation in the world community;

(2) approximately 60 percent of the Nation's public school districts are rural with a population of less than 2,500;

(3) about 1 out of every 4 of America's rural school children are living below the poverty line;

(4) the quality of public education in the rural areas of the Nation has a direct effect on the economic development of the rural communities of the Nation;

(5) the success of rural public schools in boosting the achievement of minority youth attending such schools will determine the ability of the Nation to close the gap between the haves and the have-nots in society;

(6) the academic performance of students in the average rural school system is below that of students in most other suburban school systems;

(7) the average age of rural public school buildings is more than 45 years old and such buildings are often in serious disrepair, creating poor and demoralizing working and learning conditions;

(8) shortages of teachers for rural public school systems is greater than in other kinds of school systems;

(9) solving the challenges facing the Nation's rural public schools will require the concerted and collaborative efforts of all levels of government and all sectors of the community;

(10) additional Federal funding would contribute significantly to addressing the comprehensive needs of rural schools;

(11) rural public schools enroll a disproportionately large share of the Nation's poor and at-risk youth;

(12) a declining number of rural public secondary school graduates are pursuing postsecondary education opportunities;

(13) rural preschoolers have less access to early childhood development programs than other children; and

(14) Federal and State funding of rural public schools has not adequately reflected need.

(Pub. L. 89–10, title X, § 10971, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3852.)

§ 8292. Purpose

It is the purpose of this subpart to provide financial assistance to rural public schools most in need, to encourage the comprehensive restructuring of America's rural schools, the appropriate use of telecommunications technologies for learning, and to support innovative programs which improve performance through programs and projects designed to—

(1) assist rural public schools in meeting National Education Goals;

(2) encourage rural public schools to engage in school reform;

(3) develop pilot projects that experiment with innovative ways to teach rural public school children more effectively;

(4) improve the educational and social well-being of rural public school children;

(5) close the achievement gap between children attending rural public schools and other children, while improving the achievement level of all children nationally;

(6) conduct coordinated research on rural education problems, solutions, promising practices, and distance learning technologies;

(7) improve the Nation's global economic and educational competitiveness by improving the Nation's rural public schools;

(8) encourage community, parental, and business collaboration in the improvement of rural public schools;

(9) encourage rural school consortia for the purpose of increasing efficiency and course offerings;

(10) encourage a positive role for rural public schools in local rural entrepreneurship and the identification of rural community economic development opportunities;

(11) encourage community-as-school concepts, which include the role public schools can play to assist with rural community economic revitalization; and

(12) provide for the recruitment and meaningful inservice opportunities for rural public school teachers.

(Pub. L. 89–10, title X, § 10972, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3853.)

§ 8293. Rural school grants

(a) Authority

The Secretary is authorized to make grants to rural eligible local educational agencies, or State educational agencies in the case where the State educational agency is the local educational agency, for activities designed to assist in local school improvement efforts.

(b) Award rules

(1) Less than $50,000,000

If the amount made available to carry out this subpart for any fiscal year is less than $50,000,000, the Secretary shall award grants under this section on a competitive basis.

(2) Equal to or greater than $50,000,000

If the amount made available to carry out this subpart for any fiscal year is equal to or greater than $50,000,000, the Secretary shall award grants under this section so that a rural eligible local educational agency in each State receives such a grant.

(c) Administrative costs

Not more than five percent of a grant awarded under this section[1] shall be used for administrative costs.

(d) Duration

Each grant under this section shall be awarded for a period of not more than five years.

(Pub. L. 89–10, title X, § 10973, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3854.)

REFERENCES IN TEXT

This section, referred to in subsec. (c), was in the original ''section 10573'' meaning section 10573 of Pub. L. 89–10, which was translated as reading section 10973 of that Act to reflect the probable intent of Congress, because Pub. L. 89–10 does not contain a section 10573.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 8294 of this title.

§ 8294. Uses of funds

(a) In general

Grant funds made available under section 8293 of this title may be used by rural eligible local educational agencies to meet the National Education Goals through programs designed to—

(1) increase the academic achievement of rural public school children to at least the national average of such achievement, including education reform initiatives, such as—

(A) effective public schools programs;

(B) tutoring, mentoring, and other activities to improve academic achievement directly;

(C) supplementary academic instruction;

(D) efforts to improve problem-solving and higher-order critical thinking skills; and

(E) efforts to lengthen the school day, school year, or reduce class sizes;

(2) develop pilot projects that experiment with innovative ways to teach rural public school children more effectively;

(3) encourage the formation of rural school consortia for the purpose of increasing efficiency and course offerings;

(4) provide meaningful inservice training opportunities for rural public school teachers;

(5) assist rural schools in acquiring and improving access to educational technology, including distance learning technologies;

(6) ensure the readiness of all rural children for school, such as—

(A) full workday, full calendar-year comprehensive early childhood development programs;

(B) parenting classes, including parenting classes for teenage parents, and parent involvement activities;

(C) activities designed to coordinate prekindergarten and child care programs;

(D) efforts to integrate developmentally appropriate prekindergarten services into the overall public school program;

(E) improving the skills of early childhood education staff and standards for programs;

(F) collaborative efforts with health and social service agencies to provide comprehensive services and to facilitate the transition from home to school;

(G) establishment of comprehensive child care centers in public secondary schools for student parents and their children; and

(H) augmenting early childhood development programs to meet the special educational and cultural needs of limited-English proficient children, children with disabilities, and migrant preschool children;

(7) increase the graduation rates of rural public school students to at least the national average of such rate, when funds are used to serve secondary schools, such as—

(A) dropout prevention activities and support services for students at-risk of dropping out of school;

(B) reentry, outreach and support activities to recruit students who have dropped out of school to return to school;

(C) development of systemwide policies and practices that encourage students to stay in school;

(D) efforts to provide individualized student support;

(E) collaborative activities between schools, parents, community groups, agencies, and institutions of higher education aimed at preventing individuals from dropping out of school;

(F) programs to increase student attendance; and

(G) alternative programs for students, especially bilingual, special education, and migrant students, who have dropped out of school or are at risk of dropping out of school;

(8) prepare rural public school students to enter higher education, pursue careers, and exercise their responsibilities as citizens, such as—

(A) activities designed to increase the number and percentages of students,[1] enrolling in postsecondary educational institutions after graduation from secondary schools;

(B) in-school youth employment, vocational education, and career education programs that improve the transition from school to work;

(C) activities designed in collaboration with colleges and universities to assist rural public school graduates in completing higher education;

(D) activities designed in conjunction with community colleges to provide a kindergarten through grade 14 experience for rural public school secondary school students;

(E) efforts to increase voter registration among eligible public secondary school students attending schools served by rural eligible local educational agencies;

(F) activities designed to promote community service and volunteerism among students, parents, teachers, and the community;

(G) civic education, law-related education, and other programs designed to enhance re-

[1] See References in Text note below.

[1] So in original. The comma probably should not appear.

sponsible citizenship and understanding of the political process; and

(H) encouraging a positive role for rural public schools in local rural entrepreneurship and the identification of rural community economic development opportunities;

(9) recruit and retain qualified teachers, such as—

(A) school-based management projects and activities;

(B) programs designed to increase the status of the teaching profession;

(C) alternative routes to certification for qualified individuals from business, the military, and other fields;

(D) efforts to recruit and retain teachers in critical shortage areas, including early childhood teachers, mathematics and science teachers, foreign language teachers, and special education and bilingual teachers;

(E) upgrading the skills of existing classroom teachers through the use of year-round, systematic, comprehensive inservice training programs;

(F) upgrading the skills of teacher aides and paraprofessionals to assist such individuals in becoming certified teachers;

(G) efforts specifically designed to increase the number of minority teachers in rural public schools;

(H) programs designed to encourage parents and students to enter the teaching profession;

(I) incentives for teachers to work in rural public schools;

(J) collaborative activities with colleges and universities to revise and upgrade teacher training programs to meet the needs of rural public school students; and

(K) training activities for the purpose of incorporating distance learning technologies; or

(10) decrease the use of drugs and alcohol among rural public school students, and to enhance the physical and emotional health of such students, such as—

(A) activities designed to improve the self-esteem and self-worth of rural students;

(B) the provision of health care services and other social services and the coordination of such services with other health care providers;

(C) programs designed to improve safety and discipline and reduce in-school violence and vandalism;

(D) activities that begin in the early grades and are designed to prevent drug and alcohol abuse and smoking among students;

(E) collaborative activities with other agencies, businesses, and community groups;

(F) efforts to enhance health education and nutrition education; and

(G) alternative public schools, and schools-within-schools programs, including bilingual, migrant, and special education programs for students with special needs.

(b) Applications

Each eligible entity desiring a grant under section 8293 of this title shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require. Each grant awarded under section 8293 of this title shall be of sufficient size and scope to achieve significant rural school improvement.

(Pub. L. 89–10, title X, § 10974, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3854.)

§ 8295. Higher education grants

(a) Grants

The Secretary is authorized to make grants to institutions of higher education, consortia of such institutions, or partnerships between institutions of higher education and local educational agencies to assist rural schools and rural eligible local educational agencies in undertaking local school improvement activities.

(b) Authorized activities

Grant funds under this section may be used to—

(1) assist rural schools in meeting National Education Goals;

(2) assist in the recruitment and training of teachers in rural schools;

(3) assist rural schools in the development of appropriate innovative school improvement initiatives;

(4) provide inservice training opportunities for teachers in rural schools; and

(5) provide technical assistance in the use and installation of innovative telecommunications technology.

(c) Applications

Each eligible entity desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

(Pub. L. 89–10, title X, § 10975, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3857.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 8271 of this title.

SUBPART 3—WHITE HOUSE CONFERENCES

§ 8311. White House Conference on Urban Education

(a) Authorization to call Conference

(1) In general

The President is authorized to call and conduct a White House Conference on Urban Education (referred to in this section as the ''Conference'') which shall be held not earlier than November 1, 1995, and not later than October 30, 1996.

(2) Purpose

The purpose of the Conference shall be to—

(A) develop recommendations and strategies for the improvement of urban education;

(B) marshal the forces of the private sector, governmental agencies at all levels, parents, teachers, communities, and education officials to assist urban public schools in achieving National Education Goals; and

(C) conduct the initial planning for a permanent national advisory commission on urban education.

(b) Composition of Conference

(1) In general

The Conference shall be comprised of 12 individuals, including—

(A) representatives of urban public school systems, including members of the governing body of local educational agencies, and school superintendents;

(B) representatives of the Congress, the Department of Education, and other Federal agencies;

(C) State elected officials and representatives from State educational agencies; and

(D) individuals with special knowledge of and expertise in urban education.

(2) Selection

The President shall select one-third of the participants of the Conference, the majority leader of the Senate, in consultation with the minority leader of the Senate, shall select one-third of such participants, and the Speaker of the House of Representatives, in consultation with the minority leader of the House, shall select the remaining one-third of such participants.

(3) Representation

In selecting the participants of the Conference, the President, the majority leader of the Senate, and the Speaker of the House of Representatives shall ensure that the participants are as representative of the ethnic, racial, and linguistic diversity of cities as is practicable.

(c) Report

(1) In general

Not later than 120 days following the termination of the Conference, a final report of the Conference, containing such findings and recommendations as may be made by the Conference, shall be submitted to the President. The final report shall be made public and, not later than 90 days after receipt by the President, transmitted to the Congress together with a statement of the President containing recommendations for implementing the report.

(2) Publication and distribution

The Conference is authorized to publish and distribute the report described in this section. Copies of the report shall be provided to the Federal depository libraries and made available to local urban public school leaders.

(Pub. L. 89–10, title X, § 10981, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3857.)

§ 8312. White House Conference on Rural Education

(a) Authorization to call Conference

(1) In general

The President is authorized to call and conduct a White House Conference on Rural Education (hereafter in this section referred to as the ''Conference'').

(2) Date

The Conference shall be held not earlier than November 1, 1995, and not later than October 30, 1996.

(3) Purpose

The purposes of the Conference shall be to—

(A) develop recommendations and strategies for the improvement of rural public education;

(B) marshal the forces of the private sector, governmental agencies at all levels, parents, teachers, communities, and education officials to assist rural public schools in achieving National Education Goals, and make recommendations on the roles rural public schools can play to assist with local rural community economic revitalization; and

(C) conduct the initial planning for a permanent national commission on rural public education.

(b) Composition of Conference

(1) In general

The Conference shall be comprised of—

(A) representatives of eligible public school systems, including members of the governing body of local educational agencies, school superintendents, and classroom teachers;

(B) representatives of the Congress, the Department, and other Federal agencies;

(C) State elected officials and representatives from State educational agencies;

(D) individuals with special knowledge of, and expertise in, rural education, including individuals involved with rural postsecondary education; and

(E) individuals with special knowledge of, and expertise in, rural business.

(2) Selection

The President shall select one-third of the participants of the Conference, the majority leader of the Senate, in consultation with the minority leader of the Senate, shall select one-third of such participants, and the Speaker of the House of Representatives, in consultation with the minority leader of the House, shall select the remaining one-third of such participants.

(3) Representation

In selecting the participants of the Conference, the President, the majority leader of the Senate, and the Speaker of the House of Representatives shall ensure that the participants are as representative of the ethnic, racial, and language diversity of rural areas as is practicable.

(c) Report

(1) In general

Not later than 120 days following the termination of the Conference, a final report of the Conference, containing such findings and recommendations as may be made by the Conference, shall be submitted to the President. The final report shall be made public and, not later than 90 days after receipt by the President, transmitted to the Congress together

with a statement of the President containing recommendations for implementing the report.

(2) Publication and distribution

The Conference is authorized to publish and distribute the report described in this section. Copies of the report shall be provided to the Federal depository libraries and made available to local rural school leaders and teachers.

(Pub. L. 89–10, title X, § 10982, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3858.)

PART K—NATIONAL WRITING PROJECT

§ 8331. Findings

The Congress finds that—

(1) the United States faces a crisis in writing in schools and in the workplace;

(2) the writing problem has been magnified by the rapidly changing student populations and the growing number of at-risk students due to limited English proficiency;

(3) over the past two decades, universities and colleges across the country have reported increasing numbers of entering freshmen who are unable to write at a level equal to the demands of college work;

(4) American businesses and corporations are concerned about the limited writing skills of entry-level workers, and a growing number of executives are reporting that advancement was denied to them due to inadequate writing abilities;

(5) the writing problem has been magnified by the rapidly changing student populations in the Nation's schools and the growing number of students who are at risk because of limited English proficiency;

(6) writing and reading are both fundamental to learning, yet writing has been historically neglected in the schools and colleges, and most teachers in the United States elementary schools, secondary schools, and colleges have not been trained to teach writing;

(7) since 1973, the only national program to address the writing problem in the Nation's schools has been the National Writing Project, a network of collaborative university-school programs whose goal is to improve the quality of student writing and the teaching of writing at all grade levels and to extend the uses of writing as a learning process through all disciplines;

(8) the National Writing Project offers summer and school year inservice teacher training programs and a dissemination network to inform and teach teachers of developments in the field of writing;

(9) the National Writing Project is a nationally recognized and honored nonprofit organization that recognizes that there are teachers in every region of the country who have developed successful methods for teaching writing and that such teachers can be trained and encouraged to train other teachers;

(10) the National Writing Project has become a model for programs to improve teaching in such other fields as mathematics, science, history, literature, performing arts, and foreign languages;

(11) the National Writing Project teacher-teaching-teachers program identifies and promotes what is working in the classrooms of the Nation's best teachers;

(12) the National Writing Project teacher-teaching-teachers project is a positive program that celebrates good teaching practices and good teachers and through its work with schools increases the Nation's corps of successful classroom teachers;

(13) evaluations of the National Writing Project document the positive impact the project has had on improving the teaching of writing, student performance, and student thinking and learning ability;

(14) the National Writing Project programs offer career-long education to teachers, and teachers participating in the National Writing Project receive graduate academic credit;

(15) each year over 100,000 teachers voluntarily seek training in National Writing Project intensive summer institutes and workshops and school year in-service programs through one of the 154 regional sites located in 45 States, the Commonwealth of Puerto Rico, and in 4 sites that serve United States teachers in United States dependent and independent schools;

(16) 250 National Writing Project sites are needed to establish regional sites to serve all teachers;

(17) private foundation resources, although generous in the past, are inadequate to fund all of the National Writing Project sites needed and the future of the program is in jeopardy without secure financial support;

(18) independent evaluation studies have found the National Writing Project to be highly cost effective compared to other professional development programs for teachers; and

(19) during 1991, the first year of Federal support for the National Writing Project, the National Writing Project matched the $1,951,975 in Federal support with $9,485,504 in matching funds from State, local, and other sources.

(Pub. L. 89–10, title X, § 10991, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3859.)

§ 8332. National Writing Project

(a) Authorization

The Secretary is authorized to make a grant to the National Writing Project (hereafter in this section referred to as the ''grantee''), a nonprofit educational organization which has as its primary purpose the improvement of the quality of student writing and learning, and the teaching of writing as a learning process in the Nation's classrooms—

(1) to support and promote the establishment of teacher training programs, including the dissemination of effective practices and research findings regarding the teaching of writing and administrative activities;

(2) to support classroom research on effective teaching practice and to document student performance;

(3) to coordinate activities assisted under this section with activities assisted under subchapter II of this chapter; and

(4) to pay the Federal share of the cost of such programs.

(b) Requirements of grant

The grant shall provide that—

(1) the grantee will enter into contracts with institutions of higher education or other nonprofit educational providers (hereafter in this section referred to as ''contractors'') under which the contractors will agree to establish, operate, and provide the non-Federal share of the cost of teacher training programs in effective approaches and processes for the teaching of writing;

(2) funds made available by the Secretary to the grantee pursuant to any contract entered into under this section will be used to pay the Federal share of the cost of establishing and operating teacher training programs as provided in paragraph (1); and

(3) the grantee will meet such other conditions and standards as the Secretary determines to be necessary to assure compliance with the provisions of this section and will provide such technical assistance as may be necessary to carry out the provisions of this section.

(c) Teacher training programs

The teacher training programs authorized in subsection (a) of this section shall—

(1) be conducted during the school year and during the summer months;

(2) train teachers who teach grades kindergarten through college;

(3) select teachers to become members of a National Writing Project teacher network whose members will conduct writing workshops for other teachers in the area served by each National Writing Project site; and

(4) encourage teachers from all disciplines to participate in such teacher training programs.

(d) Federal share

(1) In general

Except as provided in paragraph (2) or (3) and for purposes of subsection (a) of this section, the term ''Federal share'' means, with respect to the costs of teacher training programs authorized in subsection (a) of this section, 50 percent of such costs to the contractor.

(2) Waiver

The Secretary may waive the provisions of paragraph (1) on a case-by-case basis if the National Advisory Board described in subsection (f) of this section determines, on the basis of financial need, that such waiver is necessary.

(3) Maximum

The Federal share of the costs of teacher training programs conducted pursuant to subsection (a) of this section may not exceed $40,000 for any one contractor, or $200,000 for a statewide program administered by any one contractor in at least five sites throughout the State.

(e) Classroom teacher grants

(1) In general

The National Writing Project may reserve an amount not to exceed 5 percent of the amount appropriated pursuant to the authority of this section to make grants, on a competitive basis, to elementary and secondary school teachers to pay the Federal share of the cost of enabling such teachers to—

(A) conduct classroom research;

(B) publish models of student writing;

(C) conduct research regarding effective practices to improve the teaching of writing; and

(D) conduct other activities to improve the teaching and uses of writing.

(2) Supplement and not supplant

Grants awarded pursuant to paragraph (1) shall be used to supplement and not supplant State and local funds available for the purposes set forth in paragraph (1).

(3) Maximum grant amount

Each grant awarded pursuant to this subsection shall not exceed $2,000.

(4) Federal share

For the purpose of this subsection the term ''Federal share'' means, with respect to the costs of activities assisted under this subsection, 50 percent of such costs to the elementary or secondary school teacher.

(f) National Advisory Board

(1) Establishment

The National Writing Project shall establish and operate a National Advisory Board.

(2) Composition

The National Advisory Board established pursuant to paragraph (1) shall consist of—

(A) national educational leaders;

(B) leaders in the field of writing; and

(C) such other individuals as the National Writing Project deems necessary.

(3) Duties

The National Advisory Board established pursuant to paragraph (1) shall—

(A) advise the National Writing Project on national issues related to student writing and the teaching of writing;

(B) review the activities and programs of the National Writing Project; and

(C) support the continued development of the National Writing Project.

(g) Evaluation

(1) In general

The Secretary shall conduct an independent evaluation by grant or contract of the teacher training programs administered pursuant to this chapter in accordance with section 8941 of this title. Such evaluation shall specify the amount of funds expended by the National Writing Project and each contractor receiving assistance under this section for administrative costs. The results of such evaluation shall be made available to the appropriate committees of the Congress.

(2) Funding limitation

The Secretary shall reserve not more than $150,000 from the total amount appropriated pursuant to the authority of subsection (i) of this section for fiscal year 1994 and the four succeeding fiscal years to conduct the evaluation described in paragraph (1).

(h) Application review

(1) Review Board

The National Writing Project shall establish and operate a National Review Board that shall consist of—

(A) leaders in the field of research in writing; and

(B) such other individuals as the National Writing Project deems necessary.

(2) Duties

The National Review Board shall—

(A) review all applications for assistance under this subsection; and

(B) recommend applications for assistance under this subsection for funding by the National Writing Project.

(i) Authorization of appropriations

There are authorized to be appropriated for the grant to the National Writing Project, $4,000,000 for fiscal year 1995, and such sums as may be necessary for each of the four succeeding fiscal years, to carry out the provisions of this section.

(Pub. L. 89–10, title X, § 10992, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3861.)

TERMINATION OF ADVISORY BOARDS

Advisory boards established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a board established by the President or an officer of the Federal Government, such board is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a board established by Congress, its duration is otherwise provided by law. See sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

PART L—EXTENDED TIME FOR LEARNING AND LONGER SCHOOL YEAR

§ 8351. Extended time for learning and longer school year

(a) Findings

The Congress finds that—

(1) the Commission on Time and Learning has found that—

(A) realizing the third National Education Goal, that states all students will leave grades four, eight and twelve having demonstrated competency in challenging subject matter, including English, mathematics, science, foreign languages, civics and government, economics, arts, history, and geography, will require considerably more common core learning time than most students now receive;

(B) ensuring that all students learn to high standards will require flexibility and innovation in the use of common core learning time, as well as the rest of the time students spend both during and beyond the school day;

(C) teachers need regular, sustained time for lesson development, collegial collaboration and other professional development;

(D) schools, businesses, community-based organizations, tribal leaders, and other community agencies and members should work together to foster effective learning and enrichment programs and activities for students, including programs that operate outside of the regular school day or year;

(E) for most students in the United States, the school year is 180 days long. In Japan students go to school 243 days per year, in Germany students go to school 240 days per year, in Austria students go to school 216 days per year, in Denmark students go to school 200 days per year, and in Switzerland students go to school 195 days per year; and

(F) in the final four years of schooling, students in schools in the United States are required to spend a total of 1,460 hours on core academic subjects, less than half of the 3,528 hours so required in Germany, the 3,280 hours so required in France, and the 3,170 hours so required in Japan;

(2) increasing the amount and duration of intensive, engaging and challenging learning activities geared to high standards can increase student motivation and achievement;

(3) the benefits of extending learning time, including common core instructional time, can be maximized by concurrent changes in curriculum and instruction, such as accelerated learning, and engaging, interactive instruction based on challenging content;

(4) maximizing the benefit of increased common core and other learning time will require the collaboration and cooperation of teachers and administrators, students, parents, community members and organizations, businesses and others to develop strategies to meet the needs of students during and beyond the school day and year;

(5) a competitive world economy requires that students in the United States receive education and training that is at least as rigorous and high-quality as the education and training received by students in competitor countries;

(6) despite our Nation's transformation from a farm-based economy to one based on manufacturing and services, the school year is still based on the summer needs of an agrarian economy;

(7) American students' lack of formal schooling is not counterbalanced with more homework. The opposite is true, as half of all European students report spending at least two hours on homework per day, compared to only 29 percent of American students. Twenty-two percent of American students watch five or more hours of television per day, while less than eight percent of European students watch that much television;

(8) more than half of teachers surveyed in the United States cite ''children who are left on their own after school'' as a major problem;

(9) over the summer months, disadvantaged students not only fail to advance academically, but many forget much of what such students had learned during the previous school year;

(10) funding constraints as well as the strong pull of tradition have made extending the school year difficult for most States and school districts; and

(11) experiments with extended and multitrack school years have been associated with

both increased learning and more efficient use of school facilities.

(b) Purposes

It is the purpose of this part to—

(1) provide seed money to schools and local educational agencies to enable such agencies to devise and implement strategies and methods for upgrading the quality of, and extending, challenging, engaging learning time geared to high standards for all students; and

(2) allow the Secretary to provide financial incentives and assistance to States or local educational agencies to enable such States or agencies to substantially increase the amount of time that students spend participating in quality academic programs, and to promote flexibility in school scheduling.

(c) Program authorized

(1) In general

The Secretary is authorized to award grants to local educational agencies having applications approved under subsection (d) of this section to enable such agencies to carry out the authorized activities described in subsection (e) of this section in public elementary and secondary schools.

(2) Amount

The Secretary shall, to the extent practicable, provide an equitable distribution of grants under this section.

(3) Duration

Each grant under subsection (a) of this section shall be awarded for a period of not more than three years.

(4) Priority

The Secretary shall give priority to awarding grants under this part to local educational agencies that serve schools with high percentages of students in poverty.

(d) Application

Each local educational agency desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require. Each such application shall describe—

(1) the activities for which assistance is sought;

(2) any study or other information-gathering project for which funds will be used;

(3) strategies and methods the applicant will use to enrich and extend learning time for all students and to maximize the percentage of common core learning time in the school day, such as block scheduling, team teaching, longer school days or years, and extending learning time through new distance-learning technologies;

(4) the strategies and methods the applicant will use, including changes in curriculum and instruction, to challenge and engage students and to maximize the productiveness of common core learning time, as well as the total time students spend in school and in school-related enrichment activities;

(5) the strategies and methods the applicant intends to employ to provide continuing financial support for the implementation of any extended school day or school year;

(6) with respect to any application seeking assistance for activities described under subsection (e)(4) of this section, a description of any feasibility or other studies demonstrating the sustainability of a longer school year;

(7) the extent of involvement of teachers and other school personnel in investigating, designing, implementing and sustaining the activities assisted under this part;

(8) the process to be used for involving parents and other stakeholders in the development and implementation of the activities assisted under this part;

(9) any cooperation or collaboration among public housing authorities, libraries, businesses, museums, community-based organizations, and other community groups and organizations to extend engaging, high-quality, standards-based learning time outside of the school day or year, at the school or at some other site;

(10) the training and professional development activities that will be offered to teachers and others involved in the activities assisted under this part;

(11) the goals and objectives of the activities assisted under this part, including a description of how such activities will assist all students to reach State standards;

(12) the methods by which the applicant will assess progress in meeting such goals and objectives; and

(13) how the applicant will use funds provided under this part in coordination with other funds provided under this chapter or other Federal laws.

(e) Authorized activities

Funds under this section may be used—

(1) to study the feasibility of, and effective methods for, extending learning time within or beyond the school day or year, including consultation with other schools or local educational agencies that have designed or implemented extended learning time programs;

(2) to conduct outreach to and consult with community members, including parents, students, and other stakeholders, such as tribal leaders, to develop a plan to extend learning time within or beyond the school day or year;

(3) to develop and implement an outreach strategy that will encourage collaboration with public housing authorities, libraries, businesses, museums, community-based organizations, and other community groups and organizations to coordinate challenging, high-quality educational activities outside of the school day or year;

(4) to support public school improvement efforts that include expansion of time devoted to core academic subjects and the extension of the school year to 210 days;

(5) to research, develop and implement strategies, including changes in curriculum and instruction, for maximizing the quality and percentage of common core learning time in the school day and extending learning time during or beyond the school day or year;

(6) to provide professional development for school staff in innovative teaching methods

that challenge and engage students, and also increase the productivity of extended learning time; and

(7) to develop strategies to include parents, business representatives, and other community members in the extended time activities, especially as facilitators of activities that enable teachers to have more time for planning, individual student assistance, and professional development activities.

(f) "Common core learning time" defined

For the purpose of this section the term ''common core learning time'' means high-quality, engaging instruction in challenging content in each of the following core academic subjects described in the third National Education Goal:

(1) English.
(2) Mathematics.
(3) Science.
(4) Foreign languages.
(5) Civics and government.
(6) Economics.
(7) Arts.
(8) History.
(9) Geography.

(g) Administration

(1) Peer review

The Secretary shall award grants under this section pursuant to a peer review process.

(2) Diversity

In awarding grants under this section the Secretary shall ensure that such grants are awarded to a diversity of local educational agencies, including such agencies that serve rural and urban areas.

(h) Appropriations authorization

(1) In general

For the purpose of carrying out this section there are authorized to be appropriated $90,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

(2) Limitation

Not less than 80 percent of any amount appropriated under paragraph (1) shall be made available to applicants seeking to extend their school year to not fewer than 210 days.

(Pub. L. 89–10, title X, § 10993, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3863.)

PART M—TERRITORIAL ASSISTANCE

§ 8371. General assistance for Virgin Islands

There are authorized to be appropriated $5,000,000 for fiscal year 1995 and for each of the 4 succeeding fiscal years, for the purpose of providing general assistance to improve public education in the Virgin Islands.

(Pub. L. 89–10, title X, § 10995, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3867.)

SUBCHAPTER XI—COORDINATED SERVICES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1413, 8826 of this title.

§ 8401. Findings and purpose

(a) Findings

The Congress finds the following:

(1) Growing numbers of children are negatively affected by influences outside of the classroom which increase such children's risk of academic failure.

(2) Factors such as poor nutrition, unsafe living conditions, physical and sexual abuse, family and gang violence, inadequate health care, unemployment, lack of child care, and substance abuse, adversely affect family relationships and the ability of a child to learn.

(3) Parents and other caregivers in today's high pressure society often face demands which place restraints on such parents' and caregivers' time and affect such parents' and caregivers' ability to adequately provide for the needs of the families of such parents and caregivers.

(4) Access to health and social service programs can address the basic physical and emotional needs of children so that children can fully participate in the learning experiences offered children in school.

(5) Services for at-risk students need to be more convenient, and less fragmented, regulated and duplicative, in order to meet the needs of children and their families.

(6) School personnel, parents, and support service providers often lack knowledge of, and access to, available services for at-risk students and their families in the community, and have few resources to coordinate services and make services accessible.

(7) Service providers, such as teachers, social workers, health care and child care providers, juvenile justice workers and others, are often trained in separate disciplines that provide little support for the coordination of services.

(8) Coordination of services is more cost effective because such coordination substitutes prevention for expensive crisis intervention.

(9) Coordinating health and social services with education can help the Nation meet the National Education Goals by ensuring better outcomes for children.

(b) Purpose of coordinating services

The purpose of this subchapter is to provide elementary and secondary school students and their families better access to the social, health and education services necessary for students to succeed in school and for their families to take an active role in ensuring that such students receive the best possible education.

(Pub. L. 89–10, title XI, § 11001, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3867.)

§ 8402. Definitions

For the purpose of this subchapter—

(1) the term ''coordinated services project'' means a comprehensive approach to meeting the educational, health, social service, and other needs of children and their families, including foster children and their foster families, through a communitywide partnership that links public and private agencies providing such services or access to such services through a coordination site at or near a school; and

(2) the term ''eligible entity'' means a local educational agency, school, or a consortium of schools.

(Pub. L. 89–10, title XI, § 11002, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3868.)

§ 8403. Authority

In order to use funds made available under section 8826(b) of this title for the development, or the implementation or expansion, of a coordinated service project an eligible entity shall have an application approved under subsection (b) or (c), respectively, of section 8404 of this title.

(Pub. L. 89–10, title XI, § 11003, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3868.)

§ 8404. Project development and implementation

(a) Applications

Each eligible entity desiring to use funds made available under section 8826(b) of this title shall submit an application to the Secretary at such time, in such manner and accompanied by such information as the Secretary may reasonably require.

(b) Project development plan

The application for the development of the coordinated services project under this subchapter shall cover a period of not more than 1 year and shall include a plan that—

(1) demonstrates that an assessment will be performed of the economic, social, and health barriers to educational achievement experienced by children and families, including foster children and their foster families, in the community, and the local, State, Federal, and privately funded services available to meet such needs;

(2) identifies the measures that will be taken to establish a communitywide partnership that links public and private agencies providing services to children and families; and

(3) identifies any other measures that will be taken to develop a comprehensive plan for the implementation or expansion of a coordinated services project.

(c) Project implementation or expansion plan

The application for the implementation or expansion of a coordinated services project under this subchapter shall contain a plan that includes—

(1) the results of a children and families needs assessment, which shall include an assessment of the needs of foster children;

(2) a description of the entities operating the coordinated services project;

(3) a description of the proposed coordinated services project, the objectives of such project, where such project will be located, and the staff that will be used to carry out such project;

(4) a description of how the success of the coordinated services project will be evaluated;

(5) a description of the training to be provided to teachers and appropriate personnel;

(6) information regarding whether a sliding scale fee for services will be employed, and if not, an explanation of why such scale is not feasible; and

(7) when applicable, strategies to ensure that the health and welfare needs of migratory families are addressed.

(Pub. L. 89–10, title XI, § 11004, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3868.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 8403, 8405 of this title.

§ 8405. Uses of funds

(a) Uses

(1) In general

Funds made available under section 8826(b) of this title may be used for planning for, or the implementation or expansion of, activities which include—

(A) hiring a services coordinator;

(B) making minor renovations to existing buildings;

(C) purchasing basic operating equipment;

(D) improving communications and information-sharing among entities participating in the coordinated services project;

(E) providing training to teachers and appropriate personnel concerning such teacher's and personnel's role in a coordinated services project; or

(F) conducting the needs assessment required in section 8404(b)(1) of this title.

(2) Prohibition

Funds made available under section 8826(b) of this title shall not be used for the direct provision of any health or health-related services.

(b) Federal funds to supplement, not supplant, non-Federal funds

An eligible entity shall use funds received under this subchapter only to supplement the amount of funds that would, in the absence of such Federal funds, be made available from non-Federal sources for coordinated services, and not to supplant such funds.

(Pub. L. 89–10, title XI, § 11005, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3869.)

§ 8406. Continuing authority

The Secretary shall prohibit an eligible entity from using funds made available under section 8826(b) of this title if the Secretary determines that the coordinated services project assisted under this subchapter is not achieving effective coordination after two years of implementation of such project.

(Pub. L. 89–10, title XI, § 11006, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3870.)

§ 8407. Federal agency coordination

(a) Agency coordination

The Secretaries of Education, Health and Human Services, Labor, Housing and Urban Development, Treasury, and Agriculture, and the Attorney General shall review the programs administered by their agencies to identify barriers to service coordination.

(b) Report to Congress

Such Secretaries and the Attorney General shall submit jointly a report to the Congress not

later than two years after October 20, 1994, based on the review required under subsection (a) of this section recommending legislative and regulatory action to address such barriers, and during the time preceding the submission of such report, shall use waiver authorities authorized under this chapter and other Acts to address such barriers.

(Pub. L. 89–10, title XI, § 11007, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3870.)

SUBCHAPTER XII—SCHOOL FACILITIES INFRASTRUCTURE IMPROVEMENT

§ 8501. Short title

This subchapter may be cited as the ''Education Infrastructure Act of 1994''.

(Pub. L. 89–10, title XII, § 12001, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3870.)

§ 8502. Findings

The Congress finds the following:

(1) According to a 1991 survey conducted by the American Association of School Administrators, 74 percent of all public school buildings in the United States need to be replaced.

(2) Almost one-third of such buildings were built prior to World War II.

(3) It is estimated that one of every four public school buildings in the United States is in inadequate condition, and of such buildings, 61 percent need maintenance or major repairs, 43 percent are obsolete, 42 percent contain environmental hazards, 25 percent are overcrowded, and 13 percent are structurally unsound.

(4) Large numbers of local educational agencies have difficulties securing financing for school facility improvement, including school libraries, media centers, and facilities.

(5) Improving the quality of public elementary and secondary schools will help our Nation meet the National Education Goals.

(6) The challenges facing our Nation's public elementary and secondary schools require the concerted and collaborative efforts of all levels of government and all sectors of the community.

(Pub. L. 89–10, title XII, § 12002, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3870.)

§ 8503. Purpose

The purpose of this subchapter is to help the Nation meet the National Education Goals through the provision of Federal funds to enable local educational agencies to meet the costs associated with the improvement of schools within their jurisdiction.

(Pub. L. 89–10, title XII, § 12003, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3871.)

§ 8504. Improvement of public elementary and secondary education facilities program authorized

(a) Program authority

(1) In general

From amounts appropriated under section 8513 of this title for any fiscal year, the Secretary shall award grants to eligible local educational agencies with applications approved under section 8505 of this title to carry out the authorized activities described in section 8507 of this title.

(2) Special rule

The Secretary may reserve not more than 1 percent of the amount appropriated under section 8513 of this title to provide assistance to Indian schools in accordance with this subchapter.

(b) Award categories

(1)[1] In general

From the funds appropriated to carry out this subchapter for each fiscal year, the Secretary shall award grants to eligible local educational agencies in each of the following categories:

(A) Eligible local educational agencies in which the number of students enrolled is less than 2,500.

(B) Such agencies in which such number is 2,500 or greater but less than 5,000.

(C) Such agencies in which such number is 5,000 or greater but less than 10,000.

(D) Such agencies in which such number is 10,000 or greater but less than 25,000.

(E) Such agencies in which such number is 25,000 or greater but less than 50,000.

(F) Such agencies in which such number is 50,000 or greater.

(c) Maximum award amounts

The Secretary shall annually set the maximum award amounts for each category described in subsection (b)(1) of this section.

(Pub. L. 89–10, title XII, § 12004, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3871.)

§ 8505. Award of grants

(a) Criteria

The Secretary shall award grants under this subchapter on the basis of—

(1) high numbers or percentages of the total number of children aged 5 to 17, inclusive, residing in the geographic area served by an eligible local educational agency who are counted under subpart 2 of part A of subchapter I of this chapter;

(2) the extent to which the eligible local educational agency lacks the fiscal capacity, including the ability to raise funds through the full use of such agency's bonding capacity and otherwise, to undertake the project without Federal assistance;

(3) the threat of the condition of the physical plant poses to the safety and well-being of students;

(4) the demonstrated need for the construction, reconstruction, or renovation based on the condition of the facility;

(5) the age of the facility to be renovated or replaced; and

(6) such other criteria as the Secretary may prescribe by regulation.

(b) Allocation among categories

The Secretary shall allocate funds under this subchapter among each of the categories de-

[1] So in original. No par. (2) has been enacted.

scribed in paragraph (1)[1] on such basis as the Secretary determines is appropriate, including—

(1) the relative numbers or percentages of students counted under subpart 2 of part A of subchapter I of this chapter; and

(2) the relative costs of carrying out activities under this subchapter in eligible local educational agencies in each such category.

(c) Frequency of awards

No local educational agency may receive more than one grant under this subchapter in any five-year period.

(d) Special rule

The Secretary shall only award grants under this subchapter if the Secretary determines that sufficient funds will be provided under this subchapter or from other sources, such as the issuance of bonds, or savings generated from performance contracting, to carry out the activities for which assistance is sought.

(Pub. L. 89–10, title XII, § 12005, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3871.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 8504 of this title.

§ 8506. Applications

(a) Applications required

Each eligible local educational agency desiring to receive a grant under this subchapter shall submit an application to the Secretary.

(b) Application contents

Each application described in subsection (a) of this section shall contain—

(1) an assurance that the application was developed in consultation with parents and classroom teachers;

(2) a description of each architectural, civil, structural, mechanical, or electrical deficiency to be corrected with funds provided under this subchapter, including the priority for the repair of the deficiency;

(3) a description of the criteria used by the applicant to determine the type of corrective action necessary to meet the purpose of this subchapter;

(4) a description of the improvement to be supported with funds provided under this subchapter;

(5) a cost estimate of the proposed improvement;

(6) an identification of other resources, such as unused bonding capacity, that are available to carry out the activities for which funds are requested under this subchapter;

(7) a description of how activities supported with funds provided under this subchapter will promote energy conservation; and

(8) such other information and assurances as the Secretary may reasonably require.

(Pub. L. 89–10, title XII, § 12006, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3872.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 8512 of this title.

[1] So in original. Probably should be ''paragraph (1) of section 8504 (b) of this title''.

§ 8507. Authorized activities

(a) In general

Each eligible local educational agency receiving a grant under this subchapter shall use the grant funds only to ensure the health and safety of students through the repair, renovation, alteration, and construction of a public elementary or secondary school library, media center, or facility, used for academic or vocational instruction.

(b) Particular activities

Subject to subsection (a) of this section, each eligible local educational agency receiving a grant under this subchapter may use the grant funds to meet the requirements of section 794 of title 29 and the Americans with Disabilities Act of 1990 [42 U.S.C. 12101 et seq.].

(Pub. L. 89–10, title XII, § 12007, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3872.)

REFERENCES IN TEXT

The Americans with Disabilities Act of 1990, referred to in subsec. (b), is Pub. L. 101–336, July 26, 1990, 104 Stat. 327, as amended, which is classified principally to chapter 126 (§ 12101 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of Title 42 and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 8504 of this title.

§ 8508. General provisions

(a) Budget and accounting

In the performance of, and with respect to, the functions, powers, and duties under this subchapter, the Secretary, notwithstanding the provisions of any other law, shall—

(1) prepare annually and submit a budget program as provided for wholly owned Government corporations by chapter 91 of title 31; and

(2) maintain a set of accounts which shall be audited by the Comptroller General in accordance with the provisions of chapter 35 of title 31, but such financial transactions of the Secretary, as the making of loans and vouchers approved by the Secretary, in connection with such financial transactions shall be final and conclusive upon all officers of the Government.

(b) Use of funds

Funds made available to the Secretary pursuant to the provisions of this subchapter shall be deposited in a checking account or accounts with the Treasurer of the United States. Receipts and assets obtained or held by the Secretary in connection with the performance of functions under this subchapter, and all funds available for carrying out the functions of the Secretary under this subchapter (including appropriations therefor, which are hereby authorized), shall be available, in such amounts as may from year to year be authorized by the Congress, for the administrative expenses of the Secretary in connection with the performance of such functions.

(c) Legal powers

In the performance of, and with respect to, the functions, powers, and duties under this sub-

chapter, the Secretary, notwithstanding the provisions of any other law, may—

(1) prescribe such rules and regulations as may be necessary to carry out the purposes of this subchapter;

(2) sue and be sued;

(3) foreclose on any property or commence any action to protect or enforce any right conferred upon the Secretary by any law, contract, or other agreement, and bid for and purchase at any foreclosure or any other sale any property in connection with which the Secretary has made a loan pursuant to this subchapter;[1]

(4) in the event of any such acquisition, notwithstanding any other provision of law relating to the acquisition, handling, or disposal of real property by the United States, complete, administer, remodel and convert, dispose of, lease, and otherwise deal with, such property, but any such acquisition of real property shall not deprive any State or political subdivision of such State civil or criminal jurisdiction in and over such property or impair the civil rights under the State or local laws of the inhabitants on such property;

(5) sell or exchange at public or private sale, or lease, real or personal property, and sell or exchange any securities or obligations, upon such terms as the Secretary may fix;

(6) obtain insurance against loss in connection with property and other assets held; and

(7) include in any contract or instrument made pursuant to this subchapter such other covenants, conditions, or provisions as may be necessary to assure that the purposes of this subchapter will be achieved.

(d) Contracts for supplies or services

Section 5 of title 41 shall not apply to any contract for services or supplies on account of any property acquired pursuant to this subchapter[1] if the amount of such contract does not exceed $1,000.

(e) Applicability of chapter 91 of title 31

The provisions of section 9107(a) of title 31 which are applicable to corporations or agencies subject to chapter 91 of such title, shall also be applicable to the activities of the Secretary under this subchapter.

(Pub. L. 89–10, title XII, § 12008, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3873.)

REFERENCES IN TEXT

This subchapter, referred to in subsec. (c)(3), was in the original ''this part'' and was translated as reading ''this title'', meaning title XII (§§ 12001–12013) of Pub. L. 89–10, to reflect the probable intent of Congress, because title XII of Pub. L. 89–10 does not contain parts.

This subchapter, referred to in subsec. (d), was in the original ''this subtitle'' and was translated as reading ''this title'', meaning title XII (§§ 12001–12013) of Pub. L. 89–10, to reflect the probable intent of Congress, because title XII of Pub. L. 89–10 does not contain subtitles.

§ 8509. Fair wages

All laborers and mechanics employed by contractors or subcontractors in the performance of any contract and subcontract for the repair, renovation, alteration, or construction, including painting and decorating, of any building or work that is financed in whole or in part by a grant under this subchapter, shall be paid wages not less than those determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (commonly known as the Davis-Bacon Act); as amended (40 U.S.C. 276a–276a–5). The Secretary of Labor shall have the authority and functions set forth in reorganization plan of[1] No. 14 of 1950 (15 FR 3176; 64 Stat. 1267) and section 276c[2] of title 40.

(Pub. L. 89–10, title XII, § 12009, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3874.)

REFERENCES IN TEXT

The Davis-Bacon Act, referred to in text, is act Mar. 3, 1931, ch. 411, 46 Stat. 1494, as amended, which is classified generally to sections 276a to 276a–5 of Title 40, Public Buildings, Property, and Works. For complete classification of this Act to the Code, see Short Title note set out under section 276a of Title 40 and Tables.

Reorganization plan No. 14 of 1950, referred to in text, is Reorg. Plan No. 14 of 1950, eff. May 24, 1950, 15 F.R. 3176, 64 Stat. 1267, which is set out in the Appendix to Title 5, Government Organization and Employees.

Section 276c of title 40, referred to in text, was in the original ''section 2 of the Act of June 1, 1934 (commonly known as the Copeland Anti-Kickback Act) as amended (40 U.S.C. 276c, 48 Stat. 948)'' and was translated as if it were a reference to section 2 of the Act of June 13, 1934, to reflect the probable intent of Congress.

§ 8510. Requirements

(a) Special rules

(1) Maintenance of effort

An eligible local educational agency may receive a grant under this subchapter for any fiscal year only if the Secretary finds that either the combined fiscal effort per student or the aggregate expenditures of that agency and the State with respect to the provision of free public education by such local educational agency for the preceding fiscal year was not less than 90 percent of such combined fiscal effort or aggregate expenditures for the fiscal year for which the determination is made.

(2) Supplement not supplant

An eligible local educational agency shall use funds received under this subchapter only to supplement the amount of funds that would, in the absence of such Federal funds, be made available from non-Federal sources for the repair, renovation, alteration, and construction of school facilities used for educational purposes, and not to supplant such funds.

(b) General limitations

(1) Real property

No part of any grant funds under this subchapter shall be used for the acquisition of any interest in real property.

(2) Maintenance

Nothing in this subchapter shall be construed to authorize the payment of mainte-

[1] See References in Text note below.

[1] So in original. The word ''of'' probably should not appear.

[2] See References in Text note below.

nance costs in connection with any projects constructed in whole or in part with Federal funds provided under this subchapter.

(3) Environmental safeguards

All projects carried out with Federal funds provided under this subchapter shall comply with all relevant Federal, State, and local environmental laws and regulations.

(4) Athletic and similar facilities

No funds received under this subchapter shall be used for stadiums or other facilities that are primarily used for athletic contests or exhibitions or other events for which admission is charged to the general public.

(Pub. L. 89–10, title XII, § 12010, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3874.)

§ 8511. Federal assessment

The Secretary shall reserve not more than 1 percent of funds appropriated for each fiscal year under section 8513[1] of this title—

(1) to collect such data as the Secretary determines necessary at the school, local, and State levels;

(2) to conduct studies and evaluations, including national studies and evaluations, in order to—

(A) monitor the progress of projects supported with funds provided under this subchapter; and

(B) evaluate the state of United States public elementary and secondary school libraries, media centers, and facilities; and

(3) to report to the Congress by July 1, 1997, regarding the findings of the studies and evaluations described in paragraph (2).

(Pub. L. 89–10, title XII, § 12011, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3875.)

REFERENCES IN TEXT

Section 8513 of this title, referred to in text, was in the original ''section 15013'', meaning section 15013 of Pub. L. 89–10, which was translated as reading section 12013 of that Act to reflect the probable intent of Congress, because Pub. L. 89–10 does not contain a section 15013, and section 12013 authorizes appropriations to carry out this subchapter.

§ 8512. Definitions

For the purpose of this subchapter—

(1) the term ''construction'' means the alteration or renovation of a building, structure, or facility, including—

(A) the concurrent installation of equipment; and

(B) the complete or partial replacement of an existing facility, but only if such replacement is less expensive and more cost-effective than alteration, renovation, or repair of the facility;

(2) the term ''school'' means a public structure suitable for use as a classroom, laboratory, library, media center, or related facility, the primary purpose of which is the instruction of public elementary and secondary school students; and

(3) the term ''eligible local educational agency'' means a local educational agency in which—

(A) not less than 15 percent of the children that reside in the geographic area served by such agency are eligible to be counted under subpart 2 of part A of subchapter I of this chapter; or

(B) the United States owns Federal property described in section 7713(5)[1] of this title, that has an assessed value (determined as of the time or times when acquired) aggregating 90 percent or more of the assessed value of all real property in such agency (determined as of the time or times when so acquired); and

(C) demonstrates in the application submitted under section 8506 of this title that such agency has urgent repair, renovation, alteration and construction needs for its public elementary or secondary schools used for academic or vocational instruction.

(Pub. L. 89–10, title XII, § 12012, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3875.)

REFERENCES IN TEXT

Section 7713(5) of this title, referred to in par. (3)(B), was in the original ''section 8015(5)'', meaning section 8015(5) of Pub. L. 89–10, which was translated as reading section 8013(5) of that Act to reflect the probable intent of Congress, because Pub. L. 89–10 does not contain a section 8015, and section 8013(5) describes Federal property owned by the United States.

§ 8513. Authorization

There are authorized to be appropriated to carry out this subchapter $200,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

(Pub. L. 89–10, title XII, § 12013, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3875.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 8504, 8511 of this title.

SUBCHAPTER XIII—SUPPORT AND ASSISTANCE PROGRAMS TO IMPROVE EDUCATION

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 6212 of this title.

§ 8601. Findings

The Congress finds that—

(1) high-quality technical assistance can enhance the improvements in teaching and learning achieved through the implementation of programs under this chapter;

(2) comprehensive technical assistance and effective program dissemination are essential ingredients of the overall strategy of the Improving America's Schools Act of 1994 to improve programs and provide all children opportunities to meet challenging State content standards and challenging State student performance standards;

(3) States, local educational agencies, tribes, and schools serving students with special

[1] See References in Text note below

[1] See References in Text note below.

needs, such as students with limited-English proficiency and students with disabilities, have great need for comprehensive technical assistance in order to use funds under this chapter to provide such students with opportunities to learn to[1] challenging State content standards and challenging State student performance standards;

(4) current technical assistance and dissemination efforts are fragmented and categorical in nature, and thus fail to address adequately the needs of States, local educational agencies and tribes for help in integrating into a coherent strategy for improving teaching and learning the various programs under this chapter with State and local programs and other education reform efforts;

(5) too little creative use is made of technology as a means of providing information and assistance in a cost-effective way;

(6) comprehensive technical assistance can help schools and school systems focus on improving opportunities for all children to meet challenging State content standards and challenging State student performance standards, as such schools and systems implement programs under this chapter;

(7) comprehensive technical assistance will provide coordinated assistance to help States, local educational agencies, tribes, participating colleges and universities, and schools integrate Federal, State, and local education programs in ways that contribute to improving schools and entire school systems;

(8) technical assistance in support of programs under this chapter should be coordinated with the Department's regional offices, the regional educational laboratories, State Literacy Resource Centers, vocational resource centers, and other technical assistance efforts supported by the Department; and

(9) technical assistance providers should prioritize assistance for local educational agencies and schools.

(Pub. L. 89–10, title XIII, § 13001, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3876.)

REFERENCES IN TEXT

The Improving America's Schools Act of 1994, referred to in par. (2), is Pub. L. 103–382, Oct. 20, 1994, 108 Stat. 3518. For complete classification of this Act to the Code, see Short Title of 1994 Amendment note set out under section 6301 of this title and Tables.

§ 8602. Purpose

The purpose of this subchapter is to create a national technical assistance and dissemination system to make available to States, local educational agencies, tribes, schools, and other recipients of funds under this chapter technical assistance in—

(1) administering and implementing programs under this chapter;

(2) implementing school reform programs in a manner that improves teaching and learning for all students;

(3) coordinating such programs with other Federal, State, and local education plans and activities, so that all students, particularly students at risk of educational failure, are provided opportunities to meet challenging State content standards and challenging State student performance standards; and

(4) adopting, adapting, and implementing promising and proven practices for improving teaching and learning.

(Pub. L. 89–10, title XIII, § 13002, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3876.)

PART A—COMPREHENSIVE REGIONAL ASSISTANCE CENTERS

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 6317, 6318, 7453, 7455, 8651 of this title.

§ 8621. Program authorized

(a) Comprehensive regional assistance centers

(1) In general

The Secretary is authorized to award grants to, or enter into contracts or cooperative agreements with, public or private nonprofit entities or consortia of such entities in order to establish a networked system of 15 comprehensive regional assistance centers to provide comprehensive training and technical assistance, related to administration and implementation of programs under this chapter, to States, local educational agencies, schools, tribes, community-based organizations, and other recipients of funds under this chapter.

(2) Consideration

In establishing comprehensive regional assistance centers and allocating resources among the centers, the Secretary shall consider—

(A) the geographic distribution of students assisted under subchapter I of this chapter;

(B) the geographic and linguistic distribution of students of limited-English proficiency;

(C) the geographic distribution of Indian students;

(D) the special needs of students living in urban and rural areas; and

(E) the special needs of States and outlying areas in geographic isolation.

(3) Special rule

The Secretary shall establish 1 comprehensive regional assistance center under this section in Hawaii.

(b) Service to Indians and Alaska Natives

The Secretary shall ensure that each comprehensive regional assistance center that serves a region with a significant population of Indian or Alaska Native students shall—

(1) be awarded to a consortium which includes a tribally controlled community college or other Indian organization; and

(2) assist in the development and implementation of instructional strategies, methods and materials which address the specific cultural and other needs of Indian or Alaska Native students.

(c) Accountability

To ensure the quality and effectiveness of the networked system of comprehensive regional as-

[1] So in original. The word ''to'' probably should not appear.

sistance centers supported under this part, the Secretary shall—

(1) develop, in consultation with the Assistant Secretary for Elementary and Secondary Education, the Director of Bilingual Education and Minority Languages Affairs, and the Assistant Secretary for Educational Research and Improvement, a set of performance indicators that assesses whether the work of the centers assists in improving teaching and learning under this chapter for all children, particularly children at risk of educational failure;

(2) conduct surveys every two years of populations to be served under this chapter to determine if such populations are satisfied with the access to and quality of such services;

(3) collect, as part of the Department's reviews of programs under this chapter, information about the availability and quality of services provided by the centers, and share that information with the centers; and

(4) take whatever steps are reasonable and necessary to ensure that each center performs its responsibilities in a satisfactory manner, which may include—

(A) termination of an award under this part (if the Secretary concludes that performance has been unsatisfactory) and the selection of a new center; and

(B) whatever interim arrangements the Secretary determines are necessary to ensure the satisfactory delivery of services under this part to an affected region.

(d) Duration

Grants, contracts or cooperative agreements under this section shall be awarded for a period of 5 years.

(Pub. L. 89–10, title XIII, § 13101, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3877.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 8622 of this title.

§ 8622. Requirements of comprehensive regional assistance centers

(a) In general

Each comprehensive regional assistance center established under section 8621(a) of this title shall—

(1) maintain appropriate staff expertise and provide support, training, and assistance to State educational agencies, tribal divisions of education, local educational agencies, schools, and other grant recipients under this chapter, in—

(A) improving the quality of instruction, curricula, assessments, and other aspects of school reform, supported with funds under subchapter I of this chapter;

(B) implementing effective schoolwide programs under section 6314 of this title;

(C) meeting the needs of children served under this chapter, including children in high-poverty areas, migratory children, immigrant children, children with limited-English proficiency, neglected or delinquent children, homeless children and youth, Indian children, children with disabilities, and, where applicable, Alaska Native children and Native Hawaiian children;

(D) implementing high-quality professional development activities for teachers, and where appropriate, administrators, pupil services personnel and other staff;

(E) improving the quality of bilingual education, including programs that emphasize English and native language proficiency and promote multicultural understanding;

(F) creating safe and drug-free environments, especially in areas experiencing high levels of drug use and violence in the community and school;

(G) implementing educational applications of technology;

(H) coordinating services and programs to meet the needs of students so that students can fully participate in the educational program of the school;

(I) expanding the involvement and participation of parents in the education of their children;

(J) reforming schools, school systems, and the governance and management of schools;

(K) evaluating programs; and

(L) meeting the special needs of students living in urban and rural areas and the special needs of local educational agencies serving urban and rural areas;

(2) ensure that technical assistance staff have sufficient training, knowledge, and expertise in how to integrate and coordinate programs under this chapter with each other, as well as with other Federal, State, and local programs and reforms;

(3) provide technical assistance using the highest quality and most cost-effective strategies possible;

(4) coordinate services, work cooperatively, and regularly share information with, the regional educational laboratories, the Eisenhower regional consortia under part C of this subchapter, research and development centers, State literacy centers authorized under the National Literacy Act of 1991, and other entities engaged in research, development, dissemination, and technical assistance activities which are supported by the Department as part of a Federal technical assistance system, to provide a broad range of support services to schools in the region while minimizing the duplication of such services;

(5) work collaboratively with the Department's regional offices;

(6) consult with representatives of State educational agencies, local educational agencies, and populations served under this chapter;

(7) provide services to States, local educational agencies, tribes, and schools, in coordination with the National Diffusion Network State Facilitators activities under section 8651 of this title, in order to better implement the purposes of this part and provide the support and assistance diffusion agents need to carry out such agents' mission effectively; and

(8) provide professional development services to State educational agencies, local educational agencies, and the National Diffusion

Network State Facilitators to increase the capacity of such entities to provide high-quality technical assistance in support of programs under this chapter.

(b) Priority

Each comprehensive regional assistance center assisted under this part shall give priority to servicing—

(1) schoolwide programs under section 6314 of this title; and

(2) local educational agencies and Bureau-funded schools with the highest percentages or numbers of children in poverty.

(Pub. L. 89–10, title XIII, § 13102, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3878.)

REFERENCES IN TEXT

The National Literacy Act of 1991, referred to in subsec. (a)(4), is Pub. L. 102–73, July 25, 1991, 105 Stat. 333, as amended. For complete classification of this Act to the Code, see Short Title of 1991 Amendment note set out under section 1201 of this title and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 8623 of this title.

§ 8623. Maintenance of service and application requirements

(a) Maintenance of service

The Secretary shall ensure that the comprehensive regional assistance centers funded under this part provide technical assistance services that address the needs of educationally disadvantaged students, including students in urban and rural areas, and bilingual, migrant, immigrant, and Indian students, that are at least comparable to the level of such technical assistance services provided under programs administered by the Secretary on the day preceding October 20, 1994.

(b) Application requirements

Each entity or consortium desiring assistance under this part shall submit an application to the Secretary at such time, in such manner and accompanied by such information, as the Secretary may require. Each such application shall—

(1) demonstrate how the comprehensive regional assistance center will provide expertise and services in the areas described in section 8622 of this title;

(2) demonstrate how such centers will work with the National Diffusion Network under section 8651 of this title to conduct outreach to local educational agencies receiving priority under section 8701 of this title;

(3) demonstrate support from States, local educational agencies and tribes in the area to be served;

(4) demonstrate how such centers will ensure a fair distribution of services to urban and rural areas; and

(5) provide such other information as the Secretary may require.

(Pub. L. 89–10, title XIII, § 13103, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3879.)

§ 8624. Transition

(a) In general

The Secretary shall use funds appropriated to carry out this part for fiscal years 1995 and 1996 in order to ensure an orderly transition and phase in of the comprehensive regional assistance centers assisted under this part.

(b) Extension of previous centers

(1) In general

The Secretary shall, notwithstanding any other provision of law, use funds appropriated under section 8625 of this title to extend or continue contracts and grants for existing categorical technical assistance centers assisted under this Act (as such Act was in effect on the day preceding October 20, 1994) through fiscal year 1996, and take other necessary steps to ensure a smooth transition of services provided under this part and that such services will not be interrupted, curtailed, or substantially diminished.

(2) Staff expertise

In planning for the competition for the new comprehensive regional assistance centers under this part, the Secretary may draw on the expertise of staff from existing categorical assistance centers assisted under this Act prior to October 20, 1994.

(Pub. L. 89–10, title XIII, § 13104, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3880.)

REFERENCES IN TEXT

This Act, as such Act was in effect on the day preceding October 20, 1994, and this Act prior to October 20, 1994, referred to in subsec. (b), are Pub. L. 89–10, as added by Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 140, as amended known as the Elementary and Secondary Education Act of 1965, which was classified generally to chapter 47 (§ 2701 et seq.) of this title prior to the general amendment of that Act by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519.

§ 8625. Authorization of appropriations

For the purpose of carrying out this part, there are authorized to be appropriated $70,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

(Pub. L. 89–10, title XIII, § 13105, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3880.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 8624 of this title.

PART B—NATIONAL DIFFUSION NETWORK

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 2420 of this title.

§ 8651. Program authorized

(a) Authority

(1) In general

In order to implement the purposes of this subchapter, the Secretary is authorized to establish the National Diffusion Network (hereafter referred to in this chapter as ''NDN'') to carry out a State-based outreach, consultation, training, and dissemination program.

(2) Program requirements

In carrying out the program under this part, the Secretary shall award grants and contracts to National Diffusion Network State

Facilitators in each State and outlying area, and to the Bureau of Indian Affairs, in order to assist State and local educational agencies, schools, and other appropriate educational entities—

(A) to identify and secure appropriate, high-quality technical assistance from the comprehensive regional assistance centers under part A of this subchapter and other sources; and

(B) to identify and implement exemplary or promising educational programs and practices.

(b) Eligible entities

The Secretary shall award grants and contracts under this section to public or private nonprofit organizations or institutions with demonstrated expertise in the areas of applied education research and program dissemination.

(c) Administration

The program under this part shall be administered through the Office of Reform Assistance and Dissemination established under section 6041(b) of this title.

(d) Coordination

The National Diffusion Network State Facilitators shall work in close cooperation, and coordinate their activities, with the comprehensive regional assistance centers established under part A of this subchapter.

(e) State facilitator activities

The National Diffusion Network State Facilitators shall provide professional development and technical assistance services to assist State educational agencies, local educational agencies, tribal divisions of education, schools, family and adult literacy programs, and other entities assisted under this chapter, in—

(1) defining such entities' technical assistance needs and aligning such needs with school reform under subchapter I of this chapter, professional development, and technology plans;

(2) securing the technical assistance and professional development services that can best fulfill such needs by utilizing the services of the comprehensive regional assistance centers, the regional education laboratories, the Eisenhower regional consortia, State Literacy Resource Centers authorized under the National Literacy Act of 1991 and other technical assistance providers, including local providers of professional development services;

(3) identifying educational technology needs and securing the necessary technical assistance to address such needs in coordination with the Eisenhower regional consortia under part C of this subchapter and the regional technical assistance and professional development consortia under subpart 3[1] of subchapter III of this chapter; and

(4) utilizing technology, including regional and national electronic networks, to increase such entities' access to technical assistance, professional development services, and dissemination of effective programs and promising practices.

(f) Additional duties

In addition, National Diffusion Network State Facilitators shall—

(1) disseminate information about school reform and effective and promising practices, and help local educational agencies and schools adapt such reform and practices to such agencies' needs;

(2) identify educational programs and practices for possible dissemination throughout the State and Nation;

(3) promote and facilitate teacher networks throughout the State;

(4) develop and implement an aggressive outreach plan for reaching the local educational agencies and schools receiving priority under section 8701 of this title; and

(5) provide such other outreach, coordination, and dissemination services as may be necessary to achieve the purposes of this subchapter.

(g) National Diffusion Network effective programs and promising practices system

(1) In general

The Secretary shall develop a system of validating effective programs and promising practices for dissemination through the National Diffusion Network. Such system may include exemplary programs funded through any office of the Department, the National Science Foundation, or other Federal agencies and shall be coordinated, aligned with, and administered by, the Office of Reform Assistance and Dissemination established under section 6041(b) of this title.

(2) Priority

The Secretary shall give priority to identifying, validating, and disseminating effective schoolwide projects, programs addressing the needs of high poverty schools, and programs with the capacity to offer high-quality, sustained technical assistance. The Office of Educational Research and Improvement Office of Reform Assistance and Dissemination shall also administer a grant program for the purpose of dissemination and the provision of technical assistance regarding such system.

(3) Priority of services

The National Diffusion Network State Facilitators shall give priority in providing the services described in this section to—

(A) schoolwide program under section 6314 of this title; and

(B) local educational agencies and Bureau-funded schools with the highest percentages or numbers of children in poverty.

(Pub. L. 89–10, title XIII, §13201, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3880.)

REFERENCES IN TEXT

The National Literacy Act of 1991, referred to in subsec. (e)(2), is Pub. L. 102–73, July 25, 1991, 105 Stat. 333, as amended. For complete classification of this Act to the Code, see Short Title of 1991 Amendment note set out under section 1201 of this title and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 8622, 8623 of this title.

[1] So in original. Probably should be ''subpart 3 of part A''.

§ 8652. Authorization of appropriations

For the purpose of carrying out this part, there are authorized to be appropriated $25,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

(Pub. L. 89–10, title XIII, § 13202, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3882.)

PART C—EISENHOWER REGIONAL MATHEMATICS AND SCIENCE EDUCATION CONSORTIA

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 6622, 6861, 8622, 8651 of this title.

§ 8671. Program established

(a) In general

(1) Grants authorized

The Secretary, in consultation with the Director of the National Science Foundation, is authorized to award grants or contracts to eligible entities to enable such entities to establish and operate regional mathematics and science education consortia for the purpose of—

(A) disseminating exemplary mathematics and science education instructional materials; and

(B) providing technical assistance for the implementation of teaching methods and assessment tools for use by elementary and secondary school students, teachers and administrators.

(2) Number

The Secretary, in accordance with the provisions of this section, shall award at least one grant or contract to an eligible entity in each region.

(3) Special rule

In any fiscal year, if the amount made available pursuant to section 8678 of this title is less than $4,500,000, then the Secretary may waive the provisions of paragraph (2) and award grants or contracts of sufficient size, scope, and quality to carry out this section.

(4) Designation

Each regional consortium assisted under this section shall be known as an ''Eisenhower regional consortium''.

(b) Grant term and review

Grants or contracts under this part shall be awarded for a period of not more than five years and shall be reviewed before the end of the 30-month period beginning on the date the grant or contract is awarded. Grants or contracts under this part shall be awarded before the end of the 12-month period beginning on the date of the enactment of an Act making appropriations to carry out this part.

(c) Amount

In awarding grants or contracts under this part, the Secretary shall ensure that there is a relatively equal distribution of the funds made available among the regions, except that the Secretary may award additional funds to a regional consortium on the basis of population and geographical conditions of the region being served.

(Pub. L. 89–10, title XIII, § 13301, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3882.)

CLUBS FOR BOYS AND GIRLS INTERESTED IN SCIENCE; AUTHORIZATION OF APPROPRIATIONS; PURPOSES; PERSONNEL AND FACILITIES

Pub. L. 85–875, Sept. 2, 1958, 72 Stat. 1700, provided: ''That in order to strengthen future scientific accomplishment in our Nation by assisting in the development of a body of boys and girls with a special interest in science, there is hereby authorized to be appropriated for the fiscal year ending June 30, 1959, and for each fiscal year thereafter, such sums, not in excess of $50,000, as may be necessary to enable the Commissioner of Education [now Secretary of Education] to encourage, foster, and assist in the establishment in localities throughout the Nation of clubs which are composed of boys and girls who have an especial interest in science.

''SEC. 2. (a) The Commissioner of Education [now Secretary of Education] shall carry out his duties under the first section with a view to the ultimate chartering by the Congress of a Corporation, similar to the Future Farmers of America, which will seek to—

''(1) develop an interest in science on the part of the young people of America,

''(2) provide an opportunity for the exchange of scientific information and ideas among members of the clubs,

''(3) encourage the promotion of science fairs at which members of the clubs may display their scientific works and projects, and

''(4) develop an awareness of the satisfactions to be derived through a career devoted to science.

''(b) The Commissioner of Education [now Secretary of Education] may utilize any of the personnel and facilities of the Office of Education [now Department of Education] in carrying out this Act.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 8672, 8677 of this title.

§ 8672. Use of funds

Funds provided under this part may be used by a regional consortium, under the direction of a regional board established under section 8674 of this title, to—

(1) work cooperatively with the other regional consortia, the Eisenhower National Clearinghouse for Science and Mathematics Education established under section 6622(b) of this title and federally funded technical assistance providers to more effectively accomplish the activities described in this section;

(2) assist, train and provide technical assistance to classroom teachers, administrators, and other educators to identify, implement, assess or adapt the instructional materials, teaching methods and assessment tools described in section 8671(a)(1) of this title;

(3) provide for the training of classroom teachers to enable such teachers to instruct other teachers, administrators, and educators in the use of the instructional materials, teaching methods and assessment tools described in section 8671(a)(1) of this title in the classroom;

(4) when necessary, provide financial assistance to enable teachers and other educators to attend and participate in the activities of the regional consortium;

(5) implement programs and activities designed to meet the needs of groups that are underrepresented in, and underserved by, mathematics and science education;

(6) assist State and local educational agencies in identifying science equipment needs and help such agencies or consortia thereof assess the need for and desirability of regional mathematics and science academies;

(7) develop and disseminate early childhood education mathematics and science instructional materials;

(8) disseminate information regarding informal mathematics and science education activities and programs offered by Federal agencies and private or public agencies and institutions within the region;

(9) collect data on activities assisted under this part in order to evaluate the effectiveness of the activities of the regional consortia;

(10) identify exemplary teaching practices and materials from within the region and communicate such practices and materials to the Eisenhower National Clearinghouse for Mathematics and Science Education;

(11) communicate, on a regular basis, with entities within the region who are delivering services to students and teachers of mathematics and science;

(12) assist in the development and evaluation of State and regional plans and activities that hold promise of bringing about systemic reform in student performance in mathematics and science; and

(13) increase the use of informal education entities (such as science technology centers, museums, libraries, Saturday academies, and 4H programs) for educational purposes to expand student knowledge and understanding.

(Pub. L. 89–10, title XIII, § 13302, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3883.)

§ 8673. Application and review

(a) In general

Each eligible entity desiring a grant or contract under this part shall submit an application to the Secretary at such time, in such manner, and accompanied by such additional information as the Secretary may reasonably require. Each such application shall—

(1) demonstrate that the eligible entity has demonstrated expertise in the fields of mathematics and science education;

(2) demonstrate that the eligible entity shall implement and disseminate mathematics and science education instructional materials, teaching methods, and assessment tools through a consortium of the region's mathematics and science education organizations and agencies;

(3) demonstrate that the eligible entity shall carry out the functions of the regional consortium;

(4) demonstrate that emphasis will be given to programs and activities designed to meet the needs of groups that are underrepresented in, and underserved by, mathematics and science education;

(5) demonstrate that the business community in the region served by the regional consortium will play an integral role in designing and supporting the regional consortium's work;

(6) demonstrate that the eligible entity will consider the resources of telecommunications partnerships assisted under the Star Schools Program Assistance Act (as such Act was in effect on the day preceding October 20, 1994) in carrying out the provisions of this part, where appropriate; and

(7) assure that the entity will conduct its activities and supervise its personnel in a manner that effectively ensures compliance with the copyright laws of the United States under title 17.

(b) Approval of application

(1) In general

The Secretary shall approve or disapprove applications submitted pursuant to subsection (a) of this section in accordance with the criteria and procedures established under paragraph (2).

(2) Procedures and criteria

The Secretary shall develop procedures and criteria designed to ensure that grants or contracts are competitively awarded on the basis of merit determined under a peer review process.

(3) National panel

(A) The Secretary, in consultation with the Director, shall establish a national panel, or to the extent necessary, panels, to submit to the Secretary recommendations for awards of grants or contracts under this part. The Secretary shall appoint the members of such panel or panels.

(B) Each panel appointed under subparagraph (A) shall include participation, to the extent feasible, from each region.

(Pub. L. 89–10, title XIII, § 13303, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3884.)

REFERENCES IN TEXT

The Star Schools Program Assistance Act (as such Act was in effect on the day preceding October 20, 1994), referred to in subsec. (a)(6), is title IX of Pub. L. 98–377, as added by Pub. L. 100–297, title II, § 2302, Apr. 28, 1988, 102 Stat. 320, as amended, which was classified generally to subchapter IX (§ 4081 et seq.) of chapter 52 of this title, prior to repeal by Pub. L. 103–382, title III, § 364, Oct. 20, 1994, 108 Stat. 3975.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 8675 of this title.

§ 8674. Regional boards

(a) In general

Each eligible entity receiving a grant or contract under this part shall establish a regional board to oversee the administration and establishment of program priorities for the regional consortium established by such eligible entity. Such regional board shall be broadly representative of the agencies and organizations participating in the regional consortium.

(b) Prohibition on use of Federal funds

No Federal funds may be used for the establishment or operation of a regional board re-

quired by subsection (a) of this section, except that at the discretion of a regional board, Federal funds may be used to provide assistance such as travel and accommodations for board members who could not otherwise afford to participate as members of the board.

(Pub. L. 89–10, title XIII, § 13304, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3885.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 8672 of this title.

§ 8675. Payments; Federal share; non-Federal share

(a) Payments

The Secretary shall pay to each eligible entity having an application approved under section 8673 of this title the Federal share of the cost of the activities described in the application.

(b) Federal share

For the purpose of subsection (a) of this section, the Federal share shall be 80 percent.

(c) Non-Federal share

The non-Federal share of the cost of activities described in the application submitted under section 8673 of this title may be in cash or in kind, fairly evaluated. At least 10 percent of such non-Federal share shall be from sources other than the Federal Government, or State or local government.

(Pub. L. 89–10, title XIII, § 13305, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3885.)

§ 8676. Evaluation

(a) Evaluation required

The Secretary, through the Office of Educational Research and Improvement and in accordance with section 8941 of this title, shall collect sufficient data on, and evaluate the effectiveness of, the activities of each regional consortium.

(b) Assessment

The evaluations described in paragraph (1) shall include an assessment of the effectiveness of the regional consortium in meeting the needs of the schools, teachers, administrators and students in the region.

(c) Report

At the end of each grant or contract period, the Secretary shall submit to the Congress a report on the effectiveness of the programs conducted at each regional consortium.

(Pub. L. 89–10, title XIII, § 13306, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3885.)

§ 8677. Definitions

For purposes of this part:

(1) The term ''eligible entity'' means—

(A) a private nonprofit organization of demonstrated effectiveness;

(B) an institution of higher education;

(C) an elementary or secondary school;

(D) a State or local educational agency;

(E) a regional educational laboratory in consortium with the research and development center established under section 6031(c)(1)(B)(i) of this title; or

(F) any combination of the entities described in subparagraphs (A) through (E),

with demonstrated expertise in mathematics and science education.

(2) The terms ''mathematics'' and ''science'' include the technology education associated with mathematics and science, respectively.

(3) The term ''region'' means a region of the United States served by a regional education laboratory that is supported by the Secretary pursuant to section 405(d)(4)(A)(i) of the General Education Provisions Act (as such section was in existence on the day preceding March 31, 1994).

(4) The term ''regional consortium'' means each regional mathematics and science education consortium established pursuant to section 8671 of this title.

(5) The term ''State agency for higher education'' means the State board of higher education or other agency or officer primarily responsible for the State supervision of higher education, or, if there is no such officer or agency, an officer or agency designated for the purpose of carrying out this part by the Governor or by State law.

(Pub. L. 89–10, title XIII, § 13307, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3886.)

REFERENCES IN TEXT

Section 405 of the General Education Provisions Act (as such section was in existence on the day preceding March 31, 1994), referred to in par. (3), is section 405 of Pub. L. 90–247 which was classified to section 1221e of this title prior to repeal by Pub. L. 103–227, title IX, § 911(a), Mar. 31, 1994, 108 Stat. 213.

§ 8678. Authorization of appropriations

There are authorized to be appropriated $23,000,000 for fiscal year 1995, and such sums as may be necessary for each of the 4 succeeding fiscal years, to carry out this part.

(Pub. L. 89–10, title XIII, § 13308, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3886.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 8671 of this title.

PART D—TECHNOLOGY-BASED TECHNICAL ASSISTANCE

§ 8701. Technology-based technical assistance

The Secretary is authorized to provide a technology-based technical assistance service that will—

(1) support the administration and implementation of programs under this chapter by providing information, including legal and regulatory information, and technical guidance and information, about best practices; and

(2) be accessible to all States, local educational agencies, schools, community-based organizations and others who are recipients of funds under this chapter.

(Pub. L. 89–10, title XIII, § 13401, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3886.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 8623, 8651 of this title.

SUBCHAPTER XIV—GENERAL PROVISIONS

PART A—DEFINITIONS

§ 8801. Definitions

Except as otherwise provided, for the purposes of this chapter, the following terms have the following meanings:

(1) Average daily attendance

(A) Except as provided otherwise by State law or this paragraph, the term ''average daily attendance'' means—

(i) the aggregate number of days of attendance of all students during a school year; divided by

(ii) the number of days school is in session during such school year.

(B) The Secretary shall permit the conversion of average daily membership (or other similar data) to average daily attendance for local educational agencies in States that provide State aid to local educational agencies on the basis of average daily membership or such other data.

(C) If the local educational agency in which a child resides makes a tuition or other payment for the free public education of the child in a school located in another school district, the Secretary shall, for purposes of this chapter—

(i) consider the child to be in attendance at a school of the agency making such payment; and

(ii) not consider the child to be in attendance at a school of the agency receiving such payment.

(D) If a local educational agency makes a tuition payment to a private school or to a public school of another local educational agency for a child with disabilities, as defined in section 1401(a)(1)[1] of this title, the Secretary shall, for the purposes of this chapter, consider such child to be in attendance at a school of the agency making such payment.

(2) Average per-pupil expenditure

The term ''average per-pupil expenditure'' means, in the case of a State or of the United States—

(A) without regard to the source of funds—

(i) the aggregate current expenditures, during the third fiscal year preceding the fiscal year for which the determination is made (or, if satisfactory data for that year are not available, during the most recent preceding fiscal year for which satisfactory data are available) of all local educational agencies in the State or, in the case of the United States for all States (which, for the purpose of this paragraph, means the 50 States and the District of Columbia); plus

(ii) any direct current expenditures by the State for the operation of such agencies; divided by

(B) the aggregate number of children in average daily attendance to whom such agencies provided free public education during such preceding year.

(3) Child

The term ''child'' means any person within the age limits for which the State provides free public education.

(4) Community-based organization

The term ''community-based organization'' means a public or private nonprofit organization of demonstrated effectiveness that—

(A) is representative of a community or significant segments of a community; and

(B) provides educational or related services to individuals in the community.

(5) Consolidated local application

The term ''consolidated local application'' means an application submitted by a local educational agency pursuant to section 8852 of this title.

(6) Consolidated local plan

The term ''consolidated local plan'' means a plan submitted by a local educational agency pursuant to section 8852 of this title.

(7) Consolidated State application

The term ''consolidated State application'' means an application submitted by a State educational agency pursuant to section 8852 of this title.

(8) Consolidated State plan

The term ''consolidated State plan'' means a plan submitted by a State educational agency pursuant to section 8852 of this title.

(9) County

The term ''county'' means one of the divisions of a State used by the Secretary of Commerce in compiling and reporting data regarding counties.

(10) Covered program

The term ''covered program'' means each of the programs authorized by—

(A) part A of subchapter I of this chapter;

(B) part C of subchapter I of this chapter;

(C) subchapter II of this chapter (other than section 6623 of this title and part C);

(D) subpart 2 of part A of subchapter III of this chapter;

(E) part A of subchapter IV of this chapter (other than section 7114 of this title); and

(F) subchapter VI of this chapter.

(11) Current expenditures

The term ''current expenditures'' means expenditures for free public education—

(A) including expenditures for administration, instruction, attendance and health services, pupil transportation services, operation and maintenance of plant, fixed charges, and net expenditures to cover deficits for food services and student body activities; but

(B) not including expenditures for community services, capital outlay, and debt service, or any expenditures made from funds received under subchapter I of this chapter and subchapter VI of this chapter.

[1] See References in Text note below.

(12) Department

The term ''Department'' means the Department of Education.

(13) Educational service agency

The term ''educational service agency'' means a regional public multiservice agency authorized by State statute to develop, manage, and provide services or programs to local educational agencies.

(14) Elementary school

The term ''elementary school'' means a nonprofit institutional day or residential school that provides elementary education, as determined under State law.

(15) Free public education

The term ''free public education'' means education that is provided—

(A) at public expense, under public supervision and direction, and without tuition charge; and

(B) as elementary or secondary school education as determined under applicable State law, except that such term does not include any education provided beyond grade 12.

(16) Gifted and talented

The term ''gifted and talented'', when used with respect to students, children or youth, means students, children or youth who give evidence of high performance capability in areas such as intellectual, creative, artistic, or leadership capacity, or in specific academic fields, and who require services or activities not ordinarily provided by the school in order to fully develop such capabilities.

(17) Institution of higher education

The term ''institution of higher education'' has the meaning given that term in section 1141(a) of this title.

(18) Local educational agency

(A) The term ''local educational agency'' means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or for such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools.

(B) The term includes any other public institution or agency having administrative control and direction of a public elementary or secondary school.

(C) The term includes an elementary or secondary school funded by the Bureau of Indian Affairs but only to the extent that such inclusion makes such school eligible for programs for which specific eligibility is not provided to such school in another provision of law and such school does not have a student population that is smaller than the student population of the local educational agency receiving assistance under this chapter with the smallest student population, except that such school shall not be subject to the jurisdiction of any State educational agency other than the Bureau of Indian Affairs.

(19) Mentoring

The term ''mentoring'' means a program in which an adult works with a child or youth on a 1-to-1 basis, establishing a supportive relationship, providing academic assistance, and introducing the child or youth to new experiences that enhance the child or youth's ability to excel in school and become a responsible citizen.

(20) Other staff

The term ''other staff'' means pupil services personnel, librarians, career guidance and counseling personnel, education aides, and other instructional and administrative personnel.

(21) Outlying area

The term ''outlying area'' means the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and for the purpose of section 6331 of this title and any other discretionary grant program under this chapter, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

(22) Parent

The term ''parent'' includes a legal guardian or other person standing in loco parentis.

(23) Public telecommunication entity

The term ''public telecommunication entity'' has the same meaning given to such term in section 397(12) of title 47.

(24) Pupil services personnel; pupil services

(A) The term ''pupil services personnel'' means school counselors, school social workers, school psychologists, and other qualified professional personnel involved in providing assessment, diagnosis, counseling, educational, therapeutic, and other necessary services (including related services as such term is defined in section 1401(a)(17)[1] of this title) as part of a comprehensive program to meet student needs.

(B) The term ''pupil services'' means the services provided by pupil services personnel.

(25) Secondary school

The term ''secondary school'' means a nonprofit institutional day or residential school that provides secondary education, as determined under State law, except that such term does not include any education beyond grade 12.

(26) Secretary

The term ''Secretary'' means the Secretary of Education.

(27) State

The term ''State'' means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and each of the outlying areas.

(28) State educational agency

The term ''State educational agency'' means the agency primarily responsible for the State

supervision of public elementary and secondary schools.

(29) Technology

The term ''technology'' means the latest state-of-the-art technology products and services, such as closed circuit television systems, educational television or radio programs and services, cable television, satellite, copper fiber optic transmission, computer hardware and software, video and audio laser and CD–ROM disks, video and audio tapes, including interactive forms of such products and services, or other technologies.

(Pub. L. 89–10, title XIV, § 14101, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3887.)

REFERENCES IN TEXT

Section 1401 of this title, referred to in pars. (1)(D) and (24)(A), was in the original a reference to section 602 of the Individuals with Disabilities Education Act, Pub. L. 91–230, title VI. Section 602 of Pub. L. 91–230 was omitted in the general amendment of subchapter I of chapter 33 of this title by Pub. L. 105–17, title I, § 101, June 4, 1997, 111 Stat. 37. Pub. L. 105–17 enacted a new section 602 of Pub. L. 91–230, which is classified to section 1401 of this title, and which contains provisions defining ''child with a disability'' and ''related services''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1687, 2471, 4020, 5502, 5802, 8821, 9001 of this title; title 2 sections 117b–2, 117e; title 7 section 3152; title 10 section 2194; title 15 sections 2642, 2662; title 29 sections 761a, 794, 1503, 2618; title 42 sections 300j–21, 2000d–4a, 3030g–12, 3030*o*, 6107, 7382b, 9855, 9877, 12511; title 47 section 254.

§ 8802. Applicability of this subchapter

Parts B, C, D, E, and F of this subchapter do not apply to subchapter VIII of this chapter.

(Pub. L. 89–10, title XIV, § 14102, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3890.)

§ 8803. Applicability to Bureau of Indian Affairs operated schools

For purposes of any competitive program under this chapter, a consortia of schools operated by the Bureau of Indian Affairs, a school operated under a contract or grant with the Bureau of Indian Affairs in consortia with another contract or grant school or tribal or community organization, or a Bureau of Indian Affairs school in consortia with an institution of higher education, a contract or grant school and tribal or community organization shall be given the same consideration as a local educational agency.

(Pub. L. 89–10, title XIV, § 14103, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3890.)

PART B—FLEXIBILITY IN THE USE OF ADMINISTRATIVE AND OTHER FUNDS

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 8802 of this title.

§ 8821. Consolidation of State administrative funds for elementary and secondary education programs

(a) Consolidation of administrative funds

(1) In general

A State educational agency may consolidate the amounts specifically made available to such agency for State administration under one or more of the programs specified under paragraph (2) if such State educational agency can demonstrate that the majority of such agency's resources come from non-Federal sources.

(2) Applicability

This section applies to programs under subchapter I of this chapter, those covered programs described in subparagraphs (C), (D), (E), and (F) of section 8801(10) of this title, and administrative funds under section 308(c) of the Goals 2000: Educate America Act [20 U.S.C. 5888(c)].

(b) Use of funds

(1) In general

A State educational agency shall use the amount available under this section for the administration of the programs included in the consolidation under subsection (a) of this section.

(2) Additional uses

A State educational agency may also use funds available under this section for administrative activities designed to enhance the effective and coordinated use of funds under the programs included in the consolidation under subsection (a) of this section, such as—

(A) the coordination of such programs with other Federal and non-Federal programs;

(B) the establishment and operation of peer-review mechanisms under this chapter;

(C) the administration of this subchapter;

(D) the dissemination of information regarding model programs and practices; and

(E) technical assistance under programs specified in subsection (a)(2) of this section.

(c) Records

A State educational agency that consolidates administrative funds under this section shall not be required to keep separate records, by individual program, to account for costs relating to the administration of programs included in the consolidation under subsection (a) of this section.

(d) Review

To determine the effectiveness of State administration under this section, the Secretary may periodically review the performance of State educational agencies in using consolidated administrative funds under this section and take such steps as the Secretary finds appropriate to ensure the effectiveness of such administration.

(e) Unused administrative funds

If a State educational agency does not use all of the funds available to such agency under this section for administration, such agency may use such funds during the applicable period of availability as funds available under one or more programs included in the consolidation under subsection (a) of this section.

(f) Consolidation of funds for standards and assessment development

In order to develop challenging State standards and assessments, a State educational agen-

cy may consolidate the amounts made available to such agency for such purposes under subchapter I of this chapter and title III of the Goals 2000: Educate America Act [20 U.S.C. 5881 et seq.].

(Pub. L. 89–10, title XIV, § 14201, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3890.)

REFERENCES IN TEXT

The Goals 2000: Educate America Act, referred to in subsec. (f), is Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 125 (except titles V and IX), as amended. Title III of the Act is classified generally to subchapter III (§ 5881 et seq.) of chapter 68 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 8823 of this title.

§ 8822. Single local educational agency States

A State educational agency that also serves as a local educational agency, in such agency's applications or plans under this chapter, shall describe how such agency will eliminate duplication in the conduct of administrative functions.

(Pub. L. 89–10, title XIV, § 14202, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3891.)

§ 8823. Consolidation of funds for local administration

(a) General authority

In accordance with regulations of the Secretary, a local educational agency, with the approval of its State educational agency, may consolidate and use for the administration of one or more covered programs for any fiscal year not more than the percentage, established in each covered program, of the total amount available to the local educational agency under such covered programs.

(b) State procedures

Within one year from October 20, 1994, a State educational agency shall, in collaboration with local educational agencies in the State, establish procedures for responding to requests from local educational agencies to consolidate administrative funds under subsection (a) of this section and for establishing limitations on the amount of funds under covered programs that may be used for administration on a consolidated basis.

(c) Conditions

A local educational agency that consolidates administrative funds under this section for any fiscal year shall not use any other funds under the programs included in the consolidation for administration for that fiscal year.

(d) Uses of administrative funds

A local educational agency that consolidates administrative funds under this section may use such consolidated funds for the administration of covered programs and for the uses described in section 8821(b)(2) of this title.

(e) Records

A local educational agency that consolidates administrative funds under this section shall not be required to keep separate records, by individual covered program, to account for costs relating to the administration of covered programs included in the consolidation.

(Pub. L. 89–10, title XIV, § 14203, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3892.)

§ 8824. Administrative funds studies

(a) Federal funds study

(1) In general

The Secretary shall conduct a study of the use of funds under this chapter for the administration, by State and local educational agencies, of all covered programs, including the percentage of grant funds used for such purpose in all covered programs.

(2) State data

Beginning in fiscal year 1995 and each succeeding fiscal year thereafter, each State educational agency which receives funds under subchapter I of this chapter shall submit to the Secretary a report on the use of subchapter I funds for the State administration of activities assisted under subchapter I of this chapter. Such report shall include the proportion of State administrative funds provided under section 6513 of this title that are expended for—

(A) basic program operation and compliance monitoring;

(B) statewide program services such as development of standards and assessments, curriculum development, and program evaluation; and

(C) technical assistance and other direct support to local educational agencies and schools.

(3) Federal funds report

The Secretary shall complete the study conducted under this section not later than July 1, 1997, and shall submit to the President and the appropriate committees of the Congress a report regarding such study within 30 days of the completion of such study.

(4) Results

Based on the results of the study described in subsection (a)(1) of this section, which may include collection and analysis of the data under paragraph (2) and section 9009(b) of this title, the Secretary shall—

(A) develop a definition of what types of activities constitute the administration of programs under this chapter by State and local educational agencies; and

(B) within one year of the completion of such study, promulgate final regulations or guidelines regarding the use of funds for administration under all programs, including the use of such funds on a consolidated basis and limitations on the amount of such funds that may be used for administration where such limitation is not otherwise specified in law.

(b) General administrative funds study and report

Upon the date of completion of the pilot model data system described in section 9009(b) of this

title, the Secretary shall study the information obtained through the use of such data system and other relevant information, as well as any other data systems which are in use on such date that account for administrative expenses at the school, local educational agency, and State educational agency level, and shall report to the Congress not later than July 1, 1997, regarding—

(1) the potential for the reduction of administrative expenses at the school, local educational agency, and State educational agency levels;

(2) the potential usefulness of such data system to reduce such administrative expenses;

(3) any other methods which may be employed by schools, local educational agencies or State educational agencies to reduce administrative expenses and maximize the use of funds for functions directly affecting student learning; and

(4) if appropriate, steps which may be taken to assist schools, local educational agencies and State educational agencies to account for and reduce administrative expenses.

(Pub. L. 89–10, title XIV, § 14204, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3892.)

§ 8825. Consolidated set-aside for Department of the Interior funds

(a) General authority

(1) Transfer

The Secretary shall transfer to the Department of the Interior, as a consolidated amount for covered programs, the Indian education programs under part A of subchapter IX of this chapter, and the education for homeless children and youth program under subtitle B of title VII of the Stewart B. McKinney Homeless Assistance Act [42 U.S.C. 11431 et seq.], the amounts allotted to the Department of the Interior under those programs.

(2) Agreement

(A) The Secretary and the Secretary of the Interior shall enter into an agreement, consistent with the requirements of the programs specified in paragraph (1), for the distribution and use of those program funds under terms that the Secretary determines best meet the purposes of those programs.

(B) The agreement shall—

(i) set forth the plans of the Secretary of the Interior for the use of the amount transferred, the steps to be taken to achieve the National Education Goals, and performance measures to assess program effectiveness, including measurable goals and objectives; and

(ii) be developed in consultation with Indian tribes.

(b) Administration

The Department of the Interior may use not more than 1.5 percent of the funds consolidated under this section for such department's costs related to the administration of the funds transferred under this section.

(Pub. L. 89–10, title XIV, § 14205, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3893.)

REFERENCES IN TEXT

The Stewart B. McKinney Homeless Assistance Act, referred to in subsec. (a)(1), is Pub. L. 100–77, July 22, 1987, 101 Stat. 482, as amended. Subtitle B of title VII of the Act is classified generally to part B (§ 11431 et seq.) of subchapter VI of chapter 119 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 11301 of Title 42 and Tables.

§ 8826. Availability of unneeded program funds

(a) Unneeded program funds

With the approval of its State educational agency, a local educational agency that determines for any fiscal year that funds under a covered program (other than part A of subchapter I of this chapter) are not needed for the purpose of that covered program, may use such funds, not to exceed five percent of the total amount of such local educational agency's funds under that covered program, for the purpose of another covered program.

(b) Coordination of services

A local educational agency, individual school, or consortium of schools may use a total of not more than five percent of the funds such agency, school, or consortium, respectively, receives under this chapter for the establishment and implementation of a coordinated services project in accordance with the requirements of subchapter XI of this chapter.

(Pub. L. 89–10, title XIV, § 14206, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3894.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 8403, 8404, 8405, 8406 of this title.

PART C—COORDINATION OF PROGRAMS; CONSOLIDATED STATE AND LOCAL PLANS AND APPLICATIONS

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 8802 of this title.

§ 8851. Purpose

It is the purpose of this part to improve teaching and learning by encouraging greater cross-program coordination, planning, and service delivery under this chapter and enhanced integration of programs under this chapter with educational activities carried out with State and local funds.

(Pub. L. 89–10, title XIV, § 14301, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3894.)

§ 8852. Optional consolidated State plans or applications

(a) General authority

(1) Simplification

In order to simplify application requirements and reduce the burden for State educational agencies under this chapter, the Secretary, in accordance with subsection (b) of this section, shall establish procedures and criteria under which a State educational agency may submit a consolidated State plan or a consolidated State application meeting the requirements of this section for—

(A) each of the covered programs in which the State participates; and

(B) the additional programs described in paragraph (2).

(2) Additional programs

A State educational agency may also include in its consolidated State plan or consolidated State application—

(A) the Even Start program under part B of subchapter I of this chapter;

(B) the Prevention and Intervention Programs for Youth Who Are Neglected, Delinquent, or At-Risk of Dropping Out under part D of subchapter I of this chapter;

(C) programs under part A of title II of the Carl D. Perkins Vocational and Applied Technology Education Act [20 U.S.C. 2331 et seq.];

(D) programs under the Goals 2000: Educate America Act [20 U.S.C. 5801 et seq.];

(E) programs under the School-to-Work Opportunities Act of 1994 [20 U.S.C. 6101 et seq.]; and

(F) such other programs as the Secretary may designate.

(3) Consolidated applications and plans

A State educational agency that submits a consolidated State plan or a consolidated State application under this section shall not be required to submit separate State plans or applications under any of the programs to which the consolidated State plan or consolidated State application under this section applies.

(b) Collaboration

(1) In general

In establishing criteria and procedures under this section, the Secretary shall collaborate with State educational agencies and, as appropriate, with other State agencies, local educational agencies, public and private nonprofit agencies, organizations, and institutions, private schools, and representatives of parents, students, and teachers.

(2) Contents

Through the collaborative process described in subsection (b)(1) of this section, the Secretary shall establish, for each program under the chapter to which this section applies, the descriptions, information, assurances, and other material required to be included in a consolidated State plan or consolidated State application.

(3) Necessary materials

The Secretary shall require only descriptions, information, assurances, and other materials that are absolutely necessary for the consideration of the consolidated State plan or consolidated State application.

(Pub. L. 89–10, title XIV, § 14302, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3894.)

REFERENCES IN TEXT

The Carl D. Perkins Vocational and Applied Technology Education Act, referred to in subsec. (a)(2)(C), is Pub. L. 88–210, Dec. 18, 1963, 77 Stat. 403, as amended. Part A of title II of the Act is classified generally to part A (§ 2331 et seq.) of subchapter II of chapter 44 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2301 of this title and Tables.

The Goals 2000: Educate America Act, referred to in subsec. (a)(2)(D), is Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 125 (except titles V and IX), as amended, which is classified principally to chapter 68 (§ 5801 et seq.) of this title (except subchapters V (§ 5931 et seq.) and IX (§ 6001 et seq.)). For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables.

The School-to-Work Opportunities Act of 1994, referred to in subsec. (a)(2)(E), is Pub. L. 103–239, May 4, 1994, 108 Stat. 568, as amended, which is classified principally to chapter 69 (§ 6101 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6101 of this title and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6311, 6367, 6396, 8801, 8853, 8855 of this title.

§ 8853. General applicability of State educational agency assurances

(a) Assurances

A State educational agency that submits a consolidated State plan or consolidated State application under this chapter, whether separately or under section 8852 of this title, shall have on file with the Secretary a single set of assurances, applicable to each program for which such plan or application is submitted, that provides that—

(1) each such program will be administered in accordance with all applicable statutes, regulations, program plans, and applications;

(2)(A) the control of funds provided under each such program and title to property acquired with program funds will be in a public agency, in a nonprofit private agency, institution, or organization, or in an Indian tribe if the law authorizing the program provides for assistance to such entities; and

(B) the public agency, nonprofit private agency, institution, or organization, or Indian tribe will administer such funds and property to the extent required by the authorizing law;

(3) the State will adopt and use proper methods of administering each such program, including—

(A) the enforcement of any obligations imposed by law on agencies, institutions, organizations, and other recipients responsible for carrying out each program;

(B) the correction of deficiencies in program operations that are identified through audits, monitoring, or evaluation; and

(C) the adoption of written procedures for the receipt and resolution of complaints alleging violations of law in the administration of such programs;

(4) the State will cooperate in carrying out any evaluation of each such program conducted by or for the Secretary or other Federal officials;

(5) the State will use such fiscal control and fund accounting procedures as will ensure proper disbursement of, and accounting for, Federal funds paid to the State under each such program;

(6) the State will—

(A) make reports to the Secretary as may be necessary to enable the Secretary to perform the Secretary's duties under each such program; and

(B) maintain such records, provide such information to the Secretary, and afford access to the records as the Secretary may find necessary to carry out the Secretary's duties; and

(7) before the plan or application was submitted to the Secretary, the State has afforded a reasonable opportunity for public comment on the plan or application and has considered such comment.

(b) GEPA provision

Section 1232d of this title shall not apply to programs under this chapter.

(Pub. L. 89–10, title XIV, § 14303, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3895.)

§ 8854. Additional coordination

(a) Additional coordination

In order to explore ways for State educational agencies to reduce administrative burdens and promote the coordination of the education services of this chapter with other health and social service programs administered by such agencies, the Secretary is directed to seek agreements with other Federal agencies (including the Departments of Health and Human Services, Justice, Labor and Agriculture) for the purpose of establishing procedures and criteria under which a State educational agency would submit a consolidated State plan or consolidated State application that meets the requirements of the covered programs.

(b) Report

The Secretary shall report to the relevant committees 6 months after October 20, 1994.

(Pub. L. 89–10, title XIV, § 14304, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3896.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6312, 8856 of this title.

§ 8855. Consolidated local plans or applications

(a) General authority

A local educational agency receiving funds under more than one covered program may submit plans or applications to the State educational agency under such programs on a consolidated basis.

(b) Required consolidated plans or applications

A State educational agency that has submitted and had approved a consolidated State plan or application under section 8852 of this title may require local educational agencies in the State receiving funds under more than one program included in the consolidated State plan or consolidated State application to submit consolidated local plans or applications under such programs.

(c) Collaboration

A State educational agency shall collaborate with local educational agencies in the State in establishing procedures for the submission of the consolidated State plans or consolidated State applications under this section.

(d) Necessary materials

The State educational agency shall require only descriptions, information, assurances, and other material that are absolutely necessary for the consideration of the local educational agency plan or application.

(Pub. L. 89–10, title XIV, § 14305, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3896.)

§ 8856. Other general assurances

(a) Assurances

Any applicant other than a State educational agency that submits a plan or application under this chapter, whether separately or pursuant to section 8854 of this title, shall have on file with the State educational agency a single set of assurances, applicable to each program for which a plan or application is submitted, that provides that—

(1) each such program will be administered in accordance with all applicable statutes, regulations, program plans, and applications;

(2)(A) the control of funds provided under each such program and title to property acquired with program funds will be in a public agency or in a nonprofit private agency, institution, organization, or Indian tribe, if the law authorizing the program provides for assistance to such entities; and

(B) the public agency, nonprofit private agency, institution, or organization, or Indian tribe will administer such funds and property to the extent required by the authorizing statutes;

(3) the applicant will adopt and use proper methods of administering each such program, including—

(A) the enforcement of any obligations imposed by law on agencies, institutions, organizations, and other recipients responsible for carrying out each program; and

(B) the correction of deficiencies in program operations that are identified through audits, monitoring, or evaluation;

(4) the applicant will cooperate in carrying out any evaluation of each such program conducted by or for the State educational agency, the Secretary or other Federal officials;

(5) the applicant will use such fiscal control and fund accounting procedures as will ensure proper disbursement of, and accounting for, Federal funds paid to such applicant under each such program;

(6) the applicant will—

(A) make reports to the State educational agency and the Secretary as may be necessary to enable such agency and the Secretary to perform their duties under each such program; and

(B) maintain such records, provide such information, and afford access to the records as the State educational agency or the Secretary may find necessary to carry out the State educational agency's or the Secretary's duties; and

(7) before the application was submitted, the applicant afforded a reasonable opportunity

for public comment on the application and has considered such comment.

(b) GEPA provision

Section 1232e of this title does not apply to programs under this chapter.

(Pub. L. 89–10, title XIV, § 14306, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3897.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6311, 6312, 6367, 6396, 6434, 6645, 6648, 7112, 7115, 7206, 7426, 7431 of this title.

§ 8857. Relationship of State and local plans to plans under Goals 2000: Educate America Act

(a) State plans

(1) In general

Each State plan submitted under the following programs shall be integrated with each other and the State's improvement plan, if any, either approved or being developed, under title III of the Goals 2000: Educate America Act [20 U.S.C. 5881 et seq.], the School-to-Work Opportunities Act of 1994 [20 U.S.C. 6101 et seq.], and the Carl D. Perkins Vocational and Applied Technology Education Act [20 U.S.C. 2301 et seq.]:

(A) Part A of subchapter I of this chapter (helping disadvantaged children meet high standards).

(B) Part C of subchapter I of this chapter (education of migratory children).

(C) Part D of subchapter I of this chapter (education of neglected, delinquent, and at-risk youth).

(D) Subchapter II of this chapter (professional development).

(E) Subchapter IV of this chapter (safe and drug-free schools).

(F) Subchapter VI of this chapter (innovative education program strategies).

(G) Subpart 4 of part A of subchapter IX of this chapter (Indian education).

(2) Special rule

Notwithstanding any other provision of this chapter, if a requirement relating to a State plan referred to in paragraph (1) is already satisfied by the approved State improvement plan for such State under title III of the Goals 2000: Educate America Act [20 U.S.C. 5881 et seq.], the State plan referred to in paragraph (1) need not separately address that requirement.

(3) Amendment

Any State plan referred to in paragraph (1) may, if necessary, be submitted as an amendment to the State improvement plan for such State under title III of the Goals 2000: Educate America Act [20 U.S.C. 5881 et seq.].

(b) Local plans

(1) In general

Each local educational agency plan submitted under the following programs shall be integrated with each other and its local improvement plan, if any, either approved or being developed, under title III of the Goals 2000: Educate America Act [20 U.S.C. 5881 et seq.]:

(A) Part A of subchapter I of this chapter (helping disadvantaged children meet high standards).

(B) Subchapter II of this chapter (professional development).

(C) Subchapter IV of this chapter (safe and drug-free schools).

(D) Subpart 4 of part A of subchapter IX of this chapter (Indian education).

(E) Subpart 1 of part A of subchapter VII of this chapter (bilingual education).

(F) Subchapter VI of this chapter (innovative education program strategies).

(G) Part C of subchapter VII of this chapter (emergency immigrant education).

(2) Plan of operation

Each plan of operation included in an application submitted by an eligible entity under part B of subchapter I of this chapter (Even Start) shall be consistent with, and promote the goals of, the State and local improvement plans, either approved or being developed, under title III of the Goals 2000: Educate America Act [20 U.S.C. 5881 et seq.] or, if those plans are not approved or being developed, with the State and local plans under sections 6311 and 6312 of this title.

(3) Special rule

Notwithstanding any other provision of this chapter, if a requirement relating to a local plan referred to in paragraph (1) is already satisfied by the local educational agency's approved local improvement plan under title III of the Goals 2000: Educate America Act [20 U.S.C. 5881 et seq.], the local plan referred to in paragraph (1) need not separately address that requirement.

(4) Submission

Any local plan referred to in paragraph (1) may, if necessary, be submitted as an amendment to the local educational agency's improvement plan under title III of the Goals 2000: Educate America Act [20 U.S.C. 5881 et seq.].

(Pub. L. 89–10, title XIV, § 14307, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3898.)

REFERENCES IN TEXT

The Goals 2000: Educate America Act, referred to in section catchline and text, is Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 125 (except titles V and IX), as amended. Title III of the Act is classified generally to subchapter III (§ 5881 et seq.) of chapter 68 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables.

The School-to-Work Opportunities Act of 1994, referred to in subsec. (a)(1), is Pub. L. 103–239, May 4, 1994, 108 Stat. 568, as amended, which is classified principally to chapter 69 (§ 6101 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6101 of this title and Tables.

The Carl D. Perkins Vocational and Applied Technology Education Act, referred to in subsec. (a)(1), is Pub. L. 88–210, Dec. 18, 1963, 77 Stat. 403, as amended, which is classified generally to chapter 44 (§ 2301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2301 of this title and Tables.

PART D—WAIVERS

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 8802 of this title.

§ 8881. Waivers of statutory and regulatory requirements

(a) In general

Except as provided in subsection (c) of this section, the Secretary may waive any statutory or regulatory requirement of this chapter for a State educational agency, local educational agency, Indian tribe, or school through a local educational agency, that—

(1) receives funds under a program authorized by this chapter; and

(2) requests a waiver under subsection (b) of this section.

(b) Request for waiver

(1) In general

A State educational agency, local educational agency, or Indian tribe which desires a waiver shall submit a waiver request to the Secretary that—

(A) identifies the Federal programs affected by such requested waiver;

(B) describes which Federal requirements are to be waived and how the waiving of such requirements will—

(i) increase the quality of instruction for students; or

(ii) improve the academic performance of students;

(C) if applicable, describes which similar State and local requirements will be waived and how the waiving of such requirements will assist the local educational agencies, Indian tribes or schools, as appropriate, to achieve the objectives described in clauses (i) and (ii) of subparagraph (B);

(D) describes specific, measurable educational improvement goals and expected outcomes for all affected students;

(E) describes the methods to be used to measure progress in meeting such goals and outcomes; and

(F) describes how schools will continue to provide assistance to the same populations served by programs for which waivers are requested.

(2) Additional information

Such requests—

(A) may provide for waivers of requirements applicable to State educational agencies, local educational agencies, Indian tribes, and schools; and

(B) shall be developed and submitted—

(i)(I) by local educational agencies (on behalf of such agencies and schools) to State educational agencies; and

(II) by State educational agencies (on behalf of, and based upon the requests of, local educational agencies) to the Secretary; or

(ii) by Indian tribes (on behalf of schools operated by such tribes) to the Secretary.

(3) General requirements

(A) In the case of a waiver request submitted by a State educational agency acting in its own behalf, the State educational agency shall—

(i) provide all interested local educational agencies in the State with notice and a reasonable opportunity to comment on the request;

(ii) submit the comments to the Secretary; and

(iii) provide notice and information to the public regarding the waiver request in the manner that the applying agency customarily provides similar notices and information to the public.

(B) In the case of a waiver request submitted by a local educational agency that receives funds under this chapter—

(i) such request shall be reviewed by the State educational agency and be accompanied by the comments, if any, of such State educational agency; and

(ii) notice and information regarding the waiver request shall be provided to the public by the agency requesting the waiver in the manner that such agency customarily provides similar notices and information to the public.

(c) Restrictions

The Secretary shall not waive under this section any statutory or regulatory requirements relating to—

(1) the allocation or distribution of funds to States, local educational agencies, or other recipients of funds under this chapter;

(2) maintenance of effort;

(3) comparability of services;

(4) use of Federal funds to supplement, not supplant, non-Federal funds;

(5) equitable participation of private school students and teachers;

(6) parental participation and involvement;

(7) applicable civil rights requirements;

(8) the requirement for a charter school under part C of subchapter X of this chapter; or

(9) the prohibitions regarding—

(A) State aid in section 8892 of this title; or

(B) use of funds for religious worship or instruction in section 8897 of this title.

(d) Duration and extension of waiver

(1) In general

Except as provided in paragraph (2), the duration of a waiver approved by the Secretary under this section may be for a period not to exceed three years.

(2) Extension

The Secretary may extend the period described in paragraph (1) if the Secretary determines that—

(A) the waiver has been effective in enabling the State or affected recipients to carry out the activities for which the waiver was requested and the waiver has contributed to improved student performance; and

(B) such extension is in the public interest.

(e) Reports

(1) Local waiver

A local educational agency that receives a waiver under this section shall at the end of the second year for which a waiver is received under this section, and each subsequent year, submit a report to the State educational agency that—

(A) describes the uses of such waiver by such agency or by schools;

(B) describes how schools continued to provide assistance to the same populations served by the programs for which waivers are requested; and

(C) evaluates the progress of such agency and of schools in improving the quality of instruction or the academic performance of students.

(2) State waiver

A State educational agency that receives reports required under paragraph (1) shall annually submit a report to the Secretary that is based on such reports and contains such information as the Secretary may require.

(3) Indian tribe waiver

An Indian tribe that receives a waiver under this section shall annually submit a report to the Secretary that—

(A) describes the uses of such waiver by schools operated by such tribe; and

(B) evaluates the progress of such schools in improving the quality of instruction or the academic performance of students.

(4) Report to Congress

Beginning in fiscal year 1997 and each subsequent year, the Secretary shall submit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report—

(A) summarizing the uses of waivers by State educational agencies, local educational agencies, Indian tribes, and schools; and

(B) describing whether such waivers—

(i) increased the quality of instruction to students; or

(ii) improved the academic performance of students.

(f) Termination of waivers

The Secretary shall terminate a waiver under this section if the Secretary determines that the performance of the State or other recipient affected by the waiver has been inadequate to justify a continuation of the waiver or if the waiver is no longer necessary to achieve its original purposes.

(g) Publication

A notice of the Secretary's decision to grant each waiver under subsection (a) of this section shall be published in the Federal Register and the Secretary shall provide for the dissemination of such notice to State educational agencies, interested parties, including educators, parents, students, advocacy and civil rights organizations, and the public.

(Pub. L. 89–10, title XIV, § 14401, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3899.)

CHANGE OF NAME

Committee on Education and Labor of House of Representatives treated as referring to Committee on Economic and Educational Opportunities of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Economic and Educational Opportunities of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Fifth Congress, Jan. 7, 1997.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 8941 of this title.

PART E—UNIFORM PROVISIONS

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 8802 of this title.

§ 8891. Maintenance of effort

(a) In general

A local educational agency may receive funds under a covered program for any fiscal year only if the State educational agency finds that either the combined fiscal effort per student or the aggregate expenditures of such agency and the State with respect to the provision of free public education by such agency for the preceding fiscal year was not less than 90 percent of such combined fiscal effort or aggregate expenditures for the second preceding fiscal year.

(b) Reduction in case of failure to meet

(1) In general

The State educational agency shall reduce the amount of the allocation of funds under a covered program in any fiscal year in the exact proportion to which a local educational agency fails to meet the requirement of subsection (a) of this section by falling below 90 percent of both the combined fiscal effort per student and aggregate expenditures (using the measure most favorable to such local agency).

(2) Special rule

No such lesser amount shall be used for computing the effort required under subsection (a) of this section for subsequent years.

(c) Waiver

The Secretary may waive the requirements of this section if the Secretary determines that such a waiver would be equitable due to—

(1) exceptional or uncontrollable circumstances such as a natural disaster; or

(2) a precipitous decline in the financial resources of the local educational agency.

(Pub. L. 89–10, title XIV, § 14501, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3901.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6322, 6434 of this title.

§ 8892. Prohibition regarding State aid

A State shall not take into consideration payments under this chapter (other than under subchapter VIII) in determining the eligibility of any local educational agency in such State for State aid, or the amount of State aid, with respect to free public education of children.

(Pub. L. 89–10, title XIV, § 14502, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3902.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 8881 of this title.

§ 8893. Participation by private school children and teachers

(a) Private school participation

(1) In general

Except as otherwise provided in this chapter, to the extent consistent with the number of eligible children in a State educational agency, local educational agency, or educational service agency or consortium of such agencies receiving financial assistance under a program specified in subsection (b) of this section, who are enrolled in private elementary and secondary schools in such agency or consortium, such agency or consortium shall, after timely and meaningful consultation with appropriate private school officials, provide such children and their teachers or other educational personnel, on an equitable basis, special educational services or other benefits under such program.

(2) Secular, neutral, and nonideological services or benefits

Educational services or other benefits, including materials and equipment, provided under this section, shall be secular, neutral, and nonideological.

(3) Special rule

Educational services and other benefits provided under this section for such private school children, teachers, and other educational personnel shall be equitable in comparison to services and other benefits for public school children, teachers, and other educational personnel participating in such program.

(4) Expenditures

Expenditures for educational services and other benefits provided under this section to eligible private school children, their teachers, and other educational personnel serving such children shall be equal, taking into account the number and educational needs of the children to be served, to the expenditures for participating public school children.

(5) Provision of services

Such agency or consortium described in subsection (a)(1) of this section may provide such services directly or through contracts with public and private agencies, organizations, and institutions.

(b) Applicability

(1) In general

This section applies to programs under—

(A) part C of subchapter I of this chapter (migrant education);

(B) subchapter II of this chapter (other than section 6623 of this title and part C of such subchapter);

(C) subchapter VII of this chapter;

(D) subchapter III of this chapter (other than part B of such subchapter) (Star Schools); and

(E) part A of subchapter IV of this chapter (other than section 7114 of this title).

(2) "Eligible children" defined

For the purposes of this section, the term ''eligible children'' means children eligible for services under a program described in paragraph (1).

(c) Consultation

(1) In general

To ensure timely and meaningful consultation, a State educational agency, local educational agency, educational service agency or consortium of such agencies shall consult with appropriate private school officials during the design and development of the programs under this chapter, on issues such as—

(A) how the children's needs will be identified;

(B) what services will be offered;

(C) how and where the services will be provided; and

(D) how the services will be assessed.

(2) Timing

Such consultation shall occur before the agency or consortium makes any decision that affects the opportunities of eligible private school children, teachers, and other educational personnel to participate in programs under this chapter.

(3) Discussion required

Such consultation shall include a discussion of service delivery mechanisms that the agency or consortium could use to provide equitable services to eligible private school children, teachers, administrators, and other staff.

(d) Public control of funds

(1) In general

The control of funds used to provide services under this section, and title to materials, equipment, and property purchased with such funds, shall be in a public agency for the uses and purposes provided in this chapter, and a public agency shall administer such funds and property.

(2) Provision of services

(A) The provision of services under this section shall be provided—

(i) by employees of a public agency; or

(ii) through contract by such public agency with an individual, association, agency, or organization.

(B) In the provision of such services, such employee, person, association, agency, or organization shall be independent of such private school and of any religious organization, and such employment or contract shall be under the control and supervision of such public agency.

(C) Funds used to provide services under this section shall not be commingled with non-Federal funds.

(Pub. L. 89–10, title XIV, § 14503, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3902.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5890, 8894, 8895, 8896 of this title.

§ 8894. Standards for by-pass

If, by reason of any provision of law, a State educational agency, local educational agency,

educational service agency or consortium of such agencies is prohibited from providing for the participation in programs of children enrolled in, or teachers or other educational personnel from, private elementary and secondary schools, on an equitable basis, or if the Secretary determines that such agency or consortium has substantially failed or is unwilling to provide for such participation, as required by section 8893 of this title, the Secretary shall—

(1) waive the requirements of that section for such agency or consortium; and

(2) arrange for the provision of equitable services to such children, teachers, or other educational personnel through arrangements that shall be subject to the requirements of this section and of sections 8893, 8895, and 8896 of this title.

(Pub. L. 89–10, title XIV, § 14504, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3903.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 8896 of this title.

§ 8895. Complaint process for participation of private school children

(a) Procedures for complaints

The Secretary shall develop and implement written procedures for receiving, investigating, and resolving complaints from parents, teachers, or other individuals and organizations concerning violations of section 8893 of this title by a State educational agency, local educational agency, educational service agency, or consortium of such agencies. Such individual or organization shall submit such complaint to the State educational agency for a written resolution by the State educational agency within a reasonable period of time.

(b) Appeals to Secretary

Such resolution may be appealed by an interested party to the Secretary not later than 30 days after the State educational agency resolves the complaint or fails to resolve the complaint within a reasonable period of time. Such appeal shall be accompanied by a copy of the State educational agency's resolution, and a complete statement of the reasons supporting the appeal. The Secretary shall investigate and resolve each such appeal not later than 120 days after receipt of the appeal.

(Pub. L. 89–10, title XIV, § 14505, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3904.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6321, 8894 of this title.

§ 8896. By-pass determination process

(a) Review

(1) In general

(A) The Secretary shall not take any final action under section 8894 of this title until the State educational agency, local educational agency, educational service agency, or consortium of such agencies affected by such action has had an opportunity, for not less than 45 days after receiving written notice thereof, to submit written objections and to appear before the Secretary to show cause why that action should not be taken.

(B) Pending final resolution of any investigation or complaint that could result in a determination under this section, the Secretary may withhold from the allocation of the affected State or local educational agency the amount estimated by the Secretary to be necessary to pay the cost of those services.

(2) Petition for review

(A) If such affected agency or consortium is dissatisfied with the Secretary's final action after a proceeding under paragraph (1), such agency or consortium may, within 60 days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action.

(B) A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary.

(C) The Secretary upon receipt of the copy of the petition shall file in the court the record of the proceedings on which the Secretary based this action, as provided in section 2112 of title 28.

(3) Findings of fact

(A) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Secretary to take further evidence and the Secretary may then make new or modified findings of fact and may modify the Secretary's previous action, and shall file in the court the record of the further proceedings.

(B) Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(4) Jurisdiction

(A) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or to set such action aside, in whole or in part.

(B) The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28.

(b) Determination

Any determination by the Secretary under this section shall continue in effect until the Secretary determines, in consultation with such agency or consortium and representatives of the affected private school children, teachers, or other educational personnel that there will no longer be any failure or inability on the part of such agency or consortium to meet the applicable requirements of section 8893 of this title or any other provision of this chapter.

(c) Payment from State allotment

When the Secretary arranges for services pursuant to this section, the Secretary shall, after consultation with the appropriate public and private school officials, pay the cost of such services, including the administrative costs of arranging for those services, from the appropriate allocation or allocations under this chapter.

(d) Prior determination

Any by-pass determination by the Secretary under this Act as in effect on the day preceding October 20, 1994, shall remain in effect to the extent the Secretary determines that such determination is consistent with the purpose of this section.

(Pub. L. 89–10, title XIV, § 14506, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3904.)

REFERENCES IN TEXT

This Act, as in effect on the day preceding October 20, 1994, referred to in subsec. (d), is Pub. L. 89–10, as added by Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 140, as amended, known as the Elementary and Secondary Education Act of 1965, which was classified generally to chapter 47 (§ 2701 et seq.) of this title prior to the general amendment of that Act by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6321, 8894 of this title.

§ 8897. Prohibition against funds for religious worship or instruction

Nothing contained in this chapter shall be construed to authorize the making of any payment under this chapter for religious worship or instruction.

(Pub. L. 89–10, title XIV, § 14507, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3905.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 8881 of this title.

§ 8898. Applicability to home schools

Nothing in this chapter shall be construed to affect home schools.

(Pub. L. 89–10, title XIV, § 14508, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3905.)

§ 8899. General provision regarding nonrecipient nonpublic schools

Nothing in this chapter shall be construed to permit, allow, encourage, or authorize any Federal control over any aspect of any private, religious, or home school, whether or not a home school is treated as a private school or home school under State law. This section shall not be construed to bar private, religious, or home schools from participation in programs or services under this chapter.

(Pub. L. 89–10, title XIV, § 14509, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3905.)

§ 8900. School prayer

Any State or local educational agency that is adjudged by a Federal court of competent jurisdiction to have willfully violated a Federal court order mandating that such local educational agency remedy a violation of the constitutional right of any student with respect to prayer in public schools, in addition to any other judicial remedies, shall be ineligible to receive Federal funds under this chapter until such time as the local educational agency complies with such order. Funds that are withheld under this section shall not be reimbursed for the period during which the local educational agency was in willful noncompliance.

(Pub. L. 89–10, title XIV, § 14510, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3906.)

§ 8901. General prohibitions

(a) Prohibition

None of the funds authorized under this chapter shall be used—

(1) to develop or distribute materials, or operate programs or courses of instruction directed at youth that are designed to promote or encourage, sexual activity, whether homosexual or heterosexual;

(2) to distribute or to aid in the distribution by any organization of legally obscene materials to minors on school grounds;

(3) to provide sex education or HIV prevention education in schools unless such instruction is age appropriate and includes the health benefits of abstinence; or

(4) to operate a program of condom distribution in schools.

(b) Local control

Nothing in this section shall be construed to—

(1) authorize an officer or employee of the Federal Government to mandate, direct, review, or control a State, local educational agency, or schools' instructional content, curriculum, and related activities;

(2) limit the application of the General Education Provisions Act [20 U.S.C. 1221 et seq.];

(3) require the distribution of scientifically or medically false or inaccurate materials or to prohibit the distribution of scientifically or medically true or accurate materials; or

(4) create any legally enforceable right.

(Pub. L. 89–10, title XIV, § 14511, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3906.)

REFERENCES IN TEXT

The General Education Provisions Act, referred to in subsec. (b)(2), is title IV of Pub. L. 90–247, Jan. 2, 1968, 81 Stat. 814, as amended, which is classified generally to chapter 31 (§ 1221 et seq.) of this title. For complete classification of this Act to the Code, see section 1221 of this title and Tables.

§ 8902. Prohibition on Federal mandates, direction, and control

Nothing in this chapter shall be construed to authorize an officer or employee of the Federal Government to mandate, direct, or control a State, local educational agency, or school's curriculum, program of instruction, or allocation of State or local resources, or mandate a State or any subdivision thereof to spend any funds or incur any costs not paid for under this chapter.

(Pub. L. 89–10, title XIV, § 14512, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3906.)

§ 8903. Report

The Secretary shall report to the Congress not later than 180 days after October 20, 1994, regarding how the Secretary shall ensure that audits conducted by Department employees of activities assisted under this chapter comply with changes to this chapter made by the Improving

America's Schools Act of 1994, particularly with respect to permitting children with similar educational needs to be served in the same educational settings, where appropriate.

(Pub. L. 89–10, title XIV, § 14513, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3906.)

REFERENCES IN TEXT

The Improving America's Schools Act of 1994, referred to in text, is Pub. L. 103–382, Oct. 20, 1994, 108 Stat. 3518. For complete classification of this Act to the Code, see Short Title of 1994 Amendment note set out under section 6301 of this title and Tables.

§ 8904. Required participation prohibited

Notwithstanding any other provision of law, no State shall be required to participate in any program under the Goals 2000: Educate America Act [20 U.S.C. 5801 et seq.], or to have content standards or student performance standards approved or certified under such Act, in order to receive assistance under this chapter.

(Pub. L. 89–10, title XIV, § 14514, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3907.)

REFERENCES IN TEXT

The Goals 2000: Educate America Act, referred to in text, is Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 125 (except titles V and IX), as amended, which is classified principally to chapter 68 (§ 5801 et seq.) of this title (except subchapters V (§ 5931 et seq.) and IX (§ 6001 et seq.)). For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables.

PART F—GUN POSSESSION

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 8802 of this title.

§ 8921. Gun-free requirements

(a) Short title

This section may be cited as the ''Gun-Free Schools Act of 1994''.

(b) Requirements

(1) In general

Except as provided in paragraph (3), each State receiving Federal funds under this chapter shall have in effect a State law requiring local educational agencies to expel from school for a period of not less than one year a student who is determined to have brought a weapon to a school under the jurisdiction of local educational agencies in that State, except that such State law shall allow the chief administering officer of such local educational agency to modify such expulsion requirement for a student on a case-by-case basis.

(2) Construction

Nothing in this subchapter shall be construed to prevent a State from allowing a local educational agency that has expelled a student from such a student's regular school setting from providing educational services to such student in an alternative setting.

(3) Special rule

(A) Any State that has a law in effect prior to October 20, 1994, which is in conflict with the not less than one year expulsion requirement described in paragraph (1) shall have the period of time described in subparagraph (B) to comply with such requirement.

(B) The period of time shall be the period beginning on October 20, 1994, and ending one year after such date.

(4) "Weapon" defined

For the purpose of this section, the term ''weapon'' means a firearm as such term is defined in section 921 of title 18.

(c) Special rule

The provisions of this section shall be construed in a manner consistent with the Individuals with Disabilities Education Act [20 U.S.C. 1400 et seq.].

(d) Report to State

Each local educational agency requesting assistance from the State educational agency that is to be provided from funds made available to the State under this chapter shall provide to the State, in the application requesting such assistance—

(1) an assurance that such local educational agency is in compliance with the State law required by subsection (b) of this section; and

(2) a description of the circumstances surrounding any expulsions imposed under the State law required by subsection (b) of this section, including—

(A) the name of the school concerned;

(B) the number of students expelled from such school; and

(C) the type of weapons concerned.

(e) Reporting

Each State shall report the information described in subsection (c) of this section to the Secretary on an annual basis.

(f) Report to Congress

Two years after October 20, 1994, the Secretary shall report to Congress if any State is not in compliance with the requirements of this subchapter.

(Pub. L. 89–10, title XIV, § 14601, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3907.)

REFERENCES IN TEXT

The Individuals with Disabilities Education Act, referred to in subsec. (c), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, as amended, which is classified generally to chapter 33 (§ 1400 et seq.) of this title. For complete classification of this Act to the Code, see section 1400 of this title and Tables.

APPLICABILITY OF INDIVIDUALS WITH DISABILITIES EDUCATION ACT

Section 314(b) of Pub. L. 103–382 provided that: ''Nothing in the Individuals with Disabilities Education Act [20 U.S.C. 1400 et seq.] shall supersede the provisions of section 14601 of the Elementary and Secondary Education Act [of 1965] [20 U.S.C. 8921] if a child's behavior is unrelated to such child's disability, except that this section [amending section 1415 of this title and enacting provisions set out as a note under section 1415 of this title] shall be interpreted in a manner that is consistent with the Department's final guidance concerning State and local responsibilities under the Gun-Free Schools Act of 1994 [20 U.S.C. 8921].''

§ 8922. Policy regarding criminal justice system referral

(a) In general

No funds shall be made available under this chapter to any local educational agency unless such agency has a policy requiring referral to the criminal justice or juvenile delinquency system of any student who brings a firearm or weapon to a school served by such agency.

(b) Definitions

For the purpose of this section, the terms ''firearm'' and ''school'' have the same meaning given to such terms by section 921(a) of title 18.

(Pub. L. 89–10, title XIV, § 14602, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3908.)

§ 8923. Data and policy dissemination under IDEA

The Secretary shall—

(1) widely disseminate the policy of the Department in effect on October 20, 1994, with respect to disciplining children with disabilities;

(2) collect data on the incidence of children with disabilities (as such term is defined in section 602(a)(1)[1] of the Individuals With[2] Disabilities Education Act) engaging in life threatening behavior or bringing weapons to schools; and

(3) submit a report to Congress not later than January 31, 1995, analyzing the strengths and problems with the current approaches regarding disciplining children with disabilities.

(Pub. L. 89–10, title XIV, § 14603, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3908.)

REFERENCES IN TEXT

Section 602 of the Individuals with Disabilities Education Act, referred to in par. (2), was classified to section 1401 of this title and was omitted in the general amendment of subchapter I of chapter 33 of this title, by Pub. L. 105–17, title I, § 101, June 4, 1997, 111 Stat. 37. Pub. L. 105–17 enacted a new section 602 of the Act which is classified to section 1401 of this title, and which contains provisions defining ''child with a disability''.

PART G—EVALUATIONS

§ 8941. Evaluations

(a) Evaluations

(1) In general

Except as provided in paragraph (2), the Secretary is authorized to reserve not more than 0.50 percent of the amount appropriated to carry out each program authorized under this chapter—

(A) to carry out comprehensive evaluations of categorical programs and demonstration projects, and studies of program effectiveness, under this chapter, and the administrative impact of such programs on schools and local educational agencies in accordance with subsection (b) of this section;

(B) to evaluate the aggregate short- and long-term effects and cost efficiencies across Federal programs under this chapter and related Federal preschool, elementary and secondary programs under other Federal law; and

(C) to strengthen the usefulness of grant recipient evaluations for continuous program progress through improving the quality, timeliness, efficiency, and utilization of program information on program performance.

(2) Special rule

(A) Paragraph (1) shall not apply to any program under subchapter I of this chapter.

(B) If funds are made available under any program assisted under this chapter (other than a program under subchapter I of this chapter) for evaluation activities, then the Secretary shall reserve no additional funds pursuant to the authority in subsection (a)(1) of this section to evaluate such program, but shall coordinate the evaluation of such program with the national evaluation described in subsection (b) of this section.

(b) National evaluations

(1) In general

The Secretary shall use the funds made available under subsection (a) of this section to carry out—

(A) independent studies of categorical and demonstration programs under this chapter and the administrative impact of such programs on schools and local educational agencies, that are coordinated with research supported through the Office of Educational Research and Improvement, using rigorous methodological designs and techniques, including longitudinal designs, control groups, and random assignment, as appropriate, to determine—

(i) the success of such programs in meeting the measurable goals and objectives, through appropriate targeting, quality services, and efficient administration, and in contributing to achieving the National Education Goals, with a priority on assessing program impact on student performance;

(ii) the short- and long-term effects of program participation on program participants, as appropriate;

(iii) the cost and efficiency of such programs;

(iv) to the extent feasible, the cost of serving all students eligible to be served under such programs;

(v) specific intervention strategies and implementation of such strategies that, based on theory, research and evaluation, offer the promise of improved achievement of program objectives;

(vi) promising means of identifying and disseminating effective management and educational practices;

(vii) the effect of such programs on school and local educational agencies' administrative responsibilities and structure, including the use of local and State resources, with particular attention to schools and agencies serving a high concentration of disadvantaged students; and

[1] See References in Text note below.

[2] So in original. Probably should not be capitalized.

(viii) the effect of Federal categorical programs at the elementary and secondary levels on the proliferation of State categorical education aid programs and regulations, including an evaluation of the State regulations that are developed in response to Federal education laws;

(B) in collaboration with the national assessment conducted pursuant to section 6511 of this title, a comprehensive evaluation of how the Federal Government has assisted the States to reform their educational systems through the various education laws enacted during the 103d Congress, which evaluation shall—

(i) encompass the changes made in Federal programs pursuant to the Improving America's Schools Act of 1994 as well as in any other law enacted during the 103d Congress that amended a Federal program assisting preschool, elementary, or secondary education;

(ii) encompass new initiatives such as initiatives under the Goals 2000: Educate America Act [20 U.S.C. 5801 et seq.], and the School-to-Work Opportunities Act of 1994 [20 U.S.C. 6101 et seq.], and be coordinated with evaluations of such Acts;

(iii) include a comprehensive review of the programs developed under the Acts described in clauses (i) and (ii) to determine such programs' overall effect on—

(I) the readiness of children for schooling;

(II) the improvement in educational attainment of students in elementary and secondary education; and

(III) the improvement in skills needed by students to obtain employment or pursue further education upon completion of secondary school or further education;

(iv) include a comprehensive review of the programs under the Acts described in clauses (i) and (ii) to determine such programs' overall effect—

(I) on school reform efforts undertaken by States;

(II) on efforts by States to adopt educational standards to improve schooling for all children, to align their curricula, teacher training, and assessments with such standards, and to bring flexibility to the rules governing how education is to be provided; and

(III) on student populations that have been the traditional beneficiaries of Federal assistance in order to determine whether such population's educational attainment has been improved as a result of such programs;

(v) evaluate how the National Assessment Governing Board, the Advisory Council on Education Statistics, and the National Education Goals Panel coordinate, interact, or duplicate efforts to assist the States in reforming the educational systems of States; and

(vi) include a review of the programs under the Acts described in clauses (i) and (ii) in such detail as the Secretary deems appropriate, and may involve cooperation with other Federal departments and agencies in order to incorporate evaluations and recommendations of such departments and agencies; and

(C) a study of the waivers granted under section 8881 of this title, which study shall include—

(i) data on the total number of waiver requests that were granted and the total number of such requests that were denied, disaggregated by the statutory or regulatory requirement for which the waivers were requested; and

(ii) an analysis of the effect of waivers on categorical program requirements and other flexibility provisions in this chapter, the School-to-Work Opportunities Act of 1994 [20 U.S.C. 6101 et seq.], and the Goals 2000: Educate America Act [20 U.S.C. 5801 et seq.], on improvement in educational achievement of participating students and on school and local educational agency administrative responsibilities, structure, and resources based on an appropriate sample of State educational agencies, local educational agencies, schools, and tribes receiving waivers.

(D) a study of the waivers provided under section 6314 of this title to support schoolwide programs which shall include—

(i) the extent to which schoolwide programs are meeting the intent and purposes of any program for which provisions were waived; and

(ii) the extent to which the needs of all students are being served by such programs particularly students who would be eligible for assistance under any provisions waived.

(2) Independent panel

The Secretary shall appoint an independent panel to review the plan for the evaluation described in paragraph (1), to advise the Secretary on such evaluation's progress, and to comment, if the panel so wishes, on the final report described in paragraph (3).

(3) Report

The Secretary shall submit a final report on the evaluation described in this subsection by January 1, 1998, to the Committee on Education and Labor of the House of Representatives and to the Committee on Labor and Human Resources of the Senate.

(c) Recipient evaluation and quality assurance improvement

The Secretary is authorized to provide guidance, technical assistance, and model programs to recipients of assistance under this chapter to strengthen information for quality assurance and performance information feedback at State and local levels. Such guidance and assistance shall promote the development, measurement and reporting of valid, reliable, timely and consistent performance indicators within a program in order to promote continuous program improvement. Nothing in this subsection shall be construed to establish a national data system.

(Pub. L. 89–10, title XIV, § 14701, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3908; amended Pub. L. 104–134, title I, § 101(d) [title VII, § 703(b)(5)], Apr. 26, 1996, 110 Stat. 1321–211, 1321–255; renumbered title I, Pub. L. 104–140, § 1(a), May 2, 1996, 110 Stat. 1327.)

REFERENCES IN TEXT

The Improving America's Schools Act of 1994, referred to in subsec. (b)(1)(B)(i), is Pub. L. 103–382, Oct. 20, 1994, 108 Stat. 3518. For complete classification of this Act to the Code, see Short Title of 1994 Amendment note set out under section 6301 of this title and Tables.

The Goals 2000: Educate America Act, referred to in subsec. (b)(1)(B)(ii), (C)(ii), is Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 125 (except titles V and IX), as amended, which is classified principally to chapter 68 (§ 5801 et seq.) of this title (except subchapters V (§ 5931 et seq.) and IX (§ 6001 et seq.)). For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables.

The School-to-Work Opportunities Act of 1994, referred to in subsec. (b)(1)(B)(ii), (C)(ii), is Pub. L. 103–239, May 4, 1994, 108 Stat. 568, as amended, which is classified principally to chapter 69 (§ 6101 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6101 of this title and Tables.

AMENDMENTS

1996—Subsec. (b)(1)(B)(v). Pub. L. 104–134 substituted ''and the National Education Goals Panel'' for ''the National Education Goals Panel, and the National Education Statistics and Improvement Council (and any other Federal board established to analyze, address, or approve education standards and assessments)''.

CHANGE OF NAME

Committee on Education and Labor of House of Representatives treated as referring to Committee on Economic and Educational Opportunities of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Economic and Educational Opportunities of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Fifth Congress, Jan. 7, 1997.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1226c, 6434, 6435, 6621, 6622, 6701, 6847, 7131, 7237, 7263, 7548, 8002, 8036, 8332, 8676 of this title.

PART H—SENSE OF CONGRESS

§ 8961. Sense of Congress to increase total share of Federal spending on education

(a) Findings

The Congress finds that—

(1) in order to increase our Nation's standard of living and to increase the number of good jobs, the United States must increase its productivity and ability to compete in the international marketplace by improving the educational level of our workforce;

(2) although efforts are being made to establish higher educational standards and goals, there is a substantial shortage of resources to meet such standards and goals;

(3) States and local communities are finding it increasingly difficult to meet ever higher educational standards and goals, and States will not be able to fund needed changes without Federal help to reach such standards and goals;

(4) the Federal Government has established many educational programs but failed to provide adequate funding for such programs, for example one such program provides education to our Nation's disabled students and was established with a promise of 40 percent Federal funding but currently receives only eight percent Federal funding;

(5) the annual shortfall in Federal education programs is approximately half of the promised funding;

(6) many needed educational improvements will not need Federal funds, however, other suggested changes such as lengthened school years, better pay, after-school activities, mentoring for students at risk, programs for gifted students, and replacing substandard buildings, will require substantial Federal assistance; and

(7) the Federal contribution to education is less than two percent of the total Federal budget, and in order to make education a national priority, the total percentage of Federal educational funding should be increased by one percent each year over the next eight years to reach 10 percent of the total Federal budget.

(b) Sense of Congress

It is the sense of the Congress that the total share of the Federal spending on education should increase by at least one percent each year until such share reaches 10 percent of the total Federal budget.

(Pub. L. 89–10, title XIV, § 14801, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3911.)

§ 8962. Sense of Congress; requirement regarding notice

(a) Purchase of American-made equipment and products

In the case of any equipment or products that may be authorized to be purchased with financial assistance provided under this chapter, it is the sense of the Congress that entities receiving such assistance should, in expending the assistance, purchase only American-made equipment and products.

(b) Notice to recipients of assistance

In providing financial assistance under this chapter, the head of each Federal agency shall provide to each recipient of the assistance a notice describing the statement made in subsection (a) of this section by the Congress.

(Pub. L. 89–10, title XIV, § 14802, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3912.)

CHAPTER 71—NATIONAL EDUCATION STATISTICS

Sec.

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PRIOR PROVISIONS

Provisions similar to those in this chapter were contained in section 1221e–1 of this title prior to repeal by Pub. L. 103–382, § 212(a)(1).

§ 9001. Findings; purpose; definitions

(a) Findings

The Congress finds that—

(1) a Department of Education was established in 1867 ''for the purpose of collecting such statistics and facts as shall show the condition and progress of education in the several States and territories, and of diffusing such information respecting the organization and management of schools and school systems and methods of teaching as shall aid the people of the United States in the establishment and maintenance of efficient school systems, and otherwise promote the cause of education throughout the United States'';

(2) today, while the role of the current Department of Education is much broader, the National Center for Education Statistics within the Office of Educational Research and Improvement continues to perform those crucial original purposes; and

(3) looking to the 21st century, the National Center for Education Statistics must be able to design and undertake, effectively and efficiently, statistical activities that will aid in the reform of the Nation's educational systems.

(b) Purpose

It is the purpose of this chapter to ensure the continuation of an effective mechanism for collecting and reporting statistics and information showing the condition and progress of education in the United States and other nations in order to promote and accelerate the improvement of American education.

(c) Definitions

For the purpose of this chapter and unless otherwise specified—

(1) the term ''Assistant Secretary'' means the Assistant Secretary for Educational Research and Improvement established under section 3412(b)(1)(E)[1] of this title;

(2) the term ''Department'' means the Department of Education;

(3) the term ''institution of higher education'' has the same meaning given such term in section 1141(a) of this title;

(4) the term ''local educational agency'' has the same meaning given such term in section 8801 of this title;

(5) the term ''Secretary'' means the Secretary of Education;

(6) the term ''State educational agency'' has the same meaning given such term in section 8801 of this title; and

(7) the terms ''State'' and ''United States''—

(A) other than for the purpose of section 9010 of this title, mean each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico; and

(B) for the purpose of section 9010 of this title, have the same meaning given such terms in subparagraph (A), except that such terms include Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and Palau.

(Pub. L. 103–382, title IV, § 402, Oct. 20, 1994, 108 Stat. 4029.)

REFERENCES IN TEXT

The reference to section 3412(b)(1)(E) of this title in subsec. (c)(1) probably should be a reference to section 3412(b)(3) of this title. Pub. L. 103–227, title IX, § 913, Mar. 31, 1994, 108 Stat. 223, amended section 3412 by striking out subsec. (b)(1)(E) which related to an Assistant Secretary for Educational Research and Improvement, redesignating subsec. (b)(1)(F) as (b)(1)(E), and adding a subsec. (b)(3) which relates to an Assistant Secretary for Educational Research and Improvement.

SHORT TITLE

Section 401 of Pub. L. 103–382 provided that: ''This title [enacting this chapter] may be cited as the 'National Education Statistics Act of 1994'.''

[1] See References in Text note below.

§ 9002. National Center for Education Statistics

(a) Establishment

There is established, within the Office of Educational Research and Improvement established under section 3419 of this title, a National Center for Education Statistics (hereafter in this chapter referred to as the ''Center'').

(b) Commissioner and Associate Commissioners

(1) Commissioner

The Center shall be headed by a Commissioner of Education Statistics (hereafter in this chapter referred to as the ''Commissioner'') who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall—

(A) have substantial knowledge of programs assisted by the Center;

(B) be paid in accordance with section 5315 of title 5; and

(C) serve for a term of four years, with the terms to expire every fourth June 21, beginning in 1995.

(2) Associate Commissioners

The Commissioner may appoint such Associate Commissioners as the Commissioner determines are necessary and appropriate.

(Pub. L. 103–382, title IV, § 403, Oct. 20, 1994, 108 Stat. 4030.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7267 of this title.

§ 9003. Duties of Center

(a) Duties

The duties of the Center are to collect, analyze, and disseminate statistics and other information related to education in the United States and in other nations, including—

(1) collecting, acquiring, compiling (where appropriate, on a State by State basis), and disseminating full and complete statistics on the condition and progress of education, at the preschool, elementary, secondary, and postsecondary levels in the United States, including data on—

(A) State and local education reform activities;

(B) student achievement at all levels of education;

(C) secondary school completions, dropouts, and adult literacy;

(D) educational access to and opportunity for postsecondary education, including data on financial aid to postsecondary students;

(E) teaching, including data on course-taking, instruction, the conditions of the education workplace, and the supply of, and demand for, teachers, which may include data on the proportions of women and men, cross-tabulated by race or ethnicity, teaching in subjects in which such individuals have been historically underrepresented;

(F) the learning and teaching environment, including data on libraries;

(G) the incidence, frequency, seriousness, and nature of violence affecting students, school personnel, and other individuals participating in school activities, as well as other indices of school safety;

(H) the financing and management of education, including data on revenues and expenditures; and

(I) the social and economic status of children;

(2) conducting and publishing reports and analyses of the meaning and significance of such statistics;

(3) conducting longitudinal studies, as well as regular and special surveys and data collections, necessary to report on the condition and progress of education;

(4) collecting, analyzing, cross-tabulating, and reporting, to the extent feasible, so as to provide information by gender, race, socioeconomic status, limited-English proficiency, and other population characteristics when such disaggregated information would facilitate educational and policy decisionmaking;

(5) assisting public and private educational agencies, organizations, and institutions in improving and automating statistical and data collection activities; and

(6) acquiring and disseminating data on educational activities and student achievement in the United States compared with foreign nations.

(b) Training program

The Commissioner may establish a program to train employees of public and private educational agencies, organizations, and institutions in the use of the Center's standard statistical procedures and concepts and may establish a fellows program to appoint such employees as temporary fellows at the Center in order to assist the Center in carrying out its duties.

(Pub. L. 103–382, title IV, § 404, Oct. 20, 1994, 108 Stat. 4031.)

NATIONAL SURVEY OF FACTORS ASSOCIATED WITH PARTICIPATION

Pub. L. 102–325, title XIV, § 1406, July 22, 1992, 106 Stat. 818, provided that:

''(a) AUTHORITY OF THE SECRETARY OF EDUCATION.—In order to assure improved and accurate data on the participation of at-risk students in postsecondary education, the Secretary of Education, acting through the National Center for Educational Statistics, shall conduct a special purpose survey on a biennial basis of factors associated with participation of low-income, disadvantaged, non-English language background, disabled, and minority students, including (but not limited to) African American, Native Americans, Native Hawaiians, major Hispanic subgroups, and Asian students from disadvantaged backgrounds in various types of postsecondary education. The survey data shall permit comparisons with other groups that have characteristically participated at higher rates than at-risk students.

''(b) DEVELOPMENT OF THE SURVEY.—The Secretary of Education shall consult with the Congress and the elementary and secondary and higher education community in developing such an annual survey. The survey shall include, but not be limited to—

''(1) academic preparation of groups at key points in the elementary and secondary education process;

''(2) rates of academic progress and graduation from high school;

''(3) participation in postsecondary education by type and control of institution and by program of study;

''(4) persistence rates in postsecondary programs, or, in the case of short-term programs, completion rates; and

''(5) average student financial assistance awarded to groups, including Federal, State, and other assistance.

''(c) REPORT TO CONGRESS.—The Secretary of Education shall report relevant data and conclusions from the survey to Congress on an annual basis, including comparisons of important factors for at-risk and other relevant populations.

''(d) DEVELOPMENT OF PLAN.—In the event of significant findings related to underparticipation rates of at-risk and other students, the Secretary of Education shall submit a plan containing policies and program modifications for ensuring the participation of at-risk students. The plan shall indicate the modifications the Secretary will make to increase participation, including, but not limited to, increasing information and training, and recommending other relevant changes to the programs under this title [see Tables for classification].

''(e) PANEL SURVEY ON INCOME DYNAMICS.—

''(1) IN GENERAL.—The Secretary of Education, acting through the National Center for Education Statistics, shall make an interagency agreement with the National Science Foundation to provide for additional questions and an appropriate sample size as part of an existing panel study of income dynamics to provide information on the educational processes and other developmental behavior of Hispanic, black, and non-Hispanic white children and their short-term and long-term consequences.

''(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $900,000 for fiscal year 1993 and such sums for each of the 4 succeeding fiscal years to carry out this subsection.''

DATA STUDY REQUIRED

Pub. L. 99–498, title XIII, § 1303, Oct. 17, 1986, 100 Stat. 1580, as amended by Pub. L. 100–50, § 23(3), June 3, 1987, 101 Stat. 362, provided that:

''(a) CONDUCT OF STUDIES.—The Secretary, through the Office of Educational Research and Improvement, shall conduct the studies required by this section and submit reports thereon to the Congress not later than September 30, 1990. The reports shall contain such recommendations, including recommendations for legislation, as the Secretary deems appropriate.

''(b) COST STUDY REQUIRED.—(1) The Secretary shall conduct a study on the escalating cost of higher education. The study required by this section shall—

''(A) identify the current cost of obtaining a higher education and determine how that cost has changed in recent years,

''(B) determine the specific causes of such changes in cost and the extent to which those causes have contributed to such changes,

''(C) forecast the future cost of obtaining a higher education with consideration given to prospective demographic changes in student enrollments,

''(D) evaluate the impact of such changes in cost on institutions of higher education, their students, and lower-and middle-income families,

''(E) make recommendations on how such changes in cost can be minimized in the future, and

''(F) outline State and Federal policy options which may help to minimize such changes in cost in the future.

''(2) In conducting such study, the Secretary shall give special consideration to the impact of escalating costs on lower- and middle-income students and families, the impact of escalating costs on female and minority students, the impact of escalating costs on the career choices made by students, and the relationship between escalating costs and the Federal student financial assistance programs.

''(3) During the conduct of such study, the Secretary shall consult frequently with the Chairman of the Senate Committee on Labor and Human Resources and the Chairman of the House Committee on Education and Labor.

''(c) STUDENT AID RECIPIENT SURVEY.—(1) The Secretary shall survey student aid recipients on a regular cycle, but not less than once every 3 years—

''(A) to identify the population of students receiving Federal student aid;

''(B) to determine the income distribution and other socioeconomic characteristics of federally aided students;

''(C) to describe the combinations of aid from State, Federal, and private sources received by students from all income groups;

''(D) to describe the debt burden of loan recipients and their capacity to repay their education debts; and

''(E) to disseminate such information in both published and machine readable form.

''(2) The survey shall be representative of full-time and part-time, undergraduate, graduate, and professional and current and former students in all types of institutions, and should be designed and administered in consultation with the Congress and the postsecondary education community.

''(d) TEACHER SUPPLY AND DEMAND.—(1) The Secretary shall utilize the legislative authority under section 406(b) of the General Education Provisions Act [former 20 U.S.C. 1221e–1(b)] to annually assess current and future supply and demand for teachers with particular attention to—

''(A) long-term and short-term shortages of personnel in various subject areas or teaching specialties;

''(B) shortages in particular States or regions;

''(C) the number of minorities entering teaching;

''(D) the number of women and minorities entering educational administration;

''(E) the effect of State curriculum and graduation requirements on the need for teachers in each State;

''(F) the extent to which demographic characteristics of persons currently employed as teachers and persons studying to be teachers match the characteristics of the students in each State (race, age, sex);

''(G) the academic qualifications of prospective teachers and the academic preparation of persons currently preparing to be teachers;

''(H) the effect of the introduction of State mandated teacher competency tests on the demographic and educational characteristics of teachers and the supply of teachers; and

''(I) an assessment of new and emerging specialties and the technologies, academic subjects, and occupational areas requiring vocational education, with emphasis on the unique needs for preparing an adequate supply of vocational teachers of handicapped students, with added emphasis on the preparation required to teach combined classrooms of handicapped, or other highly targeted groups of students and other students within a vocational education setting.

''(2) The analysis conducted under this subsection may include assessment of other educational needs identified by the Congress, including an assessment of the need for instructional equipment and materials in elementary and secondary schools and in institutions of higher education.

''(e) EQUITABLE STUDENT AID FOR FARM FAMILIES.—The Secretary shall conduct a study of financial aid formulas under title IV of the Act [20 U.S.C. 1070 et seq.; 42 U.S.C. 2751 et seq.] for students in postsecondary educational institutions with special attention to devising a more equitable formula for farm families.

''(f) There are authorized to be appropriated $2,700,000 for the fiscal year 1987 and for each of the 2 succeeding fiscal years to carry out the provisions of this section.''

STUDY BY NATIONAL CENTER FOR EDUCATION STATISTICS RESPECTING CONDITION OF EDUCATION FOR HISPANIC AMERICANS

Pub. L. 98–211, § 24(b), Dec. 8, 1983, 97 Stat. 1419, provided that: ''The National Center for Education Statistics shall not terminate the study of the condition of

education for Hispanic Americans unless specifically required or authorized to do so by law.''

§ 9004. Performance of duties

(a) Grants, contracts, and cooperative agreements

(1) In general

In carrying out the Commissioner's duties under this chapter, the Commissioner may award grants, and enter into contracts and cooperative agreements.

(2) Duration

Notwithstanding any other provision of law, the grants, contracts, and cooperative agreements under this section may be awarded, on a competitive basis, for a period of not more than five years, and may be renewed at the discretion of the Commissioner for an additional period of not more than five years.

(b) Gathering information

(1) Sampling

The Commissioner may use the statistical method known as sampling to carry out the purpose of this chapter.

(2) Source of information

The Commissioner may, as the Commissioner considers appropriate, use information collected—

(A) from States, local educational agencies, public and private schools, preschools, institutions of higher education, libraries, administrators, teachers, students, the general public, and such other individuals, organizations, agencies, and institutions as the Commissioner may consider appropriate; and

(B) by other offices within the Department and by other Federal departments, agencies, and instrumentalities.

(3) Collection

The Commissioner may—

(A) enter into interagency agreements for the collection of statistics;

(B) arrange with any agency, organization, or institution for the collection of statistics; and

(C) assign employees of the Center to any such agency, organization, or institution to assist in such collection.

(4) Technical assistance and coordination

In order to maximize the effectiveness of Federal efforts to serve the educational needs of children and youth, the Commissioner shall—

(A) provide technical assistance to Department offices that gather data for statistical purposes; and

(B) coordinate closely with other Department offices in the collection of data.

(Pub. L. 103–382, title IV, § 405, Oct. 20, 1994, 108 Stat. 4032.)

§ 9005. Reports

(a) Report on condition and progress of education

The Commissioner shall, not later than June 1, 1995, and each succeeding June 1 thereafter, submit to the President and the Congress a statistical report on the condition and progress of education in the United States.

(b) Statistical reports

The Commissioner shall issue regular statistical reports to the President and Congress on such education topics as the Commissioner determines to be appropriate.

(c) Special reports

The Commissioner may, whenever the Commissioner considers it appropriate, issue special reports on particular education topics.

(Pub. L. 103–382, title IV, § 406, Oct. 20, 1994, 108 Stat. 4033.)

§ 9006. Advisory Council on Education Statistics

(a) Establishment

There is established, within the Center, the Advisory Council on Education Statistics (hereafter in this chapter referred to as the ''Council'').

(b) Membership

(1) Composition

The Council shall be composed of—

(A) 18 voting members who are users of education data and who are appointed by the Secretary on the basis of their experience and eminence within the field of education, of whom at least—

(i) three shall be practicing educators;

(ii) three shall be education policymakers;

(iii) three shall be professional statisticians;

(iv) three shall be education researchers; and

(v) three shall be experts in educational measurement;

(B) three individuals representing the general public, appointed by the Secretary;

(C) the Director of the Census and the Commissioner of Labor Statistics, as voting, ex officio members; and

(D) the Assistant Secretary and the Commissioner, as nonvoting, ex officio members.

(2) Presiding officer

The Commissioner shall appoint the presiding officer of the Council from among the voting members of the Council.

(3) Terms

Members of the Council appointed under paragraph (1)(A) shall be appointed for three-year terms except that, in the case of initial appointments, the Secretary shall make appointments for shorter terms to the extent necessary to avoid the expiration of the terms of more than six members in the same calendar year.

(4) Meetings

(A) The Council shall meet in public session at the call of the presiding officer, except that the Council shall meet—

(i) at least two times during each calendar year; and

(ii) in addition, whenever ten voting members request in writing that the presiding officer call a meeting.

(B) Eleven voting members of the Council shall constitute a quorum.

(5) Special rule

The Council shall—

(A) review general policies for the operation of the Center and shall advise the Commissioner on standards to ensure that statistics and other information disseminated by the Center are of high quality and are not subject to partisan political influence; and

(B) advise the Commissioner and the National Assessment Governing Board on technical and statistical matters related to the National Assessment of Educational Progress.

(6) Staff

The Council shall appoint a staff of not more than six individuals with technical expertise to enable the Council to carry out its duties.

(Pub. L. 103–382, title IV, § 407, Oct. 20, 1994, 108 Stat. 4033.)

TERMINATION OF ADVISORY COUNCILS

Advisory councils established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a council established by the President or an officer of the Federal Government, such council is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a council established by Congress, its duration is otherwise provided by law. See sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 9010, 9011 of this title.

§ 9007. Confidentiality

(a) Confidentiality standards

(1) In general

(A) The Center shall develop and enforce standards designed to protect the confidentiality of persons in the collection, reporting, and publication of data under this chapter.

(B) This section shall not be construed to protect the confidentiality of information about institutions, organizations, and agencies that receive grants from, or have contracts or cooperative agreements with, the Federal Government.

(2) Prohibition

No person may—

(A) use any individually identifiable information furnished under this chapter for any purpose other than a statistical purpose;

(B) make any publication whereby the data furnished by any particular person under this chapter can be identified; or

(C) permit anyone other than the individuals authorized by the Commissioner to examine the individual reports.

(b) Administration

(1) In general

No department, bureau, agency, officer, or employee of the Federal Government, except the Commissioner in carrying out the purposes of this chapter, shall require, for any reason, copies of reports that have been filed under this chapter with the Center or retained by any individual respondent. Copies of such reports that have been so filed or retained with the Center or any of the Center's employees, contractors, or agents shall be immune from legal process, and shall not, without the consent of the individual concerned, be admitted as evidence or used for any purpose in any action, suit, or other judicial or administrative proceeding. This paragraph shall apply only to individually identifiable information (as defined in paragraph (5)(A)).

(2) Employee or staff violations

Whoever, being or having been an employee or staff member of the Department, having taken or subscribed the oath of office, or having sworn to observe the limitations imposed by subsection (a)(2) of this section, knowingly publishes or communicates any individually identifiable information (as defined in paragraph (5)(A)), the disclosure of which is prohibited by subsection (a)(2) of this section, and that comes into such employee or staff's possession by reason of employment (or otherwise providing services) under this chapter, shall be found guilty of a class E felony and imprisoned for not more than five years, or fined as specified in section 3571 of title 18, or both.

(3) Temporary staff

The Commissioner may utilize temporary staff, including employees of Federal, State, or local agencies or instrumentalities (including local educational agencies), and employees of private organizations to assist the Center in performing the Center's responsibilities, but only if such temporary staff are sworn to observe the limitations imposed by this section.

(4) Information requirements

No collection of information or data acquisition activity undertaken by the Center shall be subject to any review, coordination, or approval procedure except as required by the Director of the Office of Management and Budget under the rules and regulations established pursuant to chapter 35 of title 44, except such collection of information or data acquisition activity may be subject to review or coordination if the Commissioner determines that such review or coordination is beneficial.

(5) Definitions

For the purposes of this section—

(A) the term ''individually identifiable information'' means any record, response form, completed survey, or aggregation thereof from which information about particular individuals may be revealed; and

(B) the term ''report'' means a response provided by or about an individual to an inquiry from the Center and does not include a statistical aggregation from which individually identifiable information cannot be revealed.

(6) Violations

Any person who uses any data provided by the Center, in conjunction with any other in-

formation or technique, to identify any individual student, teacher, administrator, or other individual and who knowingly discloses, publishes, or uses such data for a purpose other than a statistical purpose, or who otherwise violates subparagraph (A) or (B) of subsection (a)(2) of this section, shall be found guilty of a class E felony and imprisoned for not more than five years, or fined as specified in section 3571 of title 18, or both.

(7) Access to reports or records

Nothing in this section shall restrict the right of the Secretary, the Comptroller General of the United States, the Director of the Congressional Budget Office, and the Librarian of Congress, to gain access to any reports or other records, including information identifying individuals, in the Center's possession, except that the same restrictions on disclosure that apply under paragraphs (1) and (6) shall apply to such individuals.

(Pub. L. 103–382, title IV, § 408, Oct. 20, 1994, 108 Stat. 4034.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 9008 of this title.

§ 9008. Dissemination

(a) General requests

(1) In general

The Center may furnish transcripts or copies of tables and other statistical records and make special statistical compilations and surveys for State and local officials, public and private organizations, and individuals.

(2) Compilations

The Center shall provide State and local educational agencies opportunities to suggest the development of particular compilations of statistics, surveys, and analyses that would assist those educational agencies.

(b) Congressional requests

The Center shall furnish such special statistical compilations and surveys as the Congress may request.

(c) Joint statistical projects

The Secretary may engage in joint statistical projects related to the purposes of this chapter, or other statistical purposes authorized by law, with nonprofit organizations or agencies, and the cost of such projects shall be shared equitably as determined by the Secretary.

(d) Fees

(1) In general

Statistical compilations and surveys under this section, other than those carried out pursuant to subsections (b) and (c) of this section, may be made subject to the payment of the actual or estimated cost of such work.

(2) Funds received

All funds received in payment for work or services described in this subsection may be used to pay directly the costs of such work or services, to repay appropriations that initially bore all or part of such costs, or to refund excess sums when necessary.

(e) Access

(1) Other agencies

The Center shall, consistent with section 9007 of this title, cooperate with other Federal agencies having a need for educational data in providing access to educational data received by the Center.

(2) Interested parties

The Center shall, in accordance with such terms and conditions as the Secretary may prescribe, provide all interested parties, including public and private agencies and individuals, direct access to data collected by the Center for the purposes of research and acquiring statistical information.

(Pub. L. 103–382, title IV, § 409, Oct. 20, 1994, 108 Stat. 4035.)

§ 9009. Cooperative education statistics systems

(a) In general

The Commissioner may establish one or more national cooperative education statistics systems for the purpose of producing and maintaining, with the cooperation of the States, comparable and uniform information and data on elementary and secondary education, postsecondary education, and libraries, that are useful for policymaking at the Federal, State, and local levels. In carrying out this section, the Commissioner may provide technical assistance, and make grants and enter into contracts and cooperative agreements.

(b) Model data system

The Commissioner, working through the cooperative education statistics system, shall study, design, and pilot a model data system that will yield information about spending for administration at the school and local education agency levels.

(Pub. L. 103–382, title IV, § 410, Oct. 20, 1994, 108 Stat. 4036.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 8824 of this title.

§ 9010. National Assessment of Educational Progress

(a) Establishment

The Commissioner shall, with the advice of the National Assessment Governing Board established under section 9011 of this title, and with the technical assistance of the Advisory Council established under section 9006 of this title, carry out, through grants, contracts, or cooperative agreements with one or more qualified organizations, or consortia thereof, a National Assessment of Educational Progress (hereafter in this chapter referred to as the ''National Assessment'').

(b) Purpose; State assessments

(1) Purpose

The purpose of the National Assessment is to provide a fair and accurate presentation of educational achievement in reading, writing, and the other subjects included in the third National Education Goal, regarding student

achievement and citizenship. The Commissioner, in carrying out the National Assessment, shall use sampling techniques that produce data that are representative on a national and regional basis, and on a State basis pursuant to paragraph (2). In addition, the Commissioner shall—

(A) collect and report data on a periodic basis, but at least once every two years, on students at ages 9, 13, and 17 and in grades 4, 8, and 12 in public and private schools;

(B) report achievement data on a basis that ensures valid and reliable trend reporting;

(C) include information on special groups, including, whenever feasible, information collected, cross-tabulated, analyzed, and reported by sex, race or ethnicity and socioeconomic status; and

(D) ensure that achievement data are made available on a timely basis following official reporting, in a manner that facilitates further analysis.

(2) State assessments

(A)(i) The Commissioner, in carrying out the National Assessment, may conduct State assessments of student achievement in grades 4, 8, and 12.

(ii) Each such State assessment, in each subject area and at each grade level, shall be conducted on a developmental basis until the Commissioner determines, as the result of an evaluation required by subsection (f) of this section, that such assessment produces high quality data that are valid and reliable.

(B)(i) States wishing to participate in State assessments shall enter into an agreement with the Secretary pursuant to subsection (d)(2) of this section.

(ii) Such agreement shall contain information sufficient to give States full information about the process for consensus decisionmaking on objectives to be tested, and the standards for sampling, test administration, test security, data collection, validation, and reporting.

(C) A participating State shall review and give permission for the release of results from any test of its students administered as a part of a State assessment prior to the release of such data. Refusal by a State to release its data shall not restrict the release of data from other States that have approved the release of such data.

(3) Prohibited data

In carrying out the National Assessment, the Commissioner shall not collect any data that are not directly related to the appraisal of educational performance, achievement, and traditional demographic reporting variables, or to the fair and accurate presentation of such information.

(4) Technical assistance

In carrying out the National Assessment, the Commissioner may provide technical assistance to States, localities, and other parties.

(c) Access

(1) Public access

Except as provided in paragraph (2), the public shall have access to all data, questions, and test instruments of the National Assessment.

(2) Personally identifiable information

(A) The Commissioner shall ensure that all personally identifiable information about students, their educational performance, and their families, and that information with respect to individual schools, remains confidential, in accordance with section 552a of title 5.

(B) Notwithstanding any other provision of law, the Commissioner may decline to make available to the public for a period, not to exceed ten years after initial use, cognitive questions that the Commissioner intends to reuse in the future.

(d) Participation

(1) National and regional

Participation in the national and regional assessments by State and local educational agencies shall be voluntary.

(2) State

Participation in assessments made on a State basis shall be voluntary. The Commissioner shall enter into an agreement with any State that desires to carry out an assessment for the State under this subsection. Each such agreement shall contain provisions designed to ensure that the State will—

(A) participate in the assessment; and

(B) pay from non-Federal sources the non-Federal share of such participation.

(3) Non-Federal share

(A) For each fiscal year, the non-Federal share for the purpose of paragraph (2)(B) shall be—

(i) the cost of conducting the assessment at the school level for all public schools in the State sample;

(ii) the cost of coordination within the State; and

(iii) other reasonable costs specified by the Secretary in the agreement described in paragraph (2), such as the cost of analyzing and reporting the data.

(B) The non-Federal share of payments under this paragraph may be in cash or in kind, fairly valued.

(C) The agreement described in paragraph (2) shall describe the manner in which the costs of administering the assessment to private nonprofit schools included in the State sample will be met.

(e) Student performance levels

(1) Performance levels

The National Assessment Governing Board, established under section 9011 of this title, shall develop appropriate student performance levels for each age and grade in each subject area to be tested under the National Assessment.

(2) Development of levels

(A) Such levels shall be—

(i) devised through a national consensus approach, providing for active participation of teachers, curriculum specialists, local school administrators, parents, and concerned members of the general public;

(ii) used on a developmental basis until the Commissioner determines, as the result of an evaluation under subsection (f) of this section, that such levels are reasonable, valid, and informative to the public; and

(iii) updated as appropriate.

(B) In using such levels on a developmental basis, the Commissioner and the Board shall ensure that reports that use such levels do so in a manner that makes clear the developmental status of such levels.

(3) Reporting

After determining that such levels are reasonable, valid, and informative to the public, as the result of an evaluation under subsection (f) of this section, the Commissioner shall use such levels or other methods or indicators for reporting results of the National Assessment and State assessments.

(f) Review of National and State assessments

(1) In general

(A) The Secretary shall provide for continuing review of the National Assessment, State assessments, and student performance levels, by one or more nationally recognized evaluation organizations, such as the National Academy of Education and the National Academy of Sciences.

(B) Such continuing review shall address—

(i) whether each developmental State assessment is properly administered, produces high quality data that are valid and reliable, and produces data on student achievement that are not otherwise available to the State (other than data comparing participating States to each other and the Nation); and

(ii) whether developmental student performance levels are reasonable, valid, and informative to the public.

(2) Report

The Secretary shall report to the Congress, the President, and the Nation on the findings and recommendations of such reviews.

(3) Use of findings and recommendations

The Commissioner shall consider the findings and recommendations of such reviews in designing the competition to select the organization, or organizations, through which the Commissioner carries out the National Assessment.

(g) Coverage agreements

(1) Department of Defense schools

The Secretary and the Secretary of Defense may enter into an agreement, including such terms as are mutually satisfactory, to include in the National Assessment elementary and secondary schools operated by the Department of Defense.

(2) Bureau of Indian Affairs schools

The Secretary and the Secretary of the Interior may enter into an agreement, including such terms as are mutually satisfactory, to include in the National Assessment schools for Indian children operated or supported by the Bureau of Indian Affairs.

(Pub. L. 103–382, title IV, § 411, Oct. 20, 1994, 108 Stat. 4036.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 9001, 9011, 9012 of this title.

§ 9011. National Assessment Governing Board

(a) Establishment

There is established the National Assessment Governing Board (hereafter in this chapter referred to as the ''Board''), which shall formulate policy guidelines for the National Assessment.

(b) Membership

(1) Appointment and composition

The Board shall be appointed by the Secretary and be composed of—

(A) two Governors, or former Governors, who shall not be members of the same political party;

(B) two State legislators, who shall not be members of the same political party;

(C) two chief State school officers;

(D) one superintendent of a local educational agency;

(E) one member of a State board of education;

(F) one member of a local board of education;

(G) three classroom teachers representing the grade levels at which the National Assessment is conducted;

(H) one representative of business or industry;

(I) two curriculum specialists;

(J) three testing and measurement experts, who shall have training and experience in the field of testing and measurement;

(K) one nonpublic school administrator or policymaker;

(L) two school principals, of whom one shall be an elementary school principal and one shall be a secondary school principal; and

(M) four additional members who are representatives of the general public, including parents.

(2) Assistant Secretary for Educational Research

The Assistant Secretary for Educational Research and Improvement shall serve as an ex officio, nonvoting member of the Board.

(3) Special rule

The Secretary and the Board shall ensure at all times that the membership of the Board reflects regional, racial, gender, and cultural balance and diversity and that the Board exercises its independent judgment, free from inappropriate influences and special interests.

(c) Terms

(1) In general

Terms of service of members of the Board shall be staggered and may not exceed a period of 3 years, as determined by the Secretary.

(2) Service limitation

Members of the Board may serve not more than two terms.

(3) Change of status

A member of the Board who changes status under subsection (b) of this section during the term of the appointment of the member may continue to serve as a member until the expiration of such term.

(d) Vacancies

(1) In general

(A) The Secretary shall appoint new members to fill vacancies on the Board from among individuals who are nominated by organizations representing the type of individuals described in subsection (b)(1) of this section with respect to which the vacancy exists.

(B) Each organization submitting nominations to the Secretary with respect to a particular vacancy shall nominate for such vacancy six individuals who are qualified by experience or training to fill the particular Board vacancy.

(C) The Secretary's appointments shall maintain the composition, diversity, and balance of the Board required under subsection (b) of this section.

(2) Additional nominations

The Secretary may request that each organization described in paragraph (1)(A) submit additional nominations if the Secretary determines that none of the individuals nominated by such organization have appropriate knowledge or expertise.

(e) Duties

(1) In general

In carrying out its functions under this section the Board shall—

(A) select subject areas to be assessed (consistent with section 9010(b)(1) of this title);

(B) develop appropriate student performance levels as provided in section 9010(e) of this title;

(C) develop assessment objectives and test specifications through a national consensus approach which includes the active participation of teachers, curriculum specialists, local school administrators, parents, and concerned members of the public;

(D) design the methodology of the assessment, in consultation with appropriate technical experts, including the Advisory Council established under section 9006 of this title;

(E) develop guidelines for reporting and disseminating results;

(F) develop standards and procedures for interstate, regional, and national comparisons; and

(G) take appropriate actions needed to improve the form and use of the National Assessment.

(2) Delegation

The Board may delegate any of the Board's procedural and administrative functions to its staff.

(3) Cognitive items

The Board shall have final authority on the appropriateness of cognitive items.

(4) Prohibition against bias

The Board shall take steps to ensure that all items selected for use in the National Assessment are free from racial, cultural, gender, or regional bias.

(5) Technical

In carrying out the duties required by paragraph (1), the Board may seek technical advice, as appropriate, from the Commissioner and the Advisory Council on Education Statistics and other experts.

(6) Report

Not later than 90 days after an evaluation of the student performance levels under section 9010(e) of this title, the Board shall make a report to the Secretary, the Committee on Education and Labor of the House of Representatives, and the Committee on Labor and Human Resources of the Senate describing the steps the Board is taking to respond to each of the recommendations contained in such evaluation.

(f) Personnel

(1) In general

In the exercise of its responsibilities, the Board shall be independent of the Secretary and the other offices and officers of the Department.

(2) Staff

(A) The Secretary may appoint, at the request of the Board, such staff as will enable the Board to carry out its responsibilities.

(B) Such appointments may include, for terms not to exceed three years and without regard to the provisions of title 5 governing appointments in the competitive service, not more than six technical employees who may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(g) Coordination

The Commissioner and the Board shall meet periodically—

(1) to ensure coordination of their duties and activities relating to the National Assessment; and

(2) for the Commissioner to report to the Board on the Department's actions to implement the decisions of the Board.

(h) Administration

Only sections 10, 11, and 12 of the Federal Advisory Committee Act shall apply with respect to the Board.

(Pub. L. 103–382, title IV, § 412, Oct. 20, 1994, 108 Stat. 4039.)

REFERENCES IN TEXT

The provisions of title 5 governing appointments in the competitive service, referred to in subsec. (f)(2)(B), are classified to section 3301 et seq. of Title 5, Government Organization and Employees.

Sections 10, 11, and 12 of the Federal Advisory Committee Act, referred to in subsec. (h), are sections 10,

11, and 12 of Pub. L. 92–463, as amended, which are set out in the Appendix to Title 5.

CHANGE OF NAME

Committee on Education and Labor of House of Representatives treated as referring to Committee on Economic and Educational Opportunities of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Economic and Educational Opportunities of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Fifth Congress, Jan. 7, 1997.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 9010, 9012 of this title.

§ 9012. Authorization of appropriations

(a) In general

There are authorized to be appropriated $65,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years to carry out this chapter (other than sections 9010 and 9011 of this title).

(b) National Assessment

There are authorized to be appropriated $35,000,000 for fiscal year 1995 and such sums as may be necessary for each of the fiscal years 1996 and 1997 to carry out section 9010 of this title.

(c) Governing Board

There are authorized to be appropriated $3,000,000 for fiscal year 1995 and such sums as may be necessary for each of the fiscal years 1996 and 1997 to carry out section 9011 of this title.

(Pub. L. 103–382, title IV, § 413, Oct. 20, 1994, 108 Stat. 4041.)

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(c) Sums remaining available.

CODIFICATION

Title II of Pub. L. 94–462, comprising this chapter, was originally enacted as Pub. L. 94–462, title II, Oct. 8, 1976, 90 Stat. 1975; Pub. L. 96–496, title II, § 201, Dec. 4, 1980, 94 Stat. 2591; Pub. L. 98–306, §§ 8–11, May 31, 1984, 98 Stat. 225; Pub. L. 99–194, title II, Dec. 20, 1985, 99 Stat. 1344; Pub. L. 101–512, title III, § 318 [title II, §§ 201, 202(a)(1), (b), 203–205], Nov. 5, 1990, 104 Stat. 1960, 1974, 1975, known as the Museum Services Act, and classified to section 961 et seq. of this title. Title II is shown, herein, however, as having been added by Pub. L. 104–208 without reference to such intervening amendments because of the extensive amendments to the provisions of title II by Pub. L. 104–208.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 1504 of this title.

SUBCHAPTER I—GENERAL PROVISIONS

§ 9101. General definitions

As used in this chapter:

(1) Commission

The term ''Commission'' means the National Commission on Libraries and Information Science established under section 1502 of this title.

(2) Director

The term ''Director'' means the Director of the Institute appointed under section 9103 of this title.

(3) Institute

The term ''Institute'' means the Institute of Museum and Library Services established under section 9102 of this title.

(4) Museum Board

The term ''Museum Board'' means the National Museum Services Board established under section 9175 of this title.

(Pub. L. 94–462, title II, § 202, as added Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 702], Sept. 30, 1996, 110 Stat. 3009–233, 3009–294.)

PRIOR PROVISIONS

A prior section 202 of Pub. L. 94–462 was classified to section 961 of this title prior to the general amendment of title II of Pub. L. 94–462 by Pub. L. 104–208.

SHORT TITLE OF 1997 AMENDMENT

Pub. L. 105–128, § 1, Dec. 1, 1997, 111 Stat. 2548, provided that: ''This Act [amending sections 9105, 9122, 9131, 9133, 9161, and 9162 of this title] may be cited as the 'Museum and Library Services Technical and Conforming Amendments of 1997'.''

SHORT TITLE

Section 101(e) [title VII, § 701] of title I of div. A of Pub. L. 104–208 provided that: ''This title [enacting this chapter, amending sections 1069b, 1504, 1505, 3441, 3473, 3489, 6621, 6645, 6648, 6649, 6813, 8091, 8102, and 8104 of this title, section 5315 of Title 5, Government Organization and Employees, section 276d–3 of Title 40, Public Buildings, Property, and Works, section 214 of Title 40, Appendix, section 3338 of Title 42, The Public Health and Welfare, section 254 of Title 47, Telegraphs, Telephones, and Radiotelegraphs, and section 1666 of Title 48, Territories and Insular Possessions, repealing sections 351 to 386g, 1021 to 1047, 1221i, and 7001 to 7005 of this title, enacting provisions set out under this section and sections 9102, 9103, and 9105 of this title, and repealing provisions set out as notes under sections 351 and 1029 of this title] may be cited as the 'Museum and Library Services Act of 1996'.''

Section 201 of title II of Pub. L. 94–462, as added by Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 702], Sept. 30, 1996, 110 Stat. 3009–233, 3009–294, provided that: ''This title [enacting this chapter] may be cited as the 'Museum and Library Services Act'.''

Section 211 of title II of Pub. L. 94–462, as added by Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 702], Sept. 30, 1996, 110 Stat. 3009–233, 3009–295, provided that: ''This subtitle [subtitle B (§§ 211–263) of title II of Pub. L. 94–462, enacting subchapter II of this chapter] may be cited as the 'Library Services and Technology Act'.''

§ 9102. Institute of Museum and Library Services

(a) Establishment

There is established, within the National Foundation on the Arts and the Humanities, an Institute of Museum and Library Services.

(b) Offices

The Institute shall consist of an Office of Museum Services and an Office of Library Services. There shall be a National Museum Services Board in the Office of Museum Services.

(Pub. L. 94–462, title II, § 203, as added Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 702], Sept. 30, 1996, 110 Stat. 3009–233, 3009–294.)

PRIOR PROVISIONS

A prior section 203 of Pub. L. 94–462 was classified to section 962 of this title prior to the general amendment of title II of Pub. L. 94–462 by Pub. L. 104–208.

TRANSFER OF FUNCTIONS FROM INSTITUTE OF MUSEUM SERVICES

Section 101(e) [title VII, § 704] of Pub. L. 104–208 provided that:

''(a) DEFINITIONS.—For purposes of this section, unless otherwise provided or indicated by the context—

''(1) the term 'Federal agency' has the meaning given to the term 'agency' by section 551(1) of title 5, United States Code;

''(2) the term 'function' means any duty, obligation, power, authority, responsibility, right, privilege, activity, or program; and

''(3) the term 'office' includes any office, administration, agency, institute, unit, organizational entity, or component thereof.

''(b) TRANSFER OF FUNCTIONS FROM THE INSTITUTE OF MUSEUM SERVICES AND THE LIBRARY PROGRAM OFFICE.—There are transferred to the Director of the Institute of Museum and Library Services established under section 203 of the Museum and Library Services Act [20 U.S.C. 9102]—

''(1) all functions that the Director of the Institute of Museum Services exercised before the date of enactment of this section [Sept. 30, 1996] (including all related functions of any officer or employee of the Institute of Museum Services); and

''(2) all functions that the Director of Library Programs in the Office of Educational Research and Improvement in the Department of Education exercised before the date of enactment of this section and any related function of any officer or employee of the Department of Education.

''(c) DETERMINATIONS OF CERTAIN FUNCTIONS BY THE OFFICE OF MANAGEMENT AND BUDGET.—If necessary, the Office of Management and Budget shall make any determination of the functions that are transferred under subsection (b).

''(d) DELEGATION AND ASSIGNMENT.—Except where otherwise expressly prohibited by law or otherwise provided by this section, the Director of the Institute of Museum and Library Services may delegate any of the functions transferred to the Director of the Institute of Museum and Library Services by this section and any function transferred or granted to such Director of the Institute of Museum and Library Services after the effective date of this section [Sept. 30, 1996] to such officers and employees of the Institute of Museum and Library Services as the Director of the Institute of Museum and Library Services may designate, and may authorize successive redelegations of such functions as may be necessary or appropriate, except that any delegation of any such functions with respect to libraries shall be made to the Deputy Director of the Office of Library Services and with respect to museums shall be made to the Deputy Director of the Office of Museum Services. No delegation of functions by the Director of

the Institute of Museum and Library Services under this section or under any other provision of this section shall relieve such Director of the Institute of Museum and Library Services of responsibility for the administration of such functions.

''(e) REORGANIZATION.—The Director of the Institute of Museum and Library Services may allocate or reallocate any function transferred under subsection (b) among the officers of the Institute of Museum and Library Services, and may establish, consolidate, alter, or discontinue such organizational entities in the Institute of Museum and Library Services as may be necessary or appropriate.

''(f) RULES.—The Director of the Institute of Museum and Library Services may prescribe, in accordance with chapters 5 and 6 of title 5, United States Code, such rules and regulations as the Director of the Institute of Museum and Library Services determines to be necessary or appropriate to administer and manage the functions of the Institute of Museum and Library Services.

''(g) TRANSFER AND ALLOCATIONS OF APPROPRIATIONS AND PERSONNEL.—Except as otherwise provided in this section, the personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, used, held, arising from, available to, or to be made available in connection with the functions transferred by this section, subject to section 1531 of title 31, United States Code, shall be transferred to the Institute of Museum and Library Services. Unexpended funds transferred pursuant to this subsection shall be used only for the purposes for which the funds were originally authorized and appropriated.

''(h) INCIDENTAL TRANSFERS.—The Director of the Office of Management and Budget, at such time or times as the Director shall provide, may make such determinations as may be necessary with regard to the functions transferred by this section, and make such additional incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with such functions, as may be necessary to carry out this section. The Director of the Office of Management and Budget shall provide for the termination of the affairs of all entities terminated by this section and for such further measures and dispositions as may be necessary to effectuate the purposes of this section.

''(i) EFFECT ON PERSONNEL.—

''(1) IN GENERAL.—Except as otherwise provided by this section, the transfer pursuant to this section of full-time personnel (except special Government employees) and part-time personnel holding permanent positions shall not cause any such employee to be separated or reduced in grade or compensation for 1 year after the date of transfer of such employee under this section.

''(2) EXECUTIVE SCHEDULE POSITIONS.—Except as otherwise provided in this section, any person who, on the day preceding the effective date of this section [Sept. 30, 1996], held a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, United States Code, and who, without a break in service, is appointed in the Institute of Museum and Library Services to a position having duties comparable to the duties performed immediately preceding such appointment shall continue to be compensated in such new position at not less than the rate provided for such previous position, for the duration of the service of such person in such new position.

''(j) SAVINGS PROVISIONS.—

''(1) CONTINUING EFFECT OF LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, agreements, grants, contracts, certificates, licenses, registrations, privileges, and other administrative actions—

''(A) that have been issued, made, granted, or allowed to become effective by the President, any Federal agency or official of a Federal agency, or by a court of competent jurisdiction, in the performance of functions that are transferred under this section; and

''(B) that were in effect before the effective date of this section [Sept. 30, 1996], or were final before the effective date of this section and are to become effective on or after the effective date of this section;

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Director of the Institute of Museum and Library Services or other authorized official, a court of competent jurisdiction, or by operation of law.

''(2) PROCEEDINGS NOT AFFECTED.—This section shall not affect any proceedings, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pending before the Institute of Museum Services on the effective date of this section, with respect to functions transferred by this section. Such proceedings and applications shall be continued. Orders shall be issued in such proceedings, appeals shall be taken from the orders, and payments shall be made pursuant to the orders, as if this section had not been enacted, and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this paragraph shall be construed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this section had not been enacted.

''(3) SUITS NOT AFFECTED.—This section shall not affect suits commenced before the effective date of this section, and in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this section had not been enacted.

''(4) NONABATEMENT OF ACTIONS.—No suit, action, or other proceeding commenced by or against the Institute of Museum Services, or by or against any individual in the official capacity of such individual as an officer of the Institute of Museum Services, shall abate by reason of the enactment of this section.

''(5) ADMINISTRATIVE ACTIONS RELATING TO PROMULGATION OF REGULATIONS.—Any administrative action relating to the preparation or promulgation of a regulation by the Institute of Museum Services relating to a function transferred under this section may be continued by the Institute of Museum and Library Services with the same effect as if this section had not been enacted.

''(k) TRANSITION.—The Director of the Institute of Museum and Library Services may utilize—

''(1) the services of such officers, employees, and other personnel of the Institute of Museum Services with respect to functions transferred to the Institute of Museum and Library Services by this section; and

''(2) funds appropriated to such functions for such period of time as may reasonably be needed to facilitate the orderly implementation of this section.

''(*l*) REFERENCES.—A reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or relating to—

''(1) the Director of the Institute of Museum Services with regard to functions transferred under subsection (b), shall be deemed to refer to the Director of the Institute of Museum and Library Services; and

''(2) the Institute of Museum Services with regard to functions transferred under subsection (b), shall be deemed to refer to the Institute of Museum and Library Services.

''(m) ADDITIONAL CONFORMING AMENDMENTS.—

''(1) RECOMMENDED LEGISLATION.—After consultation with the appropriate committees of Congress and

the Director of the Office of Management and Budget, the Director of the Institute of Museum and Library Services shall prepare and submit to the appropriate committees of Congress recommended legislation containing technical and conforming amendments to reflect the changes made by this section.

''(2) SUBMISSION TO CONGRESS.—Not later than 6 months after the effective date of this section [Sept. 30, 1996], the Director of the Institute of Museum and Library Services shall submit to the appropriate committees of Congress the recommended legislation referred to under paragraph (1).''

TRANSITION AND TRANSFER OF FUNDS

Section 101(e) [title VII, §707] of title I of div. A of Pub. L. 104–208 provided that:

''(a) TRANSITION.—The Director of the Office of Management and Budget shall take appropriate measures to ensure an orderly transition from the activities previously administered by the Director of Library Programs in the Office of Educational Research and Improvement in the Department of Education to the activities administered by the Institute for Museum and Library Services under this Act [probably should be ''this title'' meaning section 101(e) [title VII] of div. A of Pub. L. 104–208, see Short Title note set out under section 9101 of this title]. Such measures may include the transfer of appropriated funds.

''(b) TRANSFER.—From any amounts available to the Secretary of Education for salaries and expenses at the Department of Education, the Secretary of Education shall transfer to the Director the amount of funds necessary to ensure the orderly transition from activities previously administered by the Director of the Office of Library Programs in the Office of Educational Research and Improvement in the Department of Education to the activities administered by the Institute for Museum and Library Services. In no event shall the amount of funds transferred pursuant to the preceding sentence be less than $200,000.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 9101 of this title.

§ 9103. Director of Institute

(a) Appointment

(1) In general

The Institute shall be headed by a Director, appointed by the President, by and with the advice and consent of the Senate.

(2) Term

The Director shall serve for a term of 4 years.

(3) Qualifications

Beginning with the first individual appointed to the position of Director after September 30, 1996, every second individual so appointed shall be appointed from among individuals who have special competence with regard to library and information services. Beginning with the second individual appointed to the position of Director after September 30, 1996, every second individual so appointed shall be appointed from among individuals who have special competence with regard to museum services.

(b) Compensation

The Director may be compensated at the rate provided for level III of the Executive Schedule under section 5314 of title 5.

(c) Duties and powers

The Director shall perform such duties and exercise such powers as may be prescribed by law, including awarding financial assistance for activities described in this chapter.

(d) Nondelegation

The Director shall not delegate any of the functions of the Director to any person who is not an officer or employee of the Institute.

(e) Coordination

The Director shall ensure coordination of the policies and activities of the Institute with the policies and activities of other agencies and offices of the Federal Government having interest in and responsibilities for the improvement of museums and libraries and information services.

(Pub. L. 94–462, title II, §204, as added Pub. L. 104–208, div. A, title I, §101(e) [title VII, §702], Sept. 30, 1996, 110 Stat. 3009–233, 3009–294.)

PRIOR PROVISIONS

A prior section 204 of Pub. L. 94–462 was classified to section 963 of this title prior to the general amendment of title II of Pub. L. 94–462 by Pub. L. 104–208.

SERVICE OF INDIVIDUALS SERVING ON SEPTEMBER 30, 1996

Section 101(e) [title VII, §705] of div. A of Pub. L. 104–208 provided that: ''Notwithstanding section 204 of the Museum and Library Services Act [20 U.S.C. 9103], the individual who was appointed to the position of Director of the Institute of Museum Services under section 205 of the Museum Services Act [former 20 U.S.C. 964] (as such section was in effect on the day before the date of enactment of this Act [Sept. 30, 1996]) and who is serving in such position on the day before the date of enactment of this Act shall serve as the first Director of the Institute of Museum and Library Services under section 204 of the Museum and Library Services Act (as added by section 2 of this Act [probably means section 101(e) [title VII, §702] of title I of div. A of Pub. L. 104–208 which enacted this chapter]), and shall serve at the pleasure of the President.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 9101 of this title.

§ 9104. Deputy Directors

The Office of Library Services shall be headed by a Deputy Director, who shall be appointed by the Director from among individuals who have a graduate degree in library science and expertise in library and information services. The Office of Museum Services shall be headed by a Deputy Director, who shall be appointed by the Director from among individuals who have expertise in museum services.

(Pub. L. 94–462, title II, §205, as added Pub. L. 104–208, div. A, title I, §101(e) [title VII, §702], Sept. 30, 1996, 110 Stat. 3009–233, 3009–295.)

PRIOR PROVISIONS

A prior section 205 of Pub. L. 94–462 was classified to section 964 of this title prior to the general amendment of title II of Pub. L. 94–462 by Pub. L. 104–208.

§ 9105. Personnel

(a) In general

The Director may, in accordance with applicable provisions of title 5, appoint and determine the compensation of such employees as the Director determines to be necessary to carry out the duties of the Institute.

(b) Appointment and compensation of technical and professional employees

(1) In general

Subject to paragraph (2), the Director may appoint without regard to the provisions of title 5 governing the appointment in the competitive service and may compensate without regard to the provisions of chapter 51 or subchapter III of chapter 53 of such title (relating to the classification and General Schedule pay rates), such technical and professional employees as the Director determines to be necessary to carry out the duties of the Institute.

(2) Number and compensation

The number of employees appointed and compensated under paragraph (1) shall not exceed ⅕ of the number of full-time regular or professional employees of the Institute. The rate of basic compensation for the employees appointed and compensated under paragraph (1) may not exceed the rate prescribed for level GS–15 of the General Schedule under section 5332 of title 5.

(c) Voluntary services

The Director may accept and utilize the voluntary services of individuals and reimburse the individuals for travel expenses, including per diem in lieu of subsistence, in the same amounts and to the same extent as authorized under section 5703 of title 5 for persons employed intermittently in Federal Government service.

(Pub. L. 94–462, title II, §206, as added Pub. L. 104–208, div. A, title I, §101(e) [title VII, §702], Sept. 30, 1996, 110 Stat. 3009–233, 3009–295; amended Pub. L. 105–128, §2, Dec. 1, 1997, 111 Stat. 2548.)

REFERENCES IN TEXT

The provisions of title 5 governing appointment in the competitive service, referred to in subsec. (b), are classified generally to section 3301 et seq. of Title 5, Government Organization and Employees.

PRIOR PROVISIONS

A prior section 206 of Pub. L. 94–462 was classified to section 965 of this title prior to the general amendment of title II of Pub. L. 94–462 by Pub. L. 104–208.

AMENDMENTS

1997—Subsecs. (b), (c). Pub. L. 105–128 added subsec. (b) and redesignated former subsec. (b) as (c).

CONSIDERATION GIVEN TO INDIVIDUALS WITH EXPERIENCE

Section 101(e) [title VII, §706] of div. A of Pub. L. 104–208 provided that: ''Consistent with title 5, United States Code, in appointing employees of the Office of Library Services, the Director of the Institute of Museum and Library Services shall give strong consideration to individuals with experience in administering State-based and national library and information services programs.''

§ 9106. Contributions

The Institute is authorized to solicit, accept, receive, and invest in the name of the United States, gifts, bequests, or devises of money and other property or services and to use such property or services in furtherance of the functions of the Institute. Any proceeds from such gifts, bequests, or devises, after acceptance by the Institute, shall be paid by the donor or the representative of the donor to the Director. The Director shall enter the proceeds in a special-interest bearing account to the credit of the Institute for the purposes specified in each case.

(Pub. L. 94–462, title II, §207, as added Pub. L. 104–208, div. A, title I, §101(e) [title VII, §702], Sept. 30, 1996, 110 Stat. 3009–233, 3009–295.)

PRIOR PROVISIONS

A prior section 207 of Pub. L. 94–462 was classified to section 966 of this title prior to the general amendment of title II of Pub. L. 94–462 by Pub. L. 104–208.

SUBCHAPTER II—LIBRARY SERVICES AND TECHNOLOGY

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in title 47 section 254.

§ 9121. Purpose

It is the purpose of this subchapter—

(1) to consolidate Federal library service programs;

(2) to stimulate excellence and promote access to learning and information resources in all types of libraries for individuals of all ages;

(3) to promote library services that provide all users access to information through State, regional, national and international electronic networks;

(4) to provide linkages among and between libraries; and

(5) to promote targeted library services to people of diverse geographic, cultural, and socioeconomic backgrounds, to individuals with disabilities, and to people with limited functional literacy or information skills.

(Pub. L. 94–462, title II, §212, as added Pub. L. 104–208, div. A, title I, §101(e) [title VII, §702], Sept. 30, 1996, 110 Stat. 3009–233, 3009–295.)

§ 9122. Definitions

As used in this subchapter:

(1) Indian tribe

The term ''Indian tribe'' means any tribe, band, nation, or other organized group or community, including any Alaska native village, regional corporation, or village corporation, as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), which is recognized by the Secretary of the Interior as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(2) Library

The term ''library'' includes—

(A) a public library;

(B) a public elementary school or secondary school library;

(C) an academic library;

(D) a research library, which for the purposes of this subchapter means a library that—

(i) makes publicly available library services and materials suitable for scholarly research and not otherwise available to the public; and

(ii) is not an integral part of an institution of higher education; and

(E) a private library or other special library, but only if the State in which such private or special library is located determines that the library should be considered a library for purposes of this subchapter.

(3) Library consortium

The term ''library consortium'' means any local, statewide, regional, interstate, or international cooperative association of library entities which provides for the systematic and effective coordination of the resources of school, public, academic, and special libraries and information centers, for improved services for the clientele of such library entities.

(4) State

The term ''State'', unless otherwise specified, includes each of the 50 States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

(5) State library administrative agency

The term ''State library administrative agency'' means the official agency of a State charged by the law of the State with the extension and development of public library services throughout the State.

(6) State plan

The term ''State plan'' means the document which gives assurances that the officially designated State library administrative agency has the fiscal and legal authority and capability to administer all aspects of this subchapter, provides assurances for establishing the State's policies, priorities, criteria, and procedures necessary to the implementation of all programs under this subchapter, submits copies for approval as required by regulations promulgated by the Director, identifies a State's library needs, and sets forth the activities to be taken toward meeting the identified needs supported with the assistance of Federal funds made available under this subchapter.

(Pub. L. 94–462, title II, § 213, as added Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 702], Sept. 30, 1996, 110 Stat. 3009–233, 3009–296; amended Pub. L. 105–128, § 3, Dec. 1, 1997, 111 Stat. 2548.)

REFERENCES IN TEXT

The Alaska Native Claims Settlement Act, referred to in par. (1), is Pub. L. 92–203, Dec. 18, 1971, 85 Stat. 688, as amended, which is classified generally to chapter 33 (§ 1601 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 43 and Tables.

AMENDMENTS

1997—Par. (2)(E). Pub. L. 105–128 inserted ''or other special library'' after ''a private library'' and ''or special'' after ''such private''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6813 of this title.

§ 9123. Authorization of appropriations

(a) Authorization of appropriations

(1) In general

There are authorized to be appropriated $150,000,000 for fiscal year 1997 and such sums as may be necessary for each of the fiscal years 1998 through 2002 to carry out this subchapter.

(2) Transfer

The Secretary of Education shall—

(A) transfer promptly to the Director any funds appropriated under the authority of paragraph (1), to enable the Director to carry out this subchapter; and

(B) not exercise any authority concerning the administration of this chapter other than the transfer described in subparagraph (A).

(b) Forward funding

(1) In general

To the end of affording the responsible Federal, State, and local officers adequate notice of available Federal financial assistance for carrying out ongoing library activities and projects, appropriations for grants, contracts, or other payments under any program under this subchapter are authorized to be included in the appropriations Act for the fiscal year preceding the fiscal year during which such activities and projects shall be carried out.

(2) Additional authorization of appropriations

In order to effect a transition to the timing of appropriation action authorized by subsection (a) of this section, the application of this section may result in the enactment, in a fiscal year, of separate appropriations for a program under this subchapter (whether in the same appropriations Act or otherwise) for two consecutive fiscal years.

(c) Administration

Not more than 3 percent of the funds appropriated under this section for a fiscal year may be used to pay for the Federal administrative costs of carrying out this subchapter.

(Pub. L. 94–462, title II, § 214, as added Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 702], Sept. 30, 1996, 110 Stat. 3009–233, 3009–296.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 9131, 9133, 9141 of this title.

PART 1—BASIC PROGRAM REQUIREMENTS

§ 9131. Reservations and allotments

(a) Reservations

(1) In general

From the amount appropriated under the authority of section 9123 of this title for any fiscal year, the Director—

(A) shall reserve 1.75 percent to award grants in accordance with section 9161 of this title; and

(B) shall reserve 3.75 percent to award national leadership grants or contracts in accordance with section 9162 of this title.

(2) Special rule

If the funds reserved pursuant to paragraph (1)(B) for a fiscal year have not been obligated by the end of such fiscal year, then such funds shall be allotted in accordance with subsection (b) of this section for the fiscal year succeeding the fiscal year for which the funds were so reserved.

(b) Allotments

(1) In general

From the sums appropriated under the authority of section 9123 of this title and not reserved under subsection (a) of this section for any fiscal year, the Director shall award grants from minimum allotments, as determined under paragraph (3), to each State. Any sums remaining after minimum allotments are made for such year shall be allotted in the manner set forth in paragraph (2).

(2) Remainder

From the remainder of any sums appropriated under the authority of section 9123 of this title that are not reserved under subsection (a) of this section and not allotted under paragraph (1) for any fiscal year, the Director shall award grants to each State in an amount that bears the same relation to such remainder as the population of the State bears to the population of all States.

(3) Minimum allotment

(A) In general

For the purposes of this subsection, the minimum allotment for each State shall be $340,000, except that the minimum allotment shall be $40,000 in the case of the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

(B) Ratable reductions

If the sum appropriated under the authority of section 9123 of this title and not reserved under subsection (a) of this section for any fiscal year is insufficient to fully satisfy the aggregate of the minimum allotments for all States for that purpose for such year, each of such minimum allotments shall be reduced ratably.

(C) Special rule

(i) In general

Notwithstanding any other provision of this subsection and using funds allotted for the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau under this subsection, the Director shall award grants to Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau to carry out activities described in this subchapter in accordance with the provisions of this subchapter that the Director determines are not inconsistent with this subparagraph.

(ii) Award basis

The Director shall award grants pursuant to clause (i) on a competitive basis and pursuant to recommendations from the Pacific Region Educational Laboratory in Honolulu, Hawaii.

(iii) Termination of eligibility

Notwithstanding any other provision of law, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau shall not receive any funds under this subchapter for any fiscal year that begins after September 30, 2001.

(iv) Administrative costs

The Director may provide not more than 5 percent of the funds made available for grants under this subparagraph to pay the administrative costs of the Pacific Region Educational Laboratory regarding activities assisted under this subparagraph.

(4) Data

The population of each State and of all the States shall be determined by the Director on the basis of the most recent data available from the Bureau of the Census.

(Pub. L. 94–462, title II, § 221, as added Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 702], Sept. 30, 1996, 110 Stat. 3009–233, 3009–297; amended Pub. L. 105–128, § 4, Dec. 1, 1997, 111 Stat. 2548.)

AMENDMENTS

1997—Subsec. (a)(1)(A). Pub. L. 105–128, § 4(1), substituted ''1.75 percent'' for ''1½ percent''.

Subsec. (a)(1)(B). Pub. L. 105–128, § 4(2), substituted ''3.75 percent'' for ''4 percent''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 9161, 9162 of this title.

§ 9132. Administration

(a) In general

Not more than 4 percent of the total amount of funds received under this subchapter for any fiscal year by a State may be used for administrative costs.

(b) Construction

Nothing in this section shall be construed to limit spending for evaluation costs under section 9134(c) of this title from sources other than this subchapter.

(Pub. L. 94–462, title II, § 222, as added Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 702], Sept. 30, 1996, 110 Stat. 3009–233, 3009–298.)

§ 9133. Payments; Federal share; and maintenance of effort requirements

(a) Payments

Subject to appropriations provided pursuant to section 9123 of this title, the Director shall pay to each State library administrative agency having a State plan approved under section 9134 of this title the Federal share of the cost of the activities described in the State plan.

(b) Federal share

(1) In general

The Federal share shall be 66 percent.

(2) Non-Federal share

The non-Federal share of payments shall be provided from non-Federal, State, or local sources.

(c) Maintenance of effort

(1) State expenditures

(A) Requirement

(i) In general

The amount otherwise payable to a State for a fiscal year pursuant to an allotment under this part shall be reduced if the level of State expenditures, as described in paragraph (2), for the previous fiscal year is less than the average of the total of such expenditures for the 3 fiscal years preceding that previous fiscal year. The amount of the reduction in the allotment for any fiscal year shall be equal to the allotment multiplied by a fraction—

(I) the numerator of which is the result obtained by subtracting the level of such State expenditures for the fiscal year for which the determination is made, from the average of the total level of such State expenditures for the 3 fiscal years preceding the fiscal year for which the determination is made; and

(II) the denominator of which is the average of the total level of such State expenditures for the 3 fiscal years preceding the fiscal year for which the determination is made.

(ii) Calculation

Any decrease in State expenditures resulting from the application of subparagraph (B) shall be excluded from the calculation of the average level of State expenditures for any 3-year period described in clause (i).

(B) Decrease in Federal support

If the amount made available under this subchapter for a fiscal year is less than the amount made available under this subchapter for the preceding fiscal year, then the expenditures required by subparagraph (A) for such preceding fiscal year shall be decreased by the same percentage as the percentage decrease in the amount so made available.

(2) Level of State expenditures

The level of State expenditures for the purposes of paragraph (1) shall include all State dollars expended by the State library administrative agency for library programs that are consistent with the purposes of this subchapter. All funds included in the maintenance of effort calculation under this subsection shall be expended during the fiscal year for which the determination is made, and shall not include capital expenditures, special one-time project costs, or similar windfalls.

(3) Waiver

The Director may waive the requirements of paragraph (1) if the Director determines that such a waiver would be equitable due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the State.

(Pub. L. 94–462, title II, § 223, as added Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 702], Sept. 30, 1996, 110 Stat. 3009–233, 3009–299; amended Pub. L. 105–128, § 5, Dec. 1, 1997, 111 Stat. 2549.)

AMENDMENTS

1997—Subsec. (c)(1)(A)(i). Pub. L. 105–128 amended second sentence generally. Prior to amendment, second sentence read as follows: ''The amount of the reduction in allotment for any fiscal year shall be equal to the amount by which the level of such State expenditures for the fiscal year for which the determination is made is less than the average of the total of such expenditures for the 3 fiscal years preceding the fiscal year for which the determination is made.''

§ 9134. State plans

(a) State plan required

(1) In general

In order to be eligible to receive a grant under this subchapter, a State library administrative agency shall submit a State plan to the Director not later than April 1, 1997.

(2) Duration

The State plan shall cover a period of 5 fiscal years.

(3) Revisions

If a State library administrative agency makes a substantive revision to its State plan, then the State library administrative agency shall submit to the Director an amendment to the State plan containing such revision not later than April 1 of the fiscal year preceding the fiscal year for which the amendment will be effective.

(b) Contents

The State plan shall—

(1) establish goals, and specify priorities, for the State consistent with the purposes of this subchapter;

(2) describe activities that are consistent with the goals and priorities established under paragraph (1), the purposes of this subchapter, and section 9141 of this title, that the State library administrative agency will carry out during such year using such grant;

(3) describe the procedures that such agency will use to carry out the activities described in paragraph (2);

(4) describe the methodology that such agency will use to evaluate the success of the activities established under paragraph (2) in achieving the goals and meeting the priorities described in paragraph (1);

(5) describe the procedures that such agency will use to involve libraries and library users throughout the State in policy decisions regarding implementation of this subchapter; and

(6) provide assurances satisfactory to the Director that such agency will make such reports, in such form and containing such information, as the Director may reasonably require to carry out this subchapter and to determine the extent to which funds provided under this subchapter have been effective in carrying out the purposes of this subchapter.

(c) Evaluation and report

Each State library administrative agency receiving a grant under this subchapter shall independently evaluate, and report to the Director regarding, the activities assisted under this subchapter, prior to the end of the 5-year plan.

(d) Information

Each library receiving assistance under this subchapter shall submit to the State library administrative agency such information as such agency may require to meet the requirements of subsection (c) of this section.

(e) Approval

(1) In general

The Director shall approve any State plan under this subchapter that meets the requirements of this subchapter and provides satisfactory assurances that the provisions of such plan will be carried out.

(2) Public availability

Each State library administrative agency receiving a grant under this subchapter shall make the State plan available to the public.

(3) Administration

If the Director determines that the State plan does not meet the requirements of this section, the Director shall—

(A) immediately notify the State library administrative agency of such determination and the reasons for such determination;

(B) offer the State library administrative agency the opportunity to revise its State plan;

(C) provide technical assistance in order to assist the State library administrative agency in meeting the requirements of this section; and

(D) provide the State library administrative agency the opportunity for a hearing.

(Pub. L. 94–462, title II, §224, as added Pub. L. 104–208, div. A, title I, §101(e) [title VII, §702], Sept. 30, 1996, 110 Stat. 3009–233, 3009–300.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 9132, 9133 of this title.

PART 2—LIBRARY PROGRAMS

§ 9141. Grants to States

(a) In general

Of the funds provided to a State library administrative agency under section 9123 of this title, such agency shall expend, either directly or through subgrants or cooperative agreements, at least 96 percent of such funds for—

(1)(A) establishing or enhancing electronic linkages among or between libraries;

(B) electronically linking libraries with educational, social, or information services;

(C) assisting libraries in accessing information through electronic networks;

(D) encouraging libraries in different areas, and encouraging different types of libraries, to establish consortia and share resources; or

(E) paying costs for libraries to acquire or share computer systems and telecommunications technologies; and

(2) targeting library and information services to persons having difficulty using a library and to underserved urban and rural communities, including children (from birth through age 17) from families with incomes below the poverty line (as defined by the Office of Management and Budget and revised annually in accordance with section 9902(2) of title 42) applicable to a family of the size involved.

(b) Special rule

Each State library administrative agency receiving funds under this part may apportion the funds available for the purposes described in subsection (a) of this section between the two purposes described in paragraphs (1) and (2) of such subsection, as appropriate, to meet the needs of the individual State.

(Pub. L. 94–462, title II, §231, as added Pub. L. 104–208, div. A, title I, §101(e) [title VII, §702], Sept. 30, 1996, 110 Stat. 3009–233, 3009–301.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 9134, 9161 of this title.

PART 3—ADMINISTRATIVE PROVISIONS

SUBPART A—STATE REQUIREMENTS

§ 9151. State advisory councils

Each State desiring assistance under this subchapter may establish a State advisory council which is broadly representative of the library entities in the State, including public, school, academic, special, and institutional libraries, and libraries serving individuals with disabilities.

(Pub. L. 94–462, title II, §251, as added Pub. L. 104–208, div. A, title I, §101(e) [title VII, §702], Sept. 30, 1996, 110 Stat. 3009–233, 3009–301.)

SUBPART B—FEDERAL REQUIREMENTS

§ 9161. Services for Native Americans

From amounts reserved under section 9131(a)(1)(A) of this title for any fiscal year the Director shall award grants to Indian tribes and to organizations that primarily serve and represent Native Hawaiians (as the term is defined in section 7912 of this title) to enable such tribes and organizations to carry out the activities described in section 9141 of this title.

(Pub. L. 94–462, title II, §261, as added Pub. L. 104–208, div. A, title I, §101(e) [title VII, §702], Sept. 30, 1996, 110 Stat. 3009–233, 3009–302; amended Pub. L. 105–128, §6, Dec. 1, 1997, 111 Stat. 2549.)

AMENDMENTS

1997—Pub. L. 105–128 substituted ''Native Americans'' for ''Indian tribes'' in section catchline and in text substituted ''to Indian tribes and to organizations that primarily serve and represent Native Hawaiians (as the term is defined in section 7912 of this title) to enable such tribes and organizations'' for ''to organizations primarily serving and representing Indian tribes to enable such organizations''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 9131 of this title.

§ 9162. National leadership grants, contracts, or cooperative agreements

(a) In general

From the amounts reserved under section 9131(a)(1)(B) of this title for any fiscal year the Director shall establish and carry out a program of awarding grants or entering into contracts or cooperative agreements to enhance the quality of library services nationwide and to provide coordination between libraries and museums. Such grants, contracts, and cooperative agreements shall be used for activities that may include—

(1) education and training of persons in library and information science, particularly in areas of new technology and other critical needs, including graduate fellowships, traineeships, institutes, or other programs;

(2) research and demonstration projects related to the improvement of libraries, education in library and information science, enhancement of library services through effective and efficient use of new technologies, and dissemination of information derived from such projects;

(3) preserving or digitization of library materials and resources, giving priority to projects emphasizing coordination, avoidance of duplication, and access by researchers beyond the institution or library entity undertaking the project; and

(4) model programs demonstrating cooperative efforts between libraries and museums.

(b) Grants, contracts, or cooperative agreements

(1) In general

The Director may carry out the activities described in subsection (a) of this section by awarding grants to, or entering into contracts or cooperative agreements,[1] with, libraries, agencies, institutions of higher education, or museums, where appropriate.

(2) Competitive basis

Grants, contracts, and cooperative agreements under this section shall be awarded on a competitive basis.

(c) Special rule

The Director shall make every effort to ensure that activities assisted under this section are administered by appropriate library and museum professionals or experts.

(Pub. L. 94–462, title II, § 262, as added Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 702], Sept. 30, 1996, 110 Stat. 3009–233, 3009–302; amended Pub. L. 105–128, §§ 7, 8, Dec. 1, 1997, 111 Stat. 2549, 2550.)

AMENDMENTS

1997—Pub. L. 105–128, § 7(1), substituted section catchline for former catchline which read as follows: ''National leadership grants or contracts''.

Subsec. (a). Pub. L. 105–128, § 7(2), in introductory provisions, substituted ''program of awarding grants or entering into contracts or cooperative agreements'' for ''program awarding national leadership grants or contracts'' and ''Such grants, contracts, and cooperative agreements'' for ''Such grants or contracts''.

Subsec. (a)(3). Pub. L. 105–128, § 8, substituted ''preserving or digitization'' for ''preservation of digitization''.

Subsec. (b). Pub. L. 105–128, § 7(3)(A), substituted heading for former heading which read as follows: ''Grants or contracts''.

Subsec. (b)(1). Pub. L. 105–128, § 7(3)(B), inserted ''or cooperative agreements,'' after ''contracts''.

Subsec. (b)(2). Pub. L. 105–128, § 7(3)(C), substituted ''Grants, contracts, and cooperative agreements'' for ''Grants and contracts''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1504, 9131, 9175 of this title.

§ 9163. State and local initiatives

Nothing in this subchapter shall be construed to interfere with State and local initiatives and responsibility in the conduct of library services. The administration of libraries, the selection of personnel and library books and materials, and insofar as consistent with the purposes of this subchapter, the determination of the best uses of the funds provided under this subchapter, shall be reserved for the States and their local subdivisions.

(Pub. L. 94–462, title II, § 263, as added Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 702], Sept. 30, 1996, 110 Stat. 3009–233, 3009–302.)

SUBCHAPTER III—MUSEUM SERVICES

§ 9171. Purpose

It is the purpose of this subchapter—

(1) to encourage and assist museums in their educational role, in conjunction with formal systems of elementary, secondary, and post-secondary education and with programs of nonformal education for all age groups;

(2) to assist museums in modernizing their methods and facilities so that the museums are better able to conserve the cultural, historic, and scientific heritage of the United States; and

(3) to ease the financial burden borne by museums as a result of their increasing use by the public.

(Pub. L. 94–462, title II, § 271, as added Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 702], Sept. 30, 1996, 110 Stat. 3009–233, 3009–302.)

§ 9172. Definitions

As used in this subchapter:

(1) Museum

The term ''museum'' means a public or private nonprofit agency or institution organized on a permanent basis for essentially educational or aesthetic purposes, that utilizes a professional staff, owns or utilizes tangible objects, cares for the tangible objects, and exhibits the tangible objects to the public on a regular basis.

(2) State

The term ''State'' means each of the 50 States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

[1] So in original. The comma probably should not appear.

(Pub. L. 94–462, title II, § 272, as added Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 702], Sept. 30, 1996, 110 Stat. 3009–233, 3009–303.)

§ 9173. Museum services activities

(a) Grants

The Director, subject to the policy direction of the Museum Board, may make grants to museums to pay for the Federal share of the cost of increasing and improving museum services, through such activities as—

(1) programs that enable museums to construct or install displays, interpretations, and exhibitions in order to improve museum services provided to the public;

(2) assisting museums in developing and maintaining professionally trained or otherwise experienced staff to meet the needs of the museums;

(3) assisting museums in meeting the administrative costs of preserving and maintaining the collections of the museums, exhibiting the collections to the public, and providing educational programs to the public through the use of the collections;

(4) assisting museums in cooperating with each other in developing traveling exhibitions, meeting transportation costs, and identifying and locating collections available for loan;

(5) assisting museums in the conservation of their collections;

(6) developing and carrying out specialized programs for specific segments of the public, such as programs for urban neighborhoods, rural areas, Indian reservations, and penal and other State institutions; and

(7) model programs demonstrating cooperative efforts between libraries and museums.

(b) Contracts and cooperative agreements

(1) Projects to strengthen museum services

The Director, subject to the policy direction of the Museum Board, is authorized to enter into contracts and cooperative agreements with appropriate entities, as determined by the Director, to pay for the Federal share of enabling the entities to undertake projects designed to strengthen museum services, except that any contracts or cooperative agreements entered into pursuant to this subsection shall be effective only to such extent or in such amounts as are provided in appropriations Acts.

(2) Limitation on amount

The aggregate amount of financial assistance made available under this subsection for a fiscal year shall not exceed 15 percent of the amount appropriated under this subchapter for such fiscal year.

(3) Operational expenses

No financial assistance may be provided under this subsection to pay for operational expenses.

(c) Federal share

(1) 50 percent

Except as provided in paragraph (2), the Federal share described in subsections (a) and (b) of this section shall be not more than 50 percent.

(2) Greater than 50 percent

The Director may use not more than 20 percent of the funds made available under this subchapter for a fiscal year to make grants under subsection (a) of this section, or enter into contracts or agreements under subsection (b) of this section, for which the Federal share may be greater than 50 percent.

(d) Review and evaluation

The Director shall establish procedures for reviewing and evaluating grants, contracts, and cooperative agreements made or entered into under this subchapter. Procedures for reviewing grant applications or contracts and cooperative agreements for financial assistance under this subchapter shall not be subject to any review outside of the Institute.

(Pub. L. 94–462, title II, § 273, as added Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 702], Sept. 30, 1996, 110 Stat. 3009–233, 3009–303.)

§ 9174. Award

The Director, with the advice of the Museum Board, may annually award a National Award for Museum Service to outstanding museums that have made significant contributions in service to their communities.

(Pub. L. 94–462, title II, § 274, as added Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 702], Sept. 30, 1996, 110 Stat. 3009–233, 3009–304.)

§ 9175. National Museum Services Board

(a) Establishment

There is established in the Institute a National Museum Services Board.

(b) Composition and qualifications

(1) Composition

The Museum Board shall consist of the Director and 14 members appointed by the President, by and with the advice and consent of the Senate.

(2) Qualifications

The appointive members of the Museum Board shall be selected from among citizens of the United States—

(A) who are members of the general public;

(B) who are or have been affiliated with—

(i) resources that, collectively, are broadly representative of the curatorial, conservation, educational, and cultural resources of the United States; or

(ii) museums that, collectively, are broadly representative of various types of museums, including museums relating to science, history, technology, art, zoos, and botanical gardens; and

(C) who are recognized for their broad knowledge, expertise, or experience in museums or commitment to museums.

(3) Geographic and other representation

Members of the Museum Board shall be appointed to reflect persons from various geographic regions of the United States. The Museum Board may not include, at any time, more than 3 members from a single State. In

making such appointments, the President shall give due regard to equitable representation of women, minorities, and persons with disabilities who are involved with museums.

(c) Terms

(1) In general

Each appointive member of the Museum Board shall serve for a term of 5 years, except that—

(A) of the members first appointed, 3 shall serve for terms of 5 years, 3 shall serve for terms of 4 years, 3 shall serve for terms of 3 years, 3 shall serve for terms of 2 years, and 2 shall serve for terms of 1 year, as designated by the President at the time of nomination for appointment; and

(B) any member appointed to fill a vacancy shall serve for the remainder of the term for which the predecessor of the member was appointed.

(2) Reappointment

No member of the Museum Board who has been a member for more than 7 consecutive years shall be eligible for reappointment.

(3) Service until successor takes office

Notwithstanding any other provision of this subsection, a member of the Museum Board shall serve after the expiration of the term of the member until the successor to the member takes office.

(d) Duties and powers

The Museum Board shall have the responsibility to advise the Director on general policies with respect to the duties, powers, and authority of the Institute relating to museum services, including general policies with respect to—

(1) financial assistance awarded under this subchapter for museum services; and

(2) projects described in section 9162(a)(4) of this title.

(e) Chairperson

The President shall designate 1 of the appointive members of the Museum Board as Chairperson of the Museum Board.

(f) Meetings

(1) In general

The Museum Board shall meet—

(A) not less than 3 times each year, including—

(i) not less than 2 times each year separately; and

(ii) not less than 1 time each year in a joint meeting with the Commission, convened for purposes of making general policies with respect to financial assistance for projects described in section 9162(a)(4) of this title; and

(B) at the call of the Director.

(2) Vote

All decisions by the Museum Board with respect to the exercise of the duties and powers of the Museum Board shall be made by a majority vote of the members of the Museum Board who are present. All decisions by the Commission and the Museum Board with respect to the policies described in paragraph (1)(A)(ii) shall be made by a ⅔ majority vote of the total number of the members of the Commission and the Museum Board who are present.

(g) Quorum

A majority of the members of the Museum Board shall constitute a quorum for the conduct of business at official meetings of the Museum Board, but a lesser number of members may hold hearings. A majority of the members of the Commission and a majority of the members of the Museum Board shall constitute a quorum for the conduct of business at official joint meetings of the Commission and the Museum Board.

(h) Compensation and travel expenses

(1) Compensation

Each member of the Museum Board who is not an officer or employee of the Federal Government may be compensated at a rate to be fixed by the President, but not to exceed the daily equivalent of the maximum rate authorized for a position above grade GS–15 of the General Schedule under section 5108 of title 5, for each day (including travel time) during which such member is engaged in the performance of the duties of the Museum Board. All members of the Museum Board who are officers or employees of the Federal Government shall serve without compensation in addition to compensation received for their services as officers or employees of the Federal Government.

(2) Travel expenses

The members of the Museum Board may be allowed travel expenses, including per diem in lieu of subsistence, in the same amounts and to the same extent, as authorized under section 5703 of title 5 for persons employed intermittently in Federal Government service.

(i) Coordination

The Museum Board, with the advice of the Director, shall take steps to ensure that the policies and activities of the Institute are coordinated with other activities of the Federal Government.

(Pub. L. 94–462, title II, § 275, as added Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 702], Sept. 30, 1996, 110 Stat. 3009–233, 3009–304.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 9101 of this title.

§ 9176. Authorization of appropriations

(a) Grants

For the purpose of carrying out this subchapter, there are authorized to be appropriated to the Director $28,700,000 for the fiscal year 1997, and such sums as may be necessary for each of the fiscal years 1998 through 2002.

(b) Administration

Not more than 10 percent of the funds appropriated under this section for a fiscal year may be used to pay for the administrative costs of carrying out this subchapter.

(c) Sums remaining available

Sums appropriated pursuant to subsection (a) of this section for any fiscal year shall remain available for obligation until expended.

(Pub. L. 94–462, title II, § 276, as added Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 702], Sept. 30, 1996, 110 Stat. 3009–233, 3009–306.)